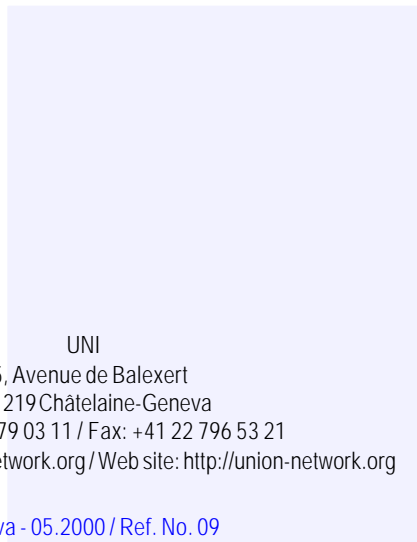
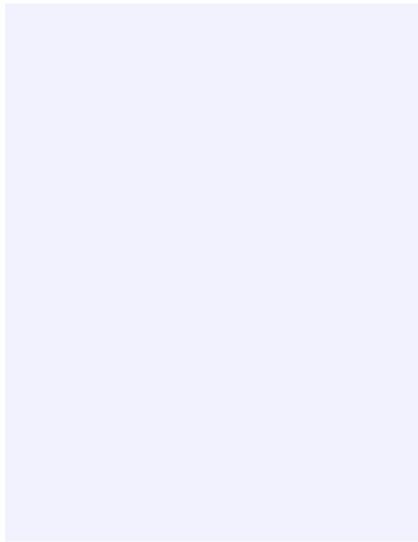


**PERSONAL  
CONTRACTS  
AND  
THE TRADE  
UNION ROLE**



**REPORT OF A SEMINAR  
ORGANISED BY UNI ON 7<sup>TH</sup>  
AND 8<sup>TH</sup> OCTOBER 1999 IN  
LUXEMBOURG**



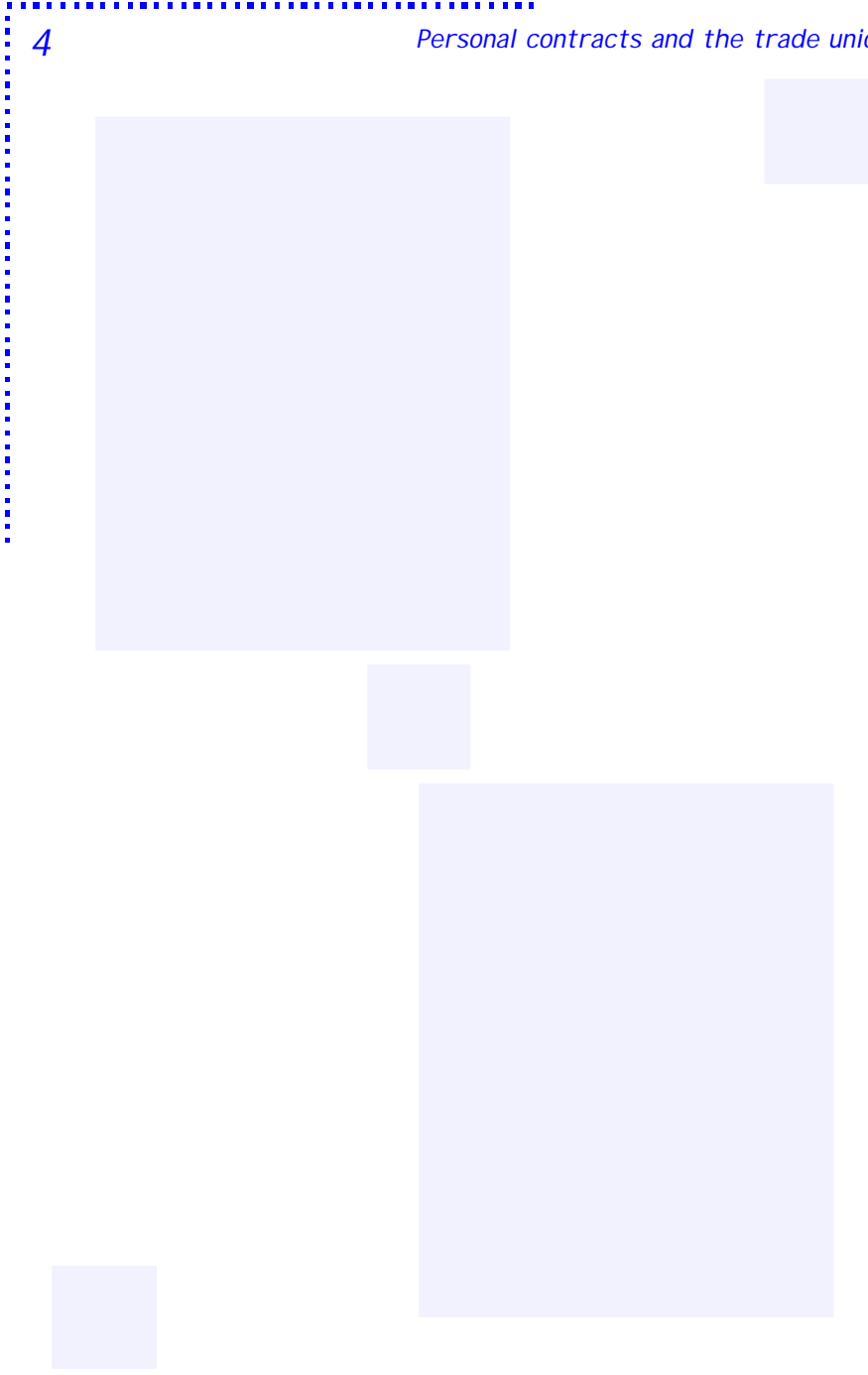
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## 1. UK EXPERIENCE

