

WOMEN IN LONDON'S ECONOMY

FEBRUARY 2007



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Mayor's foreword

This year's Women in London's Economy (WILE) Report is the most comprehensive yet in considering the position of women in the capital's economy. For the third year running, it continues the study of women as producers, illustrating that sex discrimination continues to shape patterns of employment and pay. But this year the report also begins to look at the demand side of London's economy, considering gender differences in expenditure – women as consumers.

The pattern revealed is clear. Its overall background is that the range of incomes and expenditure in London is significantly greater than in the rest of the UK, as is the gap between the top, which is dominated by men, and the bottom, of which the majority are women. The top twenty per cent of London households by income group spend over five times as much as the bottom

twenty per cent – an average £1170.13 a week compared to £222.73 a week. In the rest of the UK the gap is less than four times as much.

Women are strongly affected by this. The good news is that some women are doing relatively well in London. A specific preliminary study of single-person households, included here for the first time, shows on average a narrow or no expenditure gap between men and women in either London or the UK. While tightening up study of this in future research may modify this picture slightly, this does show that over the last three decades London has become a city with a great degree of cultural freedom associated with social progress. Laws on equal pay and sex discrimination rendered illegal the most blatant forms of gender discrimination, while those on divorce, contraception, abortion and sexual orientation gave women a much greater

degree of personal choice. However, only 13 per cent of women of working age in London live in single-person households.

Examination of the position of the other 87 per cent of women in London, however, reveals a very clear pattern of inequality. Tackling the situation revealed in this research is important for the future of individual women and their families. But it is also crucial for all levels of business in London. London's economy and businesses will increasingly depend on women as employees and as an increasing proportion of customers.

The gap between median incomes for men and women in London is the same as the rest of the UK, with women paid 13 per cent less than men. The median is the midpoint of incomes, a measure that avoids the distorting statistical effect of extremely high incomes earned by relatively small

numbers of people. This 13 per cent gap, of course, is itself unacceptable and shows that women are persistently paid less than men. However, if the range of more extreme incomes is included, calculation of the average (mean) gap in pay between men and women reveals a much more unequal position in London than in the rest of the UK. This is because of the dominance of men among the very highly paid. The average London pay gap between men and women working full-time is 23 per cent – substantially wider than 17 per cent in the rest of the UK. The higher the income level, the greater the gap between men and women: the gender pay gap among the top 10 per cent of earners in London is 32 per cent.

In short, the glass ceiling is no myth, but a powerful reality.

Fighting such inequality through the courts is an arduous process. There have been a few sensationalised reports of a comparatively tiny number of successful sex discrimination cases. But the picture given by these is highly misleading – their rarity is striking. In 2005 only four awards above £100,000 were made in the entire country – for all discrimination cases, not just those alleging sex

discrimination. The median award was only £7,567. This low level of award, even for the minority of cases advancing that far, will not deter bad employers.

Women in London are also doing worse than men at the other, lowest-paid end of the spectrum. The unequal interplay between women's household responsibilities and paid employment is made clear in analysis of incomes. Single women with children in London actually have a lower disposable income than their UK counterparts. Women with dependent children, whether lone or two-parent households, are also much less likely to be in employment in London than in the rest of the UK.

The key findings in this report therefore reveal a continuing strongly unsatisfactory situation both from the point of view of social justice and making the best use of London and the UK's talents. In the next year there is an opportunity to develop proposals for new law to address these patterns, and this must be grasped.

Key findings in this report therefore include the points set out below.

- In the last year there has been no progress at all in

reducing the pay gap between men and women either in terms of median incomes, where it remains 13 per cent in both the UK and London, or in terms of average incomes, where the gender pay gap for full-time workers is 23 per cent in London compared to 17 per cent in the UK.

- Gender pay inequality is greatest among high earners, with a 32 per cent pay gap between men and women among the top 10 per cent of earners. This gap is much greater in London than in the UK.
- There are more women than men among the low paid. As income levels rise, men increasingly outnumber women.
- Single mother households in London have a weekly disposable income that is on average £20 less than their counterparts in the rest of Britain – £151 compared to £171.
- Female single pensioners in London have a lower average income than male single pensioners.
- There is no significant difference in spending between single mother households in London and those in the UK, despite the higher costs of living in London. This contrasts with the higher spending by single women and by two-

parent households with one or two children in London, compared to the UK.

- Women's employment makes a large difference to income and hence to household spending. In lone-parent households, weekly expenditure is £170 higher when the mother is employed. In couple households, spending is £120 higher with an employed mother.
- If the rate of employment of women with children in London was raised to the UK average, the estimated total increase in household expenditure in the capital would be £830 million a year.

Qualitative research has added to this picture by highlighting effective equality policies being implemented by UK and international employers, as illustrated by the case studies in this report. Findings include that:

- the UK can learn from international legal practice in a variety of areas that include positive action for senior occupations in Norway or the proactive expectation on companies created in Canada, as well as business practice. For example, because of its employee development programmes, Citigroup

has more senior women in management positions than any other financial institution in the Fortune 500.

- far more ambitious policies have been introduced in some other countries and are being implemented by employers. For example, Norwegian law specifies that women should make up at least 40 per cent of company boards.
- the business benefits of flexible working are demonstrated by case studies of companies such as Ernst and Young, whose policy has been made available to all employees and is taken up by senior staff
- employers believe that compliance with mechanisms such as equal pay audits have both an equality and a business case imperative, with firms that are able to demonstrate practical implementation of equality policies gaining a competitive advantage in attracting and retaining the best range of talent. As the Head of Employee Relations at HBOS says in Chapter 3: 'An equal pay audit is something that a company should do if it is firmly committed to equal opportunity and diversity'. This is the approach to equality that law should encourage.



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- action is far too limited, despite increasing awareness of the contribution of occupational segregation to pay and career inequality. The EX.I.T.E programme (Exploring Interests in Technology and Engineering) run by IBM shows what employers can do and the sort of practical action that government policy should incentivise.

London's government authorities have attempted to take the lead where they have powers. I am proud that Transport for London (TfL) has led the field in ensuring equality standards are embedded in contracts with the private sector, providing a powerful example of the GLA group's Sustainable Procurement Policy in action.

The next year presents a ‘once in a generation’ opportunity to root out the discrimination that underlies the patterns of inequality revealed by Women in London’s Economy research. It must ensure that the government’s Discrimination Law Review (DLR) results in law that is comprehensive, effectively enforced and easy to access. That same law must also adequately address childcare and flexible working needs, patterns of occupational segregation, the gender pay gap, pregnancy discrimination and the part-time pay penalty.

Experience in London and internationally shows employers respond positively to anti-discrimination provisions. However, in contrast to the radical provisions in Norway, the already low level of women on boards of FTSE companies has fallen even further in the last year. This is not acceptable.

Evidence from international jurisdictions shows that other countries make effective use of positive rights to equality, affirmative action, flexible working, carers’ rights and the powers of courts to order action to remedy institutional discrimination.

The new steps now needed include:

- promotion of good equality business practice nationally and internationally, and recognition by leading employers of the business case for equality. This should be backed up by leadership at government level and by law. As national figures show a higher gender pay gap in the private sectors, and as most women working in London are in the private sector, pay audits and equality duties that simply cover the public sector will not be sufficient to remove discrimination.
- more action via education, training, culture and law to tackle gender segregation and ensure equal access to the most rewarding jobs. In London, under new powers agreed in relation to training and skills, I will be able to address this issue more directly.
- targeted action to address particularly negative findings of this research, such as the very wide gender pay gap in London among high earners and the fact that lone mothers in London are having to manage on levels of disposable income that are even lower than those of their UK counterparts. Greater investment in childcare,

rights to flexible work for all parents and carers rather than rights to request for some, and more robust equality standards across the private sector have a part to play.

- legal reform through a Single Equality Act, matching the best international provision and ensuring that the UK fully meets its obligations to equality as set out in EU and other international regulations.

The DLR needs to specifically address the gender pay gap, occupational segregation, and barriers to employment revealed in WILE research by proposing such measures as:

- positive outcome-focused duties to promote equality for women wherever they work
- mandatory pay audits for large employers involving monitoring and transparency to reveal where women are located in their pay and occupational structures and to challenge equality barriers
- issuing a mandate to public bodies to include equality in procurement of services
- an extension of the power to use positive action measures

- flexible working for workers with caring responsibilities
- legal remedies appropriate to the realities of discrimination, allowing courts to order broad remedial action and permitting representative cases, and better enforcement.

It is now over thirty years since unequal pay for women was made illegal. Major steps forward have been taken in that time. But as this report reveals, much remains to be done. As long as an unequal situation between women and men exists, social justice is not possible, and London is not realising

its full economic potential. I urge everyone to grasp the benefits of equality.



Mayor of London
February 2007

Chapter 1:

Introduction

1.1 Overview

This is the third report from a dedicated programme of research by the Greater London Authority (GLA) into Women in London's Economy. The analysis updates and extends that published last year.¹

1.2 Quantitative research

Chapter 2 presents quantitative analysis of aspects of women's contribution to the London economy. In particular, it complements previous analysis of women's earnings by providing detailed analysis of spending power and consumption patterns, both in London and as they contrast with the rest of the UK. Section 2.4 presents data on the number of Londoners, particularly women, who earn less than a living wage. Finally, Section 2.5 provides an update on

the gender pay gap for 2006.

1.3 Qualitative research

To provide a broader context for possible measures to improve women's experience of work in London, Chapter 3 gives an account of research conducted by SQW Ltd for the GLA.² This research reviewed existing good practice internationally on effective measures to tackle discrimination against women in employment and to remove barriers to equality. The aim was to draw out contrasts in approaches and outcomes and to highlight successful policies. The study focused on best practice in the following areas:

- addressing the gender pay gap
- positive action
- procurement
- flexible working –

including parental leave and childcare

- senior women
- reducing occupational segregation – including access to non-traditional industries.

The methodology for this research comprised three main elements: scoping consultations with academic and policy experts in the employment and equality field; an internationally-based literature review focusing on Europe, the US, Australia and Canada; and a set of ten good practice case studies³ of both UK and internationally-based organisations.⁴

1.4 Policy

Chapter 4 explores lessons from international jurisdictions on tackling discrimination against women in employment and business.⁵ Finally, it

assesses the implications for anti-discrimination policies and equality and anti-discrimination law.

1.5 Conclusion

For the third year in a row, analysis of the position of women in London's economy confirms the continuing wage

discrimination and occupational segregation that deny equality to women and constrain women's ability to realise their potential.

As illustrated by the case studies in Chapter 3 and the policy proposals in Chapter 4, practical steps can be taken at both individual and national levels to tackle

barriers to the equal representation of women in sectors and grades, to simultaneously ensure employers have the full range of skills and experience available, and to allow for greater equality in the career paths, incomes and lifetime outcomes of women.

Chapter 2:

Quantitative research

2.1 Overview

This year's research looks at income levels and expenditure patterns of different household types by broad category of spend. We also update the gender pay gap figures⁶ using the latest available data, and present information on how many women in London earn below the level of the living wage.

According to the Survey of Personal Incomes (based on those individuals who pay income tax), London's average income levels are higher than in the rest of the UK. This is true for both men and women, who earn £34,918 and £22,133 respectively. However, this income gap between men and women in London - about £12,785 or nearly 37 per cent - is the second-highest income gap after the South East region (which has an income gap of £13,300).

There are more women than

men in the lowest income bracket, below £10,000 per year. Above that level, men increasingly outnumber women as income levels increase.

Children make a large difference to average household income levels. According to the Family Resources Survey, women in London who are single parents or part of a couple with children have lower incomes than the average in Great Britain (GB).⁷ The difference in disposable incomes is especially large. Single mother households have a disposable income that is on average £20 less per week than their counterparts in the rest of Great Britain: £151 compared to £171. For London-based single women and women who are living as part of a couple without children, income levels are much higher than the Great Britain average. For single person households without children there is no

noticeable income difference between males and females. For single pensioners of both sexes, those living in London have lower income levels than the Great Britain average, and single female pensioners in London have a lower average income than single male pensioners.

There has been no change in the gender pay gap over the last year. London still has a higher mean gender pay gap at 23 per cent than the UK overall (17 per cent). The gender pay gap is especially high at the top end of the wage spectrum. Since top full-time male earners working in London receive much higher wages than top female earners, this leads to a much higher gender pay gap in the capital of 32 per cent at the 90th percentile compared with only 20 per cent in the UK as a whole. The median gender pay gap is 13 per cent both in London and the UK as a whole.

On average, London households spend 15 per cent more than the national average: £484 compared with £420 per week.

Single person working-age households in London spend more than similar households elsewhere in the UK. This is true for both men living alone (who in London spend £360 on average compared with £273 elsewhere in the UK) and women living alone (who in London spend £341 compared with £258 elsewhere in the UK).

Very high income households in London spend a lot more than similar households elsewhere. The 20 per cent of London households at the top of the income distribution spend more than five times as much as the 20 per cent of households on the lowest incomes - on average £1170.13 per week compared to £222.73. In the rest of the UK, the top 20 per cent spend less than four times as much as the lowest 20 per cent.

2.2 Introduction

The latest figures reveal that the female population of London is 3.8 million and the male population is 3.7 million.⁸

The previous two reports on the WILE research programme concentrated on women in the labour market: their employment rates; the types of jobs and occupations they fill; the barriers they face; and their relative earning prospects. A range of data sources were used to illustrate the position of women in London, showing a situation where women are less likely to be in well-paid jobs than men; where the gender pay gap is wider than in the rest of the UK; and where occupational segregation is a key contributing factor. This is not just an issue of concern for the female population. London businesses are not maximising on potential talent and productivity – and they are paying a premium for a senior business community which is male-dominated.

Women are becoming more and more important to the London labour market – and, in turn, their political and economic power is increasing. Therefore this year's research looks at women as consumers as well as updating the figures on how they are faring as earners.

Women not only supply labour to businesses (and families) but they also purchase the goods and services produced by businesses. To examine this, we utilise the rich dataset of the Expenditure and Food Survey (EFS).⁹ This household survey asks detailed questions about labour force participation and earnings – but also about family composition, education, demographic information, other sources of income and a full breakdown of expenditure.

As increasing numbers of women enter the labour market, individual households can benefit from greater income levels; but having less time in the family home may impact on how households then choose to spend their income. Decisions on how to allocate household members' time between labour and leisure are complex. Men and women behave differently according to how their household is composed and the different financial and time constraints they face. This research concentrates on the initial stages of this story - it analyses patterns of spend between different household types and how these vary.

Labour supply and income and consumption patterns

Most studies of demand and consumption assume that preferences for expenditure on goods and services are independent of labour supply. However, everyday observation tells us that this is a big assumption: transport expenditure and childcare, for example, are likely to be highly correlated with labour hours. Browning and Meghir (1991) used Family Expenditure Survey (FES)¹⁰ data to estimate a conditional demand system in which labour force participation (and working hours) of husband and wife can themselves influence commodity demand. For example:

Suppose we are interested in the effects of children on demand. If we ignore the interactions between demands and labour supply then we may mistakenly impute some of the effects of, say, female labour supply on demand to the presence of young children since the two are highly correlated.

Browning and Meghir's most robust finding was that male and female labour hours and participation are non-separable. Also, ignoring labour participation would bias any effect of family composition on demand.

Blundell, Browning and Meghir (1994) went on to study a similar model, concentrating on lifecycle effects. They too used FES data, concentrating on households whose eldest adult is less than 60 but greater than 18 years old (and who is not self-employed). Without controlling for any further factors, they found that:

although female participation falls in the early years [after childbirth], household income does not.

There are several possible explanations for this: households may choose the timing of their child-rearing with regard to the husband's earning profile; or prospective fathers may choose their earnings profile with regard to their likely path of child-rearing.

An alternative, but related, way of looking at the labour supply/consumption lifecycle problem is to construct a measure of 'full consumption', which includes market- and domestically-produced goods and services. As Apps and Rees (2001) state:

The household may well be choosing its full consumption path to maintain a constant marginal utility of

consumption expenditure, but this is quite consistent with the observed correlation between current market wage income and market consumption.

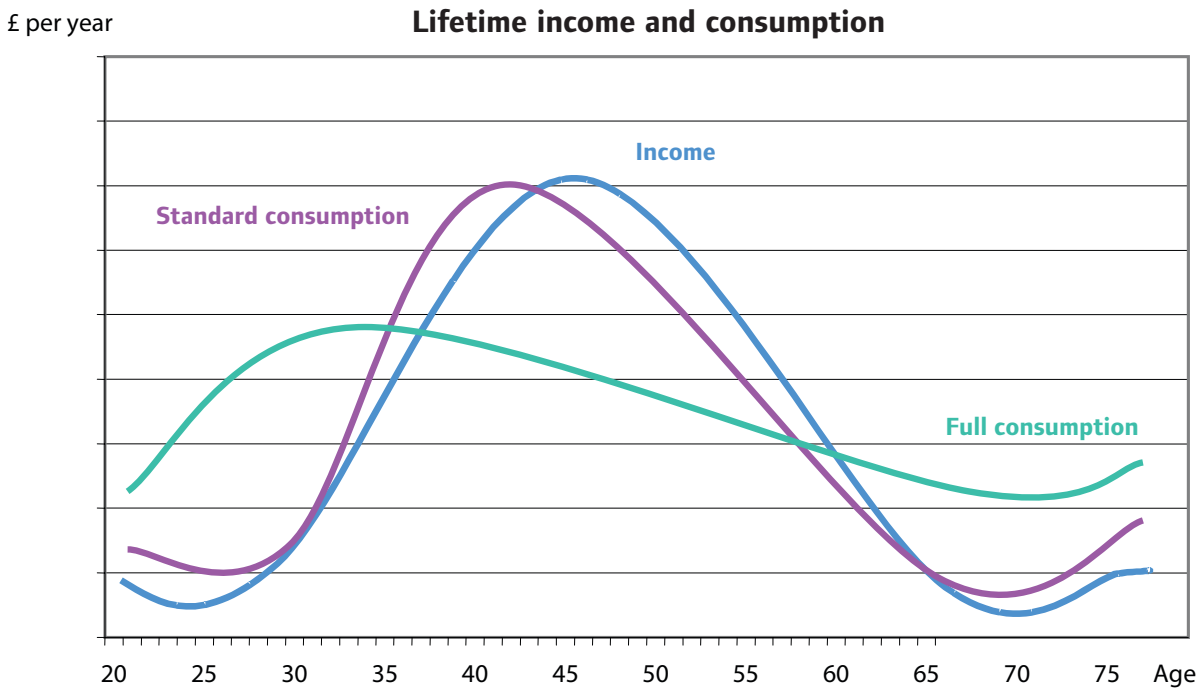
So, while market consumption and income tend to track each other over a family's lifetime (that is, they both exhibit the same hump shape, increasing up to middle age and then falling into retirement), full consumption is instead highest when the couple have pre-school children (when wages are relatively low) and then falls gradually as wages rise (see Figure 1). The difference between market and full consumption levels is mainly accounted for by the labour supply of the secondary earner.

London - a unique city

London has several distinctive features:

- its population is, on average, younger than the UK as a whole
- there are more single adult households, sharing households, and 'non-traditional' households than in the rest of the UK
- education levels are higher in London
- there is a higher proportion of black, Asian and minority ethnic groups in London

Figure 1: An illustrative chart of income and consumption over a lifetime (not based on real data).



- average incomes and the cost of living are both higher in London
- London has relatively fewer part-time job opportunities¹¹
- a lower proportion of women with dependent children are in employment in London than in the rest of the UK.

The literature suggests that large cities attract – or perhaps retain – people with particular characteristics, with specific job market needs and earning and spending patterns. For example, Compton and Pollak (2004) found that ‘power couples’ (where both adults are educated to at least college level) are more likely to form in large metropolitan

areas.¹² College-educated people tend to have different career aspirations and earnings potential – and they require larger labour markets. These same people have different childbirth and marriage rates, which could again affect female labour force participation and income and consumption levels in London. Being younger and more diverse, London’s population is also likely to be more mobile than the UK as a whole. Thus, it is likely that London may have distinctive labour force and family composition patterns which could be reflected in the observed household consumption data. It is the analysis of this to which we now turn.

Household projections for England and London

As we have seen, household type is an important factor when considering female consumption patterns. The Department for Communities and Local Government Household Projections predict that the number of households in England will grow by 4.23 million (19.7 per cent) between 2006 and 2026. The largest absolute growth is in one-person households, where a rise of 3.06 million (44.8 per cent) is predicted. One-person households account for nearly three-quarters of the total growth. The fastest-growing type of household is projected to be cohabiting couples, with an increase of 1.20 million,

Figure 3: Middle-aged women

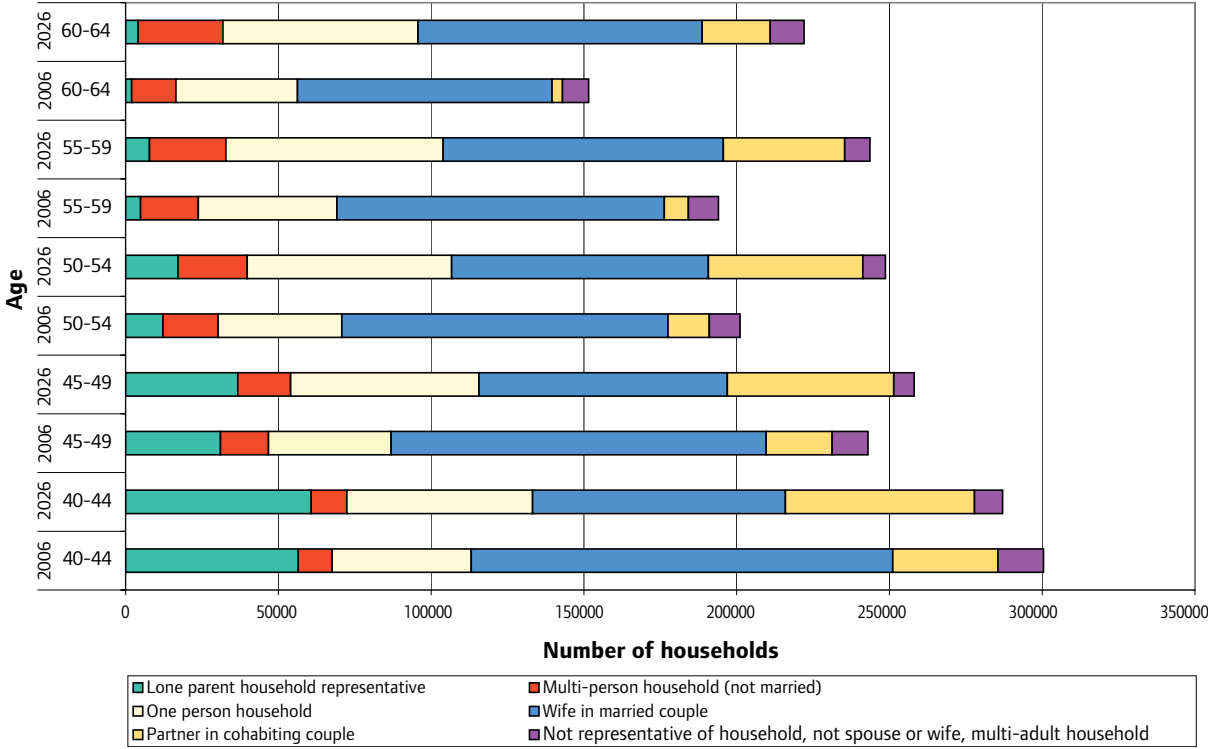
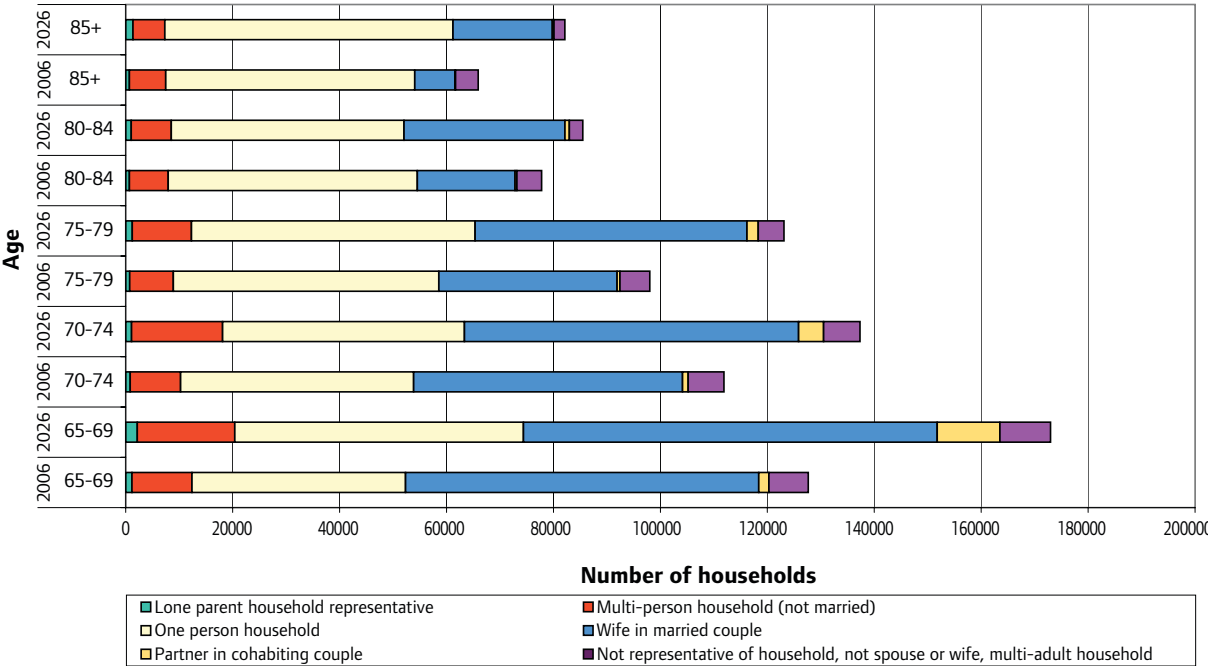


Figure 4: Women in retirement



Source: Department of Communities and Local Government Household Projections

Employment and worklessness rates

Spending is linked to income, and for most people income is determined by wages. This section analyses the proportion of employed and workless (unemployed and inactive) people for all individuals aged 16 years and over, for those resident in London and for those resident outside London, using data from the Annual Population Survey (APS) 2005.

Figure 5 highlights the fact that employment rates of men are higher than those of women. However, the female employment rate in London (52 per cent) is below that

outside London (54 per cent). Previous WILE research has shown the lower proportion of women with dependent children who are in employment in London compared to their counterparts in the rest of the UK.

Men in London have the highest unemployment rate (almost 6 per cent). This rate is higher than outside London (3.5 per cent). Women have lower unemployment rates than men but again, women in London have higher unemployment rates than women outside London.

There is high inactivity (those not formally participating in

the labour market) among all women, but more so in London (apart from retired people). This is partly a result of the higher proportion of women in the capital who are outside the labour market because they are in the category of 'looking after family' (13 per cent) in comparison to women outside London (almost 9 per cent). In addition, there is a higher proportion of economically 'inactive' women who are full-time students in London (6 per cent compared to 3.6 per cent outside London). On the other hand, a higher proportion of women outside London are retired (25 per cent) compared with those in the capital (18 per cent).

Figure 5: Employed and workless people, aged 16 and over, by gender in London and outside London

Percentage of employed and workless people of total individuals aged 16 and over



Notes: the 'other' category includes other reasons for inactivity such as waiting for results of job application; not looking for work; not needing or wanting a job; or no reason stated. This analysis includes full-time students.

2.3 London's spending power

We now consider the incomes available to Londoners. For the vast majority of people the main source of income is wages. Income can also come from interest earned on savings, returns from investments such as dividends on shares, renting out property or returns from royalties.

Income according to the Survey of Personal Incomes According to the Survey of Personal Incomes (based on individuals who pay income tax), London's average income levels are higher than in the rest of

the UK. This is true for both males and females, with average incomes of £34,918 and £22,133 respectively. This income gap of about £12,785 (nearly 37 per cent) between men and women is the second highest after the South East region which has an income gap of £13,300 (see Figure 6).

Considering total income by different income ranges for London, we see that equal numbers of men and women fall into the lowest income category of between £4,615 and £5,999 per year. There are 64,000 more women than men in the income group between £6,000 and £9,999. For all income

ranges above this there are more men than women within the category. The higher the income the less likely it is that women will be within this category (see Figure 7).

