

Dutch workers entitled to smoke-free conditions, court rules

Tony Sheldon *Utrecht*

A Dutch court has ruled that employers must guarantee that non-smoking staff have a working environment completely free of tobacco smoke. In a landmark judgment, the Breda district court upheld a postal worker's complaint that her exposure to tobacco smoke at the city's sorting office infringed her right to work in a smoke-free environment.

The court ruled that her employers were bound by the constitutional rights of citizens to protection of "physical integrity" and "health" to provide such conditions. They failed to satisfy this right under employment law, which obliges employers to ensure that workplaces cause "no harmful effects" on employees' health. The decision was based on recent advice from the Health Council, a government advisory body, that for carcinogens such as tobacco smoke there are no safe limits. This is the first time in the Netherlands that an employer has been taken to court to try to guarantee a working environment free of smoke, and the case

has drawn comparisons with more advanced litigation in the United States.

Postal worker Nanny Nooijen had complained since 1993 about tobacco smoke in the Breda sorting office, where she works. Since 1990 she has experienced health problems, including asthma, because of an extreme sensitivity to tobacco smoke.

In 1997 her employers, PTT Post, created a separate non-smoking area and introduced smoking bans in the women's toilet and the canteen. But earlier this year Ms Nooijen took legal action to enforce a "completely smoke-free working environment."

The court accepted that PTT Post had not satisfied its obligations. PTT Post has been given two weeks to introduce a complete smoking ban with the exception of a dedicated smoking room that must not cause non-smokers problems. Failure to comply will mean daily penalties of about £330 (\$528).

The Asthma Foundation, which backed the action, believes



Dutch postal worker Nanny Nooijen is congratulated after winning her fight for a smoke-free environment

that there could be thousands of similar cases and has set up a telephone hotline to register complaints. A recent national survey showed that 76% of employees experience problems with tobacco smoke. The foundation is calling for the judgment to be enshrined in a new law, currently before parliament, that aims to discourage smoking.

The UK antismoking lobby Action on Smoking and Health (ASH) believes this is the first judgment of a European court guaranteeing a smoke-free workplace. Its research manager, Amanda Sandford, said: "It is of major importance not just to the Netherlands but elsewhere. Passive smoking in the workplace is a hazard." □

Britain's first "virtual hospital" gets go ahead

Judy Jones *London*

A prototype "virtual hospital" that will monitor patients in their own homes from control centres around the country is being developed in Britain with a £10m (\$16m) Treasury grant for public service modernisation.

The project will be led by the Defence Evaluation and Research Agency and will target hospital patients who need to remain under the care of medical staff but whose condition can be managed in their own homes. Thousands of patients are likely to be offered the chance to participate in the two year scheme, which will attempt to exploit the potential and principles of portable medical equipment that

has been designed for the battlefield in a civilian context.

Suitable NHS patients will be provided with monitoring equipment that they can use to take readings of their own blood pressure, lung function, and, in the case of patients with coronary heart disease, cardiac function.

Some may be given computer terminals so that information can be sent electronically via a telephone line and a modem to a control centre that will route it to the specialist in charge of the patient's care. Others may take readings from the devices and report these over the telephone to the relevant specialist's office.

"The potential savings for the NHS, and the benefits to patients, are considerable," said Keith Smith, the marketing manager of the Defence Evaluation and Research Agency. "Patients could go home from hospital much earlier than at present when they are simply being monitored." □

Ireland's junior doctors to strike

Doug Payne *Dublin*

The Republic of Ireland's junior doctors have voted overwhelmingly for industrial action in support of claims relating to pay and working conditions. The country's hospitals—severely affected by a nine day national nurses strike six months ago—are working on new contingency plans.

The non-consultant hospital doctors (NCHDs) are likely to target specific hospitals first—possibly the country's largest, for the publicity value, or a group of hospitals recently "named and shamed" for demanding hours in excess of the contracted 65 hours a week and for short-changing junior doctors on both pay and overtime.

At one hospital the doctors had to resort to using the country's Freedom of Information Act to find out what overtime payments were owed to them. The

NCHD committee was to meet midweek (as the *BMJ* went to press) to decide on the length of notice to be given to target hospitals and whether to adopt an initial rolling strike, from hospital to hospital, or a combined strike.

The director of industrial relations for the Irish Medical Organisation, Mr Fintan Hourihan, said that emergency cover would be provided and that elective admissions and outpatient services would bear the brunt of any disruption. But the Irish Hospital Consultants Association had already written to the health minister, Michael Martin, to express concern about the ability of consultants to cope in the absence of the country's 2800 NCHDs. Moreover, any strike by the NCHDs would almost certainly send waiting list figures soaring. □