



FLEXIBLE WORKING

A work-life balance or a balancing act?



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The Greens | European Free Alliance
in the European Parliament





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FOREWORD

At the heart of the subject of work-life balance lie the issues of power and choice. Do individuals have the possibility to control their working lives and find greater flexibility in working hours? Can they find patterns to fit their other responsibilities and ambitions? Or is it to be employers who control any flexibility, with workers having to fit their lives around the demands of the market and to work with patterns which reduce business costs?

Policy at both UK and European level reflects a political view that flexibility is positive for business, yet we see a reluctance from some governments – particularly the British – to offer greater legal protection to workers in return. There is a failure to offer a social security system that is equally flexible and a seeming push to make workers responsible for their own protection – a privatisation of risk.

JEAN LAMBERT MEP



INTRODUCTION

"29% of employees with high stress levels work more than 10 hours over their contractual hours every week."

UNISON

'Work-life balance' isn't just about women juggling a home and family - although that is certainly an important part of it. It's also about adjusting working patterns so that everyone, regardless of age, race or gender, can find a rhythm that enables them more easily to combine work with their other responsibilities or aspirations.

DTI, Creating a Work-Life Balance. A good practice guide for employers, September 2000

"Over 400,000 workers are genuine wage slaves earning less than £16,000 a year for working more than 60 hours a week."

The Work Foundation, July 2004

The UK Government's **Work-Life Balance** campaign aims to help employers recognise the benefits of 'flexible' work. It outlines policies and procedures that allow employees to adopt flexible work patterns, enabling them to become better motivated and more productive and allowing employees to balance their work and other aspects of their lives.¹

The campaign was launched in 2000 and has received a mixed response. Government assurances have done nothing to quell the debate about whether workers' rights have in fact been sacrificed under these more 'flexible' working arrangements, so much so that people are now working longer, more unsociable hours and are not claiming the employment rights that they may have felt empowered to claim before. With the changing role of the Trade Union movement, and the emergence of the '24 hour economy', we are now asking ourselves what do we really mean by flexible working?

The latest DTI paper on working time in the UK calls for a clearer definition of working time and a retention of the right to work long hours. The paper, which is a response to the Commission Communication on working time, fails to recognise the long term health effects of working long hours. More worryingly, there is a failure to connect work-life balance with an ageing population. Many workers need time away from paid employment to care for elderly as well as young family members.

This Report attempts to investigate what 'flexible work' really means, set in the context of European and national policy and an increasingly global and mobile labour market. Examining the key components of flexibility, and drawing from experiences in the EU and US, it will question who really benefits from these non standard work arrangements and whether flexible employment and social and environmental concerns can be reconciled. The effect of flexibility on pensions is addressed as is flexibility in relation to freedom of movement. The Report concludes with some recommendations for a more just and socially inclusive European employment policy in this area. If governments want people to work in different ways, and are pushing policy in that direction, they have to offer greater security in return or they will continue to pay the social costs.

SETTING THE SCENE



TRENDS IN THE EUROPEAN UNION (EU)

Employment trends in the EU show that, as a whole, unemployment remains high, gender disparities persist and discrimination continues.²

Demographic statistics show that while life expectancy is increasing, there is a long-term decline in the age of the working population.³

“Investing in people and developing an active and dynamic welfare state will be crucial both to Europe’s place in the knowledge economy and for ensuring that the emergence of this new economy does not compound the existing social problems of unemployment, social exclusion and poverty.”

Presidency Conclusions of Lisbon European Council 2000

EMPLOYMENT IN THE EUROPEAN UNION

The issue of flexible employment is as high on the European political agenda as the politics of anti-discrimination and the environmental consequences of the current economic climate. However, it is increasingly evident that the rhetoric paid towards tackling discrimination and environmental degradation is a weaker force on economics than the market interpretation of flexible working. Here I will set out the political framework of the current debate.

A BRIEF HISTORY OF EU EMPLOYMENT POLICY DEVELOPMENT

Treaty of Rome (1957)

This Treaty established the European Economic Community (EEC) – the antecedent of the European Union (EU). Its main purpose was to instigate a flexible single market which would permit the free movement of goods, labour, services and capital.

Treaty of Maastricht (1992)

Persistently high unemployment levels prompted the EEC (becoming the EU) to extend its role through this Treaty into the realms of employment and social inclusion – at least for some members – covering issues such as working time and health and safety.

Treaty of Amsterdam (1999)

In later years, this Treaty established a legal basis for the EU to take action to combat discrimination based on nationality, sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This inspired groundbreaking legislation making discrimination in the work place illegal and starting a similar process on service provision.

The Treaties combined promote a vision of social justice through employment, but built on the founding objective of the creation of a flexible labour market acting as a motor for economic growth.

European Employment Strategy (EES)

The EES gives direction to, and ensures co-ordination of, the employment policy priorities to which Member States should subscribe at EU level. Its main aims being:

- Improving employability
- Developing entrepreneurship
- Encouraging adaptability in businesses and employees
- Strengthening policies for equal opportunity

Together, the Amsterdam Treaty and the EES have enabled the European institutions to tackle unemployment and discrimination in the work place (see Annex 1 for further detail).

Lisbon and Gothenburg Agendas

The Lisbon Agenda social goal of the EU is ‘to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion’.⁴

The 2000 Lisbon Summit concluded that the EU should see sustained economic growth and employment as being the road out of poverty and social exclusion. Competitiveness – it said – should be based upon investment in people, high productivity, and the emergence of the ‘knowledge economy’ into jobs and growth. A year later, the Gothenburg Summit extended this to include the need for sustainable development – that meant as well as jobs, economic growth, and social inclusion, attention should also be paid to the environment.⁵

The tension between these forces and their definitions, has underpinned the flexible working debate in the EU ever since. For example, its Employment policy, which claims to promote social cohesion and environmental protection, can be seen to contradict its Trade policy which is underpinned by international trade agreements requiring greater deregulation and liberalisation (such as the General Agreement on Trade in

Services). The EU's Anti-Discrimination policy, which makes discrimination in the workplace illegal, can be seen to contradict its Immigration policy in employment terms as barriers are erected against labour movement into the EU.

Despite such contradictions, the European Commission has articulated that the achievement of a work-life balance through flexibility should be encouraged, in particular in terms of the availability of different contractual or

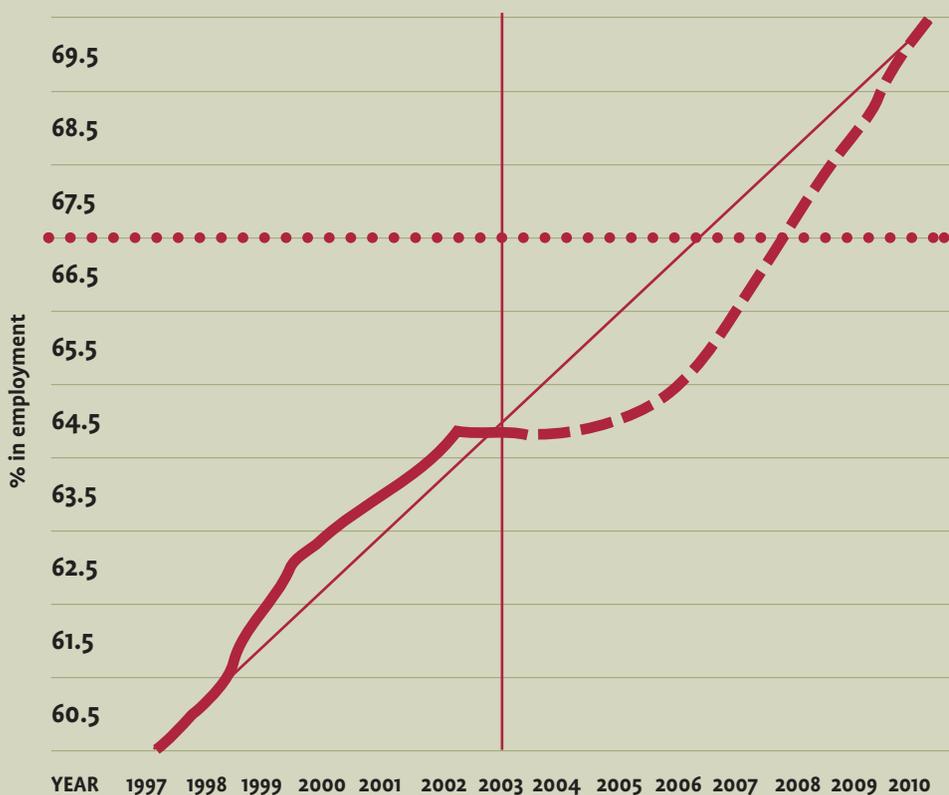
working time arrangements. It is hoped that a balance between flexibility and security will achieve more and better jobs as well as quality and productivity at work.

