



# Connect South Newsletter

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## Date for your Diary

### Thursday 3<sup>rd</sup> March 2011

Committee Meeting - 11:30 > 12:45  
Branch Meeting - 14:00 > 16:00

### Thursday 5<sup>th</sup> May 2011#

Committee Meeting - 11:30 > 12:45  
Branch Meeting - 14:00 > 16:00

### Thursday 8<sup>th</sup> September 2011

Committee Meeting - 11:30 > 12:45  
Branch Meeting - 14:00 > 16:00

### Thursday 8<sup>th</sup> December 2011

Committee Meeting - 11:30 > 12:45  
Annual Meeting - 14:00 > 16:00

Location of most meetings are at –  
GFTU, Headland House, 308-312 Grays Inn  
Road, London, WC1X 8DP  
Nearest Train/tube **St.Pancras**

# to be held at Wimbledon HO

If members want to talk to the committee either before or after the formal meeting, they are usually available while refreshing themselves locally. Information as to their location can be obtained on 07711 575321

## Branch Web Site

We now have our own website –  
<http://connectsouth.wordpress.com/>  
Do check it out and let us know what you think.

## Charity helps more people back to work

The employment charity Shaw Trust is now supporting more than three times more disabled people into work.

The charity has just been confirmed as the prime provider for more than half of the 28 Department for Work and Pensions contracts for the new multi-million pound Work Choice programme.

The award of 16 contracts has seen the charity increase its support to more than 9000 people across the UK, from around 3000.

Evening News

## Employers should be providing more apprenticeship places

Students looking towards apprenticeships as an alternative to university could face disappointment, as employers are failing to provide enough places on the schemes that provide on-the-job training.

Scarlet Harris, the TUC's apprenticeships policy & campaign officer, welcomed the news that BT is extending its apprenticeship scheme after it was revealed that there have been 24,000 applications for the 221 places available.

The TUC supports schemes such as BT's which offer a solid qualifications framework leading on to degree-level courses and good training in the workplace.

She said: 'More large employers should follow BT's example and consider expanding their apprenticeship schemes.'

TUC

## Housing market 'ground to halt' as number of new homes built 'fall to 1920 levels'

The number of properties being built has dropped to its lowest since the 1920s as the housing market appears to have ground to a halt, according to new figures.

Experts said the data suggested the house building market had ground to a halt and was "worrying, highly significant and consistent with a falling market".

It added that tackling the supply crisis would also help to boost employment, with each new home built creating 1.5 full-time jobs, plus up to four times that number in the supply chain.

The Telegraph

## Cash cuts hit job schemes for learning disability adults

Disabled adults are missing out on employment. Reducing the working

week would not just tackle inequality, it would give us the time to think about what we do with our lives.

The mindless, repetitive boredom of working on a factory assembly line destroys initiative and rots brains, yet millions of British workers are committed to it for most of their lives.

Thirty-five years on, fewer of us are in factories, but the reductive logic of the assembly line has seeped into almost every aspect of working life.

Modern work is hollowing out our lives and making the planet sick. To break free, we need to reconnect work with the art of living.

The Guardian

## Children let down by failing schools, says CBI

Thousands of teenagers are still being "let down" by failing schools despite record investment in education under Labour, according to business leaders.

In a damning final judgment on the previous government's education record, employers said a 120 per cent rise in the amount of money spent on schools had "not delivered the returns" needed to drive the British economy.

The Confederation of British Industry warned that serious concerns still surrounded school leavers' lack of literacy and numeracy skills combined with the relatively low number of teenagers studying vital science and maths subjects to a high standard.

The Telegraph

## Wishful thinking won't bring equality for disabled people

Many Britons believe the battle's been won. But the defeat of prejudice takes effort and doesn't move in a simple direction. 91% of those surveyed agreed that disabled people should have the same opportunities as everybody else.

There's a strong belief in equality revealed here, which must be hypothetical, since it masks this striking social exclusion.

Another finding is that 79% have never had a disabled work colleague.

Whatever social choices you might make as a disabled person, you wouldn't choose to exclude yourself from most workplaces.

The Guardian

## **EU will change e-signatures laws to boost electronic invoice usage**

The European Commission will revise the E-Signatures Directive in 2011 in a bid to encourage businesses to make more use of electronic invoices.

OUT-LAW.COM

## **Employer not deemed to know everything that its employees know**

In *Orr v Milton Keynes Council*, the Court of Appeal held that, in a claim for unfair dismissal, an employer cannot necessarily be held to know something of which the decision maker was unaware, simply because it is known to other employees.

