

# Worst among equals

The thorny question of equal pay is in the news once again, thanks to the Government's introduction of its new Equalities Bill. **William Booth** takes a look.

**O**n 29 April, a case started in the London Central Employment Tribunal which highlighted once again the persistent problem of (un)equal pay.

The case was brought by the Public and Commercial Services Union (PCS) against the Department for Transport (DfT), and concerns a gap of more than £5,000 in pay between a group of 38 women working in the Driver and Vehicle Licensing Agency (DVLA) and male colleagues doing similar jobs in the Driving Standards Agency (DSA). Both the DVLA and the DSA are executive agencies of the Department for Transport.

Salaries in the DVLA start at c.£12,500, says the PCS, which estimates that workers in the DVLA are underpaid to the tune of some £17.5 million a year compared to colleagues on the same grade elsewhere in the Department. The union won a similar case against the Prison Service in 2006.

It is embarrassing enough for any government to find itself in the dock over allegations of discrimination. Even worse, though, is the fact that this is the same administration which has, for several years, prided itself – with some justification – on its commitment to equality in the workplace.

Whether or not the DfT is found guilty of discriminating against its female employees, the case represents just the tip of a massive iceberg. According to figures issued in November 2008 by the Office for National Statistics (ONS), the size of the pay gap varies across the UK. In London, for example, median gross weekly earnings for full-time employees last year were the highest in

the country, at £613. Break that down according to gender, and a rather startling disparity emerges between the figure for men, £677 per week, and the figure for women, £542 per week.

That pattern is repeated across the country: in the South East, where earnings were the highest outside London, the figures are £500 (all), £556 (men) and £422 (women); in Northern Ireland,

**The pay gap between men and women has widened to 12.8 per cent in 2008.**

where earnings were the lowest, £418 (all), £439 (men) and £386 (women); and in Scotland, £460 (all), £505 (men) and £400 (women).

What is clear, too, is that the problem is getting worse. According to the ONS, last year hourly earnings for men in full-time employment (not including overtime) rose to £12.50, up 4.4 per cent on the previous year, compared with £10.91 for women, up 4.1 per cent. As a result, the gap has widened, from 12.5 per cent in 2007 to 12.8 per cent in 2008.

#### THE EQUALITY BILL

The DfT case may be an embarrassment but that has not deterred ministers from making a fresh attempt to eradicate discrimination in the workplace, this time with the publication of a new flagship piece of legislation, the Equality Bill.

The Bill frames a variety of measures which, the Government hopes, will bring together and simplify nine separate pieces of anti-discrimination

legislation and around 100 other measures built up over the last four decades. The intention, says Minister for Women and Equality Harriet Harman, is 'to make it easier for individuals and employers to understand their legal rights and obligations'.

But the Bill goes much further than simply consolidating and clarifying the existing law.

It also introduces a new public sector duty to consider reducing socio-economic inequalities, a new 'equality duty' placed on all public bodies, and a commitment to the use of public procurement to improve equality. Other measures include greater powers for employment tribunals, greater anti-discrimination protection for carers and the disabled, and a ban on discrimination in private clubs.

Probably the single most controversial aspect of the Bill, however, has been the proposal to require organisations to publish 'gender pay gap' reports. The requirement will apply initially to public sector bodies employing more than 150 employees, but is likely to be extended over time to private sector employers with 250 or more employees. The Government envisages that 'pay gap' in this instance would be defined as the percentage difference between women's median hourly pay (excluding overtime) and men's median hourly pay (also excluding overtime).

The gender pay report duty for private sector employers will not take effect until 2013 – and may not come into effect at all if sufficient progress on reporting in this area is made in the meantime. To that end, the Equality and Human Rights Commission is, this summer, developing a set of metrics for gender pay reporting, and thereafter will monitor progress on reporting ▶



within the private sector.

Unsurprisingly, this aspect of the Bill has met with an outcry from several quarters. One charge levelled at the proposals is that the gender pay report is a very blunt tool, and is likely to misrepresent the relationship between male and female staff in many organisations. It might also, say critics, undermine efforts to attract women into sectors where they are currently under-represented.

Jaime Tham, Company Secretary of Mecom Group plc and Secretary of the Association of Women Chartered Secretaries and Administrators (AWCS), is one of those who are less than

convinced of the idea's merits.

'I'm not sure how it might be done better,' says Jaime, 'but I don't think what the Government is proposing is appropriate.'