The Lisbon Agenda was designed to enable the conditions for full employment by 2010. However, despite optimistic forecasts in the long term, Europe is far from reaching its employment goals (see graph 1).

OTHER EU TARGETS

- **Raise the overall EU employment rate to 70% by 2010**
- **Increase the number of women in employment to 57% by 2005 and over 60% by 2010**
- **Raise the employment rate to 50% for older workers by 2010**

GRAPH 1
PATH TO LISBON EMPLOYMENT RATE TARGET: 1997-2010



Autumn forecast for 2003-2005 :

average growth rate of 1.6% from 2006 to 2010

Historical data

intermediate target 2005: 67%

Trend as of 1997

Source: European Commission, Short term trends of EU employment growth Nov 2003 p.3

The following quotes show the contradictory nature of the UK Government's approach to working time ...

"The cumulative research evidence shows that there are associations between long hours working and health outcomes, such as mental health and cardio-vascular problems. The UK case study research suggests a link between long hours working and minor ill health problems, particularly for non-manual workers."

Department of Trade and Industry

"There is no robust statistical evidence that long hours workers are significantly more likely than employees with standard or alternative working hours to perceive that their working arrangements have a detrimental impact on their work-life balance."

Department of Trade and Industry

There is along way to go before we can achieve these target figures but we must also ensure that jobs created are of good quality, and that includes pay levels.

"In the US there has been a steady decline in job satisfaction since the 1970s. The citizens of the United States have the most severe problem with work-life balance."

Oswald, A. (2002) *Are You Happy at Work? Job Satisfaction and Work-Life Balance in the US and Europe*. University of Warwick

THE AGENCY WORKERS DIRECTIVE

"This short-sighted directive would do irreparable damage to the UK's successful temping market. This country has the lowest unemployment in Europe and our flexible labour market is key to that success. Companies understand how important this is, but regrettably the EU and the unions often do not."

John Cridland, CBI Deputy Director-General, 31 July, 2004

"Overall, 85% of American workers say they want some more time with their family. 46% say they want much more time."

Oswald, A. (2002)

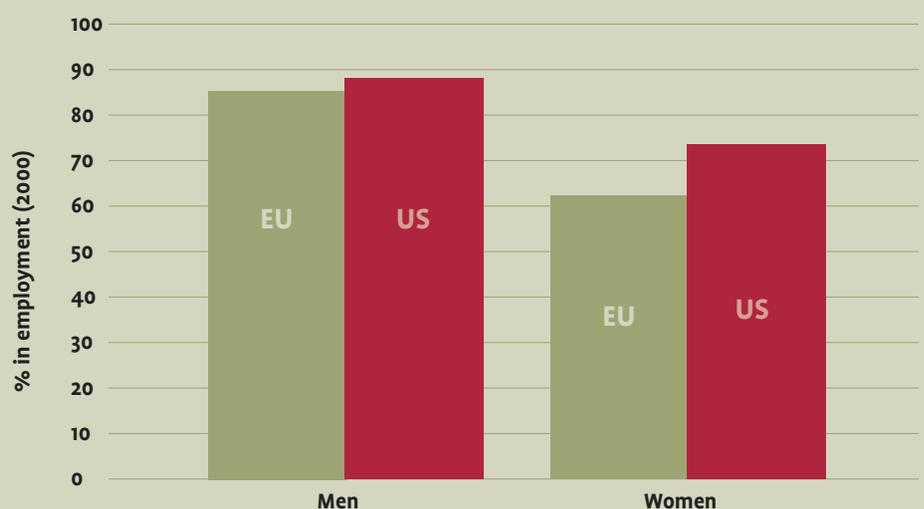
THE ANGLO-AMERICAN MODEL

So how does this vision relate to the UK? Since the 1950s, employment trends have changed as patterns of work have become more irregular. People are more mobile and likely to change location of employment or working role over their career. Britain has historically been home to a healthy trade union movement which has been largely responsible for protecting workers and for filling the void of working time regulation. However, the role unions now play in workers protection has changed dramatically over the last 20 years, coinciding with the growth of a more fluid labour market. The consequence has been that employees are now working considerably longer hours in the UK than any other EU Member State and the UK Government is resistant to regulating to change this.

Despite new EU regulations, there are indications that the UK employment policy is moving much more towards that of the United States. Often referred to as the Anglo-American model, the US system – far from favouring sustainable development through regulation – seeks higher productivity and job growth through deregulation and a more flexible labour market. The result of such a model is clear in the US as the poverty gap is widening. Those at the bottom end of the employment market are working very long hours or carrying out multiple jobs with very little pay while those at the top have little incentive to use their economic position to improve social cohesion.

It should be noted that neither the European nor the US employment models have managed to give equal importance to economic, social and environmental issues.

**GRAPH 2
EMPLOYMENT IN THE EUROPEAN UNION AND UNITED STATES**



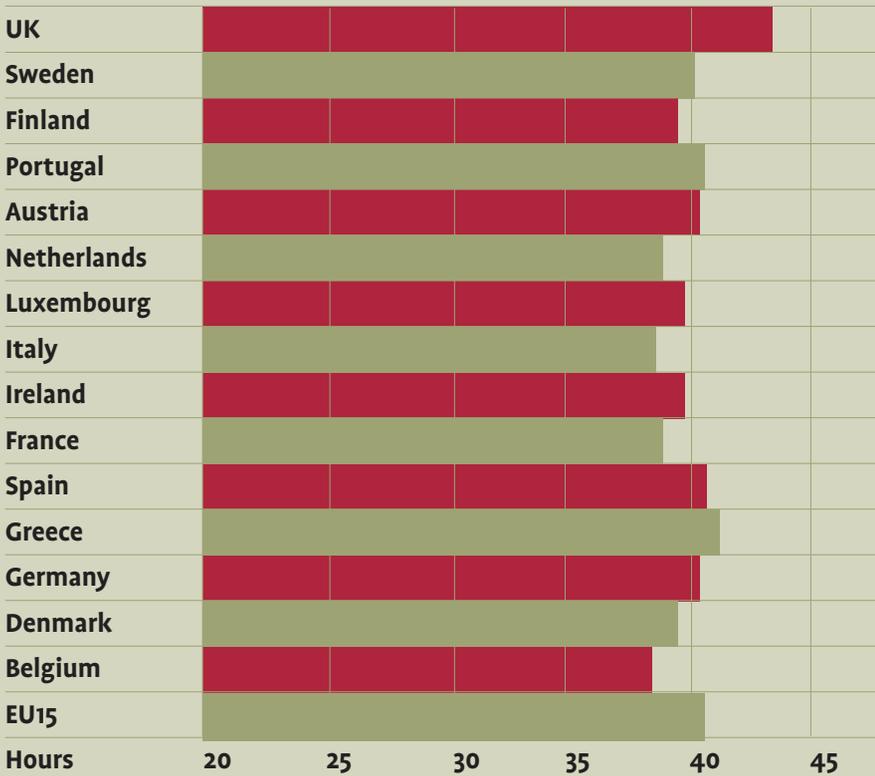
Source: the Lisbon European Council – *An Agenda of Economic and Social Renewal for Europe*. Contribution of the European Commission to the Special European Council in Lisbon 2000, p6.

Lisbon sites the US as a successful employment model but is high employment for its own sake always a good thing?

GRAPH 3

USUAL NUMBER OF HOURS WORKED PER WEEK, 2000

Full time employees, men and women



Source: European Labour Force Survey, Eurostat

The UK clearly has the longest working hours in Europe.

POVERTY, SOCIAL EXCLUSION AND EMPLOYMENT

It is often said that the best way out of social exclusion is through employment, but this cannot mean just any job under any conditions if it is to prove a lasting solution. Comparisons show that in the EU, the UK may have higher employment than France and Germany but also has greater poverty (see graph 4). According to the European Anti Poverty Network⁷ key social exclusion indicators in relation to employment are:

1. Forced fixed term contracts, temporary agency staff and part-time contracts
2. Denied access to employment by childcare or mobility problems
3. Unemployment among young immigrants
4. Rate of access to quality training.

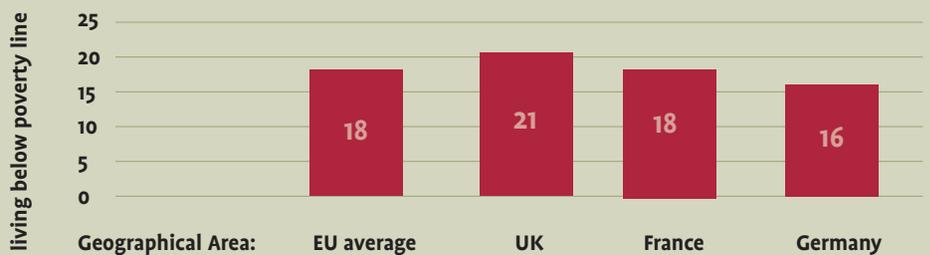
Point 1 demonstrates that flexible forms of employment can contribute to social exclusion. Point 2 highlights exclusion where there is no work-life balance option possible. It must therefore be recognised that certain types of flexible

employment contribute to social marginalisation. To avoid social exclusion and poverty, flexible employment must be non-discriminatory and employers must offer training and access to childcare.