Sonia McKay from Labour Research Department introduced the survey that the LRD had carried out for the TUC on the attitude of personal contractors to personal contracts and the union services available to them. Although it had been a small-scale survey it had a fairly high degree of statistical reliability and all further work has supported the findings of the survey. It emphasised the extent to which personal contracts, as a new area of work, set new challenges for trade unions. Within the UK, union members on personal contracts were predominately full time male workers between the ages of 36 and 55. The nearly universal justification for their introduction was employers' perceived need to increase flexibility and to improve competitiveness. Nearly all personal contractors expected to remain on personal contracts, but they still valued the role of Union representation and many of them would like to see it increased in certain areas. It appeared that the provision of motor cars for those on personal contracts had had a considerable effect in making personal contracts attractive.

The three main issues identified within the survey were flexibility in working hours, the extent to which people suffered longer hours with resulting stress under these arrangements; the equal opportunity problems of there being too few women, little monitoring, particularly of race, and the consequent potential for discrimination; while the third issue was the extent to which, in career progression terms, a linkage was now being established between the likelihood of promotion and taking a personal contract as a way of dem-

onstrating commitment to the enterprise. Sonia then introduced the issues set out in the checklist prepared for the TUC with regard to the actions and attitudes that unions might take. These form the basis of the conclusions set out at the end of this report.

## 2. THE SWEDISH EXPERIENCE

Bertil Blomqvist of SIF, the union representing private sector employers in industry in Sweden gave a presentation on the Swedish dimension and perspective to this issue. He explained that SIF was the Union of some 320,000 members of whom 170,000 were P&MS. The key difference, of course, was the labour market legislation in Sweden and the extent to which personal contracts had had to adapt to that. For instance, there was a right to negotiate for all but the very highest executives and top managers, the right to bargain was a collective right and the Swedish law on representation gave unions the right to nominate to the board in companies employing more than 25 people.

On the basis of these labour laws there were national collective agreements, on top of which there could be a layer of collective employment contracts and, for those above that level, personal contracts. In each case, they built the contract on the previous structure. Another key difference was the importance that UK personal contractors appeared to attach to motor cars. In Sweden, because of the tax situation, many of them used to give the cars back to the company.

However, the key similarity with the UK situation was the extent of concern over working hours and the way in which those on personal contracts were liable to work longer hours than those elsewhere in the company. It was interesting that over 80% of those recently surveyed wished to see their trade union discussing actual working time for managers directly with the employer.

### 3. GERMANY

Jürgen Schutter (of HBV) then made a contribution based on some of the relevant German experience, drawing attention to a potential advantage in as much as performance-related pay schemes had to be authorised by the works council, and to the disadvantage caused by the low (20%) level of union affiliation amongst those at this level in the finance sector.

### 4. ELSEWHERE

Following reports on the situation in France, Belgium, Ireland, Greece, Finland and Norway the working group considered the conclusions that should be drawn from these experiences. These are set out below:

In looking at the range of experience across Europe, seminar participants were aware of the very major differences in national practice. Both because it was the subject of a comprehensive presentation, and because of the greater prevalence of personal contracts within the United Kingdom, the conclusions they have reached as to the kind of actions

that unions should be taking for their members on personal contracts are heavily influenced by the UK experience. Nonetheless, the problems of personal contracts are not unique to the United Kingdom. The difficulties are found, albeit sometimes in a less obvious way, in many other European countries. The seminar's conclusions are arranged below in terms of the six key subjects they identified:-

