



Written submission to the Women and Equalities Committee inquiry into the gender pay gap

December 2015

1.0 Executive summary

- 1.1 The UK Government's proposals are welcome but inadequate. Headline figures can obscure gendered inequalities in grades, and across an organisation. Employers should be required to report on a broader range of indicators, and should also be required undertake to take action to address gaps.
- 1.2 Research shows that employer inaction on the gender pay gap is because of undue complacency and/or a lack of will to address gender inequality, and that employers are unlikely to take action on pay gaps unless they are legally required to do so.
- 1.3 Actions to improve women's recruitment, retention and retraining include access to affordable, quality childcare; increased quality part-time work; increased employer support for women returners; and equal access to training and development opportunities.
- 1.4 Actions to advance women's progression include women-only professional networks; mentoring; increased quality part-time working equality-proofing progression processes; formalising and making transparent development opportunities; and gender-sensitive talent management programmes.
- 1.5 Horizontal segregation, and the undervaluation of women's work, is immensely challenging to address. Raising the pay of the lowest paid is one solution, and Government may consider this intervention in its wage setting.

- 1.6 The Close the Gap initiative is an innovative intervention to address the causes of the pay gap. Our *Think Business, Think Equality* online self-assessment tool has been successful in engaging SME employers, which have been traditionally challenging to engage with on gender equality.

2.0 Introduction

- 2.1 Close the Gap is a partnership initiative working in Scotland on women's participation in the labour market. Partners include Scottish Government; Scotland's economic development agencies, Scottish Enterprise and Highlands and Islands Enterprise; Scotland's skills agency, Skills Development Scotland; Equality and Human Rights Commission; and Scottish Trades Union Congress. The breadth of the partnership recognises that the gender pay gap is an economic issue as well as an equality issue, and that narrowing the pay gap would return aggregate gains to the UK economy.
- 2.2 Close the Gap has been operating since 2001 and works with a range of organisations that are stakeholders in women's employment, including directly with employers and employer representative bodies. The project is exposed to a breadth of thinking on the part of policymakers and employers about women and the labour market, including perspectives on the regulatory context and interventions that have been designed to tackle the causes of the pay gap.
- 2.3 We welcome the Committee's inquiry into the gender pay gap for women aged over 40 years. Although it is the key economic indicator of the gendered inequalities in the labour market, the gender pay gap as a measurement can present some problems in gauging women's equality at work. A headline pay gap figure very often masks specific issues within individual organisations, and in the wider labour market. It is entirely possible that there could be a no gender pay gap in an organisation, or at sectoral or macro levels, and women will still be concentrated in low-paid, undervalued work; still under-represented in higher-paid, senior positions; and still experiencing pay discrimination. The pay gap is also a lagging indicator which means that change that has taken place will not be immediately reflected in headline figures.

3.0 Questions

3.1 ***Q1. How adequate are the Government's proposals for tackling the pay gap faced by women over 40? What additional measures would be most effective in reducing the pay differentials faced by this group?***

- 3.1.1 The requirement of larger employers to publish their gender pay gap is a welcome small step towards addressing women's inequality at work. At the very least, it will ensure that accountability in the private and voluntary sectors reflects accountability in the Scottish public sector where listed public bodies are already required to publish their pay gap, as well an equal pay statement, and information on occupational segregation in their organisation.
- 3.1.2 The measures are inadequate however, and will not create the substantive change required to tackle women's unequal market participation, and the gender pay gap experienced by women aged 40 and over. The reporting of headline pay gaps alone will not necessarily encourage employers to take action to address pay gaps. Without a requirement to take action to address identified gaps, it is extremely unlikely that many employers will voluntarily do so.
- 3.1.3 Research by Close the Gap into employer action on equal pay showed that while 94% of those employers we surveyed had an equal pay policy in place, less than a third had undertaken an equal pay review, and only 3% had taken any action to address pay gaps.¹
- 3.1.4 This undue complacency among employers is also evidenced in the Government Equalities Office research on reporting of gender pay gap data where the vast majority of employers surveyed had no current, past or planned future involvement in pay reviews because they considered that they already provided equal pay². This demonstrates a lack of understanding about the causes of the gender pay gap, and specifically a lack of recognition that factors other than discrimination in pay systems contribute towards the pay gap. Pay gaps as a result of pay discrimination may result in litigation. However, if gaps are determined by occupational segregation and employers are not persuaded of the business case for

¹ Close the Gap (2013) *Missing Out on the Benefits: Summary of research on the reporting of the gender pay gap in Scotland* <http://www.closesthegap.org.uk/content/resources/Missingoutonthebenefits-CTG.pdf>

² Winterbotham et al (2014) *Company Reporting: gender pay gap data*, Government Equalities Office: London

gender equality, there is no clear driver for action. Transparency measures, such as reporting headline gender pay gaps, must therefore exist alongside a requirement to take action to address identified gaps.