The Lisbon Agenda aimed to promote social inclusion and reduce the number of those living below the poverty line by 8%⁸ but it is not clear how flexible employment will achieve this.

GRAPH 4

POVERTY IN THE EUROPEAN UNION



Source: Eurostat and the European Commission, *The social situation in the European Union 2002*, p.94

The poverty line is considered as 60% of the median equivalised income. Figures are from 2001 and are estimated after social benefits.

In 1979 there were 13 million trade union members. Trade union membership in 2003 was 7.4 million

Office of National Statistics UK

“UNISON believes that the levels of service and efficiency that are striven for in the UK economy can not be achieved on the back of a low wage long hours culture.”

Trades Union Congress (TUC), *The Future of Work*, June 2000

“The most commonly used measurement of poverty is based on incomes or consumption levels. A person is considered poor if his or her consumption or income level falls below some minimum level necessary to meet basic needs.”

World Bank⁶

FLEXIBLE EMPLOYMENT – WHO REALLY BENEFITS?

"The cultures of 'working long and hard' and 'of constant availability, instant response' have to be actively discouraged. All too many employees believe that the most common deal on offer to them is 'either, or' – either you can have a successful career here or you can have a balanced life."

Jenny Kodz, senior research fellow at the University of Warwick-based, Institute for Employment Studies in The Guardian January 2, 2003.

"We struggle into work even when we are too ill to do so, because we don't want to let people down. It's all part of our long hours culture. Indeed long hours, stress and increasing workloads make people sick."

**TUC General Secretary,
Brendan Barber**

Below: Jean meets firefighters in support of their dispute over pay and working hours with the Government.



In this section I will take a more detailed look at aspects of the EU and UK employment policy and, in each instance, ask the question who does it benefit and how does it improve quality of life?

EMPLOYMENT CULTURE

EU Member States have varying cultural approaches to employment regulation. Germany, for example, has a paternalistic culture where high labour standards are predominantly employer led. The Swedish model is social democratic, it too has high labour standards but with strong trade union influence. This model enables the welfare state to provide a wide range of social benefits and encourages the notion of citizenship. Its goal is full employment and the inclusion of all potential employees of working age.

In contrast, the UK labour model is liberal, consisting of loosely organised and decentralised collective bargaining that facilitate low labour standards. Here, market-regulated providers take precedence over welfare state institutions. Full employment is often sighted as a success. However, Britain has a serious wage poverty problem compared with the rest of Europe with a large proportion of those working, classed as living below the poverty line. Despite being one of the richest demographic areas in Europe, London has the highest rate of child poverty in the UK.⁹

Characteristics of employment in the UK

In a 2000 report **The Future of Work**, the Trades Union Congress (TUC) suggested that – between 1984 and 1999 – there have been shifts in employment trends, although the full-time job is still dominant. Some of its conclusions were:

- that 'permanent' jobs fell by around 1%;
- numbers of self-employed remained at around 12% of the labour force (average EU figure is 15%);
- temporary work accounted for 5% of employment in 1984 and 6% in 1999 (the EU average figure is 13%);
- only 1% of employees telework from home;
- part-time working continued to grow (students accounted for much of the increase);
- women remained concentrated in the service sector and in clerical and secretarial work, sales and personal services;
- there has been little sign of improvement in the relative labour market position of ethnic minority workers;
- wage inequality grew over the period, but pay flexibility, or non-standard pay, did not;
- long working hours and unsociable hours, long-standing features of the UK labour market, are still reflected in high levels of paid and unpaid overtime.

The UK has the third highest amount of part-time workers in the EU, composed predominantly of women. Those in part-time jobs have comparably lower paid employment than those working full-time¹⁰ and are often denied certain benefits¹¹. In London, many workers are employed in jobs that are far below their skill levels or have a part-time job when they would prefer full-time employment. In a culture dominated by either long working hours and inflexibility, or part-time or temporary work with wage poverty – where does the future lie for the UK's interpretation of flexible working?

WORKING TIME

According to the 1993 EU Working Time Directive, the definition of working time is: *'any period during which the worker is working at the employer's disposal and carrying out his activities or duties in accordance with national laws and/or duties.'*

One of the essential ingredients in the organisation of work is time: when we work, how long for and how we balance our working time with time outside of work. In the UK, we work the longest hours in Europe. Many employers still do not offer family friendly work opportunities and work-related stress remains the greatest cause of absence from work.

Factors affecting working time

Working time depends upon structural influences such as gender balance, skills and whether the worker is engaged in full-time or part-time employment and industrial relations such as the balance between employee and employer. At policy level, working time regulation and provisions of the welfare state are further contributing factors.

Why do we work such long hours?

Surveys on this question provide varying results as the outcome often depends on the way questions are asked. A recent Government survey asked if workers would work less hours if it meant less pay. However, they did not give the option offering less hours for fair pay. Nevertheless, general reasons for working long hours can be split into the following:

Enjoyment! You work because you enjoy what you do

Time is time. You work longer hours now so that you can have time off later

Time is money. You work longer hours to earn more money

Peer pressure. You work longer hours to fit in, impress or not to be judged

Work-load. You would be unable to finish the job in normal working hours

Competition. You think it might give you better employment prospects

Necessity. You agree to work long hours or you do not get the job!

Working time and health

The DTI states that because the UK has one of the lowest injury rates in the EU, there is 'no evidence that the overall high level of flexibility in the UK Labour market, including the opt-out, have had any adverse effect on health and safety in the UK.' Yet this fails to recognise the fact that thousands of people suffer adverse health conditions beyond the scope of injury.

Whatever the reason for longer hours, excessive overtime has serious health implications. In addition to high blood pressure, stress and extreme fatigue, employees who work overtime can suffer from more serious conditions such as diabetes, psychological problems and heart disease.¹⁴ These health risks stem from not having enough individual time, time with the family or time to carry out non-work related tasks.

The period of time after intensive work is vital to recovery. Where jobs do not allow for an adequate period with a reduced workload after intensive productivity, there is an increased likelihood that the employee will experience stress related symptoms.

Productivity and job creation

There is a substantial body of evidence concluding that a reduction in 'excessively' long hours of work, linked with changes in work organisation can result in substantial productivity gain.¹⁵ Long working hours are inextricably related to fatigue, absenteeism and high staff turnover. Shortening hours therefore offer firms a more focussed workforce, reduced absenteeism and lower staff turnover.

The EU Working Time Directive

Given these health and productivity questions, the European Union has legislated to address working time,

According to the DTI and Management Today, between 2000 and 2002 there has been a four percent increase in the number of UK workers exceeding the 60 hour week, from 12% to 16%.¹²

In 1992 over 72% of employees in other member states worked between 35 and 40 hours per week, compared to 36% in the UK.¹³

"For non-members, a change in the law is the only route towards ending excessive hours."

TUC

"Everyone knows that many workers find themselves faced with an 'offer they can't refuse' by employers who expect regular overtime – whether paid or unpaid – or for their workers to accept contracts which effectively sign away their rights. Such long hours cause terrible problems not just socially, for individuals and families, but in terms of health and safety and productivity and economic costs to employers and the UK generally."

Jean Lambert MEP

“42% of employers considered that work-life balance policies were unfair on some employees.”

DTI (2004) *The Second Work – Life Balance Study*

EXTRACTS FROM PARLIAMENTARY DEBATE ON WORKING TIME, Feb 2004

“There is overwhelming evidence that opting-out seriously jeopardises minimum health and safety rights, and seriously jeopardises the reconciliation of family and professional life.”

**Alejandro Cercas,
Rapporteur on Organisation of
Working Time Report**

“The opt-out must stay and abuses, if any, must go. More than seven out of ten of those working longer hours said they would not want fewer hours if it meant less pay. There is no evidence that health and safety have been compromised in any of these circumstances.”

**Philip Bushill-Matthews
(Conservative)**

“We do not want to see a long-hours culture; we want to see higher productivity. We want to see working people have the kind of work that allows them the leisure they deserve.”

Claude Moraes (Labour)

“The issue of flexibility is about who makes that decision. I would be happier with a lot of the UK’s arguments if I felt there really was a concerted effort by the UK Government to apply the rules. But I do not see any evidence of this and it is not what I am hearing at meeting after meeting either.”