Shepherd and Wedderburn LLP

## **Web accessibility code of practice launched by BSI**

UK standards-setting body BSI has published the first British standard on web accessibility.

The websites of organisations which follow the guidance will be accessible to users with disabilities.

OUT-LAW.COM

## **Volunteers not covered by anti-discrimination legislation**

The Court of Appeal has confirmed that volunteers who are unpaid and have no binding legal contract are not covered by the Disability Discrimination Act 1995 or the European Equal Treatment Framework Directive.

Shepherd and Wedderburn LLP

## **Changes to tribunal compensation limits from 1 February 2010**

Under the annual index-linked formula, the compensation limits for certain tribunal awards and other statutory payments will be revised from 1 February 2011 to reflect the increase in RPI of 4.6% over the year to September 2010.

In most dismissal cases, the revised amounts will apply where the effective date of termination falls on or after 1 February 2011.

Shepherd and Wedderburn LLP

## **Government unveils plans to reduce number of employment tribunal claims**

The Government will remove the right of employees of one year standing to make unfair dismissal claims, will allow more

Employment Tribunals to sit with a single judge and could ask claimants to pay to make a claim, it has said.

OUT-LAW.COM

## **Asbestos lobby resorts to threats**

Shady asbestos industry lobbyists are running a campaign of intimidation targeting key campaigners seeking to ban the deadly fibre.

The UK-based International Ban Asbestos Secretariat (IBAS), which coordinates a network for campaign groups worldwide, says in recent weeks 'the internet has been flooded by accusations against individuals and groups campaigning to ban asbestos.'

IBAS says 'it seems more likely than not that the current public relations offensive originated in Russia, the country with the highest earnings from asbestos production and exports.' It adds:

'The latest industry diatribes, most of which focus on the work of IBAS, were not unexpected. Threats to the asbestos industry have traditionally been met by verbal attacks, legal action or physical intimidation.'

IBAS says the latest round of attacks brands ban asbestos campaigners as eco-terrorists and pseudo-environmentalists who are part of the 'powerful industry of the international anti-asbestos lobby... a supranational industry of money-pumping.'

In an online rebuttal of the pro-asbestos attacks, IBAS notes: 'Whether or not the asbestos defenders are ready for the demise of the asbestos milch cow is irrelevant.'

Progress is represented by those mobilising around the world to end the decades of destruction wrought by this industry and not by those desperate for yet one more asbestos dividend.

While attacking their critics might be cathartic for the old guard, it will not change the course of history. There is no place in the future for this dying industry.'

TUC

## **Government enforced asbestos silence will kill**

Workers will die as a result of the ban on official campaigns introduced by the government, construction union UCATT has warned.

The Health and Safety Executive's (HSE) award-winning Hidden Killer campaign was launched in 2008 after figures showed asbestos disease was killing 20 construction tradesmen every week

At the time HSE's Steve Coldrick warned: 'We need to educate tradesmen about how asbestos and its dangers are relevant to them.'

We want them to change the way they work so that they don't put their lives at risk.'

The latest phase of the high profile media campaign, fronted by celebrities including former England footballer Ian Wright, was timetabled for an October 2010 roll out, but this £1.2m next step has been disallowed as part of the government's clampdown on communications expenditure.

UCATT says in November 2010 it was told by HSE the campaign was 'under discussion', but has now been informed by the watchdog:

'There is no intention to run the Hidden Killer campaign again.'

However, top HSE officials are reported to be urging work and pensions secretary Iain Duncan Smith to allow the initiative to restart. UCATT general secretary Alan Ritchie, who has requested a meeting with the secretary of state, said: 'The cancellation of the Hidden Killer campaign will cost the lives of construction workers.'

This is directly a result of the government's cuts. I challenge Iain Duncan Smith who is ultimately responsible, to look me in the eye and tell me cutting this campaign is justified and will not endanger the lives of workers.'

HSE is denying the campaign has been cancelled. However, the government communications moratorium means it is barred from conducting any campaigns.

TUC

## **Inflexible and stressful work bad for kids**

Inflexible, stressful and emotionally demanding jobs can undermine parenting confidence and contribute to emotional withdrawal from children, a new report had claimed.

The Demos study found that while educational background has little effect on parenting style, work conditions did have an impact.

The think tank polled 1,017 parents and found work impacted negatively on parenting when it was characterised by inflexibility - in terms of hours and culture in the workplace.