3.1.5 It is critical that a clear methodology should be used for identifying gaps in an organisation. Headline pay gap figures can obscure inequalities that persist in one particular area of an organisation, and it may be more helpful to require employers to publish a wider range of indicators. This may include full and part-time pay gaps, and occupational segregation information such as the representation of women at senior and management levels, and the distribution of women and men across grades.

3.1.6 The requirement for larger companies to publish information on bonuses is also welcome. The propensity for bonus payments, including those made on a discretionary basis, to be made to those in senior roles means that women are less likely to receive them.

3.2 ***Q2. What actions would be most effective in improving recruitment, retention and retraining for women aged over 40?***

3.2.1 Access to affordable, quality childcare

Childcare is the most immediate barrier to women being able to work, study and train. The provision of quality, accessible childcare is patchy, and the prohibitively high costs mean that many women leave their jobs in order to do part-time or full-time childcare. UK childcare costs are among the highest in Europe, and childcare costs in Scotland are higher than any other European country except Switzerland.³

3.2.2 Women are also more likely to have caring responsibilities for sick people, disabled people and older people, and this increases with age. An ageing population, coupled with spending cuts to public sector respite services means that women are 'sandwiched' between caring for older people and also undertaking a significant amount of informal caring of grandchildren.

3.2.3 Free or significantly subsidised universal childcare would have a transformative impact on women's labour market participation. UK Government should also work with employers to encourage them to

³ Family and Childcare Trust (2015) *Childcare Costs Survey 2015*

consider enhancing family friendly workplace policies by providing employees with a childcare allowance, or enabling them to access childcare vouchers.

Increased quality part-time working

- 3.2.4 Part-time working is widely used across the UK as a way in which women can balance work and family life, and particularly their disproportionate share of care. Three-quarters of part-time workers are women. Part-time work has a long-term scarring effect on women's incomes across their lifetime, and on their ability to progress.
- 3.2.5 The use of part-time work as a work-life balance coping strategy is not an inevitability, though. In Finland, which also provides universal childcare at a low cost or no cost to families, part-work is almost unknown as a solution to work-life balance issues, and is principally done by semi-people and students.
- 3.2.6 There is anecdotal evidence that flexible working arrangements, including part-time, are less likely to be agreed as a result of labour shedding across the public and private sectors. Efficiency savings appear to have placed significant pressure on individual employees to deliver public services with reducing resources. From our research⁴ and our experience of working with individual employers in the public sector, we know that most public authorities do not keep centralised records on flexible working requests.
- 3.2.7 In the private sector, there are a range of attitudes to part-time working at the enterprise level. Close the Gap has worked with large private sector companies in which only a tiny proportion of employees work part-time, and there is a strong cultural presumption against part-time working. Others are more positive about part-time working, and in which there is also more flexibility around work in other ways, for example homeworking. Although the challenge is smaller in the second type of organisation, progression is problematic for part-time workers. Despite

⁴ See Close the Gap (2012) *Invisible Women: Employment data collection in Scottish local government* http://www.closesthegap.org.uk/content/resources/1374995487_Final-report-April-2012.pdf and Close the Gap (2015) *Making Progress? An assessment of employers' compliance with the public sector equality duty* <http://www.closesthegap.org.uk/content/resources/Making-Progress---An-assessment-of-employers-compliance-with-PSED-November-2015.pdf>

most organisations having some kind of commitment in policy to part-time working, this rarely translates into the suite of measures that would encourage and enable part-time workers to apply for, and be appointed to, promoted posts. Employers appear to view part-time working as an accommodation to encourage retention, rather than as something positive that may attract talent.

- 3.2.8 There is no mechanism by which employers can be required to offer work on a part-time basis, although all employees have legal rights to request to work flexibly. In practise, employers are able to refuse such requests on a variety of grounds. In the absence of such a lever, solutions to the lack of part-time work may have a focus on persuading employers of the business case for employing people part-time; supporting employers to design part-time jobs appropriately; in linking part-time working in the public sector to compliance with the public sector equality duty; and in building an evidence base of benefits to an increase in quality part-time work to individual employers, specific economic sectors, and the economy as a whole.

Support for women returners, and action on pregnancy and maternity discrimination

- 3.2.9 Initial findings of research by Equality and Human Rights Commission and Department for Business, Innovation and Skills has found that 54,000 women are forced out of their jobs each year because of pregnancy and maternity discrimination.⁵ This represents a significant increase from findings of similar research carried out in 2005 which suggested that 30,000 per year lost jobs because of pregnancy discrimination⁶. This shows that women returning to work after having children face considerable barriers and discrimination in a range of ways. The research also found that when mothers were allowed to work flexibly, around half reported negative consequences such as receiving fewer opportunities at work or feeling that their opinion was less valued.

