



Close the Gap submission to the Smith Commission on the devolution of further powers to the Scottish Parliament

October 2014

1.0 Introduction

Close the Gap is a partnership initiative which works across Scotland on issues around women and the labour market. Partners include Scottish Government, Equality and Human Rights Commission, Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, and Scottish Trades Union Congress.

Close the Gap works with employers, economic development agencies, sectoral representative bodies, and trade unions. The breadth of partnership recognises that equal pay is an economic issue as well as equalities issues, and that narrowing the gender pay gap would return aggregate productivity gains to the Scottish economy.

2.0 General comments

We welcome the opportunity to respond to the Smith Commission on the further devolution of powers to the Scottish Parliament. Women experience inequality in labour market in that they are concentrated in undervalued, low paid jobs, and under-represented at senior levels across all sectors of the economy.

The gender pay gap is 13 per cent when comparing women's full-time average hourly earnings with men's, and 34 per cent when comparing women's part-time average hourly earnings with men's full-time average hourly earnings. The pay gap contributes to women's and children's higher levels of poverty and women's pensioner poverty. It also impacts on household earnings and on

men's earnings when they work in sectors or occupations with high levels of female workers.

2.1 Gender analysis

It is critical that the Smith Commission apply a robust gender analysis to its deliberations and reporting processes. This analysis should take into account the cumulative implications of any new powers for women and shape the recommendations made. A gender impact analysis must be carried out to assess the differential impact of proposals on women and men in Scotland.

Changes to institutional structures and political processes, and the devolution of further powers present crucial opportunities to embed gender equality, and advance women's position in the labour market.

The principle that underpins this submission is the advancement of women's equality in the labour market. Promoting gender equality should not be predicated on a cost-benefit analysis of implementing new structures in order to achieve this. This includes the given example of likely start-up and administrative costs.

3.0 Devolution of powers

3.1 Equalities legislation and regulation

The Equality Act 2010 was the most important piece of legislation on gender equality in 30 years. It provides protection from sex discrimination in employment, and also provides for equal pay between men and women. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 sets out the proactive obligations of public authorities in relation to equal pay, the gender pay gap, occupational segregation and equality outcomes. Employers must also equality impact assess all policies and practices.

The Scottish regulations are inextricably linked to the public sector equality duty and the Equality Act 2010. The duty has already been under threat from the UK

Government when a review of it was announced as part of the Government's Red Tape Challenge.¹ If the public sector equality duty were to be scrapped, the Scottish regulations would also fall leaving Scotland with no specific duties on public authorities.

The Equality and Human Rights Commission in Scotland is the equalities regulator, and is responsible for all human rights issues that relate to reserved matters but is not accountable to Scottish Government or the Scottish Parliament.

3.1.1 Devolution of powers

Close the Gap calls for the devolution of equalities legislation and regulation to the Scottish Parliament, including the devolution of power to establish a Scotland-specific equalities regulator similar to the Equality Commission in Northern Ireland.

3.2 Flexible working, and maternity, paternity and parental leave

Women are still much more likely to be primary carers which, when coupled with a lack of flexible working practices, means that it is very often difficult to accommodate caring responsibilities with work. Consequently women often have to take part-time work, and part-time work is associated with low-paid, low-skill jobs. This means that many women are currently working in jobs that are below their skill level. When women work part-time it has an adverse effect on their pay, promotion prospects, and their income in retirement.

The gender pay gap is a drag on economic growth, and gendered allocative inefficiency prevents growth in Scotland's key sectors, including renewables. Bringing employment law within the competence of the Scottish Parliament enables this to be more closely aligned with Scotland's economic development policy.

¹ UK Government web page <http://www.redtapechallenge.cabinetoffice.gov.uk/2012/05/equalities-rtc-announcement/>

Progressive employment law and working practices are vital to ensure that women with caring responsibilities can access paid work which is commensurate with their skill level so that they can contribute effectively to the Scottish economy.

The introduction of fees to access the employment tribunal service in Scotland has resulted in a 75 per cent drop in sex discrimination cases. The medium-run impacts of this fall in the number of cases are not yet known but it is important that poor employers can be held accountable for the damage that they do to individual women, to local economies, and to good employers which offer decent employment.

3.2.1 *Devolution of powers*

Close the Gap recommends that the power to legislate around employment law be transferred to the Scottish Parliament. This would include power to:

- determine maternity, paternity and parental leave and pay;
- set the minimum wage; and
- ensure access to justice for breaches of employees' rights, including tribunal service and judicial review.