Family Resources Survey – individual incomes of women and men

Another source of income data about Londoners is available from the Family Resources Survey (FRS), a continuous survey covering approximately 24,000 households each year in Great Britain (see Appendix B). This data is for individual income estimates covering all adult women and men, whether living as couples or

Figure 6.1: Average total income by sex 2003/4

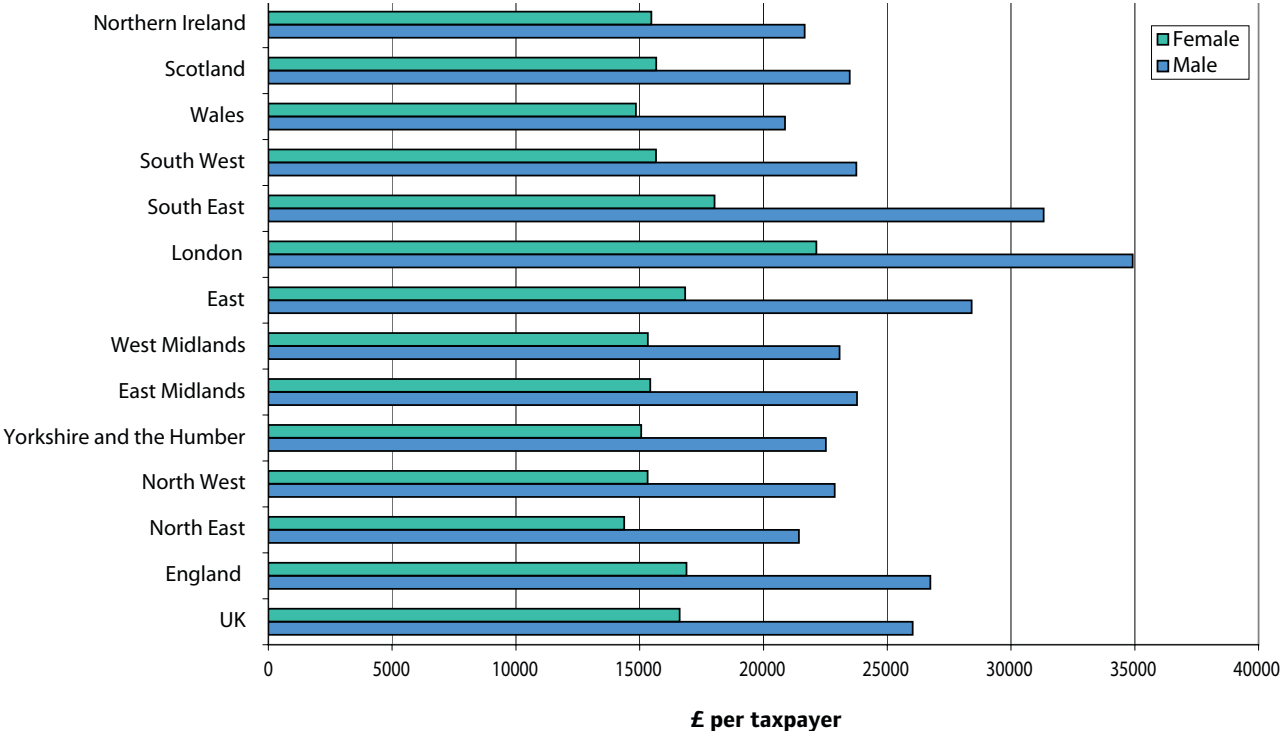


Figure 6.2: Annual income gap between males and females 2003-4

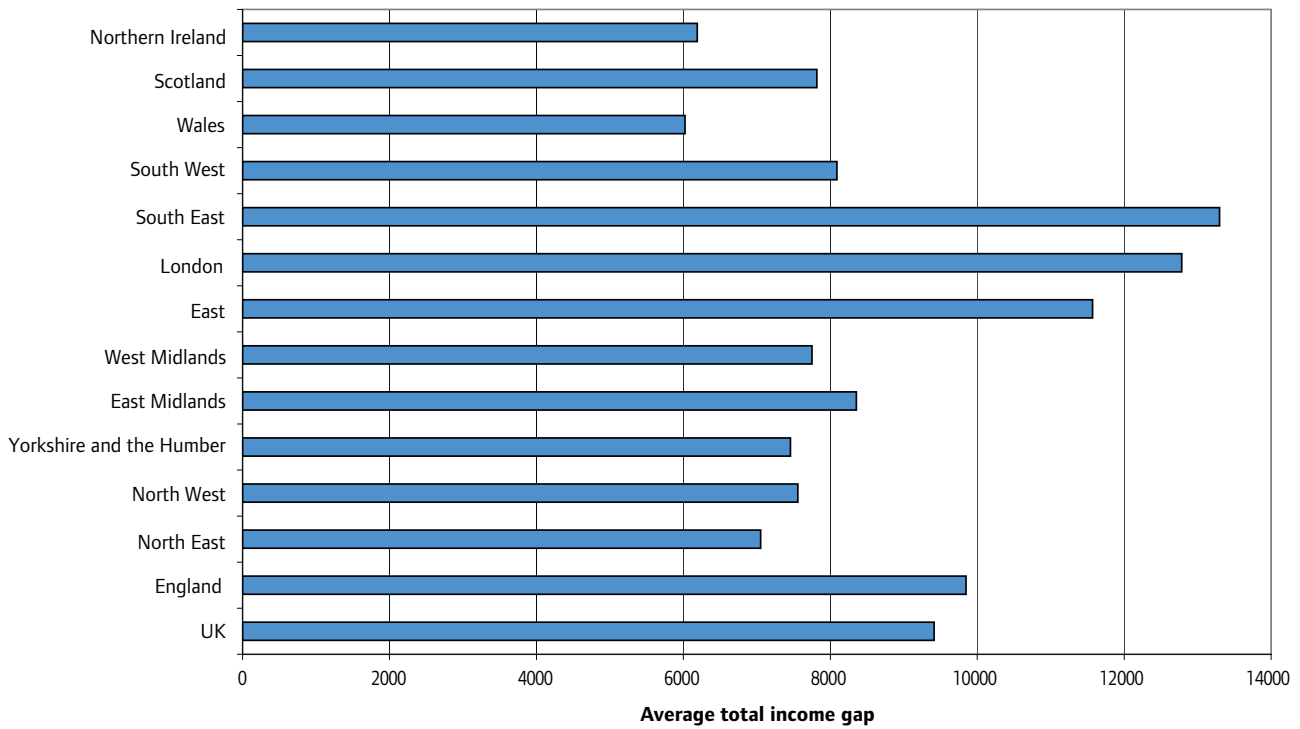
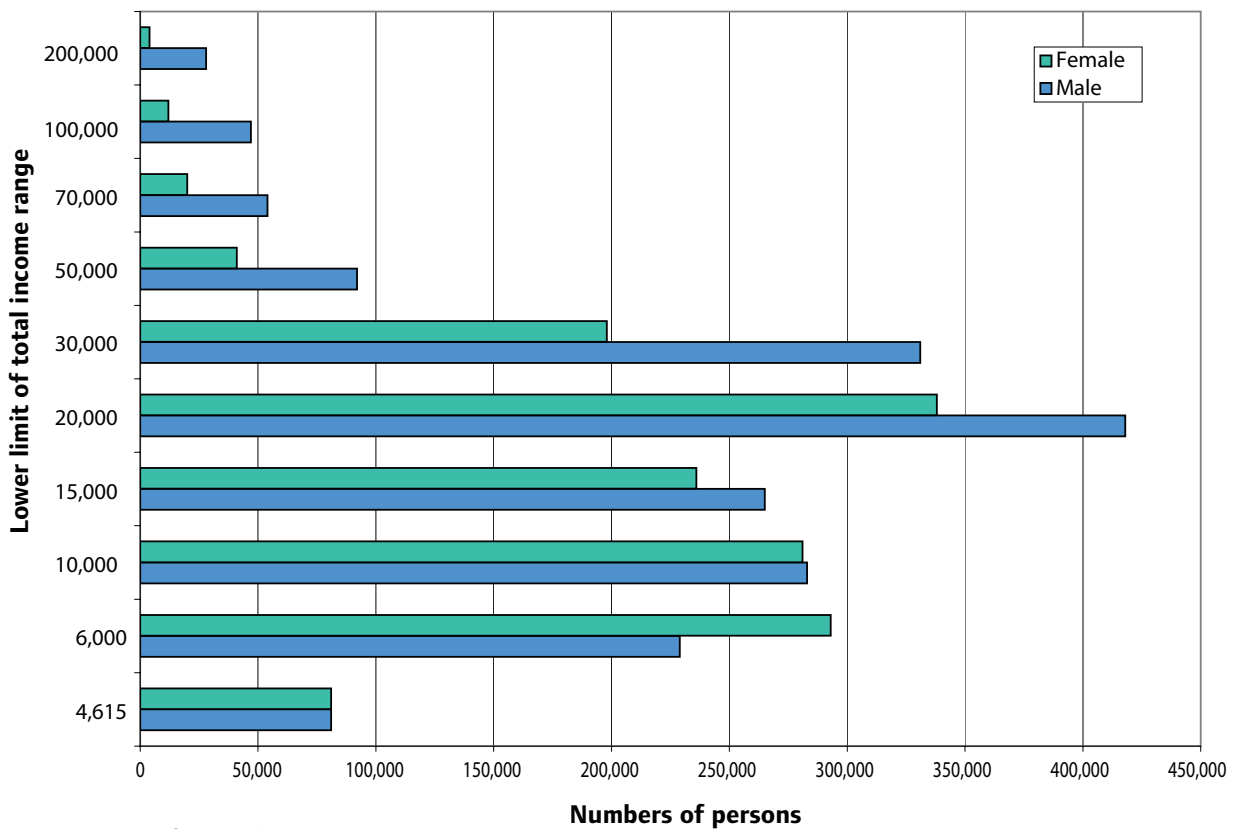


Figure 7: Number of males and females in London, by income range



Source: Survey of Personal Incomes 2003-04

Table 1: Median individual income by gender for London and Great Britain, £ per year (2004-05 prices), 2002-03 to 2004-05

Region	All women			All men			All adults		
	Total	Net Disposable		Total	Net Disposable		Total	Net Disposable	
London	10205	9439	7093	18431	15011	11709	13966	11979	9129
Great Britain	8699	8147	6419	16289	13450	11119	11857	10468	8462

Source: DWP Individual Income Series

Table 2: Incomes for London and Great Britain by gender and family type

Median Individual Income for London and Great Britain, Gender and family type, £ per week (2004/05 prices), 2002/03 - 2004/05													
Region	Women							Men					
	Single without Children	Single Pensioner	Single with Children	Couple without Children	Pensioner Couple	Couple with Children	All Women	Single without Children	Single Pensioner	Couple without Children	Pensioner Couple	Couple with Children	All Men
Total Individual Income													
London	290	156	181	314	88	161	196	289	177	479	223	481	354
Great Britain	207	154	211	231	82	172	167	231	173	400	217	446	313
Total Net Income													
London	240	150	180	250	85	152	182	242	172	369	212	380	289
Great Britain	180	149	209	194	80	163	157	195	168	314	205	349	259
Total Disposable Income													
London	170	125	151	182	66	88	136	170	141	304	191	310	225
Great Britain	139	129	171	149	65	109	123	150	146	261	189	289	214
GB - London	31	-4	-20	33	1	-21	13	21	-5	43	2	22	11

Source: Family Resources Survey 2002-03 to 2004-05

as single people and whether retired or not.

Results for 2004-05 are based on the average of three years' data for 2002-03, 2003-04 and 2004-05. Table 1 reconfirms that average income levels are

higher in London than in Great Britain as a whole. It also shows that women's incomes at £10,205 are considerably lower than those of men at £18,431: a difference of nearly 45 per cent. This carries through to a wide disparity in

disposable income levels as well – £7,093 and £11,709 for London women and men respectively.

Table 2 compares individual incomes for men and women by family type. This shows the impact of the presence

of children on incomes. Women in London who are single parents or part of a couple with children have lower incomes than in Great Britain as a whole and have the lowest average income for any region in Britain.¹⁶ The difference in disposable incomes is especially large: single women with children have lower disposable income than their peers outside London by an average of £20 a week, a significant sum on a low income. For London-based single women and women who are living as part of a couple without children, income levels are much higher than the Great Britain average. If men and women in couples with children are considered, there is a significant difference in individual income. In London, the average weekly income for men in couples is £481 compared to the average of £161 for women.

Single pensioners of both sexes living in London have lower income levels than the average in Great Britain. This is the only family type where men in London have lower income levels than the Great Britain average. Single female pensioners in London have a lower average income than single male pensioners, and women living as part of a pensioner couple have

individual income levels much lower than their partners, both in London and in Great Britain as a whole, although pension benefits are based on household income levels. Table 2 also appears to reinforce previous findings that children have a larger impact on the income of families within London, particularly that of women, than the Great Britain average.

Next we consider how the spend of Londoners differs from that of people living elsewhere in the UK. As the economics literature suggests, spending decisions are often taken at a household level rather than by individual family members. For example, if a family are deciding where to buy a home it will usually be a joint decision and taken on the income level of the household as a whole. We therefore initially consider household expenditure for London compared to the rest of the UK.

Expenditure patterns of London households

Averaged results from the EFS 2002-03 to 2004-05 show that London households spend £484 a week compared with the UK average of £420 per week – some 15 per cent more.¹⁷ Figure 8 shows at the broad category level how

Londoners' spend differs from the overall UK spend.

Londoners spend 32 per cent more on housing, fuel and power. Most of this difference is because of higher costs of renting in London compared to other parts of the UK. Londoners spend nearly double the UK average on gross rent per week, £46.40 compared with £23.30. The EFS includes mortgage costs and council tax within the other expenditure category. London spending in this category is 21 per cent higher than for the UK as a whole. This reflects the high costs of housing in London. London's house prices are typically higher than in the rest of the country. In July 2006, Nationwide estimated the average London house price to be £252,724 compared with £165,035 for the UK as a whole – a difference of 53 per cent. In the second quarter of 2006, Halifax valued the average price of a house in Greater London at £265,011, which is 49 per cent higher than the UK average of £177,962.

On average, Londoners spend £11.50 per week on education, some 51 per cent more than is typical for the UK as a whole. In part, this reflects the fact that children in London are more likely to be attending independent fee-paying schools: twelve

per cent of London-based school children attend fee-paying schools compared with seven per cent of school children in the UK.¹⁸ Also, as shown earlier, London has a higher number of full-time students than other regions, and there are associated educational fees for these individuals.

Each week, the average London household spends £44.50 at restaurants and hotels. This is twenty per cent more than the average UK household. Londoners also spend more on clothing and footwear: £26.60 per week, which is 13.5 per cent more than the UK average.

The EFS category 'Miscellaneous goods and services' includes money spent on personal care, personal effects, social protection, insurance and other services including bank charges, moving house and professional fees. London households spend £38.70 per week on this category compared with £33.90 for the UK as a whole.

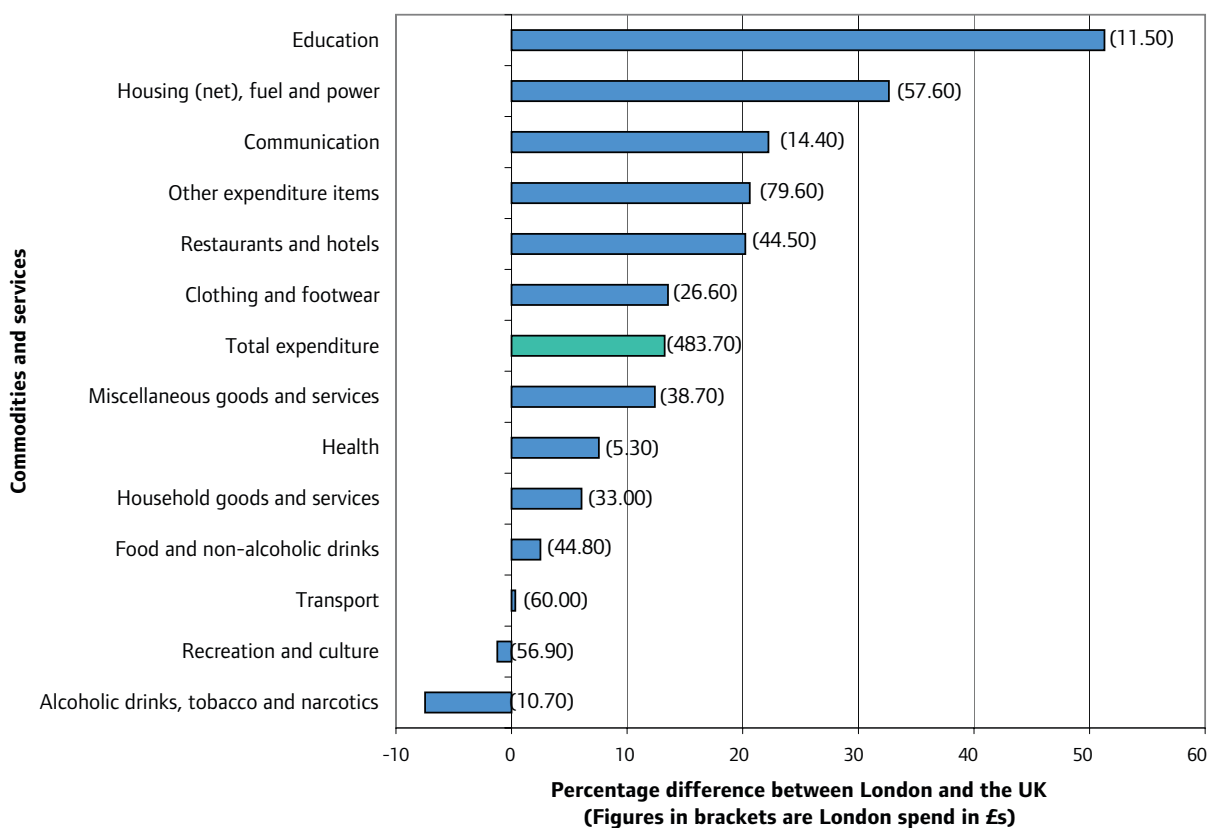
Londoners also spend 14 per cent more on communication than the UK average, mostly due to higher spending on telephone calls.

There are minimal differences in overall

transport expenditure between London households and those in the UK as a whole. However, the pattern of spend within this category is quite distinctive for London: Londoners are less likely to be car owners and instead use public transport services.

There are minimal differences in spend between Londoners and households elsewhere in the 'Recreation and culture' category. But London households spend more on food and non-alcoholic drinks than the UK average and less on alcoholic drinks, tobacco and narcotics.

Figure 8: Comparison of average Londoner/UK resident weekly spend, by category



Source: ONS, Family Spending 2005

Expenditure by gender

Recent research by the Prudential has highlighted the gender spending gap between men and women in the UK.¹⁹ The average total lifetime cost of living for men is £1,717,118 compared with £1,363,729 for women. Despite women living on average 3.5 years longer than men, women will spend 21 per cent less over the course of their life. According to the Prudential report, the largest divergence comes in the form of paying tax, where men pay close to twice as much as women. Much of this difference relates to the gender pay gap and the impact of career breaks and maternity leave, which mean that women tend to earn substantially less over their lifetime.

The next section of this report uses the EFS to examine what is happening within London households in detail. We divide households into those with and without

working women, we consider the impact of children on consumption patterns and we look at overall income levels of the household to see whether there is a divergence in patterns of spend over different levels of income: whether a higher household income is associated with buying more of the same category of goods and services as everyone else or goods and services of a higher quality.

Detailed analysis of spending by household type

In this analysis we only include households with an adult female member (except for male one-person households). This is to keep the analysis as simple as possible, and is in line with what has been done by previous researchers (eg Browning and Meghir (1991)). Appendix A outlines the calculations that were applied to the EFS data.

The groups included in the analysis are shown below.

The analysis is based on working-age population (women aged between 18 and 59 and men aged between 18 and 64). A sample of around 1,700 households (including around 1,500 London households) is used. In the analysis of one to two adult households only, there are approximately 14,000 households in the UK sample and 1,300 in the London sample. Of these, there are around 3,400 lone female headed households in the UK sample and 400 in the London sample. The sample size for single-person households (no children, working age) is 3,400 in the rest of the UK, and 400 in London – approximately 40 per cent of these households are single females.

The analysis is conducted using the 12 standard consumption classes (as in Family Spending and other ONS publications eg Consumer Trends). We also use a 'non-consumption

Type of Household	With dependent children	Without dependent children
Married couples	✓	✓
Lone mothers	✓	
Cohabiting couples	✓	✓
One-person households		✓
Multi-adult households with at least one female (used in some of the analysis)	✓	✓

expenditure' class.²⁰ This includes mortgage interest payments, council tax, money gifts, fines, charitable donations, life assurance, pension fund contributions, savings and investments. Therefore, the 'total expenditure' data we show excludes income tax and National Insurance contributions (this is a deduction from income after all) and capital repayments on mortgages, but includes savings and investments.

Single person households

As consumption data is collected at the household level, the simplest comparison of gender spend will be to compare

lone person households (households where a man lives alone compared to households where a woman lives alone).

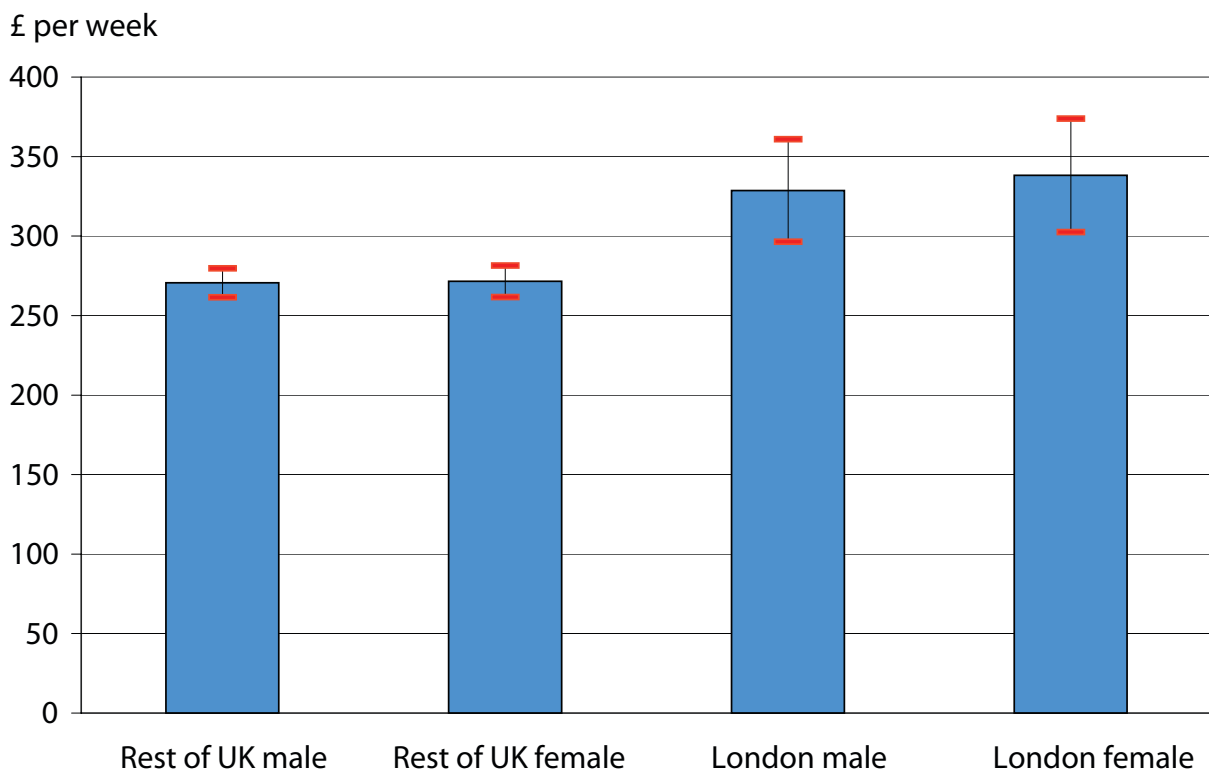
Households of single, working age people in London are likely to represent better off individuals, as those with lower income levels are more likely to be living in shared accommodation as it is less expensive.

Total expenditure for people in single working age households does not vary by gender, but only according to whether or not the person lives in London or the rest of the UK. So there are no significant differences in

total expenditure between males and females in London, or between males and females in the rest of the UK. The main finding is therefore that single person households of whatever sex spend significantly more per week in London than in the rest of the UK (see Figure 9).

This finding is somewhat surprising given that the median gender pay gap is 13 per cent in both London and the UK, and warrants further analysis at a later date. The EFS is designed to collect information specifically on household expenditure patterns, but there seems to be a disjunction between the income data from this survey

Figure 9: Total expenditure by single person households in London and the rest of the UK (Note: Red bars indicate 95 per cent confidence limits)



Source: GLA Economics calculations based on merged EFS data 2001/02 to 2004/05

and other sources of income data which requires further assessment.

Because of the relatively small sample sizes of single working age person households in London it is difficult to do statistically robust analysis of patterns of spend between males and females. When we consider the rest of the UK there are some differences between the patterns of male and female spending.

Sole female working age households spend more per week on:

- food and non-alcoholic

drinks (£23.06 compared to £19.68 by men)

- clothing and footwear (£14.15 compared to £6.94 by men)
- household goods and services (£22.13 compared to £16.05 by men)
- health (£3.84 compared to £1.79 by men)
- miscellaneous goods and services (£21.95 compared with £15.46 to men).

Sole male working age households spend more per week on:

- alcohol (£9.42 compared to £6.74 by women)
- transport (£41.14

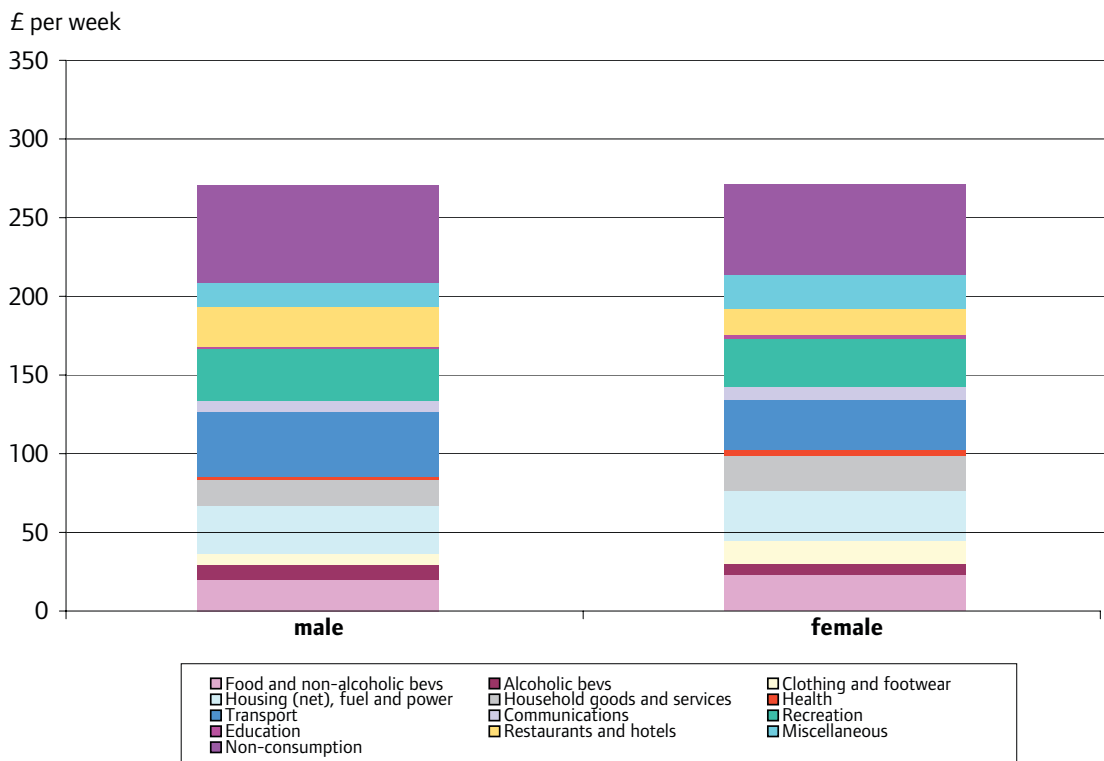
compared to £31.81 by women)

- restaurants and hotels (£24.99 compared to £16.43 by women).

There are no significant differences in male/female spend on housing (net), fuel and power, communications, recreation or education (see Figure 10).

It is possible that London expenditure patterns broadly follow those of the rest of the UK but given the small size of the sample, and the resulting wide confidence intervals, we can only make the two statistically robust claims about the differences

Figure 10: Male and female spending patterns in the rest of the UK for single person working aged households



Source: GLA Economics calculations based on merged EFS data 2001/02 to 2004/05

between male and female spending in London below (see Figure 11).

- Men living alone spend more per week on 'Restaurants and hotels' than women living alone. This includes food and non-alcoholic drinks taken at restaurants, cafés and canteens; all alcoholic drinks taken away from home; take-away and snack food; and all accommodation expenses. Men spend £33.18 per week (10 per cent of their weekly expenditure) compared with women who spend £20.23 (6 per cent of their

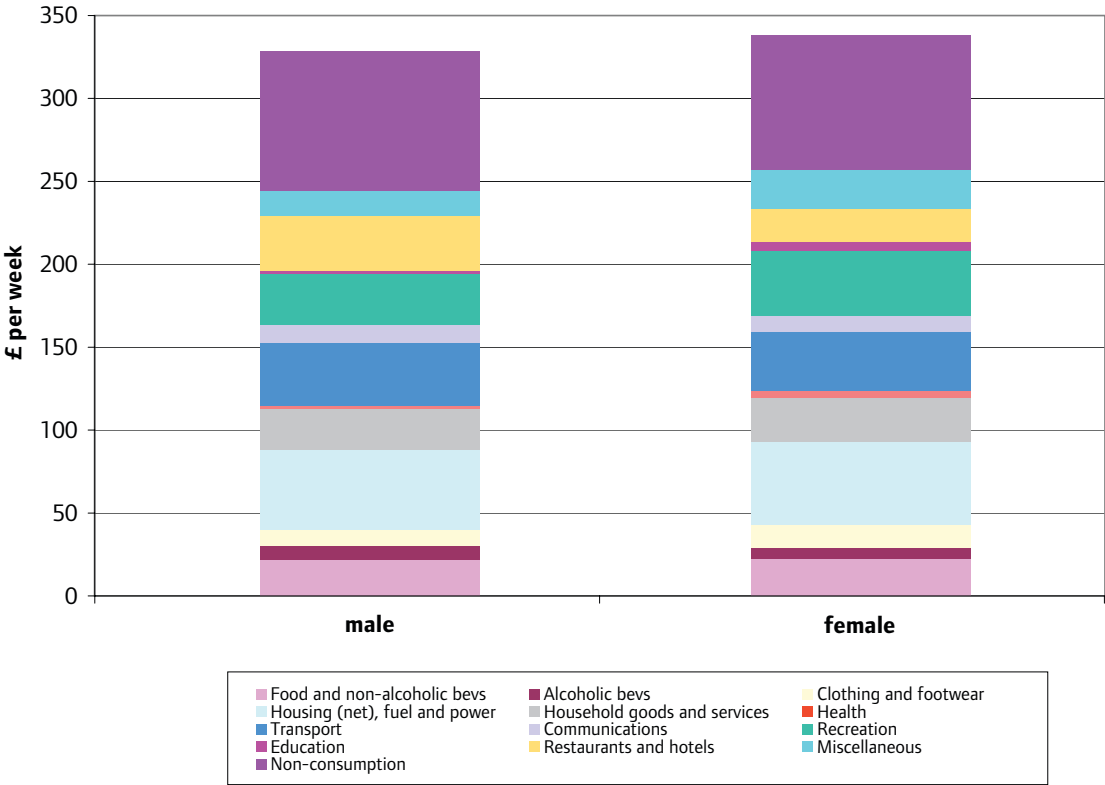
weekly expenditure).