⁵ Equality and Human Rights Commission (2015) *Pregnancy and Maternity-related Discrimination and Disadvantage – First Findings: Surveys of employers and mothers* http://www.equalityhumanrights.com/sites/default/files/publication_pdf/Pregnancy-and-maternity-related-discrimination-and-disadvantage.pdf accessed September 2015

⁶ Adams, L., McAndrew, F., and M. Winterbotham (2005) *Pregnancy discrimination at work: A survey of women*, Equal Opportunities Commission: Manchester

3.2.10 Employers should collect data on women returners and their destinations, and analyse to identify potentially discriminatory practices. They should also gather information through exit interviews with women who have left after having children to establish the barriers to their continued employment with the organisation. This information should be used to develop programmes to support women returners.

3.2.11 Equal access to training and development

Low-paid, part-time working women are the least likely to access to training and skills acquisition opportunities. Some of the common gendered issues around training include:

- The timing and location of training events being a barrier to part-time workers, and employees with caring responsibilities;
- Budgetary constraints resulting in a freeze on non-essential training, which disproportionately impacts admin employees where there are less likely to be clear progression pathways;
- Online training that may be difficult for employees to access who do not work with a computer, including those female-dominated jobs such as cleaning, caring, cooking and retail.

3.3 Q3. Is there evidence that women over 40 face particular barriers to promotion? If so, what could be done to address this problem?

3.3.1 There is considerable evidence of gendered barriers to progression, most notably the significant under-representation of women across all labour market sectors.

3.3.2 Women who speak to Close the Gap about progression identify a number of barriers to applying for, and being appointed to, promoted posts. Women in the private sector speak about male dominated networks from which they are excluded; management practices that reward presenteeism; corporate cultures that privilege and value stereotypically male interests and behaviours, and explicitly fail to value family life; increasingly remote HR practitioners and decentralised decision making about working patterns, pay, access to talent pipelines, and promotions; and diminishing access to training and skills acquisition opportunities. The experiences of women working in the public sector are slightly different, although some of the issues read across.

3.3.3 Examples of activity that could address this include:

- Women-only professional networks⁷;
- Mentoring⁸;
- Increasing availability of quality part-time work;
- Equality-proofing progression processes, and formalising and increasing transparency in development opportunities; and
- Gender-sensitive talent management programmes that recognise the gendered barriers that women face in progressing.

3.4 Q4. Are there any particular difficulties in narrowing the gender pay gap for working in predominantly female sectors and non-professional roles? Are there any evidence-based measures that could effectively address these issues?

3.4.1 Horizontal occupational segregation is a cradle to the labour market problem. From early years, through to higher education and the labour market, there is significant gendered segregation in the subjects and careers girls and boys are successful in, and supposed to be interested in. Although girls outperform boys in terms of educational attainment, they are doing so in different subjects. Differences in educational focus translate into different career choices, and different rates of pay. All of this happens within a cultural matrix that communicates very clear narratives about gender and work to young people.

3.4.2 Work to date to address occupational segregation has focused on encouraging young people to think about subject and career choices beyond gender norms and stereotypes⁹, and on working with students and early career employees in non-traditional subjects. It has not targeted the relatively low value ascribed to female-dominated occupations. Apart from mechanisms like the National Minimum Wage, and the Living Wage, which have disproportionately benefited women because they are concentrated in the lowest paid occupations, the main way that the undervaluation of work is addressed is through wage reform.

⁷ Close the Gap (2014) *How women's networks and mentoring can address occupational segregation: What policymakers can learn from WiRES* <http://www.closesthegap.org.uk/content/resources/CtG-How-womens-networks-and-mentoring-can-address-occupational-segregation.pdf>

⁸ Ibid.