Jean Lambert (Green)

parental leave and the treatment of part-time workers.¹⁶ In 1993 the EU passed the Working Time Directive to address the number of hours people could be expected to work over a given period of time. As a result of this the UK passed its own Working Time Regulations in 1998. Minimum standards were set for working hours, holiday entitlement and pay. The rules covered employees with a contract (including temporary agency workers) and gave workers the right to:

- a 48 hour week, although individuals can voluntarily ‘opt-out’ of the weekly working hours limit
- 8 hour shifts
- weekly rest periods of at least one day off per week
- daily rest periods entitlements of 11 hours rest per day
- rest breaks, set at a minimum of 20 minutes rest break if work lasts longer than 6 hours
- four weeks paid annual leave (but only after 13 weeks employment)

The 48 hour week is to be averaged over a reference period of four months or up to one year where there is a collective agreement. The Government would like this to be extended to 12 months without collective agreement.

In 2003 the Working Time Directive was extended to workers in sectors previously excluded such as health, air, rail, road, sea, inland waterway, sea fishing and offshore companies. In total, an additional five million people are covered under the newly extended Directive.

The Working Time Directive represents a milestone in the safeguarding of workers’ rights and workers’ health. Unfortunately, in the UK figures reveal that, despite regulations on working time, in the last decade there has been a 1% increase in the number of people working longer than 48 hours per week.¹⁷ This is partially explained by use of the ‘opt-out’ mechanism which is unique to the UK.

The UK’s opt-out

Most UK workers are protected from working excessive hours under working time regulation but they can ‘voluntarily’ opt-out from these working time rules at the point at which they sign their contract. The UK is the only EU country that allows workers to sign away the right to an average 48-hour working week and employers can legally present their staff with this voluntary opt-out.

Although it is illegal for an employer to take action against an employee because they have made the choice to opt-in to the 48 hour week, many employees are unaware of their rights. Only one in three employees even know that there is a limit on the average working week despite the fact that the Government’s authoritative Labour Force Survey shows that seven out of ten people working more than 48 hours a week want to work fewer hours.¹⁸

The CBI claims that ‘only in about 3% of cases had employees said they felt pressured into signing opt-outs’ (from CIPD study). Other statistics estimate that one in four people are forced to sign the opt-out clause.¹⁹ Even if the figure is 3%, we can fairly assume that many thousands of workers are facing a disruption to their working life. Even this lowest estimation is unacceptable.

Other Member States are now hinting that they too might introduce the opt-out following the revision of working time rules to cover doctors on call. This would go against the intentions of the Working Time Directive which initially allowed for the opt-out in order to appease the UK and bring it under EU working time rules.

Because of growing concerns about misuse of working time, a Report amending the Working Time Directive was put forward by the Employment and Social Affairs Committee of the European Parliament. The Report argued that, because it is common for the opt-out to be signed at the same time as an individual contract, ‘it can hardly be said that these are free and easy choices in most cases.’ The Committee also called

for the Commission to take legal action against the UK for 'widespread and systematic' misuse of the opt-out (Cercas Report). In the vote, Labour's own MEPs, in recognition that the current system is open to abuse by employers, voted with the majority of MEPs to remove the opt-out from working time legislation.

Despite this, the UK Government has stated that while looking into misuse, it would not see the opt-out removed while it offers flexibility. They argue that more than 7 out of 10 long-hours workers would not want less hours if it meant less pay.²⁰ The use of these figures does not address the fundamental problem that workers forgo their rights in order to obtain a basic standard of living. Some employees work long hours or take a second job. In short, they cannot afford to work a 48 hour week. Yet the issue of pay rates and the lack of a livable wage is not seen as an obvious barrier to implementing a shorter working week. Some seem to view it as the responsibility of the state to underpin poor pay through tax credits or other such schemes.

The Greens in the European Parliament have strongly supported the Working Time Directive and been highly critical of the UK's opt-out clause. The European Commission opened a public consultation on working time as a response to concerns that the opt-out is being abused by employers or member states and primarily by the UK, despite reassurances from the UK Government. Tony Blair's remark that the Directive was the 'single worst piece of legislation' to come out of Europe stands uneasily with Government pledges to ensure the protection of people working long hours. The call for consultation followed a European Union research report exposing widespread abuse of the Working Time Directive in the UK.

Time on call

The European Court of Justice has on two occasions dealt with matters relating to working time. In both the Jaeger and SIMAP judgements it was concluded that

using the example of doctors and the health service, time spent on call should still be considered as working time. The Greens support these rulings given that time spent resting in the work environment cannot be classed as time free from work responsibilities when obligations must still be observed.

The reference period and derogation

The 48 hour week is calculated over a period of at least four months. The Working Time Directive allows for this reference period to be extended where necessary. Where collective bargaining is involved the reference period can be up to one year.

THE EMERGENCE OF FLEXIBLE WORK

So has the Government's approach to working time improved quality of life for workers? My conclusion would be no. The Government's interpretation of 'flexible' working time places UK employees in the difficult position of having to opt-in to longer work time than other Europeans.

The Government describes flexible working in the following way:

'Flexibility in your employment practices can help you increase productivity, attract the skilled, experienced and motivated staff you need – and retain them in a competitive marketplace. It's about giving people working options that fit in with your business needs – and that will relieve potential stresses on your employees to produce a more focused, committed team.'

This places the concept of flexible working firmly in the context of market place flexibility and meeting business needs, and puts the onus on staff to keep their skills flexible. What it does not say is that flexible working should be about greater choice for workers. Increasingly, employers are developing a range of work-life balance options for staff, covering working arrangements and flexible benefit packages, but what does this actually mean for the worker? In conventional terms, flexible working has

"There is therefore a very broad margin of flexibility for the organisation of work, and the option of exemption from the average working week through the use of the opt-out technique ... cannot continue to be justified as providing flexibility, when it is more akin to a philosophy merely designed to eliminate any attempt to regulate working time."

European Parliament Report

CASE STUDY: WHEN THE BALANCE WORKS

A night worker who wants to work a four day week of nine hours per shift rather than a five day week of seven hours per shift would still be within the legal framework of the Directive because of the current reference period. At the same time, work-life balance would be reached because adjustment to weekend normal hours with the family had been made easier.

"We come across so many people who see their families only fleetingly. And often this is because they have to juggle their personal lives around two or three jobs. If their main job paid them a Living Wage, they'd have more chance to lead a decent family life."

The East London Community Organisation (TELCO)

In services such as cleaning, security and home care, agencies are used because they are cheaper. The real costs for these agencies are wages, and so savings are made by paying wages that are too low: £5 an hour does not go far in looking after a family in London.

The East London Community Organisation (TELCO)

“... the [Temporary Agency] proposals will assist in securing much needed basic protections for all agency workers and will help to increase productivity, enhance the flexibility of the labour market and improve the skills base of the whole workforce”.²¹

“In the UK, during the Thatcher years, cities experienced large-scale privatisation of their public services and a system of tendering brought in which required local authorities to accept the cheapest tender for the services required. This encouraged large-scale contracting out at the local authority level of basic public services. The impact of privatisation has set a pattern whereby the UK is now unwilling to implement EU Directives dealing with Temporary Agency Work.”

Jean Lambert MEP

come to mean working part-time, working with a temporary agency or becoming self-employed.

Examples of flexible work

Part-time work: work carried out in less hours than the basic working week (often 30 hours or less). For employers, part-time work is an important means of covering key periods of productivity. For employees it can offer an income to those with responsibilities outside the work environment.

Temporary work: can be used by employers in order to respond to market pressures by increasing or reducing working hours worked through changes in employee numbers. Often used by employees who need an income while looking for longer-term employment.

Flexible hours schemes and zero hours arrangements: under these systems and depending on their immediate productivity needs, employers can pick up and drop employees at very short notice.

Other flexible agreements include: overtime, flexi-time, staggered hours, time off in lieu, compressed working hours, contract working, shift swapping, self-rostering, annualised hours, job-sharing, term-time working and working from home.

The TUC in its 2000 report **The Future of Work**, stated that in 1999, more than four in five employees had no flexible work arrangements, defined as flexible working hours, term-time working, annualised hours, zero hours contracts, job sharing, a four-and-a-half day week, or a nine-day fortnight. This also applied to 70% of women with dependent children. At this time, access to flexible working arrangements was available only to a minority of employees, predominantly in the private sector. Two in five women workers and three in five men had no access to flexible working practices, defined as working from home, job sharing, parental leave or flexi-time. A quarter of management personnel interviewed said that no employees had taken up entitlements to homeworking

or reduced working time, even where they were available. Those able to use such arrangements tended to be higher skilled employees in larger organisations.

So who is benefiting from the new flexible work legislation? One might think that it is those who are already engaged in part-time or temporary agency employment, but is this in fact the case?

Temporary agency work

The EU is currently negotiating a progressive Directive on temporary agency working. It aims to reduce restrictive regulation that acts as a barrier to temporary work. More importantly, the proposed Directive aims to provide temporary workers with adequate standards of pay, access to paid holidays, health and safety cover and equal opportunities. If adopted, conditions for temporary workers could be at least equivalent to those workers who are directly employed and carrying out the same work and for the same duration. Appropriate basic protection could be offered from day one.