- Women living alone spend more on 'Miscellaneous goods and services' than men living alone. This category includes personal care items like hairdressing and toiletries, personal effects such as jewellery and watches but also items such as childcare, insurance premiums and financial or professional fees. Women spend £23.29 per week (7 per cent of their weekly expenditure) in this category compared with men who spend £15.73 (5 per cent of their weekly expenditure).

Lone female parent households

Within this section the spending patterns of households comprising lone mothers and their children are analysed (the sample size is too small to show lone father households). As we have seen, the average incomes of single parent households are very low and lower than similar households in the rest of Great Britain, both by total income and disposable income. It is therefore not surprising that spending by lone mother households in London is not higher than in the rest of the UK.

Figure 11: Male and female spending patterns in London for single person working aged households



Source: GLA Economics calculations based on merged EFS data 2001/02 to 2004/05

Certain categories of expenditure can be expected to increase with the number of people living within a household: eg food and clothing, with more individuals to feed or bodies to clothe. Lone female parent households with two or more children spend significantly more on these expenditure categories than those with one child, both in London (see Figure 12) and in the rest of the UK (see Figure 13).

Couple households

As would be expected, expenditure levels for couple households are higher than those for lone female headed

households. This section compares couple households without dependent children with households that have up to three children living within them. Once again, London household spending is higher than in the rest of the UK.

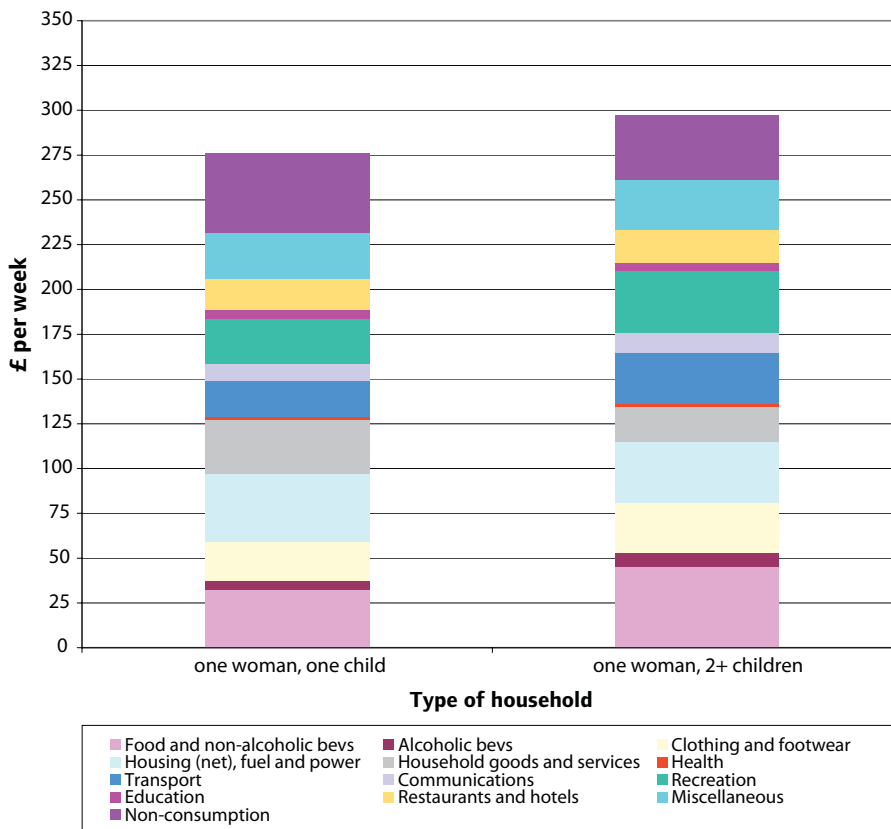
As shown in Figures 14 and 15, London household spending is higher than its UK counterpart by £149.88 per week for a one man and one woman household; £162.82 for a one man, one woman, one child household; and £85.09 for a one man, one woman, two children household (the

£7.93 difference for a one man, one woman, three children household is not significant).

In London, the presence of children in the family does not lead to any significant changes in overall levels of expenditure. In the rest of the UK (for which we have a bigger sample size) total expenditure increases as the number of children increases (up to 2 children), without controlling for any other factors.

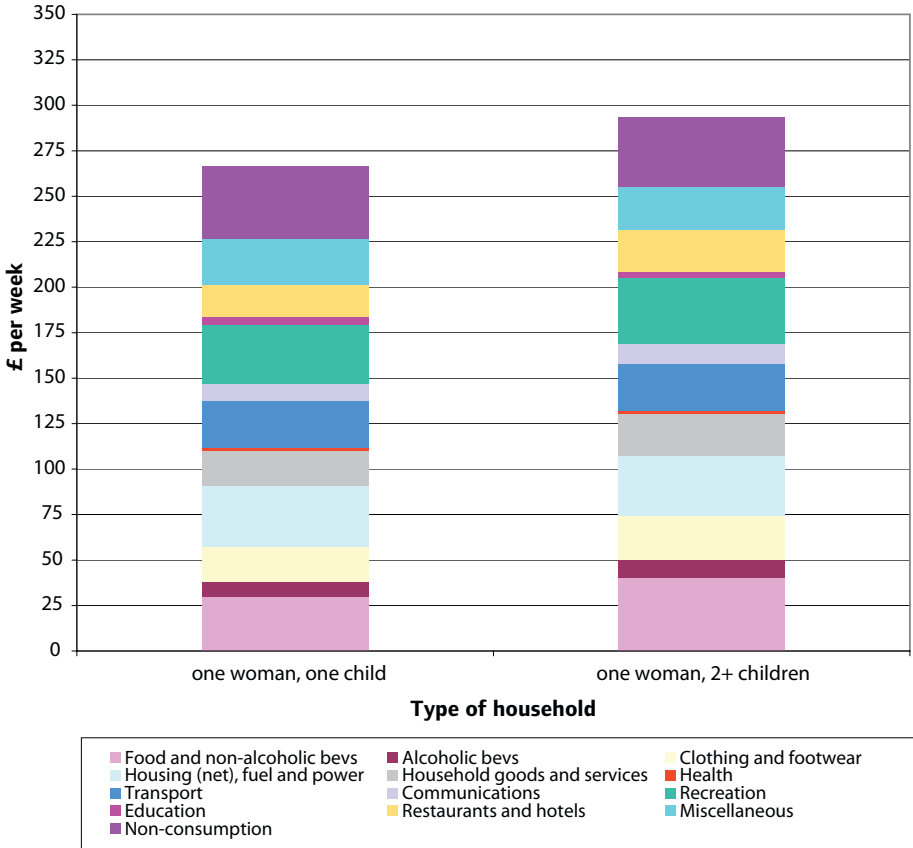
In terms of expenditure patterns, expenditure on the more basic goods such as

Figure 12: Lone female parent households mean expenditure patterns for London



Source: GLA Economics calculations based on merged EFS data 2001/02 to 2004/05

Figure 13: Lone female parent households mean expenditure patterns rest of UK



Source: GLA Economics calculations based on merged EFS data 2001/02 to 2004/05

Figure 14: Couple households mean expenditure patterns for London

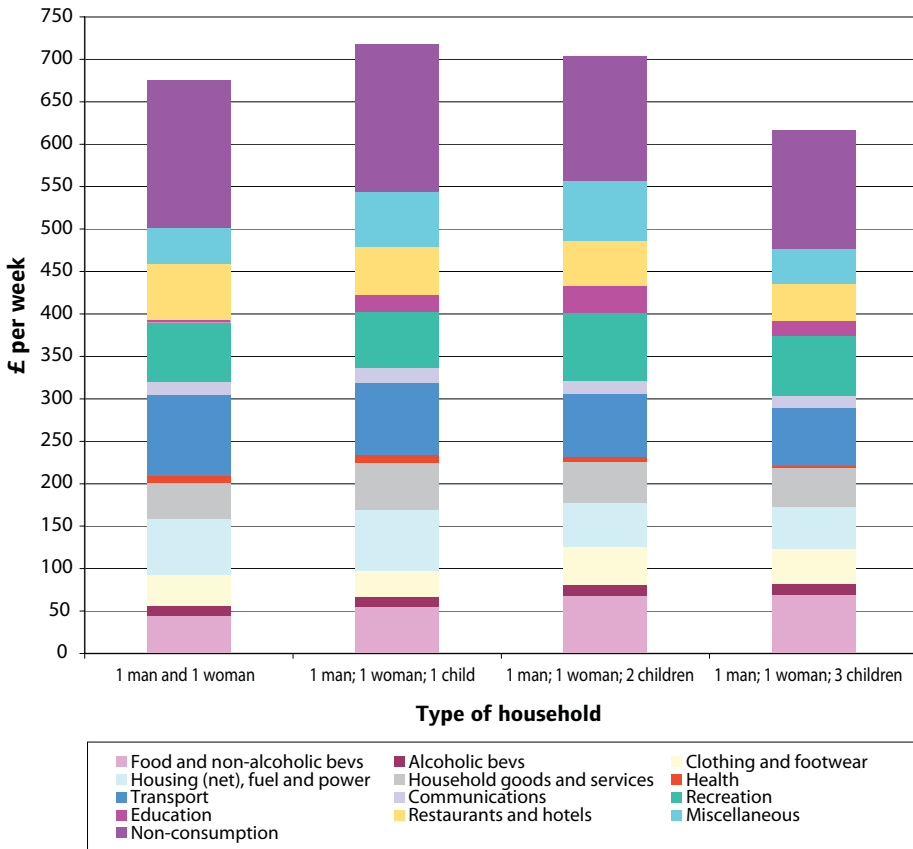
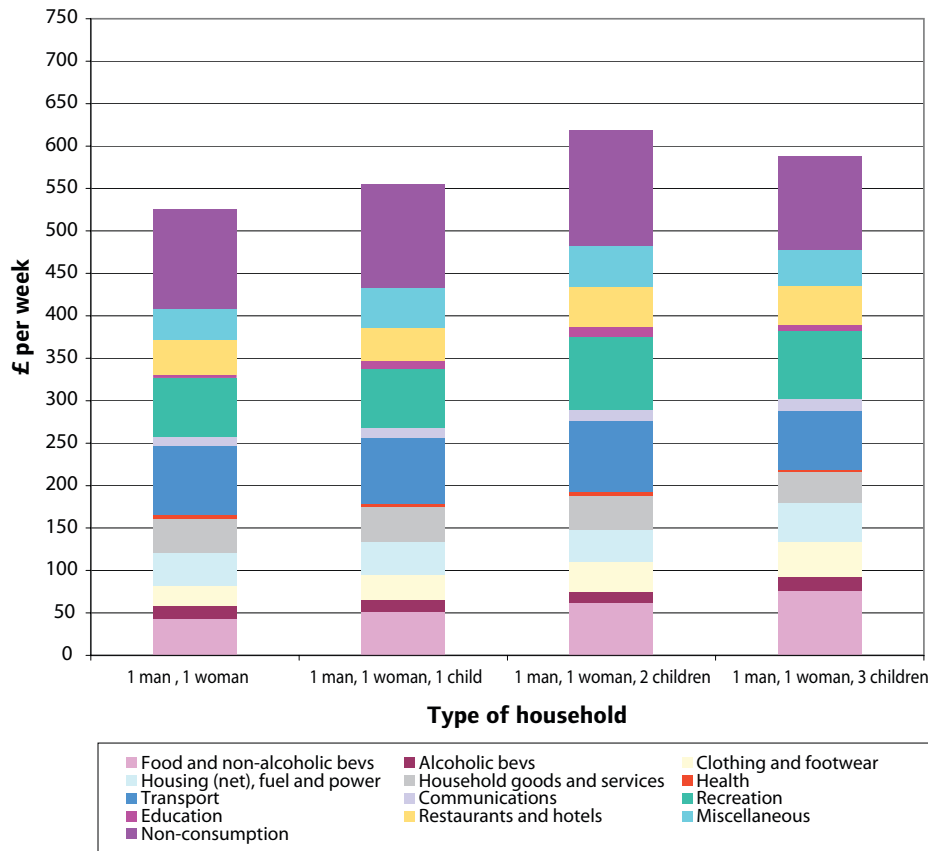


Figure 15: Couple households mean expenditure patterns for the rest of the UK



Source: GLA Economics calculations based on merged EFS data 2001/02 to 2004/05

food, non-alcoholic drinks, clothing and footwear does not differ by location but does differ by family composition. In the rest of the UK (again with the bigger sample size) the presence of children increases the amount of money (in absolute terms and as a proportion of total expenditure) spent on basic items such as food, non-alcoholic drinks, clothing and footwear. But expenditure on housing and non-consumption items varies more by location – spending being significantly higher in London for couples with no children and those with one child.

Household spending by income levels

As we know that spending is related to household income, we have analysed total spend patterns by income quintiles²¹. In this section, we present the lowest and highest income households and compare London with the rest of the UK. The London sample was divided up using the income range from London, and the rest of UK sample was divided up using the income range from the rest of the UK.

Despite a first glance at Figure 16, for households in the lowest disposable

income quintile, location does not appear to make a difference to overall expenditure levels. However, when we look at the higher income households (those in the top twenty per cent), there is a marked difference between the spending of higher income households in London compared to the rest of the UK. London's higher quintile households spend significantly more than higher income households in the rest of the UK (see Figure 17).

Comparing expenditure levels between the lowest and highest income groups

Figure 16: Lower income household expenditure for London and the rest of the UK
(Note: Red bars indicate 95 per cent confidence limits)

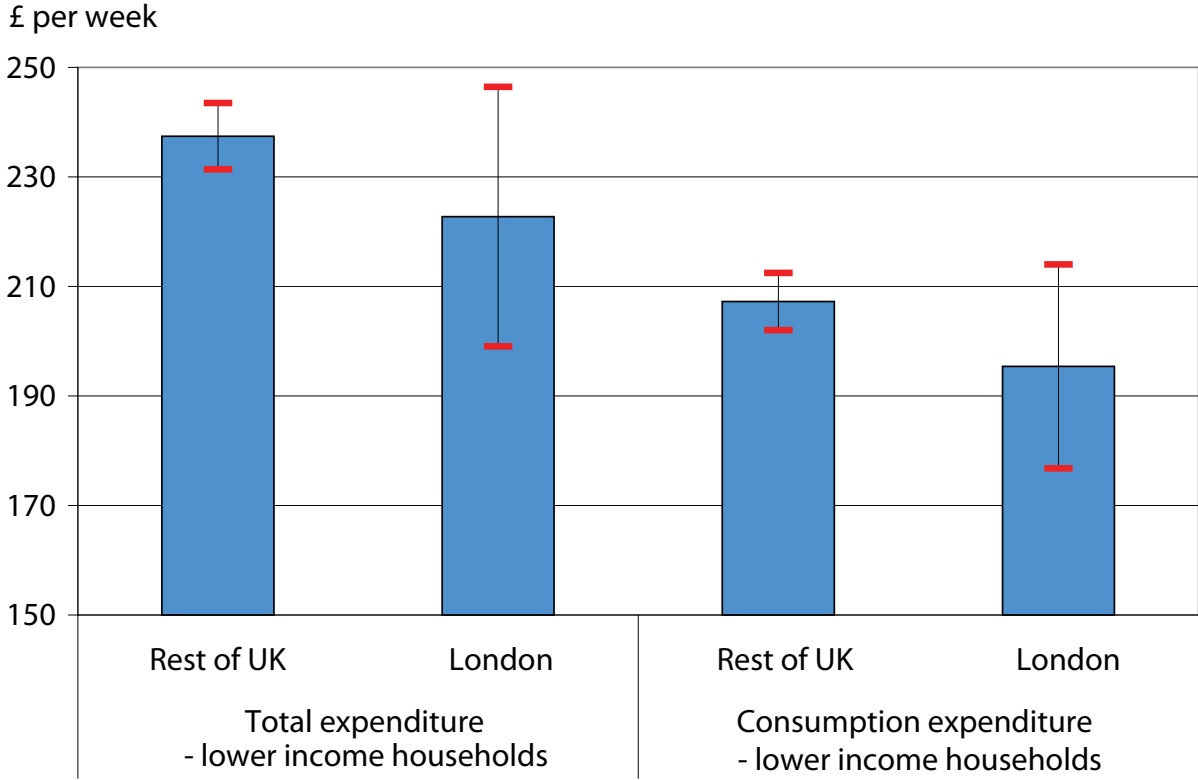
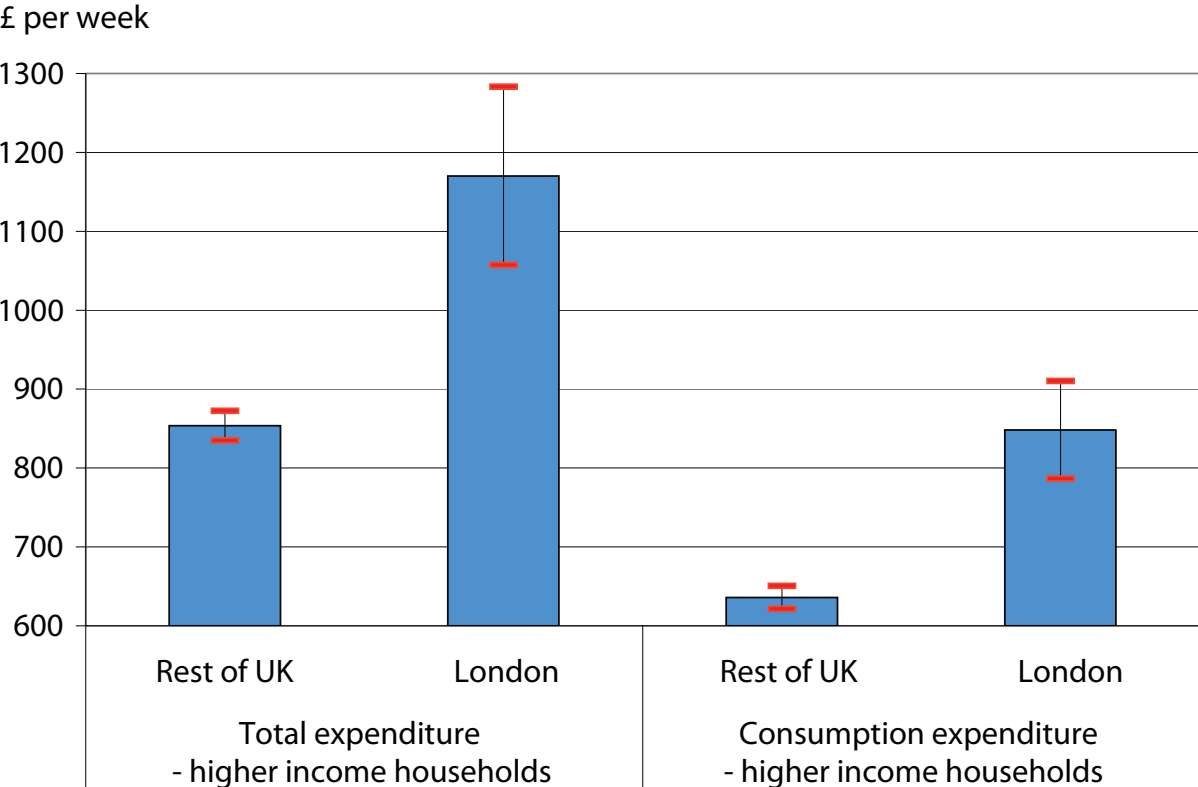


Figure 17: Higher income household's mean expenditure



shows the greater divergence in spending in London than in the rest of the UK. The 20 per cent of London households at the top of the income distribution spend more than five times as much as the 20 per cent of households on the lowest incomes. In the rest of the UK, the top 20 per cent spend less than four times as much as the lowest 20 per cent.

So while Londoners at the top end of the income distribution are much better off than their counterparts in the rest of the UK, at the lower end of the distribution people in London are just as

badly-off as people on the lowest incomes in the rest of the UK. Lower income households are likely to include those dependent on welfare benefits, but there is no London weighting applied to state benefits to counter the impact of London's higher costs.

Comparing patterns of spend between low and high income households

Within low income households, the only spending categories which vary significantly by location are alcoholic beverages and restaurants and hotels – where low quintile

households spend less in London (alcoholic drinks account for around 2.5 to 3 per cent of total expenditure of low income households in London, compared to around 4 to 4.5 per cent of total expenditure in the rest of the UK). By contrast, higher quintile households in London spend significantly more on many spending categories: clothing and footwear; housing (net), fuel and power; household goods and services; communications; education; miscellaneous goods and services; and non-consumption items (see Figures 18, 19, 20 and 21).

Figure 18: Patterns of spend in the lowest income quintile for London

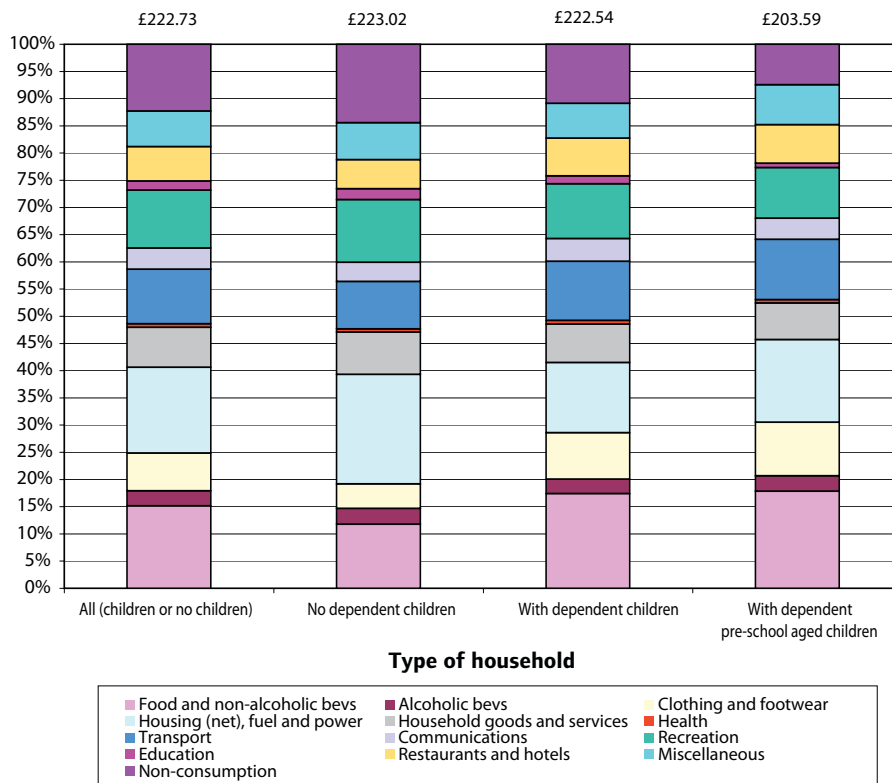


Figure 19: Patterns of spend in the lowest income quintile for the rest of the UK

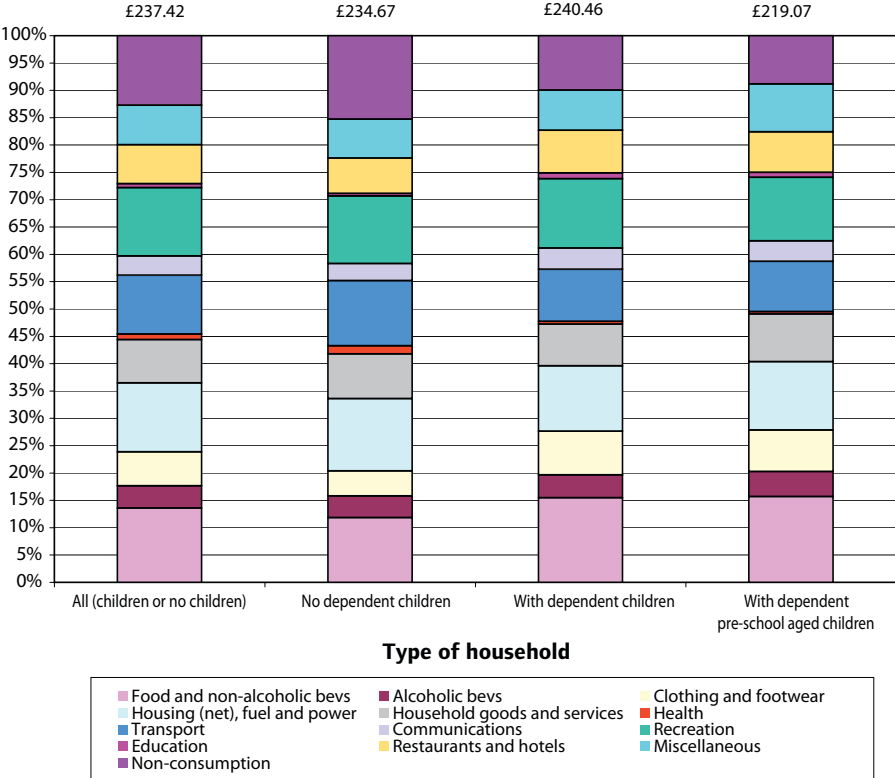


Figure 20: Patterns of spend in the highest income quintile for London

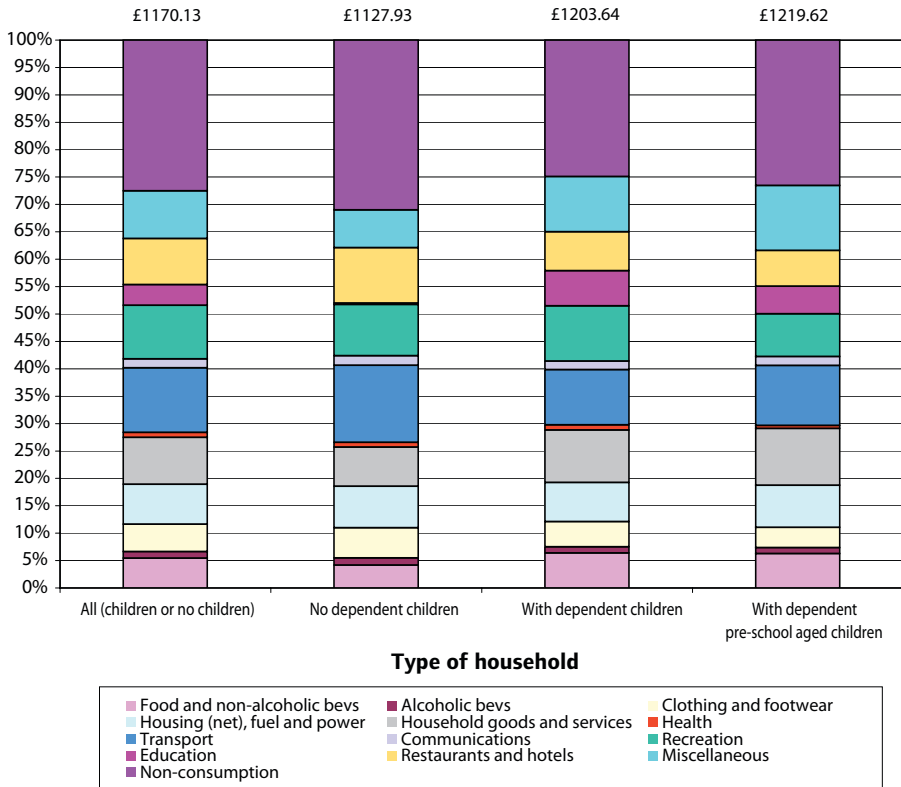
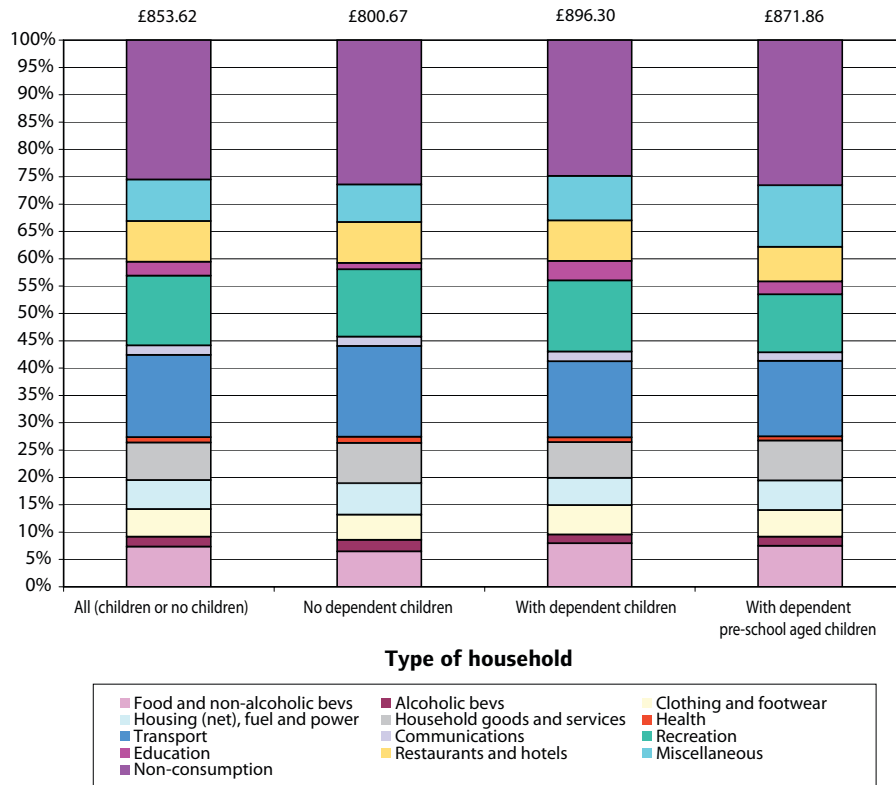


Figure 21: Patterns of spend in the highest income quintile for the rest of the UK



2.4 Analysis of women who earn less than the living wage

Background

The Mayor established the Living Wage Unit in 2005 and in the same year set the London living wage for the first time, at £6.70 per hour. The current London living wage in 2006 is £7.05 per hour.²²

In previous Women in London's Economy reports we found that women generally earn less than men. Also, women tend to work in lower-level occupations, or lower-paying sectors such as wholesale and retail. This section reports on the main findings of initial research

work on low pay, carried out by the Living Wage Unit to provide information on how many women are low paid (where low paid is defined as earning less than the living wage) and what kind of work they do.