'The home front' report found parents in well-paid but highly stressful jobs experienced as much negative impact as those in mundane, low paid and low-skill jobs, because of the lack of choice about working long hours and emotional demands of the workplace.

The ability to be creative at work, as well as flexible with hours, had a positive impact on parenting.

Kitty Ussher, director of Demos, said: 'Our working lives are inextricably bound up with our home lives and the ability of parents to support their children will be shaped by their freedom to balance care with their responsibilities at work.'

But work does not have a straightforward relationship with parenting.

It's not only the number of hours worked, but also the flexibility of a parent's schedule and the quality of their work that makes a difference to children.'

TUC

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### Government plans attack on vulnerable workers

Sick workers and those wanting to seek redress for unfair dismissal are among those targeted in what has been dubbed the government's 'employers' charter'.

Press reports suggest ministers, responding to pressure from the employer lobby, are intending to extend the period when employers can dismiss workers without being subject to a claim for unfair dismissal from one to two years.

The government is also understood to be considering introducing fees for workers taking claims to an employment tribunal and reducing the period when statutory sick pay is payable.

TUC's Nicola Smith, writing in the union body's Touchstone blog, said if the sick pay changes are introduced 'this policy seems likely to be a Coalition own goal.'

While evidence shows that it will have no positive impact on employment rates, it does seem likely to lead to increased unemployment (as workers are required to leave jobs that they would currently have a greater chance of returning to) and a rise in social security expenditure.'

Commenting on the suggested changes to the tribunal system, TUC general secretary Brendan Barber said:

'The government should stand firm in the face of the intense employer lobbying seen in recent weeks and leave employment tribunals to continue holding rogue employers to account and delivering justice for all workers who have been discriminated against or treated unfairly.'

TUC

### Employment tribunal shake-up

The coalition government has published a consultation document over its plans to change workplace dispute resolution and increase fees for taking a tribunal case.

The proposal that has raised alarm bells in the union movement is the one to increase qualification periods for unfair dismissal from one to two years.

Brendan Barber, General Secretary of the TUC, said: 'While employer groups complain that tribunals are costing them too much, they have lost sight of the fact that if firms treated their staff fairly; few would ever find themselves taken to court.'

The consultation closes on 20 April 2011.

TUC

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### Agency Workers

[Tilston v Alstom Transport](#)

#### Court of Appeal 19 November 2010

When does an agency worker become an employee of the organisation into which he/she is placed ?

This is a question which poses some difficulty and which inevitably depends on the precise facts and contractual relationships in the case in question.

In this case the ET had relied on three factors in concluding that the claimant had an implied contract of employment with the respondent end user:

- There was a significant degree of integration of him into their organisation
- A contract clause which denied the respondent control over the claimant was bogus because it did not reflect what actually happened
- The claimant had to get permission from his line manager at the respondent to take annual leave.

The Court of Appeal disagreed and found that there was no contract of employment.

The test is whether it is necessary to imply a contract.

Where the parties would have acted in exactly the same way if there had been no contract, that is fatal to the implication of a contract because it is not needed.

They approved a quote of the EAT in an earlier case: "it is not enough to form the view that because the Claimant looked like an employee ..., acted like an employee and was treated as an employee, the business reality is that he was an employee and the ET must therefore imply a contract of employment."

The test of whether an implied contract exists is necessity, not simply how it looks.

Russell Jones & Walker Solicitors

### Compensation Increases 2011

The change to maximum amounts effective for dismissals on or after 1st February has been announced.

The new maximum for a week's pay increases from £380 to £400. The compensatory award for most purposes is capped at £68,400.

Russell Jones & Walker Solicitors

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### BT guilty following fatal ladder fall

Communications giant BT has been fined £300,000 following the death of a worker who fell from a ladder while carrying out installation works.

Power construction engineer David Askew, 52, from Braintree, suffered fatal head injuries after falling from a wooden ladder at London's Canonbury Telephone Exchange on 27 October 2006.

British Telecommunications Plc (BT) was prosecuted after an investigation by the Health and Safety Executive (HSE).

Southwark Crown Court heard Mr Askew was installing distribution boards and running cabling as part of his work and would have been working at a height of more than four metres.

He fell from a nine-step wooden ladder, sustaining a serious head injury and died 18 days later.

The HSE investigation found a number of issues including a failure to ensure the work at height was properly planned, and that Mr Askew was provided with suitable access equipment for work at height.

Two wooden ladders found at the scene had not been subject to an annual inspection, contrary to BT's own health and safety policy.