Why do we need legislation?

The European Foundation for the Improvement of Living and Working Conditions (Dublin Foundation) found that working conditions are worse for temporary workers than for workers on other types of contracts. Specific protection is therefore necessary for temporary workers, particularly the low-skilled end of the agency work market. We should look to other countries, such as the Netherlands, where there is a structure in place that allows for a sectoral agreement between social partners (see page 13).

Who will be affected by this legislation?

Since 1991, temporary employment has increased in most industries. The number of temporary agency workers in the EU has grown at an annual rate of 10% between 1991 and 1998. Around 80% of EU temporary workers in 1999 were

employed in four countries: the UK, the Netherlands, France and Germany.²² In the UK there are over 700 000 agency workers.²³

There are differences in attitudes to temporary work in Member States and also in the kinds of temporary work that are supplied by agencies. Whereas in the UK temporary work is widely used and is seen as a useful form of work for both companies and temporary workers, in Germany temporary work is generally regarded as a last resort to be avoided if possible. Similarly, current legal frameworks vary between very loose (UK, Ireland) to much tighter regulation (Spain, Belgium).

What is the UK Government view?

The UK Government has not fully supported the European Parliament's proposal on temporary agency work nor the Commission's original proposal. Since 1973, there has been a specific regulatory framework for agencies in the UK, outlined in the Employment Agencies Act and subsequent legislation. The UK Government sees the agency sector as a crucial intermediary between education or unemployment and the labour market, as well as their contribution to employer flexibility. It is therefore not keen to 'hamper' agencies with 'administrative burdens'. A particular area of disagreement has been about the qualifying period before new rights kick-in: the UK Government is looking for a period which is longer than the majority of current temporary projects.

Some arguments in favour of temporary agency flexibility are:

- The national minimum wage and working time legislation makes sufficient (specific) provisions to cover temporary agency workers.
- Agency work is a useful way into the labour market for workers, particularly for permanent jobs. It can increase labour market flexibility in ways that will benefit both business and workers.
- Increased regulation will decrease the

attractiveness of agency work to user companies, decreasing the number of jobs available.

A bridge to better employment?

Two types of agency work have developed in the UK. On the one hand, there are highly skilled agency workers enjoying 'structured flexibility'. For these people, temporary work is seen as a stepping stone to employment. They enjoy defined boundaries of working time and contractual status and both employee and employer benefit from flexibility. Therefore, the perks attached to greater flexibility for workers applies mainly to workers in this category. On the other hand, there are low-skilled agency workers suffering low pay levels and employment conditions. These are often disadvantaged groups who, according to economic models, ought to benefit most from temporary work as a stepping stone. However, in reality, workers in this group who start their working lives with a temporary job have the lowest wage profiles of all and the smallest wage growth compared to other workers. In this case flexibility almost completely favours the employer. It is therefore this group that really needs the Directive on temporary agency work.

The Greens in the European Parliament have been supportive of the EU Directive. We see it as vital that all people have access to a decent salary. The Greens also want training in all forms of employment to be a priority, particularly in temporary agency work where workers can feel trapped in low pay jobs.

Temporary agency work – the reality

The reality in the UK is that temporary agency work, far from offering greater quality of life, places workers in a vulnerable position. Temporary employment offers workers the same jobs as full-time employment but with different wages, terms and conditions. For those at the bottom end of the skills market, the package is generally unsatisfactory. It is specifically groups such as ethnic minorities, single or

Equal treatment of temporary agency workers and permanent workers would 'restrict labour market flexibility'.²⁴

CBI

“Agency working opens up new opportunities for both individuals and user undertakings; it meets the growing desire for flexible working; and assists in the integration of different groups within a changing society. Agency work is key ... to an improving work-life balance for our workers.”²⁵

Blue Arrow

“It would take very little training to move some of these people up the employment ladder. The casualising culture of the 1980s has held back improvement and rights have been lost. However this type of work is both required and necessary. Therefore, correct pay is just plain fair.”

Guardian Journalist Polly Toynbee

The current situation for many British agency workers is characterised by insecurity, low pay, scarce training opportunities, and a work-life balance that may well actually be adversely affected by a very unstructured and unfavourable set of flexible working arrangements. It is hardly a suitable environment for taking positive forward steps into more secure and better paid areas of the labour market.²⁶



TELCO LIVING WAGE CAMPAIGN

Despite London being a city with one the highest GDPs in the EU, wealth sits uncomfortably next to extreme poverty.

TELCO, an organisation made up by London groups for the benefit of the community, has called for a movement towards socially responsible contracting. This would facilitate a move away from the current environment in London's corporate offices where high rates of unemployment have held down wages and benefits.

Until recently, these issues have not been on the corporate social responsibility agenda. TELCO's socially responsible contract would ensure that employees are paid a living wage of £6.70 per hour, offered a pension with employer contribution, entitled to bank holidays and compassionate and sick leave, given an opportunity to join a trade union and trained to an appropriate level.

These principles are not only affordable but they attract the best staff and thus improve both the quality of service and company reputation. Moreover, companies should be willing to report on the pay and conditions of outsourced staff employed on their behalf. The Commission and the UK Government both take the view that corporate social responsibility should be based on voluntary, not statutory engagement.

returning mothers, and older people (who are much less likely to exit into full-time employment than under-35s) that are most likely to experience the worst pay, job location and family time insecurity. Also, not all those who work on temporary contracts or who work part-time do so from personal choice. The higher-skilled temps are more likely to have choice between permanent placements and temporary work (for example, in the nursing profession). However, there are many others, often lower skilled, who are agency workers because they were unable to get a permanent or full-time job. These do not look for full-time posts due to constraints rather than choice. This type of flexible employment can hardly be said to provide a work-life balance. Others will not take such work due to the difficulties of coming off social security for short and/or repeated periods.

Flexible work?

So far, the UK interpretation of 'flexible working' has been characterised by longer working hours, exploitation of the most vulnerable, wage poverty, and low-skilled workers obtaining erratic and inadequate placements with no predictable levels of income, working time, or even location: a far-cry from the EU model of quality of life choices, home working and improved work-life balance.

The DTI boasts of the 2003 'light touch legislation' which allows parents of children under 6 and disabled children under 18 to request flexible hours from the employer who must in return 'consider the request seriously'. This soft approach to flexible employment policy places no responsibility on the employer and fails to recognise the multitude of circumstances that might require a change in working hours such as caring for an elderly relative.

The US model – a warning

The United States moved towards a deregulated job market after the recession of the 1980s.²⁷ Employers argued that greater flexibility facilitated

competition. However employees avoid part-time and temporary work wherever possible as these jobs are generally associated with a lack of benefits.

The UK often cites economic models that predict that low-paid workers use flexible employment as a bridge to new employment and better pay, but this has not been the case in the US. In fact the opposite is true. According to the Low Pay Unit, many low-skilled workers have found it difficult to move out of the trap of temporary employment.

Who really benefits from temporary employment? The US experience

Factors influencing the use of flexible working arrangements can be found on both the demand and supply sides of the labour market. On the demand side, employers seek more flexible employment relations in order to raise productivity, lower labour costs, widen their skills pool and transfer more of the risk of economic uncertainty to employees. On the supply side, employees desire flexibility to meet domestic needs, salary options or to retain a degree of independence.

If it is true that flexible work is most beneficial to the employee on the supply side of the labour market, workers would be expected to prefer such jobs. However, US figures from 1997 reveal that the majority of non standard employees in the US (56%) stated that they would have preferred more secure work arrangements. Only slightly more than one third (35.8%) were content with their existing situation and the rest did not have a clear preference one way or the other.²⁹ In the UK in 2002, 42% of agency temps said they took the job because they could not find full employment.³⁰ Thus, it seems clear that the needs of the employee are certainly not the driving force behind the creation of more flexible working patterns. It should be noted that around 80% of temporary agency staff are employed by the private sector.³¹

Analysis shows that over 90% of temporary agency workers and 80% of part-time workers in the US receive

neither health insurance nor pensions.³³ These findings are consistent with the hypothesis that employers use this type of work force to cut costs. They also found that workers, especially those in temporary agency work and part-time work were likely to have lower wages. In the temporary work sector, employers who want to lower wages and benefit costs under the de-regularised system can have workers bear more of the burden of economic uncertainty.

The UK urgently needs to reflect on its current pathway of choice, and reinvent the kind of economy and labour market that reflects the principles of sustainable development and social justice.

EQUAL OPPORTUNITIES?

When we look at the average salary, we again can see that divergence from standard full-time employment exposes the workforce to pay related exploitation. For example, flexible work without security will increase inequality between men and women penalising those who move in and out of the labour market and discriminating against workers who cannot make long term consistent pension contributions.