Information sources

There are two main sources of information on earnings in the UK: the Annual Survey of Hours and Earnings (ASHE) and the Annual Population Survey (APS). Estimates of the number of low-paid women in London depend to some extent on the data source used. We have used only the ASHE 2005 data for our analysis. The Living Wage Unit commissioned

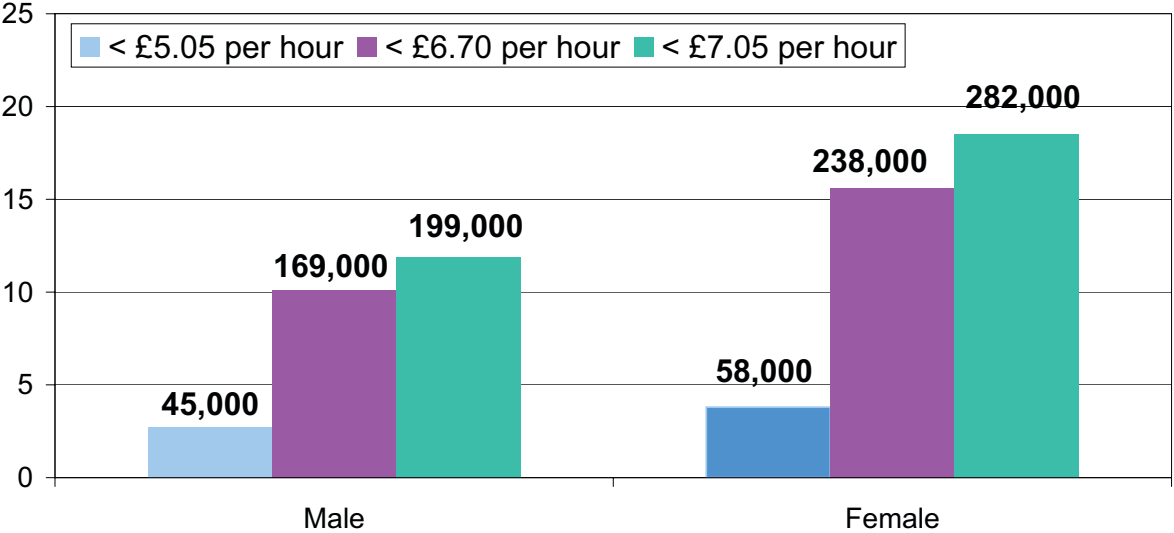
figures from the Office for National Statistics (ONS) on the number of employees earning less than different earnings thresholds: £5.05 per hour (minimum wage current at May 2006), £6.70 per hour (living wage in 2005) and £7.05 per hour (living wage in 2006).

Who are London's low-paid women?

Fifteen per cent of the total London workforce is low paid – around 481,000 employees earn less than the living wage of £7.05 per hour. Around 282,000 female employees (19 per cent of all London female employees) are low paid, compared to 199,000 male employees (12 per cent).

Figure 22: Low pay in London by gender

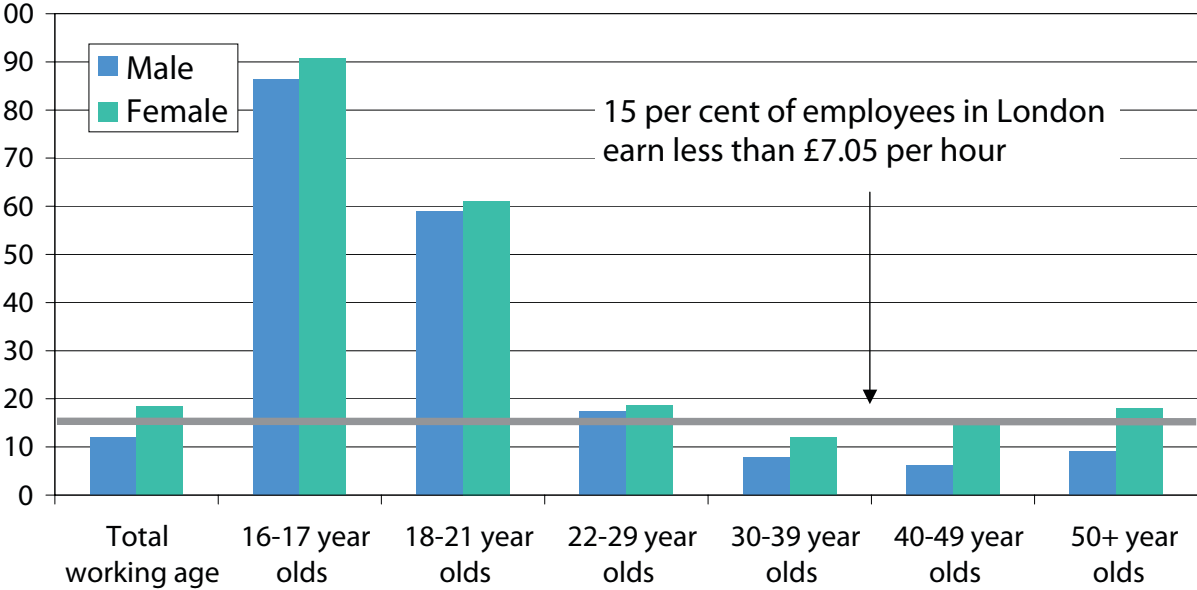
Percentage of London employees earning less than the different thresholds



Source: Annual Survey of Hours and Earnings (ASHE) 2005, ONS

Figure 23: Low pay in London by age

Percentage of London employees earning less than £7.05 per hour



Source: Annual Survey of Hours and Earnings (ASHE) 2005, ONS

Young people and women in London are more likely to be low paid. Employees at the early stage of their careers generally receive low salaries.

Figure 23 shows that young employees tend to be low paid, with more than 90 per cent of women aged 16 to 17 years and 80 per cent of men of the same age earning less than the living wage of £7.05 per hour. Table 3 shows the absolute numbers of low-paid people in each age group. The proportion of low-paid employees reduces with age, with the exception of female employees aged 40 and over and male employees aged 50 and over. This is

not unexpected, as average pay tends to rise with age, up to a certain point after which it falls. Some of the explanations include the fact that older people tend to be less qualified and/or more likely to work part-time than younger employees.

In which industries and occupations is low pay concentrated?

Lower paid jobs in London tend to be concentrated in the hotels and restaurants, and wholesale and retail sectors. These sectors have a higher concentration of female employees (see Figure 24). Table 4 shows the total number of London employees earning less than the living wage

by industry. There are over 90,000 female employees and 64,000 male employees in London working in wholesale and retail industry who earn less than the living wage.

London's low-paid employees also tend to work in lower level occupations. A higher proportion of women work in lower level occupations such as sales, customer service and elementary occupations compared to men. More than 70 per cent of female employees in the capital who work in elementary occupations earn less than the living wage of £7.05 per hour (see Figure 25 and Table 5).

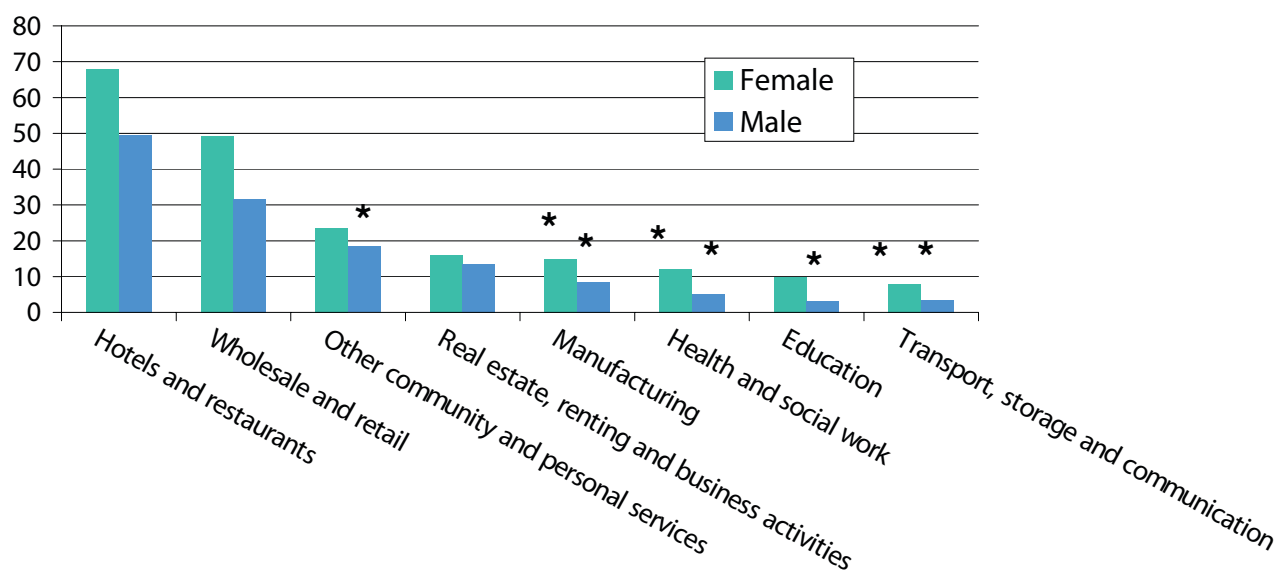
Table 3: Number of London employees earning less than the living wage by age group²³

Age group	Female	Male
16 to 17	11,000*	8,000*
18 to 21	46,000	39,000
22 to 29	66,000	56,000
30 to 39	50,000	40,000
40 to 49	54,000	25,000
50+	55,000	31,000
Total working age population	282,000	199,000

Source: ASHE 2005. Note: * refers to lower quality estimate, but still reliable

Figure 24: Low pay in London by industry

Percentage of London employees earning less than £7.05 per hour in each industry



Source: Annual Survey of Hours and Earnings (ASHE) 2005, ONS.

Note: * refers to lower quality estimate, but still reliable

Table 4: Number of London employees and those earning less than the living wage by industry

Industrial sector	No. of employees		No. of employees earning less than £7.05/hr	
	Female	Male	Female	Male
Total working age population	1,521,000	1,671,000	282,000	199,000
Wholesale and retail	184,000	204,000	91,000	64,000
Real estate, renting and business activities	288,000	364,000	46,000	50,000
Hotels and restaurants	60,000	67,000	40,000	33,000
Health and social work	241,000	74,000	29,000	4,000*
Education	282,000	140,000	28,000	4,000*
Other community, social and personal services	102,000	103,000	24,000	19,000
Manufacturing	59,000	135,000	9,000*	11,000*
Transport, storage and communication	65,000	189,000	5,000*	6,000*

Source: ASHE 2005 and commissioned tables from ONS. Note: * refers to lower quality estimate, but still reliable

Figure 25: Low pay in London by occupation

Percentage of London employees earning less than £7.05 per hour in each occupational group



Source: Annual Survey of Hours and Earnings (ASHE) 2005, ONS.

Note: * refers to lower quality estimate, but still reliable. ** refers to unreliable estimate

Table 5: Number of London employees and those earning less than the living wage by occupation

Industrial sector	No. of employees		No. of employees earning less than £7.05/hr	
	Female	Male	Female	Male
Total working age population	1,524,000	1,671,000	282,000	199,000
1. Manager and senior officials	222,000	436,000	8,000*	10,000*
2. Professional occupations	211,000	284,000	**	**
3. Associate professional and technical occupations	303,000	309,000	11,000*	7,000*
4. Administrative and secretarial occupations	370,000	115,000	39,000	13,000
5. Skill trades occupations	19,000	140,000	7,000*	19,000*
6. Personal service occupations	150,000	44,000	45,000	9,000*
7. Sales and customer service occupations	115,000	80,000	77,000	47,000
8. Process, plant and machine operatives	11,000	100,000	6,000*	17,000
9. Elementary occupations	123,000	163,000	87,000	76,000

Source: ASHE 2005 and commissioned tables from ONS

Note: * refers to an estimate that is lower in quality but still reliable. ** refers to an estimate that is not statistically reliable

2.5 The gender pay gap in London and the UK: the current situation

Table 6 shows wages by gender, for full-time and part-time workers in London and the UK, using the latest ASHE data (published 2006). Mean pay is higher for men than for women in both London and the UK as a whole. Full-time male employees earn the highest mean salaries, followed by full-time female, part-time males and part-time females.

As well as considering average wages by gender it is also of interest to examine other points of the distribution of wages (at the median, or at the bottom and top tenth percentiles). The median reveals the middle earner's wage, while the mean takes the average from all reported wages. The median is a more statistically robust measure, as it isn't affected by outlier data in a given sample. The wage distribution is highly likely to be skewed by a few very highly paid men and more so in London, so it is appropriate to consider the median in this instance alongside the mean. Therefore, the gender pay gaps were measured at the mean and the median for both London and the UK,

and for both full-time and part-time earners.

In London in 2006 the mean full-time female wage was £15.74 per hour and the full-time male wage was £20.49, yielding a gender pay gap of 23 per cent. This compares with the mean gender pay gap for full-time workers of 17 per cent in the UK as a whole. This larger mean gender pay gap in London suggests that London has a larger proportion of highly paid jobs, where most of the employees are more likely to be male, than elsewhere in the UK.

The median hourly wage in the capital for full-time females is £13.74 and for full-time males is £15.85. This generates a gender pay gap in London of 13 per cent at the median, which means that for every £1 that a full-time working male earns, a full-time working female earns 87p. At the median level, the gender pay gaps in London and in the UK are the same.

Looking at the bottom and the top ends of the wage distribution, wage differentials between employees in London are much higher than within the rest of the UK. For instance, full-time male

workers in London in the top 10 per cent of the distribution earn five times more than full-time male workers in the bottom 10 per cent, whereas in the UK as a whole the figure is four times. In addition, full-time women workers in the top 10 per cent earn only 3.6 times as much as comparable women in the bottom 10 per cent. The difference is much greater for women part-time workers: the top 10 per cent of male full-time earners earn more than seven times as much per hour as the bottom 10 per cent of female part-time earners. Also comparing top male earners with female employees at the lower end of the earnings distribution, full-time male workers in the top 10 per cent of earnings in the capital earn five times as much as full-time women workers in the bottom 10 per cent.

Since top full-time male earners working in London receive much higher wages than top female earners, this leads to a much higher gender pay gap of 32 per cent in the capital at the 90th percentile compared with only 20 per cent in the UK as a whole. In other words, even the highest earning women in London are paid 32 per cent less than their male counterparts.

Table 6: Pay differentials by gender and employment status for London and the UK in 2006

Hourly pay and gender pay ratio for males and females in London and UK in 2006 (excludes overtime pay)

London	Female		Male	
	Full-time	Part-time	Full-time	Part-time
Mean	15.74	11.54	20.49	12.83
10th percentile	7.25	5.44	7.65	5.05
50th percentile	13.74	8.82	15.85	7.55
90th percentile	26.33	21.37	38.80	24.93
90/10	3.6	3.9	5.1	4.9

Source: ASHE 2006, at region of workspace

UK	Female		Male	
	Full-time	Part-time	Full-time	Part-time
Mean	12.11	9.12	14.62	10.38
10th percentile	5.95	5.10	6.40	5.05
50th percentile	10.24	7.00	11.71	6.85
90th percentile	20.59	16.24	25.83	22.06
90/10	3.5	3.2	4.0	4.4

Absolute gender pay ratio (female/male)

	London		UK	
	Full-time	Part-time	Full-time	Part-time
Mean	77	90	83	88
10th percentile	87	117	87	102
90th percentile	68	86	80	74

Absolute part-time pay ratio (part-time/full-time)

	London		UK	
	Female	Male	Female	Male
Mean	73	63	75	71
10th percentile	64	48	68	58
90th percentile	81	64	79	85

One of the main causes of the gender pay gap is occupational segregation – that is, men and women working in different jobs. Among part-time workers, the average (mean) gender pay gap is lower in London than in the UK. Male part-time workers in London earn 10 per cent more than female part-time workers whereas the difference is just over 12 per cent in the UK as a whole.

By contrast, looking at hourly median wages (part-time), women tend to earn more than men

in both London and in the UK. But the median wage differentials between women and men are more accentuated in the capital than in the UK. Female employees working part-time earn 17 per cent more than male employees working part-time, compared to the rest of the UK, where female employees earn only two per cent more than their male counterparts. This is partly because of the different age profiles of male and female part-time workers. As there are more part-time women workers who are older, these individuals will have more

experience and therefore receive higher salaries.

Part-time employment is usually associated with a lower hourly wage for both females and males. Taking gender and hours working status together, the largest wage differentials occurred between full-time males and part-time males in London at the median, with a pay gap of 52 per cent.

The mean/median gender pay gaps have not changed significantly from last year to this year.

Chapter 3:

Qualitative research

This chapter is based on research conducted by SQW Ltd for the GLA. Dr Diane Perrons, Director of the Gender Institute at the London School of Economics, acted as an advisor to the project. In broad terms, the research sought to review existing good practice internationally on effective measures to tackle discrimination against women in employment and to remove barriers to equality. The aim of the research was to draw out contrasts in approaches and outcomes and to highlight successful policies. The backdrop to this research is the fact of national inquiry into what more can be done to address economic inequality, including through the Discrimination Law Review (DLR) taking place. An additional factor is the wish of the GLA to identify practice which shows the willingness of employers both to comply with anti-discrimination law and to positively implement

sometimes innovative measures. The study focused on good practice in the following areas:

- addressing the gender pay gap
- positive action
- procurement
- flexible working – including parental leave and childcare
- senior women
- reducing occupational segregation – including access to non-traditional industries.

The methodology for this research comprised three main elements: scoping consultations with academic and policy experts in the employment and equality field; an internationally-based literature review focusing on Europe, the US, Australia and Canada; and a set of ten good practice case studies with both UK and internationally-based organisations. The format of presentation of the latter

follows agreement of the organisations concerned.

3.1 Literature review summary

The gender pay gap

The issue

The gender pay gap refers to the disparity found between the average hourly earnings of men and women, and is most commonly caused by occupational segregation, part-time working and its generally low and unequal pay, the unequal impact of women's family responsibility and pay discrimination, both direct and indirect. It is an issue faced by the majority of countries, although the extent of the gap varies as a result of differing historical, cultural, social and political influences.

Significant findings from the international literature include:

- research conducted by the Institute for Social and Economic Research (ISER) in 2006²⁴ showed

that despite current efforts, women's pay is still lagging significantly behind that of men

- there is an emphasis on the need to alleviate the under-representation of women relative to men across occupations and sectors²⁵
- subtle mechanisms contribute to the gender pay gap – for example, the assignment of women to positions that are not provided with certain payment supplements, such as operating machinery and night-time work²⁶
- government policy can play a role through the law, for example by making differences in pay rates solely by gender illegal, by introducing legal measures to identify and remedy discriminatory pay systems in workplaces, by promoting the value of equality, by making it as easy as possible for women employees to uphold their rights to equality by removing barriers to funding and ensuring legal advice is available
- government policy can also play a role in challenging gender stereotypes as a means of changing the social values and norms that

determine gender roles - for example via education and cultural policies.²⁷

Addressing the issue

Despite Scandinavia having smaller gender pay gaps than the UK, over the past two decades institutional changes aimed at improving the status of women have been relatively ineffective at reducing the pay gap, and similar results have been found in the US.²⁸ This demonstrates the continuing need to make further progress towards a significant change in both business culture and gender-based norms.

The prevalence of the gender pay gap has also been recognised by the UK government, and the Women and Work Commission.²⁹ Despite this recognition and support for certain positive measures, the commission was criticised for failing to advocate measures such as the introduction of mandatory pay review mechanisms and for relying on advocacy and encouragement, particularly in education and training. Measures that have been taken include the promotion of equal pay reviews, initially within the

public sector, which all 88 government departments have completed. The process has been reinforced by the setting of the PSA 9 Gender Equality target of increasing to 45 per cent the proportion of all large organisations that have undertaken pay reviews by April 2008. However, it should be noted that the Equal Opportunities Commission (EOC) has found (2006) that voluntary progress in undertaking equal pay reviews in the private sector has been less than in the public sector.

Associated case study: Equal Pay Audit at HBOS plc

Positive action

The issue

Positive or affirmative action refers to policies or programmes, usually time limited in practice, that specifically favour particular groups of people with the stated goal of countering past or ongoing discrimination against them. In the area of employment, gender-based positive action has been introduced to address occupational segregation and to encourage women to enter occupations and

training schemes in which they have been consistently under-represented.

Addressing the issue

Over 20 countries have specific laws mandating affirmative action for employment on the basis of race, sex or disability, with many others permitting action of some form.³⁰ Two brief examples are given below.

- The EU treaty permits EU countries to adopt positive action measures that give a specific advantage to women in order to alleviate the barriers they face both on entry/re-entry into work and within the workplace. Therefore, each individual country is free to decide whether it wishes to enforce measures of positive action. The adoption of a 40 per cent quota for company boards in Norway can be seen as a form of positive action or even seen as a form of positive discrimination.
- The Canadian Government passed the revised Employment Equity Act in 1996, which places an obligation on the public sector and on federally-regulated companies with 100 or more employees to implement

employment equity by proactive means. The act also includes a mandate giving the Human Rights Commission powers to conduct on-site compliance reviews and to provide additional enforcement via employment equity review tribunals.³¹

Examples of affirmative action include specific training for women to help them move forward in their careers, measures relating to flexible working hours, provision of childcare facilities and measures to re-integrate women after a career break.

Associated case studies in this report: Equal Opportunity for Women in the Workplace Agency (EOWA), Employer of Choice for Women (EOCFW) citation, Training programmes at the Ontario Women's Directorate

Procurement

The issue

When public sector bodies purchase goods and services from private contractors, businesses owned by disadvantaged groups, including women, are often under-represented among the chosen contractors. Furthermore, the private contractors may demonstrate

a lesser commitment to equal opportunities and provide inferior terms and conditions for their employees compared to those offered in the public sector. The potential for harnessing the large-scale purchasing power of public authorities to promote equality and open up access to contracts to a diverse range of suppliers has led to the introduction of procurement – or contract compliance – strategies in several countries.

Addressing the issue

Christopher McCrudden³² recently mapped the international use of procurement to promote a range of objectives including equality for different groups. He traced its early origins in federal contracts in the USA requiring suppliers to take affirmative action relating to race, and the subsequent extension of such requirements to gender. Elsewhere, the focus in public procurement contracts in Northern Ireland was on the equal treatment of religious groups, and in Canada on aboriginal businesses. In South Africa, a broad based provision that procurement should serve equity principles was embodied in the 2000 constitution.

The growing interest in the UK follows evidence of the effective use of procurement in other

countries. The Women and Work Commission report³³ recommended that public sector procuring authorities should be encouraged to promote good practice in diversity and equal pay matters among contractors, although others have argued for creation of an obligation, thereby removing any room for confusion in current law.

Associated case study:
Transport for London

Flexible working

The issue

One of the most common barriers faced by women in the labour market and those attempting to re-enter the workplace is a lack of flexibility necessary to accommodate family and other responsibilities. Evans³⁴ categorised family-friendly working arrangements as follows:

- leave from work for family reasons – includes maternity, paternity and parental leave but also leave to care for elderly dependents or in cases of bereavement
- changes in work arrangements for family reasons – job-sharing, home-working, flexi-time working, a compressed working week, term-time only contracts and a facility to switch between full and part-time working
- practical help with

childcare and/or elder-care – affordable and accessible nurseries, play schemes in holidays

- information, training and networking assistance – assistance for re-entrants and the active promotion of family-friendly benefits and entitlements.

Addressing the issue

The most common work–life balance initiatives include parental leave arrangements and flexi-time. These measures have been implemented at varying levels, from government legislation through to firm level. For example:

- French law introduced time-saving accounts, which allowed workers to vary their working hours over the space of a year in order to accommodate other responsibilities³⁵
- the EU Parental Leave Directive provides a basic entitlement of up to three months' leave for both men and women on the birth or adoption of a child. This was adopted by the UK Government over the period 1997–99. However, the detailed rules governing parental leave are defined by national law and the directive has been interpreted in

differing forms within each of the Member States. This has resulted in a relatively high proportion of employers providing extra-statutory family leave benefits³⁶

- very few European firms currently provide childcare facilities, with the exception of the Netherlands, where public authorities have directly involved firms in providing subsidised care for their employees.³⁷

Associated case studies:

Childcare at Roche, Parental leave at Ericsson, Flexible working at Ernst and Young

Senior women

The issue

The under-representation of women in senior jobs and in the boardroom has been a feature of gender inequality in all highly developed economies, often called the 'glass ceiling' when women employees experience barriers to progression to the most senior jobs.

Research in the USA, based on data from the Fortune 500 companies (an annual listing of the largest US industrial corporations ranked by revenue), highlighted the small proportion of women at senior management, chief executive and board level.³⁸,

³⁹ The 2005 survey found that women held 16.4 per cent of corporate positions, but that progress had stagnated over the previous 12 months.

The European Professional Women's Network 2006 survey of the number of women in the boardrooms of Europe's top 300 companies⁴⁰ found that the growth rate was stagnating, except in Scandinavia. It highlighted the achievements of proactive policies and quotas in Scandinavian companies, and contrasted this progress with the low levels of female representation on boards in the Mediterranean economies of Italy, Spain, Greece and Portugal.

In the UK, research by Singh and Vinnicombe^{41, 42} on the FTSE 100 and FTSE 250 companies showed the extent of women's under-representation on boards, as senior executives and as directors, and the fact that the number of FTSE 100 companies with women directors on their boards had actually declined by one between 2005 and 2006.

Addressing the issue

In the United States, the Catalyst 2005 report⁴³ highlighted the relationship between occupational segregation and women's promotion prospects:

women were more likely to hold corporate executive positions in industries where they were 49 per cent or more of the total workforce, including finance, insurance, real estate, retail and services. The report noted the business case for diversity: companies with higher percentages of senior women were companies that performed well financially. It recommended that CEOs and senior leadership within companies should be accountable for promoting diversity and support 'diverse selection teams, and diverse outcomes when executive positions are filled'.

Following the introduction of a 40 per cent quota in Norway, the use of legal quotas to speed up women's progress in reaching senior positions is being seen in some countries as a promising way forward. There are indications that elsewhere in Europe – Spain, for example – there may be a move to introducing quotas, or in other words forms of positive action, to break through the entrenched barriers to equality in women's economic participation and representation.

In the UK, barriers to women's progression include: attitudes, stereotypes and prejudicial, sometimes

informal, work practices; lack of female role models; the long-hours culture in some sectors; women's lack of participation in male-orientated networks/practices; and the reluctance of recruitment consultancies to take on women with non-executive director experience, creating a self-perpetuating cycle of discrimination. Some companies are addressing these barriers in different ways, for example through mentoring, targeting women for leadership training, and examining their own selection procedures for any sex bias. Women themselves have been setting up professional networks to support each other and share information on best practice employers. However the pattern of under-representation – and the fall in FTSE 100 level representation this year – shows that this is not enough. Identifying and building on good company practice and government action internationally is critical.

Associated case studies: Storebrand, Citigroup

Occupational segregation

The issue

Occupational gender segregation refers to the unequal distribution of men and women in different jobs. A

comprehensive review of employment patterns⁴⁴ concluded that 'a high level of gender segregation is a persistent feature of the structure of employment in Europe and the rest of the world'. In Europe, the broad picture of occupational segregation was largely replicated at the individual country level.

Two types of occupational segregation have detrimental outcomes for women. First, horizontal segregation refers to the concentration of men and women in different industrial sectors and types of jobs. Not only are women under-represented in particular occupations, but they are over-represented in the less secure types of employment contracts, such as temporary and fixed-term contracts and part-time work, as found in a recent study of EU countries.⁴⁵

Vertical segregation refers to the pattern whereby men and women are concentrated at different levels in the occupational hierarchy. Typically, women are under-represented in jobs and professions where pay and status are higher – for example, senior management and professional occupations. Within occupations, women predominate in lower level jobs and the lower grades.

Occupational segregation

is one of the key factors maintaining the gender pay gap (see previous section). Tackling occupational segregation is therefore an essential element in closing the pay gap. At a national level, occupational segregation also contributes to skills shortages in various sectors, by restricting access to a pool of female labour.

Addressing the issue

Studies in Europe and America have identified similar processes that maintain occupational segregation. These include:

- gender stereotyping at school and throughout society that influences career choice and subjects studied, and affects later employment choices
- workplace cultures, prejudicial attitudes and barriers, and discriminatory policies such as lack of flexible working opportunities in traditionally male jobs which deter women from entering these occupations
- the operation of a 'glass ceiling' in many organisations, preventing women rising above middle management level (see previous section).