'The problem is, the quality of the data you'd get would depend upon the roles the report covers. It might be useful where you had men and women working alongside one another doing the same job – a call centre team, for example – and you'd expect their pay to be comparable. It wouldn't work, though, where the jobs being compared were very different.'

'If you're talking about producing one figure that's meant to encompass all jobs up and down the organisational chain – from the directors to the people on the shop floor – then I think it's unfair and unhelpful. I think the data would need to be broken down into more useful 'chunks'.'

Blunt tool or not, the gender pay report does have its supporters. 'I'm normally against positive

discrimination,' says Susan Singleton, Principal at Singletons Solicitors, 'but I do think this is going to be wise.'

'I think, too, the time may have come – as has happened in Norway and, I think, Spain – to require that 40 per cent of the people sitting on company boards be female. There are plenty of women out there who are qualified to do the job but don't know the right people to get asked, or don't have the right career profile. In this difficult period – not that long in historical terms since the 1970 Equal Pay Act – that sort of measure could be really helpful in consolidating the position of women in the workplace.'

'The 'manceSSION', as it's being called in the US, has resulted in many more men losing their jobs, and this is benefiting women who are getting back to work and finding they enjoy it.'

### GREAT (AND NOT-SO-GREAT) EXPECTATIONS

When you look at the arguments raised over pay inequalities, one argument crops up again and again: the assumption that pay inequalities reflect men and women's differing expectations.

Men, so the reasoning goes, expect to be rewarded for longevity and continuity of service. They put in the hours, sacrifice personal and family time in favour of their careers and are rewarded for their efforts with higher pay and promotions. Women, by extension, are less single-minded about their careers. They want to do well, but they also expect the flexibility to take time out, raise a family and then return to work. As a result, when they go back to their careers, they find they've lost ground.

But is that a fair argument – or is it just an attempt to justify the unjustifiable?

'I think that's a bit of a smokescreen,' says Caroline Evans, Director of company secretarial recruitment business CSS.

'What happens, I think, is that men arrive in the working world with every expectation that good things will come their way – a good job, a nice salary, plenty of opportunities, and so on. Women arrive in the workplace knowing they have to work harder for the same things, and expecting that less will come their way if they don't.'

'Yes, the biological urge to have children and raise a family may be 'hard-wired' into women more than it is into men, but many women, I think, nevertheless see maternity as a frustration which allows employers to treat them differently and stops them getting on with their careers.'

'I think many women, if they could, would happily pass pregnancy and all those traditional expectations about raising the family, looking after the home and so forth over to men while they got on with their careers. Increasingly, of course, the law allows them the flexibility to take time out and then return to their careers, but many women who make that choice then

**City boys:** London's financial services industry is notoriously sexist

find themselves having to justify what value they've been to their employer while they've been away.'

The problem with the 'expectations' argument, however, is that it works both ways, as Jaime Tham points out.

'Women also expect to be rewarded for longevity and continuity of service' she says. 'They would like their efforts to be recognised based on merits and be compensated accordingly.'

It's not as simple, says Susan Singleton, as women choosing to take time out to have a family. 'For one thing,' she says, 'women tend to marry up. So, if a family chooses to prioritise one partner's career over the other's it will often be the man's, because he earns more. In my own case, where I did not marry up, it was simple: my career came first, because I earned more. Many women are not in that position, though: four out of five women earn less than the man they marry.'

'Women without children earn less than men,' she adds, 'so childcare responsibilities are not the only issue. Plenty of women work full time, as I have always done, without career breaks.'

There are also psychological differences at play. 'A study of MBA graduates found that every man, on qualification, had asked for more pay in his first job,' says Susan, 'but no woman had. The men thought the firms were lucky to get them; the women simply felt lucky to have jobs. Some women, of course, are good at asking for more pay so making generalisations based on differences between the chemistry of the male and female brain isn't the whole answer. But those differences certainly do exist – there's a good book on the subject, called *The Female Brain*.'

Fitting into corporate culture can also be problematic, particularly in those businesses where one's ability to be 'one of the boys' can have an effect upon one's career. The City of London is a case in point: women working in the City are regularly paid less than their male colleagues (as much as 60 per cent, according to some figures), and frozen out of a very bullish, macho culture. Tales abound of bank bosses holding meetings in strip clubs, of female staff being asked to 'entertain' important clients, or of women being marginalised after complaining about 'lewd' banter between male colleagues.