Although it is important to realise that some forms of flexible working (such as part-time work) are crucial to enable men and women to participate in the labour market, legislation should ensure that they have access to – and provision of – adequate employment rights and adequate childcare. Without such protective legislation, flexibility could be at odds with firms' equal opportunities policy. Childcare provision is a matter for both parents, and fathers should be no less discriminated against.

If temporary employment facilitated the reintegration of women into the work environment then we would expect to see married women with young children over represented in temporary employment. However this is not supported by statistical evidence. In Britain at least half and perhaps 70% of temporary agency workers are men and

are predominantly full-time.³⁶ Temporary agency workers are also disproportionately young, socially disadvantaged and members of ethnic minority groups.³⁷

The principle of equal pay for equal work and non-discrimination based on sex has been in the EU Treaties since 1957. The Greens in the European Parliament have been pushing for more action to fully mainstream gender equality throughout employment-related and social policies. Low pay is an issue, not only for those women on low wages, but also for those who depend on them such as their children. Women on low pay are in a particularly vulnerable situation, unable to build up savings they are also at risk of missing National Insurance contributions which will leave them unable to claim contributory benefits such as the Basic State Pension or Statutory Sick Pay.

According to the Low Pay Unit in the UK there are virtually no formal childcare facilities open to match late or extended hours. Some of the few existing facilities, such as the Royal Mail's Mount Pleasant Nursery, are under threat as employers consider making parents responsible for finding childcare and cutting costs of providing valuable on-site provisions. This has led to an increase in 'shift parenting' and a growing number of 'flexible families'. The Lisbon Agenda sighted the availability of childcare as one of its aims. At the very least this should be implemented in national policy if we are to make improvements in equal opportunities for men and women alike.

PENSIONS AND FLEXIBLE EMPLOYMENT

Thus far, we have reviewed how the Government's interpretation of 'flexible employment' in terms of working time, temporary agency work and equal opportunities has failed to achieve a cultural shift wherein workers feel confident and secure in a more open labour market. I will turn my attention now to pensions.

In recent years the EU has recognised

“Persons spending an extended period of time in temporary jobs may be compromising their long run career prospects, in addition to being subject to considerable employment insecurity.”³²

OECD

CASE STUDY: THE NETHERLANDS

Under the Dutch system, workers on different contracts are given equal treatment and have access to training, health care and the transfer of social protection rights. Temporary agency workers acquire more rights the longer they work in a job so that by the time they have worked 18 months they are entitled to a permanent contract with the company. Agencies train their workers and provide healthcare facilities. Collective agreements have played their part in these negotiations.³⁴

THE PAY GAP

The pay gap is the difference in average earnings between men and women. If men and women had equal pay it would make a significant contribution to ending child poverty. Academics at the London School of Economics calculate that up to 42% of the gender pay gap is attributable to discrimination against women. Women make up a smaller proportion of the workforce higher up the responsibility and pay ladder.³⁵

Average hourly earnings for women working full-time are 18% lower, and for women working part-time are 40% lower than for men working full-time.

Equal Opportunities Commission, 2004 Report, Facts about Women and Men in Great Britain.

A growing number of parents now work 'atypical' hours, with 14% of mothers and 17% of fathers working after 8.30pm several times a week, according to a national survey of parents by the Joseph Rowntree Foundation. It also found that 38% of mothers and 54% of fathers worked at least one Saturday a month.

Forecasts suggest that the number of people over the age of 65 in the EU will rise to 22% in 2025 and 27.5% in 2050.³⁸ As people are living longer and retiring earlier, these factors will soon start to effect our pension systems. 36% of pensioners in Inner London are in poverty compared to 25% nationally.³⁹

"... private pensions must be the icing on the cake, not the cake itself."

Jean Lambert MEP

One in eight adults in Britain look after or provide some regular care to a sick or elderly person.

UNISON

that demographic changes – the ageing population – are placing new pressures on the EU's social welfare systems. The EU is therefore evolving a strategy aiming to modernise systems of social protection in Europe, which include pensions, tax and benefits, social inclusion strategies and health care. The principles and objectives that underpin pension systems reflect on the political choices about the type of society we want. If the Government promotes flexible employment, it must take this into account when considering pensions.

It is the responsibility of Governments to achieve adequate pensions for every pensioner. Unfortunately, current statistics show that although Member States are reforming their pension systems, the pace of reform falls short of employment targets. Without security, flexible employment strategies risk aggravating an already deepening pensions crisis. For example, those who have not been able to consistently contribute to their pensions will face poverty.

Gender equality

Pensions reflecting a work-life balance are particularly relevant to women, yet women are effectively penalised for taking time off or working part-time in order to take care of domestic responsibilities. One in four women pensioners are living below the poverty line.⁴⁰ Women are also discriminated against when they re-enter the labour market as they tend to receive a lower salary than before (on average 16% less than they earned previously) and are less likely to get promotion. As new working patterns become more common, we need to ensure that pension provision is guaranteed for both men and women in these different working and home environments.

Mobility

One aspect of flexible working that we have not yet touched upon is worker mobility. I shall be discussing this further in the next section, but will mention now

that this is particularly relevant for those considering the transfer of pension rights abroad. My report to the European Parliament on Regulation 1408/71 on the Co-ordination of Social Security Systems should greatly enhance the ability of European citizens to transfer pension rights to another member country.

Retirement age

As the population ages, the concept of 'retirement' itself will change as people may choose to continue to work in to their seventies. Home working, telecommunications and flexi-time should facilitate this. It is necessary, therefore for the state to provide a safe, attractive and adaptable work environment to support older workers in this decision. At the moment, however, older workers are being systematically excluded from the labour market.

The State pension

The provision of the state pension is entirely under the jurisdiction of the Member State Governments. The Greens are against obliging people to rely on private pension provision as this can mean that, in order to get sufficient returns on their money, investors have to place their money in large companies, often with less than satisfactory environmental and social policies. As Co-Chair of the European Parliament's Inter-group on Ageing, I have argued that the emphasis should be on state guaranteed adequate publicly-funded pensions for every citizen. Regardless of ability to contribute, it is essential that everyone, including carers and the economically marginalised, can enjoy a decent standard of living in retirement.

Every individual in society has an equal right to a decent standard of living. Social protection policies must be based on the principle of solidarity and risk-sharing, by which disadvantaged members of society are not left to fend for themselves. This right has to be taken into account in pensions policies. Those who earn less or have periods without an income, for whatever reason, must not

be penalised due to their inability to contribute to pensions schemes. In fact, many of those who may not have a full contributions record may well have contributed to society in a host of other ways which do not show up in conventional accounting.

MOBILITY: A MORE FLEXIBLE ATTITUDE TO FREE MOVEMENT

A final consideration in relation to flexible employment must be the free movement of the labour force and the impact of cross border movement both directly on employment and indirectly on employment benefits.

A basic right of the EU citizen is the freedom to work in another Member State. For a long time the EU has been developing legislation that will enable people to take advantage of this right, so that social models keep up with economic systems. If this is achieved, workers will not lose out if they choose to work in another EU Member State.

Social security entitlements for people who live or work, or have lived or worked, in more than one EU country are currently subject to a complex collection of national and Community laws that in practise act as a barrier to the freedom of movement of citizens.

When the Commission proposed that the existing regulation be updated, Parliament's Employment and Social Affairs Committee appointed me as 'Rapporteur'. My Report on Regulation 1408/71 – whilst not creating new types of benefits or replacing national rules – will establish common principles to ensure that different national systems do not adversely affect persons right to freedom of movement. Regrettably, taxation will not be covered by this regulation as there is no legal basis for its inclusion.

The Regulation will apply to all persons who are covered by the social security legislation of one of the Member States. Moreover, while the Regulation

previously only covered benefits related to social insurance such as sickness, maternity, pensions and unemployment, this proposal extends the scope to include new benefits.

Flexibility and cross border movement

If the UK Government is committed to flexible working then it cannot ignore the importance of cross border movement. However, it does not accept flexibility where 'significant others' are concerned. It recently rejected the extension of the definition of family to include gay couples. Moreover, the Regulation will not extend unemployment benefit to family members who leave a job to join their spouse in another Member State.

Labour mobility is a sensitive area for any national Government to consider and in the UK, media coverage has been wide spread and mostly negative. The Greens have strongly condemned the UK Government's failure to confront how this reactionary representation of migrant workers has resulted in the rise of the far right and racism.

Labour mobility should be seen in terms of skills sharing and personal development. Of course, Member States should be able to set their own immigration levels but they should also value contribution made by migrant workers to their economy. In 2000, immigration generated £2.5 billion for the UK economy.⁴¹ I regret the Government's decision to raise restrictions on labour migration in the run up to enlargement. This to me is nothing more than national discrimination.