Initiatives to address these barriers include: action by employers who understand

that the equality case and the skills demands of their businesses work together; legislation that goes beyond prohibiting discrimination and places a duty on employers to promote gender equality; positive action training and employment schemes and other initiatives to enable women to enter traditionally male-dominated occupations; and national policies to encourage organisations to tackle contributory factors such as the long-hours culture in favour of supporting a work-life balance for both men and women.

Associated case study: IBM

3.2 The gender pay gap case study: equal pay audit at HBOS plc

Country: UK

Introduction

HBOS plc, one of the UK's leading financial organisations, was created in September 2001, as a result of the merger between Bank of Scotland and the Halifax plc, but its constituent companies date back to the 17th century. It operates as one organisation; principal subsidiaries of the group include Capital Bank plc and Clerical Medical Investment Group Limited. Its operations are mainly UK-based, where the company employs over 60,000 people. The gender

composition of the HBOS workforce is shown in Table 7.

The HBOS Equality and Diversity Policy is led by the chief executive and has top-level support from the chairman and board of directors. The organisation also supports this commitment through the following:

- a Diversity Steering Group meets three times a year to drive and champion its equality vision
- each HBOS division has its own diversity manager who works with the business to determine their specific diversity objectives and bring them to fruition. This approach enables each business to adopt plans which specifically meet their own individual challenges and opportunities as well as contribute to the HBOS overall diversity strategy.
- networks such as the

Diversity Forum meet on a regular basis, and are co-ordinated by the HBOS diversity team.

The organisation works closely with its two unions – Amicus and Accord – with which it holds annual talks to review issues such as pay and reward within HBOS. These discussions acted as the impetus behind the organisation conducting a comprehensive equal pay audit (EPA).

The initiative

HBOS regards establishing and implementing fair reward policies which are subject to a continuous monitoring and improvement process as key to running an effective business. The organisation conducted their first EPA in 2003. However, this was at a fairly high level and did not result in the need for specific actions. HBOS recognised that they were ready to conduct a more detailed audit and therefore the organisation

responded positively to the suggestion to conduct an EPA made by the unions in August 2005 as part of their annual discussions. These discussions were followed by a firm commitment by HBOS to their unions to undertake an EPA during 2006 in order to ascertain whether the company was rewarding all colleagues fairly.

The EPA included UK-based colleagues (approximately 62,000) at all levels, from clerical to senior manager. It also sought to evaluate some of the key messages that had arisen from the annual Colleague Opinion Survey, which had highlighted a perception of an inequitable pay distribution from both a gender and a minority ethnic perspective.

Delivery

The EPA was developed jointly by HBOS and their unions. As part of the learning process from their first EPA, HBOS assigned a project manager to oversee the audit.

Table 7: Gender composition of HBOS

Category	
Overall male/female split	36% male/64% female
Level 1 (clerical level)	25% male/75% female
Level 5 (head of function)	77% male/22% female
Number of full-time females	25,000
Number of part-time females	14,000

The audit design was based on the EOC's Five-Step Model and started with an extensive scoping exercise that sought to decide the scale, level and type of analysis for the EPA. This involved:

- the establishment of a joint working group, which included members of the unions, the project manager and the head of employee relations, who met frequently to discuss any issues
- consultation with a cross-divisional group which had representatives from all HBOS business divisions.

The scoping exercise took place over a period of two months, as HBOS felt that to provide meaningful results it was important to be absolutely clear about the data required, and the format in which it should be collected.

During the initial stages of the audit a number of limitations in the existing management information (MI) were found, which resulted in the need to fill approximately 35,000 data gaps. HBOS responded to this problem by developing two mini-projects to fill the gaps and to set up processes to ensure that this data was maintained and continuously collected.

This was followed by a pilot phase to ensure data could be collected and analysed in the format required and determine how to present the audit findings. This revealed that although the right information had been collated, it was difficult to interpret. Therefore, the team revised the method by which the data was to be presented, which included using headline graphs to illustrate the key findings, and easy to read tables flagging up pay gaps.

Outcomes and impacts

Having refined the data and its associated final format, the MI team produced all the required data. This was disaggregated by the following major categories:

- gender
- average basic salary, bonus and total pay
- full-time and part-time hours, and like-for-like comparison of full-time equivalent salary
- age (seven bands)
- job grades and the sub-levels within these
- ethnicity
- disability
- length of service
- location – with UK data analysed into seven regions, and additional summaries for four key towns/cities where HBOS has large colleague populations
- division.

The results were analysed to identify key issues and areas requiring further investigation.

The main finding from the EPA was that the reward structure was equitable and there was neither gender-related pay bias, nor bias in the other diversity strands investigated. However a number of specialist areas, which by their nature are associated with higher market pay premia, tended to be male-dominated. Therefore, more emphasis will be placed on addressing this under-representation in order to attract more female applicants.

In conjunction with the unions, the findings were formulated into a company-wide action plan which had four main themes, each of which contained a set of actions:

- *pay* – ensuring the current robust pay-management processes are maintained
- *bonus* – regular monitoring of bonus arrangements to check fairness and equity across different specialisms
- *culture* – the action plan will focus on this area, and the company plans to gain a clearer understanding of perceptions around the barriers to progression at

the lower rungs and why the higher-paying specialisms are male-dominated (within this, the company plans to re-design the graduate programme to attract new starters into the under-represented areas and re-focus the recruitment processes)

- *equal pay audit* – the company is establishing a rolling programme to monitor the progress of the action plan and review the progress made in the identified ‘hot spots’ (for example, in the less well-represented areas) on an ongoing basis, and proposes to conduct another fully-comprehensive EPA in three years’ time.

Not all actions within the plan are relevant to each division, so every division is formulating its own tailored action plan based on the company plan, which will be driven by the human resource department within each autonomous division. The ownership of the implementation of these plans will sit with the joint working group.

To date, the process has taken a year to arrive at the point where the action plans have now been approved by the unions.

In hindsight, the team felt that the following were essential when implementing an EPA:

- senior-level commitment to drive the EPA forward
- absolute clarity regarding the types and format of data to be identified and, within this, keeping presentational material simple
- accurate and robust management information
- individuals engaged from all relevant parties from the outset of the exercise, in order to include all during the scoping stage of the EPA and to ensure ‘buy-in’
- appointing a manager to oversee the process and deal with the complexities of the data and survey design
- carefully distinguishing between equal pay and equal representation issues.

HBOS’s Head of Employee Relations, Reward and Diversity stated that the business case behind conducting an EPA centred on the image it conveyed of an employer who is committed to equal opportunity and hence the creation of a competitive advantage, helping the firm attract and retain the best candidates and talent.

The Head of Employee Relations also added that:

‘An EPA is something a company should do if it is firmly committed to equal opportunity and diversity, as it seeks to alleviate any reward issues as well as to identify and seek to address areas where cultural change is necessary’.

3.3 Positive action case study 1: Equal Opportunity for Women in the Workplace Agency (EOWA), Employer of Choice for Women (EOCFW) citation

Country: Australia

Introduction

The Equal Opportunity for Women in the Workplace Agency (EOWA) is a statutory agency of the federal Minister for Employment and Workplace Relations. The remit of the EOWA encompasses the administration of the Equal Opportunity for Women in the Workplace Act 1999 (to be referred to in this case study as ‘the act’) and, through education, to help organisations achieve equal opportunity for women.

The act provides that all private sector organisations with more than 100 staff put in place a programme of action to advance women and remove barriers in relation to seven employment matters:

- recruitment and selection

- promotion, termination and transfer
- training and development
- work organisation
- conditions of service
- sex-based harassment
- pregnancy, potential pregnancy and breastfeeding.

As part of this programme, organisations are required to consult with their staff (particularly women) to identify issues of concern, and take action to rectify them. Therefore, there is an emphasis on incremental improvement to conditions for women in all workplaces covered by the legislation. At the end of each 12 month period (March 31 each year), organisations are required to report on their progress to EOWA. EOWA Client Consultants assess the reports and provide both oral and written feedback to the organisation, recognising what was done well and suggesting actions to further improve progress for women.

Organisations which have been compliant with the act for three consecutive years can, in the fourth year, apply to be waived from their reporting requirements for a period of one, two or three years. This waiver is granted based on organisations demonstrating that they have done a comprehensive analysis (including

consultation with staff) and have actioned all the issues that are 'reasonably practicable' for the organisation to implement to advance women and remove barriers. Where it is not 'reasonably practicable' for an organisation to action an issue, the reasons must be supplied to EOWA.

The initiative

EOWA's EOFCW citation was implemented across Australia in 2001 (the first year of reporting under the current act) to recognise those organisations that had demonstrated leading practice in programmes for women, and had also achieved successful outcomes for women and the business. The EOFCW was awarded to 55 organisations in 2001, and this has grown steadily to 116 organisations in 2006, with representation from each state/territory in Australia.

The EOWA Board, EOWA's industry partners and EOWA staff were involved in providing input into the process and in identifying and clarifying the criteria against which organisations would be assessed. The final criteria, listed below, set out what the EOWA considers to be the determinants of leading practice organisations in relation to equal opportunity for women in the workplace:

- Have effective processes (across employment matters) that are transparent;
- Have strategies in place that support a commitment to fully utilising and developing people (including women);
- Educate employees (including supervisors and managers) on their rights and obligations regarding sex-based harassment;
- Have an inclusive organisational culture that is championed by the CEO, driven by senior executives and holds line managers accountable;
- Deliver improved outcomes for women and the business.

This last criterion is considered with a specific focus on:

- Improved outcomes for women, particularly in the areas of attracting, growing, promoting and retaining female staff across an organisation;
- People management frameworks in place supported by an inclusive workplace culture.

Once an organisation has received the EOFCW citation, it can use the logo for recruitment and promotional campaigns over the following year. All organisations on the list also receive the benefit of EOWA's highly successful

media and communications campaign.

Delivery

During the implementation of the initiative in 2001, a new post was created to manage the EOCFW programme. Therefore, the overall management responsibility of the citation lies with both the director of the EOWA and the manager of the programme.

During the first annual assessment of the equality reports, it was the remit of the EOWA assessors to refer reports meeting the EOCFW criteria to the project manager, for final assessment. This process has evolved since the inception of the citation as a result of the high level of interest expressed in the citation after publication of the original list. This resulted in the changes listed below.

- During the second year, it was decided that organisations would be required to submit a written application each year, specifically addressing each criterion.
- In 2004, where an organisation was applying for the first time or there had been a change in CEO, a telephone interview was arranged with the CEO. The purpose of this interview

was to obtain further information in relation to criterion 5.

- More objective questions have been added under each criterion in the application form to ensure clarity on the information requirements and the standards that need to be met.
- In 2006, organisations were required to inform their staff that they have applied for the EOCFW. EOCFWs were also advised that they did not need to complete criteria 1 to 3 on their application unless there were changes from their previous year's application.

The initiative was promoted through the board and industry partners by the positive media coverage which accompanied the announcement of the first list in October 2001 (and by media reports which have accompanied the announcement of subsequent lists) and by details on EOCFW organisations published on EOWA's website. Details of the programme each year are included in the email newsletters sent by the EOWA to all the report contacts for each organisation. In 2006, businesswomen in the community were also targeted through a postcard campaign in cafés promoting

the list and the importance of checking it before looking for a new job.

Outcomes and impacts

Organisations which have been awarded the EOCFW citation typically have women in higher numbers at senior levels, succession plans for women in management, development plans for high achievers, paid maternity leave, high maternity leave retention rates and the ability to work part-time at all levels.

The programme team feel that the citation has had a significant impact on the Australian business community. At present, successful applicants have been more prevalent within the following sectors: Higher Education, girls' independent schools, care services for older people and the professional services. The success of the EOCFW is demonstrated by the following:

- the number of organisations seeking the EOCFW citation has more than doubled in the five years since it has been established
- citation holders who use the EOCFW logo in their recruitment advertisements report greater numbers of quality applications
- citation holders also

- report a significant increase in unsolicited applications, cutting recruitment costs
- there have been several instances where an organisation has received the citation one year and their major competitor(s) applied for the citation the next year
 - there has been a significant increase in applications from professional services organisations, particularly legal and accounting firms, in the last two years
 - two organisations (a motor vehicle manufacturing organisation and a recruitment consultancy) publicly promote the fact that they are the only organisation in their industry on the EOCLW list.

The EOCLW manager feels that there is a clear and positive business case to support the initiative:

'Both women and men are increasingly seeking careers with organisations which have inclusive workplace cultures and which offer them opportunities to progress as well as providing access to flexible working arrangements. With recruitment and retention of quality staff becoming critical issues for most organisations

in Australia, the EOCLW citation demonstrates that an organisation has met EOCLW criteria'.

The programme manager also identified the following key lessons:

- the need to review the process and the requirements of EOCLW Employer of Choice for Women on an annual basis to ensure that it maintains a high benchmark
- with the limited resources the agency has available to administer this programme, the onus must be on the applicant to provide all the information required for assessment.

3.4 Positive action case study 2: Training programmes at The Ontario Women's Directorate

Country: Canada

Introduction

The Ontario Women's Directorate (OWD), a division of the Canadian Ministry of Citizenship and Immigration, provides the focus for government action on issues of concern to women – in particular, social, economic and justice-related issues. The OWD has two key objectives:

- preventing violence against women

- promoting women's economic independence.

To address the second objective, the OWD promotes women's successful participation in the economy – enhancing women's ability to create jobs and other opportunities for themselves and others, throughout their lives.

The initiatives

The OWD co-ordinates a number of innovative programmes designed to assist unemployed and underemployed women and promote women's economic independence. These include two initiatives – the Women in Skilled Trades (WIST) programme and the Information Technology Training for Women (ITTW) programme – which address two key concerns: qualifying and matching women with jobs in high-growth sectors; and increasing the participation of women in sustainable and rewarding employment and apprenticeships.

Women in Skilled Trades (WIST) programme

According to Canadian statistics, women were significantly under-represented in some of the highest-earning occupations in the skilled trades, despite the great demand for labour in these professions. To address this, the WIST

programme was initiated in 1999 as a gender-based initiative acknowledging the diverse and different experiences of women and men, including those leading to social and economic inequality for women. The training model for the WIST programme was developed in consultation with stakeholders and was successfully piloted at the Centre for Skills Development and Training, which continues to be one of the programme's deliverers today.

Project objectives:

- to address the need for career awareness, recruitment and retention of women in the skilled trades
- to help address the shortage of skilled trade workers in Ontario while at the same time creating more viable career options for women.

Project components:

- WIST provides pre-apprenticeship training to low-income women who are unemployed or under-employed
- each training programme offers gender sensitive in-class training followed by a paid work placement at an employer's worksite
- training can take up to one year to complete
- following graduation, women are qualified to

work in skilled trades and to enter apprenticeships.

The training providers:

Each of the training institutions delivering WIST must have the capacity to deliver a high quality, gender-sensitive programme in compliance with the programme objectives. For example:

- it must recognise the challenges of balancing work and family and provide flexible arrangements that enable this
- it must ensure that the work placements are appropriate for female trainees and that the employer has policies in place to address issues of workplace harassment.

The Chief Administration Officer at the Centre for Skills Development Training (one of the training providers) stated that WIST was a challenging programme to deliver and, from experience, felt that the following enhanced its success.

- The inclusion of a vigorous screening process in the programme to ensure successful applicants are motivated and will complete the programme - the process includes attendance at

a preliminary information session, also attended by training providers/ instructors and engaged employers, and a personal interview with the course co-ordinator.

- Women attending more weeks in the classroom than on the comparable generic course (aimed at both men and women) as a means of building up confidence to effectively tackle the job placement component of the programme.
- Employer participation must be in place from the outset of the programme in order to ensure a best fit for the job match component.

Recent funding:

A total of \$1,513,859 was provided to seven training facilities in 2005-06 to deliver Women in Skilled Trades programmes to up to 145 women.

Outcomes and impacts since the start of the programme in 1999:

- twelve different training agencies have delivered WIST programmes in communities across the province
- including the 2006 enrolment, more than 750 women have been given the opportunity to receive pre-apprenticeship training
- approximately 80 per

cent of women who have graduated have secured jobs or apprenticeships, or pursued further related training, within six months after graduation

- industry partners have responded positively and have benefited from being involved in the development of a new workforce for trades where skill shortages exist
- the interest and support for the programme from the industry and training deliverers has continued to grow over the past seven years.

Information Technology Training for Women (ITTW) programme

ITTW is a community-based programme designed to provide women with entry level IT training and certification in a variety of high demand areas which lead to further certification or apprenticeship in specific IT jobs. The programme was initiated in 2000 to serve low income women who are unemployed or under-employed.

In response to the changing labour market, the OWD held information-gathering sessions with stakeholders to determine optimum IT programme delivery models in an effort to address the gender gap in the IT sector. This led to the development of the ITTW programme.

Project objectives:

- develop innovative IT training initiatives that respond to industry needs and can be sustained by delivery agents to meet the growing requirements for a highly skilled workforce in the IT industries
- demonstrate that women can be trained for, and successfully employed in, IT jobs primarily where industry has projected skills shortages
- graduates of the ITTW programmes will have the necessary skills for entry level employment/ apprenticeships in areas such as hardware and software support; network support and administration; help desk support; system administration; web development, etc.

Project components:

Training takes up to one year to complete and includes:

- basic computer, communications and employability skills
- intensive classroom skills training in target areas
- on-the-job work placements
- follow-up job search assistance and placement.

Unlike mainstream pre-apprenticeship programmes, this programme is tailored

for vulnerable women (eg new immigrants, single mothers, women from ethnic communities and isolated women who have suffered from violence and abuse) and includes the support services they need such as counselling and life skills training. The targeted approach facilitates the entry of women into higher-paying jobs in sectors in which they have been traditionally under-represented.

The training providers:

The delivery of ITTW slightly differs between training providers, as a result of each provider tailoring the programme to the specific needs of the local community and local employer needs.

For example:

- Microskills offer three levels of courses (basic, standard and advanced) in order to create the opportunity for women with varying skill levels to gain a spectrum of qualifications as opposed to just the basic training. They also provide a unique offer in that each of their beneficiaries also participates in a foundation skills course which seeks to improve the general workplace skills of the individual, for example interpersonal and communication skills. This provision is also

continuously developed by an advisory committee, set up to support the development of the curriculum, whose membership includes women who work in IT, graduates of the programme and women leaders from the IT sector.

- Conestoga College developed its course in conjunction with corporations, professors, government agencies and industry experts who had verified the need for graduates from the programme. Companies also became involved in a mentoring process to help the women integrate into the workplace, hosting a tour or field trip to their facilities for the students or addressing classes as guest speakers.

Recent funding:

Over the next two years (2006-08), \$2,757,952 is being provided to two training deliverers to train up to 312 women through the ITTW programme.

Outcomes and impacts since the start of the programme in 2000:

- approximately 450 women have already received training
- approximately 78 per cent of women who have graduated have secured jobs in the sector

- a large percentage of women who enter this programme at Conestoga College are single women with children who have no other income than the government assistance they receive. The women who successfully completed the programme and have gained employment in the IT field have been able to support themselves and their families and discontinue receiving government assistance.

3.5 Procurement case study: Transport for London (TfL)

Country: UK

Introduction

TfL was set up in 2000 as the public body responsible for transport services in London. It is accountable to the Mayor and responsible for delivering the Mayor's transport strategy for the city. TfL's annual spend on the Underground, taxis, buses and trams is about £5 billion. Over and above this, TfL has created a five-year £10 billion investment programme, to fund large-scale construction projects including the East London Line extension, the Crossrail project, the Thames Gateway bridge, and other developments linked to the 2012 Olympic and Paralympic Games.

The group's equality and inclusion team is responsible for leading an agenda to tackle barriers to equality for all those who work for TfL or use its services. Gender inequality is a key issue, as transport and construction are sectors in which women have traditionally been under-represented, both as employees and as owners of businesses. The equality agenda is broad based and inclusive, seeking to ensure that all members of London's diverse communities have equal access to services, employment and contracts as suppliers.

As part of this agenda, TfL has been developing an innovative programme to promote a more diverse workforce and improve supplier diversity through leveraging its purchasing power to pursue equality goals for disadvantaged groups, including women.

The initiative

The first stage in developing the procurement programme was to define 'diverse suppliers'. TfL's definition of diverse suppliers includes: small and medium enterprises; black, Asian and minority ethnic businesses; suppliers from other under-represented or protected groups, including women and disabled people; and suppliers demonstrating a diverse workforce

composition. A Supplier Diversity Toolkit was produced, giving guidance on how to apply diversity requirements in each step of the procurement process. The toolkit includes the four diversity standards as follows.

- *Equality policy* – Bidders are expected to provide a comprehensive equality policy that: covers race, gender, disability, faith and sexual orientation; includes issues such as recruitment policies and procedures; positively encourages applications from the groups covered by the policy; and specifies the actions that bidders will take to ensure that subcontractors also implement equality and diversity policies.
- *Diversity training plan* – Bidders should set out in their training plans how they are going to train their own workforce in anti-discriminatory practices to deliver the equality policy, provide information on the type and level of training, how the training will be evaluated and how effectiveness will be monitored.
- *Supplier diversity plan* – This requires contractors to set out their plan for optimising the participation of 'diverse suppliers' (as defined by TfL) in

the supply chain for the contract.

- *Communications plan* – Bidders are required to outline how they will manage external relations, local employment and, in particular, communicating in different languages. They also have to address the process by which they will consult and obtain feedback on all developments with groups, including minority ethnic groups, women and disabled people.

These four standards were made into contract conditions that had to be met by prospective bidders before they could proceed to the final bidding stage. Failure to deliver the standards was ground enough for terminating the contract.

There are more than a dozen contracts in the process of being let, where diversity standards have been applied. These range from highways maintenance and management to IT. The most advanced in terms of implementation is the East London Line Project (ELLP). The first phase, to be completed by 2010, will cost around £1 billion, and involves the letting of several major contracts covering elements including site preparation (enabling works), the new

trains manufacture, the main infrastructure, and the passenger services operation (London Rail Concession). It is the first time in the European Union (EU) that an organisation has included a termination clause relating to diversity in contracts of this size. The combination of putting the diversity requirements at the front end of the contractual process, and including a termination clause, was seen as essential to ensuring that the diversity standards were given the same importance as other elements of the contract.

The procurement programme did not come without its challenges for TfL. These included balancing diversity requirements within the constraints of European procurement law, which requires contracts to be open to fair competition for all EU contractors. In addition, TfL must meet its statutory obligations as a Best Value Authority and demonstrate value for money at all times. TfL is also conducting the programme within the UK's employment law framework.

Delivery

According to the diversity and internal communications manager at ELLP, an important part of the process has been winning the contractors' commitment to the inclusion of equality

clauses. Prospective bidders met with TfL to discuss the requirements and to raise any concerns. Initially there were some concerns expressed about the diversity termination clause, but eventually all the prospective bidders were brought on board. TfL achieved this through holding workshops to help bidders pass through the initial stage of the bidding process.

After the bidders had submitted their proposals and plans, TfL took steps to confirm the information set out in the bids of shortlisted companies. In the case of contractors outside the UK, this has sometimes involved visits to their sites. For example, one of the shortlisted bidders is based outside the UK. Only a small proportion of its workforce is female, but the company indicated that it was taking action to address this under-representation. TfL visited the company and found that it had indeed taken a number of steps, including improving security for women on the night shifts, and setting up a 24-hour crèche to support women with childcare requirements. Following these initiatives, the proportion of women had increased overall.

The East London Line extension will serve a diverse community, and TfL has

encouraged contractors to explore ways of drawing on the local pool of labour. Where there are skills gaps, companies are advised to tap into local regeneration teams and training schemes to see whether they can help meet skills requirements, rather than assuming they have to source labour from outside the immediate community. TfL is also working with business development heads in colleges to see what they can do to provide training schemes that will meet contractors' labour needs.

The most difficult area has turned out to be that of promoting supplier diversity. Large contractors already have well-established supply chains, and within those chains smaller businesses, including those owned by women, ethnic minorities and disabled people, are often under-represented. TfL's Head of Group Procurement cited estimates of around 89,000 small or medium-sized businesses in London, and highlighted TfL's commitment to opening up opportunities for these businesses to gain access to contracts. TfL is working with the London Development Agency (LDA) to create a database of diverse suppliers which contractors will be able to use. In the meantime, TfL is seeking to encourage small

suppliers to make themselves known as potential sub-contractors.

In addition to letting the new contracts, TfL is keen to raise equality awareness among existing contractors so that they will be in a position to meet the procurement requirements in the next phase of contracts. There are around 50 contractors providing services in the two areas of project management and engineering, and urban design. Meetings have already been held between TfL and existing contractors in the first area to communicate what is meant by supplier diversity, and a small number were used for piloting the diversity standards. Early in 2007, a similar process will be held with contractors in the second area.

Outcomes and impacts

The first contracts incorporating the diversity clauses have only been let in the past 12 months. The procurement programme incorporates a process by which TfL can undertake an equality and diversity audit, and requires contractors to provide a baseline of information, including on the composition of their workforce and their supply chain. This regular monitoring process will enable progress to be measured over time.

TfL's commitment to using procurement to promote diversity is already providing a model for other public sector bodies. TfL's Head of Group Procurement has met with the Department of Work and Pensions and with London bodies including the Metropolitan Police, the fire service and some London boroughs. Jobcentre Plus is incorporating requirements in its contracts to promote equality. Other central government departments are likely to follow suit. Private sector organisations have also expressed interest in TfL's initiative, including gas, oil, energy and financial services companies. This interest indicates that TfL's approach to embedding diversity will have an impact way beyond the London economy.

3.6 Flexible working case study 1: Childcare provision at Roche, Basel

Country: Switzerland

Introduction

In Switzerland, tax/benefit and childcare policy differs across cantons and communes. Generally, childcare capacity falls below demand, and public investment in childcare is low at about 0.2 per cent of GDP, which is just 10 per cent of public expenditure on childcare in Denmark or Sweden. As a result of

a shortage of affordable childcare and high housing costs, the majority of couples have only one or two children (on average 1.42 per woman) and start a family relatively late (the average age of women having their first child is 29.5).

Roche is a leading global healthcare company delivering pharmaceutical and diagnostic services. The Roche Basel campus in Switzerland employs approximately 7,000 staff (including staff at Kaiseraugst), of which approximately 40 per cent are female. Traditionally in Switzerland the expectation has been that mothers remain at home with their children until they start school. However, this view is changing and in the last 20 years the number of initiatives seeking to offer childcare support during pre-school years has increased enormously. This shift is particularly apparent within Roche Basel, which employs staff from more than 60 countries who bring diverse cultural expectations with them.

The initiative

Roche first identified the need to offer childcare support to their employees in the early 1990s, when it was found that women were leaving the firm to have

children and were unable to return from maternity leave. In 1992, Roche undertook an equality survey of women working in the firm, to identify the difficulties faced by women within the organisation. Continuing work after having a baby was found to be one of the biggest concerns for employees. This finding, combined with the fact that the rate of women returning to work after having a child was very low, prompted Roche to take the decision to facilitate access to daycare through provision of subsidised childcare places.

At the time, childcare provision in Basel was very limited and was mainly delivered by one voluntary sector provider – Basel Women's Association. Roche Basel entered into discussions with Basel Women's Association to identify the best way to develop their offer.

Delivery

Roche have developed the following range of benefits to support parents:

- access to 100 daycare places in Basel and Kaiseraugst
- subsidies for childcare
- an emergency childcare scheme.

In light of the limited availability of childcare

places in Basel in 1993, Roche provided funds to support the opening of a new group for babies in an existing childcare facility, in which Roche had access to 50 per cent of the places (five places). As demand for the places within Roche grew, the decision was taken to open an on-campus daycare centre for Roche employees in 1996. Roche now offer over 100 daycare places in Basel and Kaiseraugst; 44 places are within their own on-campus daycare centre run by Basel Women's Association, which remains the major daycare provider in Basel. The additional places are provided mainly in daycare centres across Basel through contracts with the Basel Women's Association and places provided by the Childcare Service, an organisation which co-ordinates provision in Basel. At present, 112 children of Roche employees are using places provided and subsidised by Roche. The company runs an internal waiting list for places, and allocation is based on a series of criteria and priorities. To qualify for the places, both parents must work and priorities are given to:

- single parents
- a second child
- families where the mother works for Roche

- families where only the father works for Roche.

The level of subsidy is calculated based on family income. The cost of the provision is weighed against a calculation of what the family can afford and the subsidy covers the difference. Roche believe that the initiative is equitable as it offers equal support to lower income employees as well as more senior staff. Despite offering 100 places, the demand for places still exceeds the supply. The current waiting list for places totals over 100.

Parents can submit their application for a place once they become pregnant and at this point they are encouraged to source alternative childcare should they be unsuccessful in securing a Roche place immediately.

The emergency provision was developed in response to parents reporting difficulties in managing childcare and work when unexpected situations arise, such as a child being ill or a late meeting being called. Roche worked with the Childcare Service in Basel inviting retired Roche employees to join a pool of emergency childcare support. All those who volunteered were screened

and now, if an emergency arises, a Roche employee can call the Childcare Service which will co-ordinate care if someone from the pool is available. The company views this as a pragmatic solution to balancing the unexpected demands of work and family life. The setting-up and administration of the emergency service is funded by Roche, but staff must cover the cost of provision they use.

Within Roche Basel the Diversity Manager has overall responsibility for developing and managing childcare policy, and is supported by a childcare administrator who co-ordinates applications and planning and is the first point of contact for parents requiring childcare.

Outcomes and impacts

Since the initiative was introduced it has grown rapidly from 30 places initially to provision for over 100 children. Take-up of the places offered is consistently 100 per cent. Roche believe this demonstrates the high levels of satisfaction, especially as the move to using daycare provision is a cultural leap for a region with such traditional values.

In the early to mid 1990s, the norm for women employees who had children

was to leave employment. Recent figures now show that the rate of return is over 90 per cent and that this is standard across all levels within Roche, reflecting the equitable nature of the offer. However, it should be noted that most women do not come back to work full-time, with Swiss and German employees more likely to choose to return part-time than their French, British and American counterparts, reflecting their national cultures.