### **1. Working Time**

The seminar believed that the problem of the working hours of managers and professionals on personal contracts was probably the most significant area of difficulty for the people concerned, as well as providing the opportunity for trade unions to act on their behalf. Given the way in which certain employers believe that those on personal contracts should not wish for the protection either of a collective agreement, or indeed of European legislation, unions' opposition to the long hours culture must be seen to apply to all people, including those on personal contracts. Regular excess working can severely damage your health, whatever the nature of your employment contract. It has a negative impact on your family life and it may become a permanent source of conflict. It prevents you from taking part in the social, cultural and political life of your community. Visibility is the first key requirement. Unions can carry out regular surveys of the working hours of those on personal contracts and publicise the results. When this is done, unions are in a much better situation to campaign for appropriate recognition for those excess hours, even within the context of a personal contract. Similarly, once the information is obtained, it is



easier for unions to produce specifically-tailored information to enable members on personal contracts to raise the issue of working time and to relate the time their members are actually working with the working time regulations. The Barber case, which dealt with gender equality over retirement age and pension rights, provides a peg for unions to approach employers to discuss the proper implementation of these regulations. However the union approach had to be based on education (of both employers and their members), not confrontation over possible breaches of the regulations.

## 2. Communications

Unions providing a service to members on personal contracts require an effective system to identify them. Once they have done that, unions can ensure that they are able to get information to them directly. This is important both at the time when they are first offered a personal contract and subsequently. The collectively bargained terms and conditions from which they transferred may change; if so, they need to be informed as to the possible consequences. Unions need to ensure they have special channels of communications solely for people on personal contracts (in addition to covering such people in their general communications). This will enable them to remind those on personal contracts of any areas where unions still bargain on their behalf. It was clear from the UK experience that many of those on personal contracts who had been surveyed did not realise that their union was still responsible for negotiations over their pensions. This is also the case in Germany,

where trade union bargaining has an indirect impact on the terms and conditions of those on individual contracts. Direct communication to the people concerned provides a way of emphasising those areas of the union's involvement with their employer on their behalf.

### 3. Equal Opportunities

Unions should ensure that they monitor their own membership for gender, race, disability, and sexuality and argue for employers carrying out similar monitoring with openly published results. This should apply equally to those on personal contracts. Unions who carry out pay and conditions surveys of members on personal contracts and who publish the results are able to reflect on the extent to which equal opportunities are applied in practice. Such publications can also encourage employers to be more open with the outturns of employment conditions of those on personal contracts. More generally, unions should make sure they inform members of their legal entitlements and opportunities in relation to all aspects of equality. The issue of working hours and the corollary of the work life balance is often in practice a major factor in gender differences at this level. Thus, the practice of effective equal opportunities could assist in addressing some of the problems associated with working time.

### 4. Career Progression

Unions should ensure that the debate about career progression and promotion is linked to the arguments about

equality of opportunity raised in the previous section. Unions need to ensure members are aware of the extent to which, in many companies, promotion may depend upon people taking personal contracts. Equally, developing a career within the telecoms and IT industries may require people to move to companies which are more dependent upon personal contracts. Many of these companies are found in the newer parts of the telecoms and IT industry, so it is important that their employees realise the extent to which trade unions can and do cater for those on personal contracts.

#### TERMS AND CONDITIONS

That many terms and conditions for those on personal contracts may be unilaterally determined by the employer does not prevent the union from having a role in this area. For example, evidence gathered from pay and conditions surveys can be used to lobby a key area of concern. As a matter of policy, the employer should have a proper transparent pay system and the union should argue for this. Many of those on personal contracts have a more complex pension arrangement than those who are solely on negotiated terms and conditions. Unions can take advantage of this by providing such people with access to specialist pensions advice. In support of this, they should produce advice specifically tailored to those on personal contracts, updating them on changes in pensions law and the potential effect on them. In the light of the minimum holiday entitlements applying within the European Union, unions should ensure that there is a knock-on of longer entitlement for those on

personal contracts, and that any pressures for US-style shorter holidays are resisted.

### **SERVICES TO MEMBERS**

The following is a list of services that some unions had found helpful in retaining membership amongst those on personal contracts and in building membership in personal contracts areas:-

- dedicated help lines for those on personal contracts (staffed at least during normal working hours);
- regular visits by union full-time officers to emphasise the visibility of the union;
- union visibility in the workplace, even when unrecognised;
- individual representation for the member at work on employment problems wherever possible;
- authoritative union publications on employment law and health and safety;
- personal contract networks, either based on a shared physical location or a virtual net-based location;
- links with relevant professional organisations;
- communicating with members in different ways,

whether by direct mail, email or, if possible, via the use of a company intranet;

- ensuring that those who have an organising responsibility for personal contractors (whether members or full-time officers) are trained to meet the needs of members on personal contracts.