In 2001, I was responsible for drafting the Employment and Social Affairs Committee's Opinion on the proposal for a Common Immigration Policy. In it I argued for rules that would not leave migrant workers open to exploitation on the labour market and emphasized that migrants' positive contributions to the economies and societies of host societies must be recognised.

“The main principle underlying the co-ordination of social security systems in the EU should be that nobody should fall outside the system. This principle should be a basis for all deliberations in the Institutions.”

Jean Lambert MEP

CASE STUDY

There are many examples of how previous social security legislation has failed.

The Citizens Signpost Service operated by the European Citizen Action Service (ECAS) receives hundreds of complaints a year from people who are having trouble living, working and moving around Europe. Among the cases they have worked on are:

- **A disabled student from London, starting a course in Holland unable to claim disability benefits during her studies.**
- **A Belgian man in early retirement who wanted to move to France but would lose his pension entitlements if he did so.**

Why is regulation 1408/71 important?

- **The Regulation ensures the principle of equal treatment with nationals in each Member State and therefore prevents discrimination based on nationality.**
- **A fundamental freedom guaranteed by the Treaty establishing the European Community, the freedom of movement can only be guaranteed if those moving within the European Union do not lose their social security rights.**

RECOMMENDATIONS AND CONCLUSIONS

The International Labour Organisation is the UN agency promoting social justice and labour rights. The ILO sets out policy goals for the '24 hour economy' and identifies adequate consultation, the worker's right to refuse and the right to influence hours of work as crucial to fair employment practice. This is backed by research from The Edge that suggests that the presence of trade unions acts as a catalyst in the implementation of fair flexible work place arrangements.⁴²

In a changing work environment, employees in unionised work places are more likely to have career structures, pensions health cover and family friendly work policies. Collective bargaining also has implications in the advancement of gender equality by giving women an opportunity to have their voice heard and to have their demands acted upon.

"It should not be possible for people to work more than 60 hours a week and be paid less than £11,000 a year. The Government needs to strengthen the mechanisms for inspecting and reporting bad practice in this area."

**Nick Isles, The Work Foundation,
July 2004**

The UK is at a crossroads in its employment history. It must decide what it really means by flexible working. At the moment it is caught between the European and the US model – a paradox which is only serving to widen the poverty gap and drive down worker motivation.

Summary: European interpretation of flexible working

- using legislation and regulation to promote better work-life balance
- more opportunities for home working and childcare
- shorter working hours
- anti-discrimination
- equal rights for temporary workers
- secure transferable pensions
- cross-border mobility
- transferable skills in knowledge economy

Summary: Anglo-American interpretation of flexible working

- deregulated job market
- working hours to suit the 24-hour economy
- exploitation of low-skilled workers in low waged jobs
- low level of social protection for the most vulnerable
- people in employment living below the poverty line
- increased productivity, lower labour costs, transferable skills
- transfer of economic risk from employers to employees
- widening poverty gap

Both models are essentially flawed as they are built upon the market as being the key deliverer of social equity and quality of life. However, the European model is undoubtedly more progressive. The Greens support a definition of flexible working which is embedded within our philosophy of quality of life.

Green model of flexible working

- better balance between working hours and the demands of life away from work
- a living wage as opposed to a minimum wage
- social dialogue and worker involvement throughout decision making
- provision of a route out of poverty through training
- greening of education to inspire social respect and responsibility
- adequate benefits for those who move in and out of the job market or change job location
- higher state pension, less dependency on private pension
- slowing economic growth and decoupling it from unsustainable consumption
- introduce a Citizens' Income (see RECOMMENDATION 4)

In order to move the UK closer to the Green model, I would make the following recommendations:

RECOMMENDATION 1 – EU RECOMMENDATIONS

- Emphasise the Gothenburg goals of sustainable development rather than the Lisbon goals of competitive domination
- Commit to social welfare systems underpinning flexible working
- Maintain a commitment to effective regulation of working time: move towards a shorter working week
- Extend Regulation 1408/71 to cover the gaps left between national systems for those moving within the EU
- Introduce a social audit of employment policy to include its real effect on social inclusion and the implications for work which is unpaid but socially useful

RECOMMENDATION 2 – WORKING TIME

- The UK Government should immediately end its opt-out of the EU's Working Time Directive
- Employers and employees must be educated to recognise prolonged periods of work with no recovery time is dangerous to health and should observe working time regulation
- Co-ordinated organisations that can evaluate, implement and enforce working time and other employment legislation must be set up at Government level and properly resourced
- Basic legislation implemented to protect against short term hiring and firing
- Care provision must be recognised as a social necessity and government priority

RECOMMENDATION 3 – CONSULTATION

- The Government should ensure that employers engage in greater consultation with their work force and empower them to influence working hours including the right to refuse certain work arrangements
- The Government should ensure collective bargaining where possible so that business requirements are balanced with workers' needs
- The Government should ensure employers fully inform the work force of their rights

RECOMMENDATION 4 – WORK-LIFE BALANCE AND EQUAL TREATMENT

- Childcare availability must be taken into account by employers when setting working time and by the Courts when considering working time cases
- Introduce a Citizens' Income – a basic income for everyone as a cushion against employment breaks, to replace our current social security system: additional income to be taxed.
- End discrimination against young people in our current social security system
- Workers on different contracts should be given equal treatment on the fundamental entitlements including sick pay and time off for compassionate/carers leave.
- Social protection rights should be transferred when moving from one job to another, when changing hours within a job and when changing job location

RECOMMENDATION 5 – FAIR PAY

- The UK should support a living wage not a minimum wage.
- The UK Government should invest further towards research into what constitutes a living wage
- The UK Government should provide an adequate state pension with employer contribution where possible.
- Companies should be required under law to have socially responsible contracts and report on the conditions and pay of all staff, including contracted out provision
- Because the UK has a fragmented market in comparison to other European countries, legislation is the only means by which uniform minimum standards can be imposed

RECOMMENDATION 6 – LIFELONG LEARNING

- Training must be to an acceptable level and should empower people to understand their rights as workers and their responsibilities to their co-workers and their environment
- All training must reflect an awareness of the impact of the individual on the environment and how the individual can contribute to the sustainability of the planet
- The Government should establish a framework to facilitate the greening of education and training from birth upwards (see ANNEX 2)

Despite the movement towards flexible employment, fundamental principles in the way we approach treatment of workers are not being observed. There is nothing wrong with flexible employment to achieve a work-life balance. This is an important development, especially for those who have responsibilities outside of the work environment. However, the

US experience provides us with a warning against flexibility without security. A typical work agreement has the potential to reduce the rights and bargaining power of the employee. Legislation must protect workers and provide them with a route out of poverty and into better employment. If we are to strengthen a sense of community and environmental

responsibility, people must feel that their contribution to society has value. Every member of society has the right to protection against unjustified dismissal, the right to fair and just working conditions and the right of collective bargaining and strike action.

ANNEX 1

EU EMPLOYMENT PROVISIONS AND TREATIES

"The proportion of UK employees working long hours has increased over the last decade. Over one third of men with children in the household worked more than 50 hours per week in 1998, which was a six percent rise over the previous decade."

Department of Trade and Industry

PEOPLE WORKING OVER 40 HOURS EMPLOYMENT – 2002

	Men	Women
France	22%	10%
Denmark	29%	10%
Sweden	14%	06%
UK	56%	20%

(Source: Eurostat)

Taken from Bishop, K. (2004) Working time patterns in the UK, France, Denmark and Sweden. Labour Market Division, Office for National Statistics

1997

European Employment Strategy (renewed in 2002).

The EES gives direction to, and ensures co-ordination of, the employment policy priorities to which Member States should subscribe at EU level. Initiated by the Luxembourg European Council, heads of State and Government agreed on a framework from which Member States should establish a set of common objectives and targets for employment policy. This strategy, now known as the 'open method of co-ordination' is based on five key principles: subsidiarity, convergence, management by objectives, country surveillance and an integrated approach.

1999

The Amsterdam Treaty calls for an end to discrimination in employment, including that based on nationality, sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This inspired groundbreaking legislation making discrimination in the work place illegal.

1999

The Berlin European Council established the European Social Fund (ESF) The European Social Fund is the main financial tool through which the European Union can put employment policy aims into action. It has worked in partnership with the Member States in order to develop skills and job potential.

2000

Establishment of the Lisbon Agenda where the EU set itself the task to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion. This aims to bring about the conditions for full employment by 2010. A year later the

Stockholm European Council raised the employment rate to, 57% for women by 2005 and 50% for older workers by 2010.

2001

The Gothenburg Summit launched the European Union Strategy for Sustainable Development, based on the idea that there should be a co-ordinated long term examination of economic, environmental and social policy.

2002

The Barcelona Council called for a stronger Employment Strategy to fortify the Lisbon strategy in an enlarged EU with full employment as an overarching goal.