Feedback received through the daycare centres (via customer surveys) and collected by Roche when children leave the facilities, shows that parents who use the service report high levels of satisfaction. They find the proximity and quality of the provision enables them to focus on their work. This, and the peace of mind offered by the provision of the emergency care, combine to reduce the barriers to returning to work. Traditionally in Switzerland childcare has been viewed as something used by poorer families or those in need of additional support. The quality of the provision offered by Roche has helped change that view. Roche believes that their practical support for parents also sends a very clear message to employees, and women in particular, that

they are valued within the organisation, which leads to a happier workforce. The budget required to deliver the Roche Basel childcare initiative is considerable, and it is difficult to directly quantify costs and benefits. However, senior management believe that the following benefits from investment in the initiative can be identified:

- it clearly contributes to staff retention
- it increases productivity by giving parents peace of mind that their child is well cared for
- it raises the profile of the firm in terms of recruiting and general good practice.

It should be noted that the childcare initiative within Roche Basel is part of a range of support offered to employees, reflecting awareness within Roche of the necessity of balancing the needs of the employee and the company. Other initiatives include: part-time and flexible working; home working; flexi-time/time-banking; internal counselling service; medical service; and a Women and Leadership Network.

Overall, Roche Basel believe the childcare support has been a huge success, and the team are now considering setting up a

second on-campus daycare centre. The team is also reviewing the contracting and delivery arrangements reflecting the growth of the childcare sector in Basel and the growth in internal demand. As demand grows, the administrative burden increases and Roche are considering alternative ways of subsidising provision. Regularly reviewing delivery and policy is identified as important in ensuring the initiative continues to meet the needs of employees and the firm.

The childcare services operating at Roche Basel are not replicated across Roche worldwide. This is largely due to policies developing within Roche sites to reflect local need and demand. But similar services are provided at many Roche sites around the world including in the United States and Germany.

3.7 Flexible working case study 2: Parental leave at Ericsson

Country: Sweden

Introduction

Sweden operates fairly unique policies for maternity and paternity leave. There is, in fact, no official 'maternity leave' entitlement.⁴⁶ In 1974, this was replaced with parental leave, allowing a total of six months to be taken by either parent

following the birth of their child. The implications of this policy change were that leave was no longer reserved for the mother but could also be used by the father. In order to persuade fathers to exercise their right to the parental allowance, a father's month and a mother's month were introduced in 1995. This effectively meant that one month was specifically reserved for each parent, and was non-transferable between mother and father. This non-transferable element was increased to two months in 2002.

The policy, therefore, permits 480 days of paid leave with 60 days exclusively reserved for each parent, encouraging both the mother and the father to take time off to spend with their child. The remaining 360 days is the joint family entitlement. In addition, each parent is entitled to take unpaid leave until a child is 18 months old.

Of the 480 days allocated, eligible parents receive 390 days at 80 per cent of their earnings. However, there is salary ceiling of SEK 295,500 per year (approximately 31,935 euros⁴⁷). The remaining 90 days are paid at a flat rate of SEK60 a day (6.7 euros). While the Swedish system is progressive in that it encourages both men

and women to take time off after the birth of their child, the parental allowance system actually penalises higher earners, as they do not receive the full 80 per cent of their earnings due to the ceiling. Men, commonly the higher earners in the family, are thereby often not encouraged to take full advantage of the parental leave allowance. In addition, there is also a disincentive for high earning women to take their maximum leave entitlement.

The initiative

Ericsson is the world's largest telecommunications company, providing equipment and related services to mobile and fixed network operators globally. Its geographical operations are extensive, covering the US and Canada, Europe, Asia Pacific, Latin America, Africa and the Middle East. Ericsson is a world-leading provider of telecommunications. Over 1,000 networks in 140 countries utilise Ericsson's network equipment, and 40 per cent of all mobile calls are made through its systems.

Ericsson reports a pride in being a multicultural and highly diversified company. It is constantly reviewing its resources in order to improve in these areas and strive for a more

diversified next generation of managers and employees. The company's policies against discrimination are a respected part of its company culture. Ericsson believes that it has high standards regarding its staff's professional development and working conditions, a central plank of which is the provision of supportive parental leave arrangements. Internationally, the firm has operated similar conditions to Sweden, even if local legislation does not require them to do so. Promoting female employees in their careers is greatly prioritised by the company. Globally, 24 per cent⁴⁸ of Ericsson's employees are female. In Sweden, this percentage is slightly higher at 28 per cent, while the number of women occupying senior management positions is estimated to be around 10 per cent.

In 1995, Ericsson introduced a 'top-up' parental leave scheme, which was rolled out more broadly to all Swedish employees in 1999. This was specifically designed to minimise the discriminatory impact of the Swedish parental leave, which affects its higher earners, and to make Ericsson a more attractive employer in the labour market. The Ericsson agreement tops up the state compensation payment to the full 80

per cent of an employee's earnings. This means that individuals utilising the parental leave entitlement, particularly those earning high salaries, receive income more proportionate to their usual salary than they would do under the state-capped scheme. There is a negotiated ceiling in the Ericsson agreement, but it is far less restrictive than the imposed social security cap. Parents may receive this top-up for a maximum 180 days in the period up until the child is one and a half years old. Women are able to start using their quota of parental leave up to 60 days before the baby is due.

Ericsson developed and reached this agreement with the following three trade unions:

- The Union for Technical and Clerical Employees in Industry (Svenska Industritjänstemannaförbundet, SIF)
- Association of Graduated Engineers (Sveriges Civilingenjörersförbund, CF)
- Association of Managerial Staff (Ledarna).

Implementation and outcomes

Ericsson does not carry out regular monitoring of its parental leave top-up scheme. The Director of Labour Relations acknowledged that the

evaluation and review of the scheme has not been a high priority on Ericsson's agenda over the past five years. As such, he commented, while Ericsson was a unique employer in the 1990s, the company is now regarded as more of a median private sector performer than industry leader.

That said, Ericsson's parental leave policy remains popular, with many employees, particularly women, taking advantage of it. According to Ericsson, the scheme has also led people to refer to the organisation as an excellent employer. However, according to the Industrial Relations Director, this judgment has to be seen in the context of the firm's overall employment offer; it is unlikely to be entirely dependent on the parental leave policy that Ericsson operates.

Since its inception, there have been some modifications to the Ericsson policy as the firm has learned lessons about the way in which to implement it most effectively. When initially introduced, the company required parents to take their parental leave quota as a continuous period rather than dividing it into shorter blocks. However, this has now been reviewed, enabling parents to take single days, or weeks, up to

the full 180 day entitlement (although leave must still be utilised within the child's first 18 months). This policy alteration was in line with the rationale underpinning the policy, making it easier for parents to spend time with their newborn children, but also was a pragmatic response to the perceived needs of Ericsson as an organisation.

3.8 Flexible working case study 3: Ernst & Young

Country: US

Introduction

Ernst & Young is one of the world's leading professional services firms, whose activities encompass auditing, accounting, tax, and transaction. With its headquarters in the USA, the company has a truly global reach with 114,000 employees in 700 locations across 140 countries. Ernst & Young has spent eight consecutive years in Fortune Magazine's 'Top 100 companies to work for' list. This year Fortune particularly applauded Ernst & Young for stressing inclusiveness and flexibility in a team environment, while striving to help employees manage their personal and professional lives.

The initiatives and delivery

Ernst & Young has a long-standing history of

commitment to gender equity. As the Flexibility Strategy Leader for the US reports, in 1996 the company hired Catalyst (a leading US consultancy specialising in women's career advancement) to advise on how best it could support the development of its female staff. The result was that Ernst & Young set up its Office of Gender Equity and Flexibility Strategy. One of the office's key initiatives has been the development of formal flexible work arrangements.

Flexible work arrangements (FWAs) started in Ernst & Young US as an initiative for women, aimed at increasing the retention rate of female employees and allowing them to develop their careers while maintaining a work-life balance. In 1996, FWAs were rolled out to other Ernst & Young offices and both genders were encouraged to take advantage of them. Currently 80 per cent of staff on FWAs are female.

The aim of having a formal and well-publicised policy is to ensure that staff on FWAs are viewed as having flexible careers and not just part-time jobs. The intention is that the FWA should not act as a block on the advancement of a talented employee. Ernst & Young's flexibility policies are widely disseminated throughout the

firm in the form of brochures and a specific flexibility website.

FWAs can take a number of forms, although the most popular is the shorter working week, ie three or four working days instead of five. Other forms include tele-working, job shares and a compressed working week (ie the full number of hours compressed into fewer, longer days). FWAs need to be appropriate for the type of work involved. For instance, tele-working would not be suitable for a receptionist, but a job-share arrangement should be achievable.

An employee wanting to take advantage of an FWA needs to present a business case showing that they appreciate fully the impact on their clients, their teams and their own career. This is discussed with their line manager, formally documented and entered in their personnel files. Documenting FWA applications and their outcomes in this way allows for a two-way commitment and a mutual agreement of the roles and responsibility of both the manager and the employee.

In addition to the formal FWAs, team managers are able to create ad hoc

flexibility, where flexibility is seen as a right for all Ernst & Young employees. This, for instance, allows team members to leave early from time to time to meet personal commitments, providing the work can be completed, client commitments can be met and other team members are not unduly inconvenienced. Flexibility is available all year round.

Outcomes and impacts

Flexible working is now embedded in the fabric of Ernst & Young. Currently:

- more than 100 members of the senior management in the US and Canada (partners, principals, executive directors – PPEDDs) are on FWAs, 80 per cent of whom are female
- in the US, 101 PPEDDs have been promoted while on an FWA (43 to partner/principal and 58 to executive director and director)
- approximately 28 per cent of female senior managers and 19 per cent of female managers in the US and Canada are on FWAs.

For Ernst & Young as a whole, FWAs have proved beneficial in that there has been a clear increase in female retention rates. This not only keeps essential skills within the firm but

also saves on the cost of replacement recruiting. Employee surveys have also reported a greater level of satisfaction and commitment among staff as a whole as a result of the flexibility of the working environment.

An example of the way in which FWAs have encouraged female retention is the experience of the partner of the Business Risk Services (BRS) practice in London, who has been on an FWA for the last nine years. During that time she has progressed from manager to senior manager to her current partner position. The fact that she works a four rather than five-day week has clearly not held her back.

She reports that the FWA allows her to maintain a balanced family life and have an involvement in her children's schooling that she does not consider would have been possible without the flexibility. As a result, she has chosen to stay at Ernst & Young despite offers from other organisations.

She seeks to apply a similarly flexible approach to her team. In fact, she considers a climate of mutual flexibility is what makes FWAs work in practice. Open communication is also essential so that not only team members but clients are aware of the various working arrangements in the

team. She finds that clients are generally very supportive once they are certain that deadlines will be met.

She is also keen to act as a role model for other potential flexible workers. She considers that it is important to be open about FWAs and their benefits. It helps that two male directors within her team are on FWAs, so it no longer appears as a concession to female members of staff only.

Flexibility at Ernst & Young continues to evolve. As the statistics show, FWAs have been enthusiastically embraced by more senior members of staff. The aim is to ensure that all employees feel comfortable about taking advantage of flexible working. The Office of Gender Equity and Flexibility Strategy is therefore working on providing advice to staff on 'how to ask' for FWAs. The London BRS team is in the process of collecting a series of case studies as best practice examples to use in Ernst & Young offices in countries less advanced in the use of flexible working. However, it is appreciated that flexibility needs to fit in with local culture and values and that in some cases even an apparently small improvement in a woman's work-life balance can have a major impact on her ability to continue pursuing a career.

3.9 Senior women case study 1: Storebrand, the Norwegian 40 per cent quota

Country: Norway

Introduction

Storebrand is a major Norwegian financial services company, whose activities encompass insurance, banking and asset management. It has some 1,350 employees, with equal numbers of men and women. Fifty per cent of the external board are female, but at present there is only one woman (out of nine positions) in the top day-to-day management of the company. However, women are rising through the ranks in Storebrand, and 37 per cent of executives with personnel responsibility are female. Women also account for 47 per cent of the participants on management and employee programmes.

The initiatives and delivery

Storebrand's Head of Diversity reports a long-term commitment by the firm to the advancement of women. However, the issue has been brought into sharper focus recently due to Norwegian Government legislation. Since 1 January 2004, the boards of all state-owned Norwegian companies have been obliged to have a minimum of 40 per cent representation of each gender. The same

requirement came into force for public limited companies on 1 January 2006, stating that companies not complying with the requirement will, conditional upon the issuing of several warnings, be dissolved (by order of the Court of Probate and Bankruptcy). While Storebrand complies with this board-level regulation and endorses it, they still consider it a rather sledgehammer approach to the problem of women's under-representation. Ensuring an equal participation by women in the day-to-day running of the firm is their goal. This is endorsed by the senior management and Storebrand's gender equality/diversity policy, set out in the Annual Report. In 2003 the Centre for Corporate Diversity in Norway awarded Storebrand the Equal Opportunities Prize because 'Storebrand emphasised diversity in recruitment and development of all employees'.

In order to support their aim of increasing the representation of women in senior management positions, Storebrand is involved in two major Norwegian initiatives. *Female Future* was launched by the Confederation of Norwegian Enterprises in 2003 with the specific aim of preparing women for

management and board positions. It has three key elements:

- *Commitment through letter of intent* – participating companies need to commit themselves in writing to increasing the proportion of women in senior positions
- *Pearl diving and mobilising talents* – participating companies search for talent within their organisations and nominate suitable women to attend the programme
- *Tailored human resource development* – the chosen women then attend five management seminars and are offered a range of other relevant courses.

So far, 368 women have participated in the programme, of whom 11 have been from Storebrand.

The *Discovery Executive Mentoring Programme* is also aimed at increasing the number of women in senior positions in Norway (although men can also be mentees). Founded in 1996, it is now run by the AFF (Norwegian School of Economics and Business Administration). The mentees come from large Norwegian companies in a range of sectors, are

aged between late 20s and late 50s, and all already have some experience as managers. The mentors are top level senior executives. Most of them are men but the proportion of women mentors is increasing. Discovery is a one-year programme involving:

- a one and a half day opening seminar to introduce mentees and mentors and explain the mentoring process
- at least 10 to 12 meetings lasting 1½ to 2 hours during the year between mentor and mentee
- meeting for the mentees after one month to allow for networking and ensure the process is working smoothly
- one day meetings involving mentors and mentees after four and eight months, to share experiences
- half day closing seminar and dinner to summarise the learning points and celebrate achievements.

Since its inception, 760 people have participated in Discovery (equally divided between mentors and mentees). Of these, 80 have been Storebrand employees (mostly mentees but also some mentors).

Outcomes and impacts

Female Future was made up of one national programme

for public limited companies, and two regional projects implemented by NHO (the Confederation of Norwegian Business and Industry) regional offices in two Norwegian counties.

The key outcomes are:

- 36 per cent of the women attending the national programme received an invitation to join a board of directors either during the programme or soon after
- as many as 60 per cent of the participants in the regional programme in the two counties received an invitation to join a board of directors
- the International Labour Organisation (ILO) elected the programme as one of ten best practice projects on gender equality.

Discovery - each wave of the programme is evaluated by the AFF to assess both processes and outcomes. Both mentors and mentees report:

- increased self-insight
- increased self-confidence
- better understanding and awareness of the leadership role
- increased consciousness of values and attitudes
- increased work satisfaction.

An added benefit of the Discovery programme is that the emphasis on networking at the formal meetings gives the participants a circle of contacts they can call on throughout their future careers. It was recognised that past networking forums had proved less beneficial for women than their male peers. Discovery gives them the necessary base of contacts, both male and female, which can provide support and help identify opportunities as they progress.

The Head of Storebrand's Pensions and Claims Department has been both a mentee and mentor on the Discovery Programme. She was privileged to have a female mentor and found the process very helpful in developing her career alongside more formal management courses. Mentors do not provide all the answers but rather encourage mentees to find their own solutions. At the end of the mentoring period, Storebrand provided her with new challenges, and she has since been promoted into her current, more senior, position. She now acts as a mentor herself, which she finds an interesting and rewarding activity.

Storebrand's Head of Diversity also acts as a mentor. Although committed

to both programmes in which Storebrand participates, she has a slight preference for Discovery, as it is open to both sexes. She feels that while women-only programmes have their part to play at this stage, in the longer run, equal access programmes are the way forward as then there can be no complaint that women are receiving special treatment. Furthermore, she considers that men are just as much in need of some skills development on how to be good senior managers!

In addition to the formal programmes, Storebrand's Head of Diversity ensures that when the company is searching for new senior managers it uses recruitment consultants that provide shortlists including strong female candidates. While all recruitment is on the basis of merit only, it is essential that the full talent pool is represented. She also considers that there needs to be a focus on the committees in Norway that elect new board members. At present, many of these committees only consist of men. Putting more women on these committees should lead to an increase in female board appointments, as the new committee members should be more aware of good female candidates.

3.10 Senior women case study 2: Citigroup

Country: USA

Introduction

Citigroup is one of the world's leading financial institutions. Its 300,000 employees work in 100 countries, serving 200 million customers. This spread and depth of coverage has led to Citigroup being ranked as the world's most respected financial services company according to the Financial Times/ PricewaterhouseCoopers 2005 'World's most respected companies' rankings.

Women account for 53 per cent of the total workforce. Citigroup has more women in senior management positions than any other financial institution in the Fortune 500. Women now account for 22 per cent (599) of the total 2,685 employees making up Citigroup's most senior management levels.

Initiatives and delivery

With headquarters in the United States, Citigroup operates in an environment where gender equality has been enshrined in law for over 40 years. Over the years there have been high-visibility sex discrimination court cases against US companies that informed the diversity agenda.

Early on, Citigroup came to

value a diverse, inclusive culture, viewing it as an environment that fostered two key factors of success: employee satisfaction and customer-focused innovation. Around 2000 the then newly-formed Citigroup started to consolidate practices across businesses, and implement consistent and concrete measures to address the problem of representation of women in senior management. It began by seeking to identify the issues holding women back; research conducted by the firm provided insight into common themes centred on the different ways in which men and women work and pursue their careers. Women tended to rely on their talents being noticed and rewarded, whereas their male peers proved much more adept at networking and bringing their abilities to the attention of senior management. As a result, fewer women were represented in the perceived 'talent pool' for senior management posts and potential promotion. This contributed to some high potential women in middle management giving up and leaving, thereby depriving the group of the talent and experience they had to offer.

In order to support the development and advancement of women,

Citigroup launched the Women's Initiative at a women's summit in 2000. Citigroup's diversity strategy, introduced in 2002, aligned the various efforts that had existed across the company, and is managed by the Chief Diversity Officer and the global team of business diversity officers. Citigroup's diversity strategy not only covers gender equality but also aims to ensure equality of opportunity regardless of, among other attributes, race, ethnicity, national origin, religion, disability and sexual orientation. At a strategic level the aim has been to make Citigroup:

- *Employer of choice* - by creating a work environment where diversity is embraced, where people are promoted on their merits and where people treat each other with respect and dignity
- *Service provider of choice* - by delivering products and services to clients that reflect the company's global reach and its deep local roots in every market it operates
- *Business partner of choice* - by working to create mutually beneficial business relationships with minorities, women and people with disabilities (including veterans)

- *Neighbour of choice* - through Citigroup actively pursuing corporate social responsibility through its global network.

There are four platforms supporting Citigroup's diversity strategy to be the employer of choice. Among those four areas, 'management accountability' forms the core of the strategy's success. The commitment to diversity is not only sponsored by the firm's Chairman and Chief Executive Officer (CEO) but it also forms part of the annual assessment of all senior staff within the group (and hence an element in decisions over annual compensation). This helps to ensure that managers are directly accountable for performance on diversity issues. Linked with the diversity strategy, the Citigroup Women's Initiative consists of a raft of activities throughout the group including women's councils and networks within and across business areas and

geographies. One initiative that has proved very effective is the 'Developing Talent Programme'. This recognises the potential weaknesses in women's approaches to furthering their careers, and seeks to provide training to overcome them. This six-month programme is aimed at women at middle management level and women can put themselves forward or be nominated for consideration. The programme provides training and mentoring in presentation skills, how to be 'savvy' in an organisation (and succeed in office politics), career management, financial management and project management. In order to ensure that the women move beyond their comfort zones, participants have to manage a project in an area outside their existing experience and make a presentation on it at the course graduation ceremony. The programme has also been rolled out in the UK, where it is known as 'Coaching for success'.

The Women's Initiative is constantly evolving. A new aspect is underway, involving a series of alumnae dinners aimed, in part, at reconnecting with former female Citigroup employees to discuss the possibility of them returning to Citigroup. In this way, Citigroup is aiming to recapture lost talent from women who already know the group and hence could 'hit the ground running' much faster than entirely new recruits.

Outcomes and impacts

Both the US and UK-based talent development programmes cited above are now in their fifth year, and boast a total of 325 graduates. A survey carried out in 2005 found that:

- 69 per cent of its graduates had been promoted
- at least 80 per cent felt that their skills had improved.

The graduation ceremony is now viewed as a

Table 8: Gender Composition of IBM

	Global IBM	United States IBM
Proportion of the total IBM employee population that are women	30%	31%
Proportion of the total IBM management positions that are occupied by women	25%	29%
Proportion of the total IBM executive positions that are occupied by women	20%	24%

Source: IBM. Figures as of Quarter 3 2006

significant networking opportunity between senior management and programme participants.

Citigroup considers the programme worthy of replication. The programme began in the US, was replicated in the UK and now a pilot programme has been launched by one of Citigroup's businesses in Mexico, a country in which Citigroup has over 42,000 employees.

In consultation, a number of senior women described the increasingly positive environment for female advancement at Citigroup, as illustrated below.

- An MD in the Fixed Income department reported that she was promoted to the post while on maternity leave, which presents an example of how at Citigroup a woman's career need not come to a halt when she has children. The MD has gone on to found a Working Parents' Network, open to both sexes, which encourages knowledge-sharing across a range of child-related matters and emphasises the fact that juggling career and children is no longer a taboo subject but a very real issue of modern

working life, for men as well as women.

- The Chief Financial Officer of Citigroup's EMEA region is the sponsor for the local women's network and views one of her main roles as being to act as an advocate for the network with the group's senior management. In common with other senior Citigroup women, she takes this role seriously and finds it a highly rewarding one.
- Senior women act as hosts/guest speakers at award ceremonies and are frequent recipients of honours, as are Citigroup's diversity efforts. The awards provide an excellent opportunity to raise the profile of talented Citigroup women, thereby giving them the exposure needed to be on the radar of senior management.

However, these measures are not seen as in any conflict with promotion on merit, which one MD in hedge fund management stressed was the sole basis for promotion. The internal programmes provide them with a helping hand to create a more equal competitiveness.

Citigroup has much best practice to offer in the field of female advancement, but as

the senior women themselves say, it will take time to achieve the ultimate goal of a more equal representation of women at the highest levels of management.

3.11 Occupational segregation case study: Women in non-traditional industries at IBM

Country: USA

Introduction

IBM is the world's largest information technology (IT) company, with over 80 years' experience in providing services, solutions and technologies to enable its customers to adapt to the new era of e-business. Its operations are global in scale covering over 150 countries across the world and employing over 300,000 people. The gender composition of the IBM workforce is shown in Table 8.

Paralleling its industry success, IBM is regarded as a leader in the US in terms of its approach to employee diversity, and the firm prides itself on its legacy of inclusion. IBM particularly recognises the importance of bringing more women into the science and technology industry, which is traditionally a male-dominated sector. Recruiting its first women professionals as early as 1935 and appointing its first woman

vice-president in 1943, the firm has paved the way with measures seeking to tackle occupational segregation. Gender has become a regularly discussed topic at all levels of management.

The initiative

IBM operates a worldwide gender initiative, which is particularly of note, called Women in Technology (WiT). This has two objectives. First, it runs programmes to ensure that women already employed by IBM receive the support they require to progress their careers, organising, for example, a series of networking events in which IBM female employees can learn from each other. The second element of the WiT programme is proactive cultivation of a future generation of women engineers and scientists. IBM undertakes various projects to encourage girls and female students to think

seriously about a career in technology and engineering. The company is acutely aware of the need to reach young women early so that they are more informed when choosing subjects to pursue at school.

As part of the WiT initiative and its commitment to reaching groups that are under-represented in the technical workforce, IBM launched its EX.I.T.E. (Exploring Interests in Technology and Engineering) Programme in 1999.

IBM recognised that the pool of skilled technology workers was shrinking and that this was partially due to fewer women entering the industry. In the decade prior to EX.I.T.E.'s establishment, the company had identified that dwindling numbers of women were pursuing science and engineering at university despite growing

demand for skills in the sector. Studies in the US had revealed that the science and engineering pipeline of potential recruits was most vulnerable in the middle school years, as seventh grade is the age at which students can opt out from science and technology-related subjects. Girls were tending to do this because of concerns about their ability to excel, or their perception that the classes would be unrelated to future life and career aspirations. This trend was confirmed by the Society of Women Engineers, which indicated that 75 per cent of girls aged between 12 and 17 had no intention of pursuing a career in maths, science or technology.⁴⁹ IBM's EX.I.T.E. programme seeks to respond to this challenge by specifically targeting 12 and 13 year old (seventh grade) girls and fuelling their interest in maths and science.

Table 9: EX.I.T.E. camp locations 2006

IBM operating region	Number of camps
United States	18
Canada	1
Asia Pacific	15
Europe, Middle East, Africa	9
Latin America	8

Source: http://www-03.ibm.com/employment/us/diverse/exite_schedule.shtml

EX.I.T.E. provides the girls with a week-long stay at an IBM camp, during which participants are offered activities such as web-page design, computer chip design, laser optics, animation, robotics and working with computer hardware and software. A tour of IBM's facilities is included, as is an introduction to the suite of IBM technologies and the variety of different jobs on offer. EX.I.T.E. campers work in teams with IBM employee volunteers on daily and week-long innovation projects. These highlight the opportunities available across a whole spectrum of careers (for example, medicine, entertainment, consumer goods or environmental preservation) through pursuing science and engineering subjects at school. The camps also include confidence-building, team-working and problem-solving activities and expose the girls to women who are enjoying successful technology careers at IBM.

Essentially IBM's camps seek to challenge conventional perceptions and raise awareness about the importance, range and opportunities of science and engineering. The camps introduce the girls to the potential of technology but also remind participants that

it can be fun and exciting. Following the conclusion of the week-long camps, the programme operates an e-mentoring scheme enabling participants to stay in touch with technical women at IBM. Mentors communicate with the girls throughout the school year via email, providing tutoring and encouraging them to further pursue their interests in maths, science and technology.

EX.I.T.E. is an exclusively IBM initiative and its establishment did not draw on the resources or support of any other organisations. Some of the camps have since developed partnerships with universities or colleges, but this is largely when a specific IBM location does not have suitable on-site facilities to accommodate all of the activities.

Delivery

The EX.I.T.E. programme began in the US at IBM's Endicott site, New York in 1999. By 2005 the number of camps had grown to 48, across 25 countries, with close to 1,400 girls attending from 250 schools (both public and private). More than 2,000 IBM employees participated in 2005, contributing more than 23,000 hours of volunteer time.

The 2006 programme has been extended still further with 51 camps around the world, two of which are in the UK (Hursley, England and Greenock, Scotland). Table 9 shows the distribution of camp locations.

EX.I.T.E. camps are totally free for participants; their operation and success are completely dependent on the tireless work by the IBM employee volunteers who run them. Each year approximately 2,000 IBM volunteers, both women and men, participate in the EX.I.T.E. programme. They are involved in developing, co-ordinating and overseeing projects and introducing the campers to the variety of IBM technologies. As IBM sites are required to bid for camp funding each year, ongoing commitment and enthusiasm are necessary to make the programme work.

Participants for the camps are nominated by counsellors and teachers at middle schools that have an established relationship with IBM through community outreach programmes. A level of sustained commitment is required from the schools as they need to ensure that the girls have access to necessary computer equipment in order to communicate with their mentors on a regular basis;

this necessitates student and teacher time being built into the school day.

Outcomes and impacts

The WiT programme manager in the US acknowledges that there is some difficulty in monitoring the outcomes and impacts of the EX.I.T.E. camps, because of the young age of participants and a tendency for families move to different locations. There is an intention to develop a system capable of tracking the girls in order to assess their uptake of science and engineering subjects and degrees. However, some monitoring has been undertaken showing that, since the inception of EX.I.T.E. in 1999, 85 per cent of those that have attended a camp indicate that they would consider pursuing an engineering or technical-related degree at college.⁵⁰

In addition, the anecdotal feedback from girls, teachers, parents and IBM staff has been overwhelmingly positive. Many participants, in fact, return as 'cadet counsellors', offering their support to younger camp cohorts, while also remaining engaged with the programme and keeping their own interest alive. The programme also has a positive impact for IBM itself, which stands out among other technology

firms because of its innovative gender initiatives.

IBM believes the perception of those involved in the EX.I.T.E. programme is that the camps have been run with considerable success. However, as the programme has expanded, a few salient lessons have been learned. For example, the WiT programme manager highlighted the necessity of adherence to implementation processes. Due to the popularity of the camps, IBM sites and individual employees have sometimes been approached directly by parents wanting to secure a camp place for their daughter. The strength of the camps is based on the relationship with local schools and, as such, it is necessary to remain consistent with this recruitment system.

Finally, while EX.I.T.E. has faced no hostility or resistance, there has been a limited amount of criticism about the absence of similar camps for young boys. As a result, a few pilots catering for boys have recently been established.

3.12 Conclusion

The research has highlighted the persistence of gender inequalities in all countries examined, despite varying

legislative frameworks. The good practice case studies have identified the following set of core requirements necessary to design and deliver effective gender-based initiatives.