⁹ See Close the Gap's *Be What You Want* campaign www.bewhatyouwant.org.uk

- 3.4.3 Pay modernisation programmes in the public sector, most notably in local government and the NHS, have sought to smooth out inequalities in pay between work of equal value done by women and men. This is an ongoing and complex challenge.
- 3.4.4 It is immensely challenging to identify ways in which the undervaluation of women's work might be mitigated. It is a product of gendered assumptions about value, and women's roles in society. Damian Grimshaw and Jill Rubery, in considering the issue on behalf of the Equal Opportunities Commission¹⁰, make the case for raising the pay levels of lowest pay.
- 3.4.5 The business case arguments for doing so, which reflect those made in relation to the Living Wage more broadly, suggest that raising pay rates reduces staff turnover, and leads to better outcomes with regard to delivery. This echoes the experience of private sector employers who have introduced the Living Wage. Grimshaw and Rubery call upon the state to consider where it may act as the wage setter, and where its wage policies may consciously address the issue of undervaluation.
- 3.4.6 While expanding childcare has the potential to transform women's participation in paid work, it risks doing so at the expense of impoverishing women who would work in an expanded care sector, unless the very low wages in the sector are increased by some mechanism.
- 3.4.7 Encouraging men into female-dominated work is challenging as there is no financial imperative for them to do so because it is undervalued, and therefore low-paid. Men who are already employed in female-dominated occupations, and non-professional work, are more likely to progress to management and supervisory positions, thereby entrenching the gender pay gap.

3.5 Q5. Should the regulations on gender pay gap reporting be extended to organisations with fewer than 250 employees?

- 3.5.1 Yes. A threshold of 250 employees excludes small and medium enterprises which account for 99.9% of private sector companies in the

¹⁰ Grimshaw, D., and J. Rubery (2007) *Undervaluing women's work*, Equal Opportunities Commission, Manchester

UK¹¹, and the majority of third sector organisations, as 62% of these have fewer than 50 employees.¹²

3.5.2 Women are more likely to work in smaller organisations, both in the private and voluntary sectors. 68% of third sector employees are women.¹³ Smaller employers are less likely to have good equalities practice in place because of they are less likely to have a separate HR function or equalities competence within the business. Smaller employers are also less likely to have undertaken an equal pay review or taken any action to address unequal pay.

3.5.3 In our experience, the employers that are already taking steps to deliver work to narrow the pay gap tend to be large organisations. Extending the proposals to cover all employers would ensure that any potential gains are benefited by all female employees.

3.6 Q6. Would voluntary measures regarding what employers do with gender pay gap information be sufficient to create change within organisations? What could be done to ensure that information about an organisation's pay gap is translated into action?

3.6.1 The persistence of the gender pay gap after 45 years of equal pay legislation demonstrates that voluntary measures have proven insufficient in effecting substantive change.

3.6.1 Research has shown that employers are unlikely to take action on pay gaps unless they are legally required to do so.¹⁴ This inertia is caused by both complacency and a lack of will at the enterprise level. We are therefore strongly of the view that transparency measures, such as reporting headline gender pay gaps, should exist alongside a mandatory requirement to take action to address identified gaps.

3.7 Q7. Which mechanisms would most effectively ensure that policies designed to narrow the gender pay gap are fully complied with? Is

¹¹ Department for Business, Innovation and Skills (2014) *Business Population Estimates for UK and the Regions 2014*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377934/bpe_2014_statistica_l_release.pdf accessed September 2015

¹² NCVO UK Civil Society Almanac <http://data.ncvo.org.uk/a/almanac15/workforce/> accessed September 2015

¹³ Ibid.

¹⁴ See Close the Gap (2013) *Missing Out on the benefits? Summary of research on the reporting of the gender pay gap in Scotland* <http://www.closesthegap.org.uk/content/resources/Missingoutonthebenefits-CTG.pdf> and Winterbottom et al (2014) *Company Reporting: gender pay gap data*, Government Equalities Office, London

there evidence from other countries or policy areas of what might work best?

- 3.7.1 The Close the Gap partnership initiative is an innovative intervention as it recognises that a broad range of stakeholders must be engaged to enable women's equal labour market participation. From our 15 years' experience, we know that larger employers are more likely to be persuaded of the business case for equality recognising the benefits equality can bring.
- 3.7.2 Cumulative evaluations of interventions targeted at small and medium employers suggests that although they may report being broadly positive about gender equality, they do not prioritise it in the delivery of their business, and are reluctant to engage with any equality organisations or seek direct support change their employment practice.
- 3.7.3 It is from this evidence base that Close the Gap developed *Think Business, Think Equality* an online self-assessment tool designed for SMEs to enable them to assess their employment practice¹⁵. The tool provides businesses with a tailored report, including an action plan which suggests small changes they could make to their policies and practice to address gender inequalities. This light-touch approach has proven successful in engaging small and medium businesses, where women are more likely to be employed. Since its launch in September, 580 self-assessment tests have been completed.
- 3.7.4 There is no political appetite to establish a public agency to monitor and regulate the delivery of equal pay reviews, and there is also no employer will to undertake mandatory pay reviews. The *Think Business, Think Equality* aims to building capacity in employers to understand the ways in which workplace culture results in policies and practices that disadvantage female employees. It also equips them with the tools to address identified gendered barriers in their own organisations.

¹⁵ See www.thinkbusinessthinkequality.org.uk