BT was found guilty of criminal safety offences at a previous hearing.

On 15 December 2010, it was fined £300,000 and ordered to pay costs of £196,150.

Following the hearing, BT said it intended to appeal against the conviction.

TUC

21 October 2010

## High Court Decision in relation to the BT Pension Scheme Crown Guarantee

The High Court today gave judgment in an important pension case against the UK Government. The claim was brought by the Trustee of the BT Pension Scheme (BTPS).

The claim relates to the scope and extent of a guarantee (known as the Crown Guarantee) given by the UK Government on the privatisation of British Telecommunications ("BT") in 1984 and would only come into effect if BT becomes insolvent. The Crown Guarantee requires the UK Government to pay any outstanding liabilities, transferred to BT on privatisation, for the payment of pensions.

The BT Pension Scheme is the UK's largest private sector pension scheme, with assets of over £33.9 billion and more than 340,000 members as at 30 June 2010.

The claim was brought by the Trustee to clarify the scope and extent of the Crown Guarantee, not because of concerns over BT's solvency. It is also important for members of the scheme to understand the scope of the ultimate protection that the Crown Guarantee provides.

The High Court's judgment today addresses the two central issues in the case. First, does the Crown Guarantee cover the benefits of members whenever they joined the scheme, or only those who were already members at the time of privatisation in 1984?

The second issue was whether payments that the Government must make into the scheme when the Crown Guarantee is triggered are to be measured by reference to the cost of buying annuities from an insurance company to meet the relevant benefits in full.

The Judge decided in favour of the Trustee on both issues, ruling that the Crown Guarantee can cover members who joined before and after privatisation and that the payments to be made by the Government under it must be measured on the annuity basis.

The Court also decided one other issue in its judgment. It decided that the Crown Guarantee does not cover the benefits of members accrued while in service with companies that participate in the BTPS other than BT if the member concerned had not previously been employed by BT.

The judgment was the first stage in the case and leaves further issues to be resolved at another hearing, including a number concerning whether certain benefits and classes of member are covered. Until these issues are resolved it is not possible to say with complete precision what the scope of the Crown Guarantee is. The Judge today, however, has resolved the two most important issues in the case in favour of the Trustee. It is possible that the High Court's decision may be subject to appeal.

This is a good result in that it provides further clarity as to the extent of the Crown's obligations for members of the BTPS and it is favourable for members.

BT Pension Scheme

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## IMPACT OF THE GOVERNMENT'S DECISION REGARDING FUTURE PENSION INDEXATION ON THE BT PENSION SCHEME

BT today announced the impact of the Government's decision that the Consumer Prices Index (CPI), rather than Retail Prices Index (RPI), will be used as the basis for determining the rate of inflation for the statutory revaluation and indexation of occupational pension rights.

Following a detailed legal and actuarial review, BT and the Trustee of the BT Pension Scheme (the Scheme) agree that under the Scheme Rules the decision has the following impact:

- For members of sections A and B of the Scheme – CPI will be used to determine both the future revaluation of preserved pensions for all members who leave BT prior to retirement (deferred members) and the rate of inflationary increase applied to pensions in payment.
- For members of section C – CPI will be used to determine the future revaluation of preserved pensions for deferred members. The wording of the Scheme Rules is different for section C pensions in payment. BT and the Trustee are taking further legal advice as to whether pensions in payment for section C members will be affected by the Government announcements made to date. RPI will continue to be used and assumed for these members until this review is complete.

Due to the Scheme's history many of the Scheme Rules reflect those of public sector schemes, and so the increase set by the Government automatically applies as detailed above. No further legislation is required and the Scheme Rules remain unchanged.

The Government's decision does not affect the accrual of benefits for employees while they are active members of the Scheme.

The impact of this decision reduces the IAS 19 accounting valuation of the Scheme's liabilities by around £2.9bn and at 30 September 2010 BT's total IAS 19 pensions deficit was £5.2bn (£3.8bn, net of tax) compared with £7.9bn (£5.7bn, net of tax) at 30 June 2010.

The decision will also impact the next triennial funding valuation due to be carried out at 31 December 2011, although it has no impact on the current recovery plan agreed between BT and the Trustee under which BT will continue to pay deficit contributions of £525m in 2010 and 2011. Any reduction in the funding deficit due to this announcement will reduce the number of years of any future recovery plan. The 2008 funding valuation and recovery plan remain under review by the Pensions Regulator.

BT Group plc  
November 4, 2010