- An organisation must hold a firm top-level commitment to both equality and diversity, which must include a responsibility to address organisational culture change where necessary.
- An initiative must be driven by an appropriate set of senior managers/ executives and effectively communicated to all employees, in order to ensure organisational 'buy-in' and hence success.
- Women face a range of overlapping barriers in the workplace, and organisational interventions need to recognise the interrelationship between occupational segregation, the gender pay gap, and work-family issues in designing an initiative, in order to maximise the effectiveness of any intervention.
- Interventions must be subject to a continuous monitoring procedure in order to evaluate the impact of the intervention and address any limitations or new issues which have arisen.

Chapter 4:

Legislation and Policy

The first section of this chapter considers how discrimination faced by women in the economy is tackled by law in other countries and results from research undertaken by Karon Monaghan. The second section considers the implications of updated research on women's economic inequality for the future of law and policy in Britain.

4.1 Tackling discrimination against women in employment and business: Lessons from international jurisdictions

Introduction

The UK's sex equality laws are found primarily in the Sex Discrimination Act 1975 (SDA) and Equal Pay Act 1970 (EPA).⁵¹ Their weaknesses are manifold. In particular, the SDA and EPA enact formalistic concepts of discrimination. The two main concepts, direct discrimination and indirect discrimination, are complex

and difficult to prove.⁵² Both direct and indirect sex discrimination require comparisons with the way in which a man/men are/would be treated. This frustrates efforts to secure equality in workplaces or environments where, because of historic discrimination, men are not present. The protection against discrimination afforded by the SDA is, generally, focused on individuals and as such is concerned with remedying a wrong found (proved) to have been done to an individual woman.⁵³ Remedies are, therefore, restricted to declaratory relief and compensation. Employment tribunals may make recommendations but cannot compel compliance, and such recommendations must be directed at obviating or mitigating the damage done by the discrimination to the individual complainant, not to changing practices more broadly.⁵⁴ The EPA implies a contractual right to equal

pay in a woman's contract of employment, again giving rise to individually enforceable claims.

These Acts provide limited opportunity for challenging structural forms of discrimination such as occupational segregation, because cross-establishment comparisons (outside very limited circumstances) are not permitted. Because of the legislation's individualised focus, its emphasis is on local problems (ie those arising where the complainant works, shops, lives etc). Widespread societal problems are therefore difficult to address.

Furthermore, the UK's present anti-discrimination scheme comprises discrete, and inconsistent, legislative measures, addressing race or gender or disability etc. The classes protected by the anti-discrimination laws are not homogenous, and

disadvantage is experienced differently even within groups. Because the protected classes are defined under the legislation mono-characteristically,⁵⁵ tackling 'multiple' or 'intersectional' discrimination is problematic. In a case of indirect discrimination, for example, a black woman complaining of indirect discrimination as such will find either white women or black men (depending on whether she characterises the complaint as one of sex discrimination or race discrimination) included in her pool for the purpose of determining whether she and others in her pool are disadvantaged by any measure under challenge. This can have the effect of undermining any claim to be disadvantaged by it as a member of either class.

UK law is also generally concerned with whether the treatment afforded to a woman is like or unlike that afforded to a man. Its focus therefore is on securing likeness in treatment. The legislation is not primarily concerned with disadvantage and does not generally require it to be proved, for a successful claim, or require it to be accommodated or addressed.⁵⁶ The legislation

is therefore assimilationist⁵⁷ in aspiration and approach, sometimes frustrating measures directed at respecting diversity. Those women who can and do work like men may enjoy protection against discrimination, but those who cannot or choose not to do so are less likely to obtain any protection against disadvantage connected with their sex. This has created peculiar difficulties in addressing pregnancy discrimination.⁵⁸ Pregnant women are necessarily in a non-comparable position to men and fitting pregnancy discrimination, which is obviously gender discrimination, into a formalist direct discrimination model has been problematic. This was resolved by simply ignoring the comparator requirement in direct pregnancy discrimination. Notwithstanding the recognition that pregnancy discrimination is a form of gender discrimination and that a comparator model does not work for pregnancy discrimination, the SDA has recently been amended to address pregnancy discrimination in terms, but again enacting a comparator model, albeit that the

comparator is the pregnant woman herself before pregnancy.⁵⁹

There is limited opportunity for positive action under the SDA because it treats discrimination as equally unlawful if a man is subject to it, whatever the motive for it and even if directed at remedying disadvantage suffered by a woman.

Further, the direct discrimination guarantee has no underlying substance to it. It guarantees only the same treatment even if that treatment entrenches disadvantage connected to gender. A refusal to allow anyone to work flexibly, for example, cannot be direct discrimination because although the treatment is antithetical to good equal opportunities practice, everyone is being treated equally poorly. Such treatment may be indirect discrimination but that concept has become overly complex and difficult to apply - particularly, for example, in women-only workplaces or segregated occupations, because the necessary comparative disparate impact is difficult to show.

Further, though the concept of 'indirect discrimination' has

some potential for embracing diversity, it is reactive rather than proactive, so requiring that there is adverse effect on an individual (as symptomatic of group impact), by reason of the neutral application of some policy or practice, before it is actionable. Again therefore its focus is on individual wrongs and remedying them. The statutory commissions have limited powers. They have power (as will the Commission for Equality and Human Rights (CEHR))⁶⁰ to undertake investigations into named organisations where they suspect them of committing discriminatory acts and generally across any activity (the 'formal investigation powers').⁶¹ The initial expectation was that these powers would be widely used but those expectations have been largely unfulfilled, partly because of some early judicial discouragement.⁶² While the statutory duties on public authorities are an important development aimed at achieving some structural change, they are principally process rather than outcome-driven.⁶³ The obligations under the duties are to have 'due regard' to the need to achieve certain objectives (for example, 'to eliminate unlawful ... discrimination').⁶⁴ This creates a bureaucratic burden but with little statutory imperative to achieve substantive change.⁶⁵ The duties do not apply to private entities⁶⁶

carrying out private functions, whatever their size and economic and social power.

Discrimination and equality

Other jurisdictions adopt different schemes. South Africa and Canada in particular have developed progressive concepts of equality both at constitutional level and in their statutory equality laws.⁶⁷ Both use 'dignity' and 'disadvantage'⁶⁸ as key measures in determining whether objectionable discrimination has occurred. This gives their equality guarantees substance. Where an act, policy or practice promotes disadvantage or undermines dignity, for reasons connected to one of the protected grounds, including gender, it is likely to be objectionable (unless justified) and unlawful. Similarly, an act, practice or policy which ameliorates disadvantage and respects dignity is likely to be lawful, so allowing for and promoting affirmative action.

Those jurisdictions which adopt dignity/disadvantage models may require affirmative action to accommodate difference, and some adopt a reasonable adjustments model, like that seen in the UK Disability Discrimination Act 1995. Such an approach could be extended to gender, as it is in other jurisdictions,

requiring employers to make accommodations to support and promote women in the workplace and the economy more broadly. This approach acknowledges that women's lives are different from men's lives, and confers substantive equality rights on women, without their need first to show that they are 'like' or similarly situated to men. This approach is more likely to break down entrenched patterns of disadvantage, for example in occupational segregation and discrimination in working conditions.

Using 'dignity' as a part of an equality guarantee has broad benefits. It can provide a principled basis for identifying the classes of people to be protected by equality law; for the meaning to be given to justification; for identifying when differential treatment is permissible; for identifying when a reasonable accommodation or adjustment duty should be required; for addressing conflicts between rights; and for addressing intersectional or multiple discrimination.⁶⁹ Even if 'dignity' were not expressly the foundation of any new equality rights, extending the duties to make reasonable adjustments to gender would be beneficial. The State of New South Wales in

Australia has implemented such an approach in relation to carers⁷⁰ and it has been accepted as a model of best practice by other jurisdictions.⁷¹ Canada and South Africa adopt such an approach to discrimination across grounds. Such duties would ensure that employers and others are obliged to modify practices to reasonably accommodate women, rather than requiring women to modify to accommodate male norms (for example, working hours which do not respect caring obligations, which continue to fall disproportionately on women).

Positive action

Similarly, a power to take affirmative or positive action directed at increasing participation and opportunity for women would help tackle change-resistant patterns of disadvantage experienced by women. Merely treating disadvantaged groups the same as other non-disadvantaged groups is unlikely to do much to tackle entrenched structural forms of discrimination, as 30 years of the SDA demonstrates. The power to take proportionate positive/affirmative action measures would be lawful in EU law⁷² and make the implementation of any statutory equality duties more effective. In the

context of employment and occupation, the SDA permits positive action in relation to training for employment, so that access to training opportunities may be restricted to women to help fit them for particular work. In addition, women may be encouraged to take advantage of opportunities for doing particular work, where nationally the numbers of women doing such work were comparatively small in the preceding twelve months in Great Britain, a particular local area or workplace. These measures require proof of particular under-representation and, more particularly, are limited to training and 'encouragement'.⁷³ EU law is not so restrictive. It authorises positive action measures intended to eliminate or reduce actual instances of inequality which may exist in the reality of social life. EU law, therefore, permits laws relating to access to employment (including promotion) which give a specific advantage to women with a view to improving their ability to compete in the labour market and to pursue a career on an equal footing with men, so long as any positive action is proportionate.⁷⁴

Other jurisdictions have adopted positive action

measures, including measures obliging employers and others to take positive action to address disadvantage, including under-representation. For example, Canada's Human Rights Act 1977 exempts from its discriminatory practice provisions any 'special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be based on or related to the prohibited grounds of discrimination, by improving opportunities respecting goods, services, facilities, accommodation or employment in relation to that group'.⁷⁵ And under Canada's Employment Equity Act 1995⁷⁶ it is an employer's duty to implement 'employment equity' by '(a) identifying and eliminating employment barriers against persons in designated groups that result from the employer's employment systems, policies and practices that are not authorized by law; and (b) instituting such positive policies and practices and making such reasonable accommodations as will ensure that persons in designated groups achieve a degree of representation in each occupational

group in the employer's workforce that reflects their representation in the relevant workforce'.

Within the UK context, the Northern Ireland Fair Employment and Treatment Order 1988⁷⁷ (FETO) requires affirmative action in certain circumstances. FETO has as its expressed aim 'fair participation in employment',⁷⁸ and it allows for positive action 'to secure fair participation in employment by members of the Protestant, or members of the Roman Catholic, community in Northern Ireland by means including: the adoption of practices aimed at encouraging such participation; the modification or abandonment of practices that have or may have the effect of restricting or discouraging such participation.'⁷⁹ FETO is discussed further below but its approach appears to have worked.

Grounds

As to what 'grounds' should be protected, it is increasingly recognised that the present formulations (sex, race, disability etc) are not adequate to address the diversity in communities that exists. The formulations are premised on the assumption that persons and groups are adequately described mono-characteristically in equality law. This approach treats

all women as though they experience gender in the same way. We know that this is not so. Further, the classes protected under the anti-discrimination legislation are closed and so difficult to adapt to changing social contexts. The classes are also described by reference to characteristics we all possess – that is, irrespective of disadvantage, marginalisation or other indicators of discrimination or inequality. As mentioned above, the protection is afforded quite symmetrically so the prohibition on 'sex' discrimination, for example, protects men just as much as women, whatever their relative positions.

Consideration should be given to protecting other 'classes' disadvantaged for reasons associated with gender, including those which can be described as intersecting. Many jurisdictions now protect 'carers' against discrimination, as recommended by Britain's EOC.⁸⁰ The amended Australian SDA protects (albeit in a limited way) those with 'family responsibilities' against discrimination. This recognises that caring or family responsibilities are more likely for social reasons to fall on women, and therefore adverse treatment connected with such responsibilities (for example, a refusal to promote or inflexible working hours) will impact on women. Other

jurisdictions recognise that pregnancy and maternity (for example, childcare, breast feeding) must be distinctly protected. None of these classes (carers, pregnant women, breast feeders etc) would be adequately protected by a comparator-based equality guarantee, as seen in Britain's SDA. The fact is that caring, pregnancy and motherhood put women in a different situation from others and make them non-comparable. It is no real answer to adverse treatment of a pregnant woman/carer that an employer would have treated any pregnant woman or carer (needing to take breaks for breast feeding/work certain hours, for example) in the same way. Introducing specific protection against pregnancy discrimination, without the need for comparative less-favourable treatment, would also give proper effect to Britain's obligations in EU law.⁸¹

Equal pay

Our anti-discrimination laws treat gender discrimination in pay differently to discrimination in pay connected with other protected grounds. In respect of race, for example, pay claims are brought under the Race Relations Act: direct and indirect discrimination claims may be brought and hypothetical comparators may be relied

upon for these purposes. The EPA, on the other hand, sets up a distinct and complex scheme for addressing gender inequalities in pay, where those inequalities relate to terms regulated by contract. Establishing unequal pay depends upon the identification of a comparator⁸² and the EPA allows for very limited cross-establishment comparisons. This means addressing unequal pay in the context of occupational segregation is very difficult and is often impossible. As a consequence of these defects, pay discrimination suffered by women, which is known to be a continuing and significant problem, is addressed in law by the weakest anti-discrimination legislation, the EPA. Pay inequalities arising out of non-contractual terms are dealt with under the SDA (when hypothetical comparators, for example, may be relied on). This sometimes produces the paradoxical result that women seeking equal pay contend that benefits to which they say they are entitled are non-contractual so as to get themselves out of the complexity of the EPA.⁸³ Other jurisdictions adopt the approach of treating gender inequality in pay as distinct from other grounds. This may reflect the apparently common experience of

women across jurisdictional boundaries of unequal pay, caused by more structural forms of disadvantage like occupational segregation, atypical working patterns and pregnancy and child-care responsibilities. But some other jurisdictions adopt proactive models directed at addressing the causes of pay inequality, discussed further below.

Australia has had, historically, some success in addressing gender inequality in pay. Nationally the gender pay gap was 15 per cent in May 2006, and has been gradually improving over recent years.⁸⁴ This is attributable to the introduction in the 1970s of pay equity principles into what was then a relatively centralised and regulated industrial relations system based on broad coverage of the workforce. A rapid reduction in the gender pay gap followed and certainly more significant than that which occurred in Britain following the EPA 1970 or the US (which had justiciable pay claims in the 1970s). It is widely accepted that the rapidity of change in Australia was the result of the industrial relations framework in which pay equity was addressed (rather than being, for example, the result of a rapid change in women's educational attainment or

labour force experience), and that Australia's advantage in cross-national terms also reflected its distinctive institutional arrangements.⁸⁵ Pay inequality has remained nevertheless in Australia and 'the resilience of the pay gap over time suggests that there are multiple and deeply-entrenched causal factors at play both within and outside the labour market.'⁸⁶ However, the Australian experience demonstrates that collective bargaining can operate so as to significantly affect gender pay differentials for the better.⁸⁷ Also key is the understanding that there is a relationship between (in)flexible working policies, low pay and gender inequalities in pay.⁸⁸

Individual women and classes or groups of women (class actions are addressed below) must as a matter of (EU) law and justice have the right to bring equal pay claims. The law must be significantly changed if the right to equal pay is to be properly and fairly enforceable. The EPA should be repealed and replaced with a scheme which allows for claims to be brought based on hypothetical comparators, as well as actual comparators, and by reliance on evidence of structural (cross-establishment) discrimination.

Placing the primary obligations to draw attention to unequal pay on unions and individual victims of unequal pay, however, would be inadequate. This is because, first, not all work places are unionised (and indeed the worst examples of discriminatory pay schemes are likely to be in non-unionised work forces) and second, because the costs (financially and personally) to individuals in bringing cases operate as a real disincentive. Some jurisdictions impose obligations to conduct pay audits/reviews on employers. This is so in South Africa where designated employers must report and address income differentials.⁸⁹ Experience has demonstrated across jurisdictions that voluntarism is not adequate to address entrenched pay discrimination, and legal compulsion through proactive legal measures is most likely to be most effective.⁹⁰ The Canadian Pay Equity Task Force considered the strengths and weaknesses of a variety of schemes across the provinces and the federal protection in the Human Rights Act and made a number of important recommendations which can usefully be had regard to in considering any new model in a Single Equality Act. Importantly, their assessment led them to the conclusion that 'the complaint-based model currently in place has

not proved to be an effective means of achieving the goal of equal pay for work of equal value'⁹¹ and that '[t]hrough the information we have gathered concerning the experience in Ontario, which has had the longest experience with proactive pay equity legislation in Canada, does not indicate that this regime has been completely successful in bringing about compliance, it does appear that the level of compliance is higher under this kind of system than it is under complaint-based regimes or those which rely exclusively on an audit system. The caveat attached to this is that there must be adequate support from the regulatory agency'.⁹² It is important to return to the last point here: that any system of law relies on a robust and powerful system of regulation.

In several provinces, the perceived inadequacies of the Canadian Human Rights Act led to the enactment of legislation requiring positive action on the part of employers and other actors. This type of legislation is often characterised as 'proactive legislation', and typically provides that employers must be prepared to demonstrate that they have taken systematic steps to analyse the work done by their employees and to eliminate any discriminatory

wage practices which are revealed as a result.⁹³ The first province to pass 'proactive' legislation was Manitoba which, in the mid-1980s, enacted the Pay Equity Act.⁹⁴ Under this model, which applied only to the provincial public sector, an obligation was placed on employers to ensure that there would be no difference between the wages of male and female employees performing work 'of equal or comparable value.' The process for eliminating discrimination involved negotiation with the unions representing public sector employees. The most far-reaching of the proactive legislation has been enacted in Ontario and Quebec. Both enacted legislation covering public and private sector employers (excepting some small employers). Ontario's Pay Equity Act⁹⁵ 'was perhaps the most progressive pay equity statute of its time'.⁹⁶ Its section 7(1) provided that, 'Every employer shall establish and maintain compensation practices that provide for pay equity [defined in terms of comparisons between male and female job classes] in every establishment of the employer.' The statute imposes positive obligations on employers to ensure that their own remuneration policies are not discriminatory.

France and Sweden (both of which have a smaller pay gap than in the UK, though there is some evidence that the gap has increased slightly in Sweden⁹⁷) have enacted proactive approaches to pay equity in the workplace, requiring companies to report on actual pay differentials. In addition there is also an obligation on Danish employers to compile, on request, gender-differentiated wage statistics, and this could also be seen as a form of proactive legislation (Denmark also has a smaller pay gap than the UK).⁹⁸ These appear to be the only European countries to currently require any form of mandatory reporting (at least as at 2002), or semi-mandatory reporting in the case of Denmark.⁹⁹

Experience in the UK shows too that voluntarism does not work to address deep-seated discrimination in pay. For this reason a proactive model should be introduced, imposing duties on employers to review pay systems for their discriminatory impact and address any discrimination in pay. A Single Equality Act with fully functioning equal pay guarantees must address the causes of unequal pay as well as unequal pay itself. This means:

- providing remedies for breaches of the principle

of equal pay (contained in Article 141 EC Treaty)

- creating flexible working entitlements that address the gender stereotyping in the allocation of caring and domestic responsibilities
- imposing obligations to undertake regular pay audits to identify inequalities
- imposing statutory duties, including on private sector employers, to address pay inequalities identified by the pay audits or otherwise.¹⁰⁰

Statutory duties are addressed further below.

Statutory duties

It is increasingly recognised that proactive measures are a necessary part of a fully-functioning equality scheme. This is because a purely complaints-based system is inadequate by itself. Individual rights are important and they are required by EU law. However, they are 'less than adequate in dealing with more complex and deeply rooted patterns of exclusion and inequality'.¹⁰¹ This is because they place excessive reliance on individual enforcement, litigation is complex and costly, the impact of individual litigation provides for only 'isolated deterrents', and an individualised model encourages a culture of

'passive compliance' (ie a minimalist approach to compliance). Institutional discrimination, manifested by a lack of active participation by disadvantaged individuals and groups in decision-making, is unaddressed, and the rights-based approach creates artificial categories of discriminatory behaviour (based on mono-characteristics) and lacks any emphasis on social cohesion.¹⁰²

Proactive measures are already seen in the EU in the form of gender mainstreaming, so that gender equality is made a central issue in all policy and executive decisions.¹⁰³ A purely voluntary approach, however, has been found to have had limited success.¹⁰⁴ Some jurisdictions impose statutory duties upon certain bodies (most particularly employers) directed at remedying disadvantage and increasing fair representation and participation. The content of the duties varies but in general they are outcome-focused. This might be contrasted with the approach taken in the UK (the Fair Employment and Treatment Order in Northern Ireland aside) which is to create duties which are largely process-driven. The statutory duties imposed by the SDA (in force from April 2007) require public authorities

(only) to have 'due regard' to a series of specified 'needs' ('to eliminate unlawful discrimination and harassment'; 'to promote equality of opportunity between men and women').¹⁰⁵ Specific statutory duties enacted under the SDA impose further obligations (to create gender equality schemes).¹⁰⁶ This is a weak model, leaving the authority to decide what, if any, action to take, having regard to its other priorities.¹⁰⁷ Where a body is politically committed to achieving change, the equality duties can help as a context for legitimising equality policies (on procurement for example).¹⁰⁸ However, there is no compulsion to achieve results, and there is widespread bureaucratic compliance without significant substantive effect. There is evidence that the present UK model (seen in the SDA, as well as the other anti-discrimination acts) has been less than fully successful, so that: 'The new approach has not... led most public bodies to review their practices and implement reforms in the way Parliament intended. Instead, the positive duty has frequently become an exercise in procedure and paperwork, rather than in institutional change. According to a recent government consultation

paper, the general view of the race duty is that it is "overly bureaucratic, process-driven and resource intensive"^{109, 110}

Statutory duties are important. To be properly effective, however, equality duties must not only be comprehensive in application but also support a programme of change in outcomes and not be regarded as an end in themselves. The difficulty of introducing such duties without any obligation to achieve change, measurable by rates of participation, pay, or other appropriate outcomes, is that they appear disproportionately bureaucratic and are unlikely to secure equality outcomes by themselves. Other jurisdictions adopt more substantive statutory duties.

South Africa provides a useful illustration of the way statutory duties may sit comfortably with a substantive approach to addressing equality and bolster both the affirmative action and the non-discrimination guarantees. In South Africa's Promotion of Equality and Prevention of Unfair Discrimination Act, broad obligations are imposed on the state to 'achieve equality'.¹¹¹ Specific obligations are imposed requiring the state to 'develop awareness of

fundamental rights', 'take measures to develop and implement programmes in order to promote equality' and where necessary or appropriate 'develop action plans to address any unfair discrimination, hate speech or harassment'.¹¹² Ministers are required to implement measures aimed at the achievement of equality including by the preparation and implementation of equality plans. Regarding other persons operating in the public domain (namely any persons or bodies directly or contracting with the state), they are under an obligation to adopt 'appropriate equality plans' and other measures for the 'effective promotion of equality', among other things. Specific obligations are imposed in relation to certain strands (race, gender and disability).¹¹³

In the employment sphere, the Employment Equity Act imposes duties on both private and public sector employers. Employers who employ more than 50 employees or have an annual turnover above a specified amount as well as state employers¹¹⁴ must 'implement affirmative action measures for people from designated groups'.¹¹⁵ Affirmative action measures must include measures 'to identify and eliminate employment barriers' among

other things. Designated employers must also prepare an employment equity plan which identifies the objectives to be achieved in each particular year of the plan, the affirmative action measures to be implemented, areas where under-representation from designated groups has been identified, the numerical goals to achieve equitable representation and timetables for the achievement of goals and objectives.¹¹⁶ There will be, of course, bureaucratic obligations deriving from the duties imposed, but these will be reflective of the outcomes to be achieved rather than ends in themselves.

Canada too imposes statutory duties to achieve change, so that the Employment Equity Act, for example, requires that employers, both in the public and private sector, identify and eliminate employment barriers and institute 'such positive policies and practices' and make 'such reasonable accommodations as will ensure that persons in designated groups achieve a degree of representation in each occupational group.'¹¹⁷

An example of more substantive equality duties also exists within the UK. The Northern Ireland Fair Employment and Treatment

Order 1988 (FETO)¹¹⁸ imposes statutory obligations on both private and public sector employers. FETO allows for broad affirmative action measures and includes auditing obligations¹¹⁹ requiring employers to 'review the composition of those employed and ceasing to be employed' in their concerns and the employment practices of their concerns 'for the purposes of determining whether members of each community are enjoying, and are likely to continue to enjoy, fair participation in employment'. Where such a review indicates that members of a particular community are not enjoying fair participation, then an employer is obliged to 'determine the affirmative action (if any) which would be reasonable and appropriate'. This has achieved real change. Results demonstrate that there is greater participation of the disadvantaged Catholic community in employment across sectors and 'there can be little doubt that the change that these data reflect does not come about by accident. It was the product of legislation, effort, endeavour, and not least, of the work of the commission and its predecessor bodies.'¹²⁰

There is now widespread support for more substantive

statutory duties to be imposed on both private¹²¹ and public sector actors. This would be consistent with a substantive equality model and, experience shows, would be likely to achieve real change. Sandra Fredman, in her work, has also advocated the fuller use of statutory duties.¹²² As she has observed, 'the imposition of positive duties changes the whole landscape of discrimination law. The focus is no longer on the perpetrator of a discriminatory act. Instead, the spotlight is on the body in the best position to promote equality.'¹²³

Positive duties have the attribute of removing the obligation to effect change from individuals who are least able to make change, to those institutions and bodies that are able to do so. Fault is taken out of the equation, as is the identification of discrimination as a precondition for action. The experience of positive duties in Great Britain has been limited to the public sector, but there is no principled reason why they should not extend to the private sector, which is both the major employer of women and an increasingly important provider of services. It goes without saying that the private sector has the economic and social power

to make a real difference. This can be seen in Northern Ireland.

In the public sector it has been advocated that six key principles should inform the basis of a public duty in Britain, namely: a clear positive statutory duty to promote equality of opportunity by public authorities across all areas of government policy making and activities; the participation of affected groups in determining how this should be achieved; the assessment of impact of existing and future government policies on affected groups; consideration of the alternative which has less of an adverse impact; the consideration of how to mitigate adverse impacts which cannot be avoided; transparency and openness in the process of assessment.¹²⁴ Any such duty should include the following elements: it should be action-based, goal-oriented, progressive, require action that is necessary and proportionate, and be linked to specific duties which capture the particularities of different forms of discrimination and propose actions on that basis. The precise content of these elements is an important matter for discussion and decision within the process of

shaping a Single Equality Act.

There is no good reason why any such duties should be limited to the employment sphere and the existing statutory duties embrace all the functions of public authorities. Research demonstrates that disadvantage is experienced across a range of activities that are capable of being influenced by both the public and private sector, and which may cause economic disadvantage.¹²⁵ Access to loans, other opportunities for enterprise and education are all areas in which certain groups of people suffer disadvantage, and which might be influenced by positive duties affecting both the public and private sector.

In any case, the value of positive duties will be significantly enhanced by proper enforceability. As has been observed, and as mentioned above, '[w]ithout a fundamental culture change, purely voluntary requirements may well have little effect'.¹²⁶ Given the inadequate results produced by voluntary actions so far (and the equal pay context provides another illustration of the impact of voluntary action), a proper enforcement mechanism should be put in place to support any duties. An example can be found in the

FETO in Northern Ireland which gives power to the Equality Commission to direct that action be taken.

Procurement

Statutory duties operating upon public procurement would also be valuable. It is well known that some authorities (including the GLA) use the existing equality duties to promote equality through their procurement decisions. However, this is not mandatory. Mandatory duties to promote and achieve equality through procurement would add value, particularly if the duties were outcome-focused.

The South African 'Black Economic Empowerment' ('BEE') programme, for example, imposes very real conditions upon businesses wishing to invest in South Africa, and might be a useful model for law requiring gender equality goals to be promoted through procurement. The BEE programme promotes the objectives set down in section 2 of the Broad Based Black Economic Empowerment Act 2003. Among other things, the objectives are: to promote economic transformation in order to enable meaningful participation of black people in the economy; to achieve a substantial change in

the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises; to increase the extent to which communities, workers, cooperatives and other collective enterprises own and manage existing and new enterprises and increase their access to economic activities, infrastructure and skills training; to increase the extent to which black women own and manage existing and new enterprises, and increase their access to economic activities, infrastructure and skills training; to promote investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity and promote access to finance for black economic empowerment.¹²⁷ The Act gives power to the Minister for Trade and Industry to issue codes of practice including, among other things, 'qualification criteria for preferential purposes for procurement and other economic activities' and these must be taken into account by any state organ in determining qualification criteria for the issuing of licenses etc, and in the development of procurement policy.¹²⁸ The effect of the Broad

Based Black Economic Empowerment Act 2003 is that government must apply the codes of practice when entering into the following decisions: procurement, licensing and concessions, public-private partnerships, the sale of state-owned assets or businesses. Further, private companies must apply the codes if they want to do business with any government enterprise or organ of the state. The codes impose real obligations to secure substantive equality outcomes (beyond representation and participation but including, for example, skills transference). This has helped effect a real cultural change. Businesses, not just in South Africa, know that to do business with South African State organs or important institutions in South Africa, they must devise strategies directed at increasing black economic empowerment.

In Australia too, 'government policy since the early 1990s has been that a non-complying employer may be ineligible for government contracts for goods and services and for certain industry assistance'.¹²⁹

There is no reason why such an approach could not be adopted in relation to the promotion of gender equality in the workplace

and business in Great Britain. While EU law contains restrictive rules on public procurement, the EC Public Procurement Directives¹³⁰ make it clear in the procurement process that conditions may include social issues. Therefore, this does provide continued scope for promoting equality objectives through procurement policies.

Remedies, enforcement and access to justice

The SDA anti-discrimination scheme provides for individualised remedies and individual enforcement of the unlawful acts it creates.¹³¹ This is consistent with the largely individualised focus of the anti-discrimination legislation. The remedies available for a breach of the SDA include compensation, declaratory relief, injunctions in appropriate cases and non-binding 'recommendations'.