Current Employment Guidelines consist of a series of objectives including those grouped around the four main 'pillars' of the employment strategy:

- Improving employability
- Developing entrepreneurship and job creation
- Encouraging adaptability of businesses and their employees
- Strengthening equal opportunity policies for women and men

For further information see European Commission Employment and Social Affairs web page:

www.europa.eu.int/comm/employment_social/index_en.html

ANNEX 2

USEFUL LINKS

"73% of the total working population say that they regularly work over and above their contracted hours of work...29% still have to take work home with them."

UK at Work – A Report Commissioned by Intelligent Finance, August 2004

"Half of people who live together said their working hours were hurting their relationship."

UK at Work (2004)

"We do not believe that employers are routinely pressurising workers into signing opt-outs."

CBI Director of Human Resources Policy, Susan Anderson, 5 January, 2004

"Some of those who often shout loudest about the need to abolish anti-competitive measures seem content for the UK to compete on weaker labour market conditions."

Jean Lambert MEP

Age Concern
<http://www.ageconcern.org.uk>

CBI
<http://www.cbi.org.uk>

Day Care Trust
<http://www.daycaretrust.org.uk>

Department of Trade and Industry
<http://www.dti.gov.uk>

Dublin Foundation
<http://www.eurofound.eu.int>

Europe Anti Poverty Network
<http://www.eapn.org>

European Citizen Action Service
<http://www.ecas.org>

European Commission DG Employment and Social Affairs
http://www.europa.eu.int/comm/employment_social/index_en.html

European Parliament Committee on Employment and Social Affairs
http://www.europarl.ep.ec/committees/empl_home.htm

European Trade Union Confederation
<http://www.etuc.org>

Fawcett Society
<http://www.fawcettsociety.org.uk>

Joseph Rowntree Foundation
<http://www.jrf.org.uk/>

Lisbon Strategy Home Page
http://europa.eu.int/comm/lisbon_strategy/index_en.html

Low Pay Unit
<http://www.lowpayunit.org.uk>

National Council of One Parent Families
<http://www.oneparentfamilies.org.uk>

Organisation for Economic Co-operation and Development
<http://www.oecd.org>

TELCO
<http://www.telcocitizens.org.uk>

The Work Foundation
<http://www.theworkfoundation.com>

Trades Union Congress
<http://www.tuc.org.uk>

Unison
<http://www.unison.org.uk>

"Workers providing services to some of the most profitable companies in the UK economy are paid wages so low that a forty hour week does not cover their most basic living costs."

TELCO Citizens

Greens insist on priority being given to the Gothenburg goals of sustainable development. One way of avoiding social exclusion through environmental awareness is through the 'greening' of training.⁴³ Socially deprived areas are the most likely to have environmental challenges but its communities are more than willing to see improvements in their surroundings. Whilst the links between social exclusion and environment can be complex, socially excluded groups are concerned about environmental issues. Current policy that deals with training on a purely economic basis of increasing income capacity, is neither integrated nor capable of working towards a society that lives by the principles of sustainable development.

Jean Lambert MEP

REFERENCES

"Over 4 million workers, 15%, are dissatisfied or very dissatisfied with their jobs."
The Work Foundation, July 2004

"One in five say they struggle to get home in time to see their kids before bedtime because of work."
UK at Work (2004)

"38% of the workforce say hard work is affecting their sleep."
UK at Work (2004)

"Pay is less important to people than the content of the job and fulfilling personal ambitions."
The Work Foundation, July 2004

- 1 Department of Trade and Industry (2000) **Creating a Work-Life Balance: A good practice guide for employers**
- 2 Eurostat (2003) Structural Indicators
- 3 Joint report by the Commission and the Council (2002) **Adequate and Sustainable Pensions**, p12
- 4 The Lisbon European Council (2000), **An Agenda of Economic and Social Renewal for Europe**, Contribution of the European Commission to the Special European Council in Lisbon
- 5 See annex 1
- 6 See www.worldbank.org/poverty/mission/up2.htm
- 7 See www.eapn.org
- 8 The Lisbon European Council (2000), **An Agenda of Economic and Social Renewal for Europe**, Contribution of the European Commission to the Special European Council in Lisbon, p 22
- 9 SERTUC, GLA and LDA, London's response to the Commission's Communication on **The Future of the European Employment Strategy (EES) A strategy for full employment and better jobs for all**. The population is expected reach 8.1 million by 2016, an increase of 700,000.
- 10 www.statistics.gov.uk **Low Pay Jobs**. According to the Office for National Statistics part-time workers are seven times more likely to be paid under the minimum wage.
- 11 Equal Opportunities Commission (2002 issue) **Equal pay for part-time workers: your rights**. www.eoc.org.uk
- 12 DTI website at <http://164.36.164.20/work-lifebalance/press300802.html> Also featured in Management Today Magazine, September
- 13 Wareing, M.(1992) **Working arrangements and patterns of working hours in Britain**, Employment Gazette, 100: 88-100.
- 14 Hayashi, T. et al. (1996) **Effect of overtime work on 24-hours ambulatory blood pressure**, Journal of Occupational and Environmental Medicine, 38, 1007-1011.
- 15 G Bosch and S Lehdorff (2001). **Working-time reduction and employment: experiences in Europe and economic policy recommendations**, Camb. J. Econ.
- 16 European Directives relating to maternal and paternal leave and working time have been incorporated into UK Legislation via the Employment Act.
- 17 Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions concerning the re-exam of Directive 93/104/EC concerning certain aspects of the organisation of working time 2003, p.10
- 18 TUC(October 2003). **How to opt back into a 48 hour week**, Press release 3
- 19 TUC (September 2003) Poll
- 20 DTI (2003) **Working Time**, Brief for MEPs
- 21 TUC Report (2003) **Agency Work in Britain Today**
- 22 European Commission (2002) Directive of the European Parliament and the Council on working conditions for Temporary Workers, COM 149 p3
- 23 UKREP (2002) Draft Report of the Employment and for UK Members
- 24 CBI (May 2002) Proposal for a Directive of the European Parliament and the Council on working conditions for temporary workers, Parliamentary Brief
- 25 Blue Arrow Agency (2002) Working in the UK, research paper on the agency workers Directive
- 26 The Low Pay Unit; Daycare Trust; National Council for One Parent Families (2002) Consultation response to the proposal for a Directive on Temporary Agency Work
- 27 A bureau of National Affairs survey of more than 400 firms reported marked increases in the period 1980 to 1985 in the number of enterprises making use of agency temporaries, short term hires, on call workers administrative/business support contracts and production subcontracting. (Abraham, 1990:92) Trends in employment occupations output and input from 1972 to 1996 provide evidence that firms have increased the purchase of business services and engineering and management services relative to directly hiring labour (Clinton 1997)
- 28 The Low Pay Unit; Daycare Trust; National Council for One Parent Families (2002) Consultation response to the proposal for a Directive on Temporary Agency Work
- 29 US Department of Labor, Bureau of Labor Statistics (1997)
- 30 TUC Report (2003) **Agency Work in Britain Today**
- 31 Ibid.
- 32 OECD Employment outlook (2002) p.40
- 33 Kalleberg A, Reskin B, and Kenneth, H. (2000) **Bad Jobs in America: Standard and Non-standard Employment Relations and Job Quality in the United States**, American Sociological Review
- 34 Report of the Employment Taskforce chaired by Wim Kok (2003) **Jobs, Jobs, Jobs Creating More Employment in Europe** p.30
- 35 Fawcett briefing (2001) **Equal Pay**
- 36 50% Labour Force Survey (2002) and 70% DTI (1999)
- 37 Labour force survey (2001)
- 38 Report on the Commission Communication to the Council, the European Parliament, the Economic and Social Committee and the Committee of Regions on the future of health care and care for the elderly: guaranteeing accessibility, quality and financial stability (COM(2001) 723-C5-0163/2002 - 2002/2071 (COS)) 2002
- 39 **London Divided (2002) Income inequality and Poverty in the Capital** p.9 www.london.gov.uk/approot/mayor/economy/docs/london_divided_all.pdf
- 40 Age Concern (2004) Government risks losing womens' votes over pensions, warns new report (02.02.04) with reference to a joint report on women and pensions published by Age Concern and the Fawcett Society, Press Release.
- 41 Home Office research shows that overall in 1999/2000 migrants contributed, 31.2 billion in taxes while consuming 28.8 billion in benefits and services. Therefore migrants contributed around 2.5 billion to the Exchequer. **Refugee Myths: Fact or Fiction** http://www.unhcr.org.uk/info/briefings/asylum_iss ues/myths.html
- 42 White, M. (November 2003) The Edge, issue 14, p43
- 43 Capacity Global and Lambert, J. (2002) Integrating Social Inclusion and Environment: Exploring the potential for joined up thinking.

FLEXIBLE WORKING

A work-life balance or a balancing act?



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