'Some employers do discriminate against women,' says Susan, 'even if it is not direct. If you do not play golf or play football, for example, that alone can set you back, as can not drinking – which discriminates against certain religions, too, not just against women.'

There is, clearly, a real problem here, but, says Caroline Evans, what's important is that women themselves focus their energies upon showing what they can do – not upon letting themselves be seen as victims.

'What we don't want to see happen,' she says, 'is women wearing that as a chip on their shoulder rather than simply getting on with being good at their jobs. Nor do we need tokenism. No women

who really values her career is, or should be, comfortable with being a token – she should be there because she's the best person for the job.'

### COMPANY SECRETARIES

The last three decades or so have seen an explosion in the numbers of women coming into what were once male-dominated professions.

So what about women company secretaries? Female Chartered and company secretaries

## 'Women arrive in the workplace knowing they work harder for the same things.'

have come a long way from the days when the President of the AWCS was first allowed to listen to proceedings of the Institute's Council – provided she sat behind a curtain. Women are now rightly a very prominent voice in the profession, and AWCS is one of the Institute's more active groups.

But what effect has the rise in the numbers of women entering the profession had upon salary levels? Are – as the ONS statistics would seem to suggest – women company secretaries paid less than their male peers?

Not necessarily, says Caroline Evans. 'In my experience,' she says, 'the company secretarial field is not one where gender is usually seen as a determining factor.'

'I think there are other issues that have a greater impact upon the profession than male versus female – issues around how company secretaries are viewed within the organisation and in relation to other professionals, such as legal or financial professionals.'

'There are, for example, a lot of what we might call 'fast-trackers' coming into the profession, and they often find themselves frustrated at being passed over for the top jobs. Many of those fast-trackers are women, but it's not their gender that holds them back. What holds them back is a tendency on the part of many companies to give the top jobs to candidates from a legal or financial background. Many of that latter group are men, of course, but again it's their background, and not their gender per se, that's the determining issue.'

Jaime Tham agrees. 'I think that in the company secretarial profession there is more of an emphasis upon differentiation according to type of role than there is upon gender,' she says.

'If you look at the people who come into the top jobs, many of them are solicitors or barristers by background, and they tend to be very well paid. The people who are doing more of the 'bread and butter' company secretarial work, though, the deputies and assistants, are on very different salaries.'

'I think as well that the high proportion of women in the profession makes it very difficult to

assess whether gender has an effect upon pay. In my experience, company secretarial roles tend to be paid fairly equally according to the type of role and regardless of gender.'

'It's also a matter of how organisations view the company secretarial function generally,' adds Caroline. 'Over the last few years, company secretarial in more forward-looking organisations has gradually become less about corporate administration, become disengaged from such things as legal or financial functions, and taken on a higher profile in its own right. It's in those organisations, where the company secretarial team is given the respect it deserves, that you'll find the better opportunities for women and men.'

'Where the secretariat is seen as more of a 'back office' function, though, more of that old-fashioned administrative function, you'll find staff for whom the pay is lower and the opportunities fewer – and that will include plenty of women.'

'One of the reasons, I think, why women appear to have greater equality with their male peers in this profession is simply that there are so many of them! Of course, over the last 30 years or so, more and more women have been going into all sorts of professions, and I'm not sure what effect strength of numbers has generally in that regard. But this particular profession appears to have attracted more women than, say, law or finance, which tend to attract more men, and that's meant that women company secretaries have enjoyed greater equality with men.'

### THE FUTURE

It's been some four decades since a British government first legislated on pay inequalities and, in the years since, progress has been patchy. But how to crack this particular nut once and for all?

'The solution in my view is to put maternity and paternity rights on a more equal footing,' argues Susan Singleton.

'That's not to say they should be 100 per cent the same, but perhaps that men and women can take three or six months off at SMP rates and cannot use one another's entitlement. That would help ensure that more men stayed at home.'

'The primary reason why women don't work full time is they are overly burdened at home and sexist assumptions are made that women will find childcare, not the men. Get rid of the assumptions that women want to stay home, bake cakes and serve men, and ensure that men expect to find and keep and manage childcare. Then, women will find it easier to advance their careers.'

### FURTHER INFORMATION

The Equality Bill and explanatory notes can be found online at [www.equalities.gov.uk](http://www.equalities.gov.uk). The Bill is expected to come into force from autumn 2010.

### ABOUT THE AUTHOR

William Booth is Magazine and Conferences Manager at ICSA.