3.3 Employability programmes

Responsibility for employability rests primarily with the Scottish Government and its agencies. The exception is funding arrangements for UK employability programmes linked to social security, such as current UK Government's Work Programme.

Women are amongst the furthest from the labour market, particularly those who are economically inactive or unemployed, including women returning to work after taking time off to care for children, or sick people.

In advance of the rollout of Universal Credit, a new regime of sanctions and conditionality has been introduced by Job Centres. This places intense pressure on Jobseeker's Allowance (JSA) recipients to participate in employability activity

that is supposed to move participants closer to the labour market. The quality and effectiveness of these programmes has been widely criticised,² and they discriminate against women in two key ways.

The new JSA rules require single mothers to take part in work-focused interviews and mandatory work activity when their youngest child is one year old. Current childcare provision is insufficient to meet the needs of all women who are categorised as economically inactive, which guarantees that women will not all be able to meet the requirements of the programme and will therefore be subject to sanction.

The programme also does not take cognisance of occupational segregation in the Scottish labour market when pairing job seekers with mandatory work activity (workfare). Generic skills and employability programmes are likely to replicate gendered patterns of skills acquisition and employment. The methods that can be used to mitigate this have not been applied in relation to JSA. This all but ensures that the implementation of JSA will reinforce occupational segregation, and therefore perpetuate the gender pay gap, in Scotland.

Changes to the welfare system, that effectively force single mothers of young children to enter the labour market, only intensify the need to ensure employability programmes tackle the specific barriers facing women, such as a lack of accessible and affordable childcare. Employability programmes have a unique opportunity to influence employers to offer flexible and part-time working in sectors where women are under-represented. Without advocacy of a gendered approach, sensitive to the barriers faced by women, employability initiatives will entrench occupational segregation and perpetuate gender inequality.³

3.3.1 Devolution of powers

Close the Gap calls for the power to establish employability programmes that link with Scotland's economic development strategy be transferred to the Scottish Parliament. This must be linked with existing infrastructure for skills, training and economic development.

² See Joseph Rowntree Foundation (2010) *A Review of Benefits Sanctions*; SCVO (2013) *Independent Review of Jobseekers' Allowance Sanctions*; and Citizens' Advice Bureau (2011) *Conditionality and sanctions in the Welfare Reform Bill*

³ Close the Gap (2014) *Women and Work: What comes next in a post-referendum Scotland?*

3.4 Social security

Women are more reliant on the welfare system, with benefits comprising 20 per cent of the average woman's income, compared to 10 per cent for men in the UK.⁴ Patterns of occupational segregation in the labour market, and women's propensity to be primary carers, means that women are more reliant on key public services, and consequently public spending cuts impact on women more than men. Cuts to public spending on the benefits and taxation system under the banner of 'welfare reform' have predominantly been taken from women's incomes. Since 2010, 74 per cent of the £14.9 billion worth of cuts to benefits, tax credits, pay and pensions has been taken from women's incomes.⁵

Women have fewer financial assets, have less access to occupational pensions than men, and make up the majority of those in the lowest income decile in the UK.⁶ 92 per cent of lone parents are women, and women make up 95 per cent of lone parents dependent on income support.⁷ Women comprise nearly 60 per cent of carers within the home and 64 per cent of carers in the wider community. The gender pay gap in Scotland signifies persistent and widespread differences in women's experience of the labour market. The level of women's disposable income also has an impact on women's and child poverty.

The complexity and interdependency within the benefits and taxation system, supports the case for devolution, as do the interdependencies between social security, employment and equality. Poverty and inequality reduction should be predicated on a cost-benefit analysis. The social security system is failing women and reinforcing their economic inequality.

3.4.1 *Recommendation*

Close the Gap calls for social security, benefits and the taxation system to be transferred to the Scottish Parliament. This must include the power to set policy, in addition to the administration and delivery.

⁴ The Fawcett Society (2006) *Who benefits? A gender analysis of the UK benefits and tax credit system*

⁵ House of Commons Library (2012) [How have Coalition budgets affected women?](#)

⁶ Women's Budget Group (2013) *The Impact on Women of Budget 2013: A budget for inequality and recession*

⁷ Engender (2012) *Multiple Jeopardy: The impacts of the UK Government's proposed welfare reform on women in Scotland*