Sanctions must act as a deterrent to discrimination, whether by allowing courts to impose broad remedial action where discrimination is proved or by improvement in the compensation system, where, particularly in relation to service cases, awards can be extremely low and act as no deterrent at all.

Indeed, other jurisdictions make broader provision for

remedies. In South Africa, for example, it is provided that the 'equality court' may grant the normal remedial action, in a civil context, and 'an order to make specific opportunities and privileges unfairly denied in the circumstances, available to the complainant in question [and make] an order for the implementation of special measures to address the unfair discrimination ... [and] an order directing the reasonable accommodation of a group or class of persons by the respondent.'¹³² Other powers are granted, including the power to direct an unconditional apology and power to require a respondent to undergo an audit of specific policies or practices.¹³³ In this way South African law allows for broader remedial action beyond that which might be necessary to compensate a particular individual. And that remedial action may include a requirement that an employer change a policy or practice. The South African model is an instructive model and could usefully inform the remedial provisions of any new Single Equality Act.

As to enforcement more generally, the effectiveness of any anti-discrimination or equality guarantees depends upon proper enforcement mechanisms, which are likely

to include the establishment of commissions with powers exercisable by themselves.¹³⁴ A fully functional commission should be empowered to produce guidance, give advice, provide assistance through the setting of standards and codes of practice and the like, as well as taking enforcement action in its own name in relation to discriminatory acts, policies and practices. This allows for expertise to be developed and strategic thought to be applied to the development of discrimination law and principles. A proper functioning commission must also provide the institutional back-up for the effective implementation of statutory duties (as in South Africa for example, but also in Northern Ireland). A failure to comply with either the general or the statutory duty should be actionable by the Commission with power to obtain injunctive relief compelling change.

Consideration should also be given to allowing for representative or class actions in the field of discrimination law. This is especially so in equal pay cases (though it would apply equally to other practices). Representative or class actions would be important in aiding enforcement. These would permit a wider range of bodies,

other than the CEHR, to institute proceedings in their own name or jointly with individuals where there is a common problem affecting a number of persons. This would be appropriate in, for example, pay cases, where groups of women are typically affected by discrimination. It would also permit a greater range of bodies to act as agents of change and reduce the burden, financially and personally, on specific individuals. This would be most effective if linked to improved powers by courts or tribunals to take broad remedial action, rather than simply award compensation for a named individual.

Presently discrimination claims are adjudicated in employment tribunals or the county courts, depending upon where the claim originates. Employment cases go to employment tribunals and those relating to goods, services and facilities to the county (or in Scotland, sheriff) courts. Unlike complainants in tribunals, those to the county or sheriff courts have to pay court fees and may face an order for costs or expenses if unsuccessful. There is a widespread view that this can be a substantial barrier.

The 'Hepple Review'¹³⁵

recommended that all discrimination cases should be commenced in the employment tribunals with provision to designate the tribunal as 'an equality tribunal' where the dispute did not relate exclusively to employment.¹³⁶ This acknowledges that equality cases raise many common themes as well as the very real material problems referred to. The statutory equality commissions have also supported this view, and specifically the EOC recommended in a written submission to the DLR earlier this year that 'consideration should be given to transferring jurisdiction for all discrimination cases to employment tribunals.'¹³⁷

Purpose clause

There is growing support for the inclusion of a purpose clause in any new Single Equality Act, identifying the aims of the legislation. Defining a concept of equality that is to be entrenched into law, and with mechanisms to support it, depends upon the aims sought to be realised, and these should be expressed in law. Many constitutional instruments contextualise their equality guarantees by identifying the aims of the constitution.¹³⁸ Where constitutional guarantees exist, statutory schemes sometimes refer to them

expressly as the inspiration for the scheme. Similarly, international human rights treaties are sometimes identified explicitly as the inspiration for statutory measures.¹³⁹ In South Africa the Promotion of Equality and Prevention of Unfair Discrimination Act has been passed explicitly to give effect to the constitutional equality guarantee. The preamble to the act states: 'This act endeavours to facilitate the transition to a democratic society, united in its diversity, marked by human relations that are caring and compassionate, and guided by the principles of equality, fairness, equity, social progress, justice, human dignity and freedom.' The objects of the act are set out in Section 2 and include 'the protection of human dignity' and 'to set out measures to advance persons disadvantaged by unfair discrimination'. The Canadian Human Rights Act 1977 identifies its aims at Section 2 as including 'the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have, and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices'.

Identifying fully the goals sought to be realised by equality laws helps guide judicial interpretation and contextualises the provision made for those needing to implement it. This would be valuable in any Single Equality Act.¹⁴⁰

A purpose clause in UK anti-discrimination legislation would be unprecedented, though not in legislation more broadly.¹⁴¹ However, there are already provisions identifying the general duties or obligations imposed, for example, on the statutory commissions¹⁴² which highlight the purpose of the legislation overall.¹⁴³

Identifying the goals in any Single Equality Act would help ensure appropriate interpretation both by the courts and those required to give effect to it. Doing so would also help to meet any expectation of transparency.¹⁴⁴

4.2 Moving forward - conclusions for policy and legislation

The research presented in this report makes a compelling case for the DLR to produce proposals for a Single Equality Act that ensures a radical strengthening of anti-discrimination law. For the last three years, the WILE programme has

demonstrated how women are missing out on realising their full potential in employment and business. London's economy suffers too, because it is failing to make best use of the talents available. This year's report has also demonstrated the impact of women's lower employment rates on household spending. This too has an impact on London's economy.

The mean full-time gender pay gap is still 23 per cent in London, showing no progress since last year. The gap is wider than in the rest of the UK, where it is 17 per cent. This is largely because of the greater prevalence in London of highly paid workers, who are far more likely to be male. Women working part-time earn on average 44 per cent less than men's full-time hourly earnings in London, again a wider pay gap than at UK level (38 per cent).

GLA Economics has calculated the living wage in London to be £7.05 per hour in 2006.¹⁴⁵ Altogether, 19 per cent of women in London are earning a wage below this level, compared with 12 per cent of men. However, part-time pay is much lower on average, so 42 per cent of women working part-time earn less than the living wage level.

The employment rate of women with children is much lower in London than in the rest of the UK. In 2005, 54 per cent of women with dependent children in London were in employment, compared with 68 per cent in the rest of the UK. The most significant difference is the lower rates of part-time working for mothers. Qualitative research in the 2006 report pointed to the difficulties women encountered if they wished to work part-time in senior roles.

The 2005 WILE report showed the under-representation and lower pay of women in business. More recent evidence shows that far from improving, the proportion of women directors and board members has actually fallen back.

WILE research in 2006 reported on the importance of women in London's future job growth and, in the light of this, the urgent need to tackle gender segregation in education and training. Recent evidence in the UK, however, shows a worrying decline of women in IT, an industry identified as a growth sector for London, in which women are already greatly under-represented. According to a new study sponsored by the Department for Trade and Industry, only 16 per cent of those employed in IT in

the UK are women. Many of these women are employed in lower-skilled and lower-paid areas of IT, rather than more professional and technical posts.¹⁴⁶

As previous WILE reports have shown, the major legislative measures on discrimination and women's equality are now out of date, and are no longer having the impact they were able to deliver in their earlier days. The EOC has reported that nationally there have been a quarter of a million cases of sex discrimination brought to employment tribunals over the 30 years since the Sex Discrimination Act came into force.¹⁴⁷ Far from tailing off, record numbers of cases have been filed in the last five years. While there will always be the need for individual redress, it would be far more efficient to introduce a system which promotes equality positively, thereby reducing the need for redress, but which also allows for class and test actions. In general, the numbers of sex discrimination cases show that much better enforcement, easier and improved access to justice and sanctions likely to deter discrimination would have to be integral to a 'fairer legal system that fits the needs of 21st century Britain'¹⁴⁸. The DLR is due to report in the spring of 2007 on its

initial recommendations for what needs to be done to improve anti-discrimination law. This presents a once-in-a-generation opportunity to provide consistent and effective measures that will provide the step-change needed to boost equality for women and all other groups experiencing discrimination and disadvantage.

Equal pay and discrimination

A major area for the DLR must be improving law so that it is better at tackling pay inequality and discrimination affecting women in employment. As a recent report by the Advisory, Conciliation and Arbitration Service (ACAS) points out that 'Equal pay remains one of the most intransigent employment relations issues despite over thirty years of legislation'.¹⁴⁹

Analysis by Professor Alan Manning shows how the rate of progress in reducing the national gender pay gap has been slowing down in recent years: at the current rate, it would take 150 years for the pay gap to disappear.¹⁵⁰ He suggests setting up a scheme that gives an incentive to employers to publish statistics on the position of women in their organisation. 'This would bring the position [of women] out into the open and we would expect women themselves to gravitate to

firms where they appear to do better.' Research by the EOC also suggests that without greater legal requirement, some employers will continue to avert their eyes from the actual or potential discrimination among their workforces. At the latest count, 82 per cent of employers reported that they had never conducted an equal pay review and had no plans to do so. Large public sector bodies are considerably more likely to have open pay systems and to undertake equal pay audits than their private sector equivalents.¹⁵¹ ACAS say that 'In the private sector ACAS advisers report that employees are less likely to know the pay rates of their colleagues because of a general lack of transparency in pay systems'.¹⁵²

Black, Asian and minority ethnic women encounter discrimination in relation to both their gender and their ethnicity, and sometimes their faith as well. Shockingly in London, where nearly a third of the population of working age are from black, Asian and minority ethnic groups, 21 per cent of employers with 25 or more employees do not employ any black or Asian women at all.¹⁵³ Pakistani and Bangladeshi women experience an even

bigger pay gap than white women, when compared to white men.

One of the causes of lower pay for women is salary scales based on length of experience. In the EOC's most recent survey, differences in the length of time that women take to progress through the pay scale caused 19 per cent of the gender pay gap identified by those organisations who had found there was a gap between men's and women's pay after undertaking an equal pay review.¹⁵⁴

On their return to work, women who take time out of the workplace to look after children may find that they are placed on a lower salary than colleagues who have stayed in employment throughout, even though they are carrying out the same duties. A recent ruling in the European Court of Justice upheld this practice and was widely reported as a 'defeat' for women.¹⁵⁵ However, while the judges said that it was legitimate to award higher pay to staff with greater experience which enables them to perform their duties better, judges also said that employees may now challenge this blanket justification where greater length of service does not actually enable job holders to perform their duties

better, and the employer will be required to provide justification in detail.¹⁵⁶

The EOC's formal investigation into pregnancy discrimination¹⁵⁷ showed that nearly half (45 per cent) of a survey of 1,000 women said they had experienced dismissal or disadvantageous treatment because of their pregnancy, as reported in *Women in London's Economy 2005*. In a more recent survey, the EOC also found that some employers were still asking younger women questions at interview about their plans for marriage or children.¹⁵⁸ This was experienced by a higher proportion of Black Caribbean, Pakistani and Bangladeshi women (between 21 and 26 per cent) than White British women (14 per cent), suggesting they may be at higher risk of sex discrimination.

Despite legislation, this is clearly an area where further investigation of the scale of the discrimination and economic impact on both women and the economy is merited, with a view to arriving at more adequate policy solutions.

The latest findings on the representation of women on the boards of the UK's top 100 companies (the FTSE 100) show that there has

been no progress in the last year. In fact, the number of companies with at least one woman on the board went down to 77 in 2006 from 78 the year before.¹⁵⁹ There were only 117 women directors in the FTSE 100, representing just over 10 per cent of all directorships, down from 121 in 2005. The number of women non-executive directors went down from 107 in 2005 to 102 in 2006. Twenty-three per cent of the leading companies had no women directors at all.

This lack of recent progress in increasing the proportion of women directors mirrors trends observed in the USA and across Europe (Chapter 3). The exception to this was in the Scandinavian countries, where, as reported in Chapter 3, there are more proactive policies including firm quotas.

Work-life balance and caring responsibilities

The difficulties of combining work with family and caring responsibilities are exacerbated in London because of the shortage of part-time work. The results are clear in the lower proportion of women in employment. Since 1 April 2003 parents of children aged under six (or under 18 if they are disabled) have had the right to request flexible working

arrangements, to which employers are required to give proper consideration, although they are not bound to grant them. The right to request flexible working will be extended to carers of adults from 1 April 2007, but not yet to children in other age groups. The government has settled on a definition of carers¹⁶⁰ that has been criticised by the EOC and Carers UK for leaving out the 19 per cent of carers who care for neighbours or friends.¹⁶¹ The Mayor of London supported extending the right to all parents of dependent children and all carers, and believes this area of discrimination should be addressed in the DLR.

A study commissioned by the LDA on flexible working among small and medium enterprises found that compliance with government regulations was the most commonly cited reason for adopting family-friendly working practices, illustrating the key role of legislation in bringing about changes in the workplace culture.¹⁶² Many employers also recognised the benefits of flexible working in terms of encouraging the commitment of the workforce, enhancing job satisfaction and decreasing labour turnover. The 2006 Childcare Act placed a duty on local authorities to 'secure, so far

as is reasonably practicable, that the provision of childcare (whether or not by them) is sufficient to meet the requirements of parents in their area who require childcare in order to enable them (a) to take up, or remain in, work, or (b) to undertake education or training which could reasonably be expected to assist them to obtain work.' The level of such provision is not specified, however.

The cost of childcare in London is a major barrier to women's employment. Much of the provision costs more than the maximum amount eligible for childcare tax credit – £175 per week. Arising from the Mayor's Childcare Strategy, the LDA is running the Childcare Affordability Programme, co-funded by the Department for Education and Skills. The programme is testing out pilots to reduce the cost of childcare for low-income families. One of the pilots is subsidising the cost of flexible childcare, either for longer hours than the traditional working day or for part of the day. Part-time childcare is often more expensive pro rata than a full-time place. This pilot is proving especially popular with parents and providers alike.

Public sector gender duty
The public sector gender

duty comes into effect in April 2007. All public sector organisations will have a duty to promote equality between men and women. The detailed guidance to public authorities¹⁶³ says that 'the aim of the duty is not to establish processes but to make visible and faster progress towards gender equality.' However, as the legislative research has shown, it is important that the duty is monitored to ensure it produces tangible outcomes, with the focus on change, not simply completion of a paper process.

More broadly, while the public sector gender duty is welcome, the fundamental problem is that this does nothing for the 69 per cent of women in London who work in the private and voluntary sector.

Procurement

Public authorities can use their considerable spending power to improve equality through contractual arrangements. The Women and Work Commission recommended that this should be encouraged in order to promote good practice in diversity and equal pay among contractors. Experience leads to the conclusion that encouragement of good practice alone is insufficient. Specifically, the legislative

framework for procurement is too opaque and leaves room for confusion about what is possible. As the preceding legislative research argues, while the Mayor and GLA, with a combination of political commitment to equality and the resources of a large authority, have been able to use existing legislation to embed equality in procurement, the process remains too optional and resource-intensive. A mandatory duty on public authorities to promote equality through contracts with the private sector is a key priority for the DLR.

Chapter 3 has shown how TfL was able to produce an innovative procurement policy that complies with European directives. The procurement programme incorporates equality standards as contract conditions that have to be met before prospective contractors can proceed to making a bid. Failure to deliver the standards is grounds for terminating the contract – marking a precedent in the EU for including a termination clause on diversity in a large-scale contract.

In March 2006, the Mayor agreed a new GLA group Sustainable Procurement Policy, which embeds equalities and diversity across all its strands. As

well as TfL, there are other examples where the GLA group have been able to use procurement power to promote equality and tackle low pay.

For instance, following the determination of the London living wage, the GLA reviewed its contracts and found that one contractor was paying below the London living wage.¹⁶⁴ This contract was brought in line with the London living wage in January 2006, directly benefiting 14 staff.

In 2006 the GLA let a new catering contract for City Hall. During the competitive bidding process, attention was drawn to the GLA's London Living Wage policy and contractual provisions on the living wage were incorporated into the proposed service contract. While offering staff pay rates above the London living wage, and an attractive package of additional benefits, the successful tender was evaluated as offering good value for money and was not the most expensive tender received.

Positive action

Current discrimination legislation makes it illegal to give preferential treatment to women in order to redress

historic disadvantage. The only legal positive measures allowed in the Sex Discrimination Act 1975 are in relation to training schemes and encouraging applications from particular groups. Employers can take these measures if they can show that 'during the last 12 months there were no or a comparatively small number of people of that sex doing particular work in Great Britain; or there is a shortage of persons of a particular sex doing a particular kind of work.' The law is vague about exactly what kind of positive action is permissible, so in practice many employers are wary about taking positive action in case they face legal challenge.

The Metropolitan Police Service (MPS) faces particular challenges in trying to reach its employment targets for black and minority ethnic officers, including women. Stronger tools on positive action would aid progress towards the kind of representative police service that London needs.

Additionally the Sex Discrimination (Candidates) Act 2002 permits women-only shortlists to be used by parties in the selection of candidates – a form of

positive action – and wider powers exist in Northern Ireland. These anomalies illustrate that greater powers for positive action are possible within the EU legal context.

Conclusion

The next year presents a critical opportunity to address many of the barriers to women's equality reflected in the WILE research. The DLR has been a long time coming and genuinely is a 'once in a generation' opportunity to reshape the law so it protects adequately against discrimination.

With a Green Paper expected from the DLR early in 2007, it is clear that it should draw on the most effective UK and international legal models, and level anti-discrimination law upwards, making its scope comprehensive and tied to more rigorous enforcement mechanisms and powers. Examples of effective international legal models have been presented in this report and should be considered by the DLR in its deliberations.

To tackle the discrimination faced by women in the economy, the DLR must come forward with proposals to:

- base anti-discrimination law on concepts that reflect the need to tackle entrenched discrimination – creating positive equality goals, proactive duties to equality, removing the need for direct comparison with a male in like circumstances, creating powers to apply remedies to correct the discrimination broadly and providing for stronger individual powers such as positive action to address entrenched inequality
- bring under the scope of the law forms and areas of discrimination that still remain legal – for example, by providing greater rights to flexible working and extending legal protection for carers
- level anti-discrimination law upwards, generalising from the most effective definitions and mechanisms currently in specific pieces of legislation, extending them comprehensively and introducing new

measures needed – for example, by considering how concepts such as ‘reasonable adjustment’ could be usefully extended to better tackle the reality of women’s economic inequality, extending outcome-focused public sector duties, creating equal protections for the majority who work in the private sector, ensuring the positive duties on public authorities extend to all their functions by a duty to embed equality in procurement and by mechanisms like pay audits to reveal and correct patterns of discrimination

- strengthen access to justice and enforcement of the law: representative actions would aid enforcement of the law; equality tribunals – as recommended by the Hepple Report – would facilitate access to justice; sanctions and remedial action should be such as to discourage discrimination.

The Mayor has made clear his concern that the CEHR may set back progress towards a fundamentally more equal society, lacking as it is in representative structures to ensure it is institutionally informed by the lived experience of discrimination and with a relatively low budget. Concerns have been expressed that there may be a reduced focus on legal representation and challenging discrimination through the courts. The sooner these problems are addressed, the better it will be for women’s equality and that of all others facing discrimination.

It is important that the DLR does not add to the problems that may flow from the abolition of the existing statutory commissions and the particular structure created in the CEHR. The barriers to women’s equality can be addressed by the sorts of changes suggested in this report, many of which are already in place in other countries in Europe and elsewhere. They should be central to a Single Equality Act.

Appendices

Appendix A: The Expenditure and Food Survey (EFS)

The EFS is a voluntary sample survey conducted by the ONS each year (fieldwork is carried out in Northern Ireland by the Northern Ireland Statistics and Research Agency of the Department of Finance and Personnel).

The EFS selects around 12,000 households in the UK on an annual basis – with a survey response rate of around 55 to 60 per cent. The survey consists of a detailed household questionnaire, individual income and work questionnaires and individual two-week expenditure diaries (kept by all individuals in the households over 16). The survey collects detailed information on expenditures and sources of income, as well as family composition, education, employment and general household demographic information.

In order to create a large enough sample of London respondents, we have combined the data from the 2001–02, 2002–03, 2003–04 and 2004–05 surveys. Combining years together like this is a standard way of creating a larger (and thus more reliable) sample size, used by the ONS when preparing the regional income and expenditure data.¹⁶⁵ We have removed the top and bottom income percentiles of London and rest of UK households. We have also restricted the analysis to households whose representative person is of working age and which contain at least one female of working age. Limiting the sample once more to just those households with one or two adult members leaves us with around 1,300 households for London and 14,000 for the rest of the UK.

Appendix B: Family Resources Survey (FRS)

The Individual Income series takes into account the income that accrues to an individual as a result of their economic/social/family/legal/medical status. Income deriving from an individual's economic status includes: earnings from employment, income from property holdings/investments, income from the individual's own occupational pension, earnings-related and own contribution-related retirement pensions, annuities, contribution-based Jobseeker's Allowance, Statutory Sick Pay, Statutory Maternity and Paternity Pay and Incapacity Benefit.

Income accruing to an individual as a consequence of their social/family/legal/medical status includes Child Benefit, maintenance income from an absent partner paid in respect of either spouse or children, Income Support, benefits such as Disability

Living Allowance and state Retirement Pension received on the basis of a spouse's contributions. Individual income also includes a number of other sources of income paid to an individual (eg Friendly Society benefits, trade union sick or strike pay, payments from hospital savings schemes, private sickness schemes and accident insurance), which may or may not include an element for dependents.

A number of items of income are excluded from total and net individual income, either because they are shared receipts or costs which can not be readily assigned to an individual, or there is insufficient information to calculate an imputed income value for all individuals. Components of income excluded from total and net individual income are: the value of Housing Benefit and Council Tax Benefit, and property income from letting and sub-letting.

Components of income excluded from all three

income measures include the value of benefits in kind (eg company cars, fuel costs, health insurance, beneficial loans, payment of school fees, shares and share options, free meals, free and concessionary travel, and luncheon vouchers), Social Fund loans and repayments, student loans and repayments, and the value of free school meals and free school milk.

In terms of population coverage, the FRS only covers people living in private households. The results do not provide information on people living in residential institutions such as nursing homes, or on people living rough or in bed and breakfast accommodation.

Individual income definitions used in this report

The individual income analyses presented in this report provide estimates of three separate individual income measures:

- total income is equal to gross income,

defined as income from all sources received by an individual, plus tax credits

- net income includes tax credits, but deducts National Insurance contributions and income tax payments from gross income
- disposable income includes Housing Benefit, Council Tax Benefit and property income from letting and sub-letting (apportioned across a household's adults where appropriate), and deducts National Insurance contributions, income tax payments, childcare costs, travel to work costs, parental contributions to students living away from home, maintenance and child support payments (which are deducted from the income of the person making the payment), and housing costs (including Council Tax, all costs apportioned across household adults where appropriate).

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- 1 Greater London Authority, Women in London's Economy January 2006.
- 2 Dr Diane Perrons, Director of the Gender Institute at the London School of Economics, acted as an advisor to the project.
- 3 The case study organisations were selected on the basis of their relevance to the London economy (specifically in relation to London's priority sectors), advice gained from the scoping consultations and through emerging findings from the literature review.
- 4 We would like to take this opportunity to thank the ten case study organisations for taking part in the research. The organisations were as follows: HBOS plc (UK), Equal Opportunity for Women in the Workplace Agency (Australia), The Ontario Women's Directorate (Canada), Transport for London (UK), Roche (Switzerland), Ericsson (Sweden), Ernst and Young (US), Storebrand (Norway), Citigroup (US), and IBM (US).
- 5 This material is drawn from a longer report completed for the GLA by Karon Monaghan. Further information is on the GLA website.
- 6 Gender pay gap is calculated as the ratio of female wage over male wage minus one. This figure is multiplied by 100 to express it in percentage terms.
- 7 These are actually the lowest of any region in Great Britain, but other regions are not included within this table. For further details see GLA, DMAG update, Social Exclusion Update, 2006/13 June 2006.
- 8 Population over the age of 16, ONS mid-year estimates 2005.
- 9 The EFS – a joint ONS and DEFRA project – was created by merging the Family Expenditure Survey with the National Food Survey. It is available at the Data Archive: www.data-archive.ac.uk
- 10 In 2001, the FES merged with the National Food Survey to create the Expenditure and Food Survey (EFS).
- 11 See GLA Economics (2006), 'Women in London's Economy'.
- 12 Interestingly, Compton and Pollak (2004) also find that couple migration is not determined by their joint education profile but by the husband's education – even in the most recent data.

- 13 DMAG Demography update 2006/8 March 2006.
- 14 This data is from DCLG household data and is based on women from private households. This excludes a minority of women who may live in institutional buildings such as student residents, care homes, prisons etc.
- 15 The state retirement age for women is currently 60. From 2010 it will gradually be increased to reach 65, the same age as for men, by April 2020.
- 16 These are actually the lowest of any region in Great Britain, but other regions are not included within this table. For further details see GLA, DMAG update, Social Exclusion Update, 2006/13 June 2006.
- 17 Results are averaged from EFS over three years (2002-03 to 2004-05) to provide the best estimates. Data from ONS News Release 29 November 2005.
- 18 Department for Education and Schools, Statistics of schools 2004.
- 19 Cost of Living report, Prudential 2005. Based on a survey conducted by YouGov between 31 January and 3 February 2005, in which 2,231 adults aged 18+ were asked 39 questions based in part on the ONS household spending survey. The Prudential have assumed that consumption up to the age of 17 is supplied by parents, and have not taken inflation into account. Therefore, the total cost of living is based on average annual spend at today's prices, across the full age range, multiplied by the average life expectancy for males and females.
- 20 This is a standard EFS classification which is not explicitly shown in the Family Spending publication.
- 21 Those points 1/5, 2/5, 3/5 and 4/5 of the way through a frequency distribution are called the quintiles. For instance, the first quintile is the point with 1/5 of the data below it and 4/5 above it.
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- provisions in Northern Ireland: Sex Discrimination (Northern Ireland) Order 1976 and the Equal Pay (Northern Ireland) Act 1970.
- 52 Indeed, indirect discrimination is not dealt with in terms in the EPA at all. Protection against indirect discrimination arises implicitly through the EPA because of the impact of EC law.
- 53 Exceptions include the provisions addressing discriminatory practices, advertisements and instructions (ss 37-39 SDA 1975).
- 54 See, for example, s 65(1)(c) SDA 1975 and s 56(1)(c) Race Relations Act 1976. In rare individual cases in the County Court, injunctive relief may be granted. We are not aware of an injunction having been granted in an individual case.
- 55 Male or female; gay or straight; black or white etc – eg protection in relation to discrimination against black lesbians, as such, is not afforded.
- 56 The indirect discrimination provisions are an important exception to this but alone have not proved very effective, as are the reasonable adjustment duties, which are discussed further below.
- 57 Women who are like men, for example, are entitled to be afforded the same treatment, discouraging diversity and encouraging a flattening of characteristics not associated with a 'standard' (usually a white, non-disabled, heterosexual man).
- 58 See *Webb v Emo Air Cargo (UK) Ltd* Case C-32/93 [1994] ICR 770; [1994] IRLR 482; *Alabaster v Woolwich and A'or*, Case C-147/02 [2005] ICR 695; [2004] IRLR 486.
- 59 Section 3A SDA.
- 60 Established under the Equality Act 2006.
- 61 S 48 Race Relations Act 1976; s 57 SDA 1975 and s 3 Disability Rights Commission Act 1999.
- 62 See for example, *Re Prestige Group Plc* [1984] ICR 472; [1984] 1 WLR 335, see too discussion in *Coussey, M.*, 'The Effectiveness of Strategic Enforcement of the Race Relations Act 1976' in *Hepple, B. & Szyszczak, E.* (eds) 'Discrimination: The Limits of Law', 35-49.
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- 64 Section 71 Race Relations Act 1976.
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- 66 Except 'hybrid' bodies, that is those carrying out public functions but then only in respect of those public functions (which will exclude employment and many other important activities), section 76A(2), SDA.
- 67 Especially, section 15 of the Canadian Charter of Rights and Freedoms; Article 9 of the South African Constitution and South Africa's Promotion of Equality and Prevention of Unfair Discrimination Act 2000. See too the Canadian Human Rights Act 1977 and Canadian Employment Equity Act 1995 and South Africa's Employment Equity Act 1998.
- 68 In particular, at constitutional level but importantly too in statutory equality laws, particularly South Africa's Promotion of Equality and Prevention

- of Unfair Discrimination Act 2000.
- 69 See Moon and Allen, 'Dignity Discourse in Discrimination Law: A Better Route to Equality' (2006) EHRLR 610, 611-612, for a discussion on the same.
- 70 The N.S.W. Carers' Responsibilities Act.
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- 72 Article 141(4), EC Treaty and *Lommers v Minister Van Landbouw, Natuurbeheer En Visserij* Case C- 476/99 [2002] IRLR 430 and cases cited therein.
- 73 Sections 47 and 48 SDA. Similar provision is made in relation to trade unions (section 48(2) SDA). There are exceptions relating to the special provision made for women by political parties (section 33) and selection permitting women - only shortlists section 42A SDA (selection of candidates for political office) inserted by Sex Discrimination (Candidates) Act 2002.
- 74 *Lommers v Minister Van Landbouw, Natuurbeheer En Visserij* Case C- 476/99 [2002] IRLR 430. Council Recommendation 84/635/EEC recommends to Member States in particular that they 'adopt a positive action policy designed to eliminate existing inequalities affecting women in working life and to promote a better balance between the sexes in employment, comprising appropriate general and specific measures, within the framework of national policies and practices... in order: (a) to eliminate or counteract the prejudicial effects on women in employment or seeking employment which arise from existing attitudes, behaviour and structures based on the idea of a traditional division of roles in society between men and women; (b) to encourage the participation of women in various occupations in those sectors of working life where they are at present under-represented, particularly in the sectors of the future, and at higher levels of responsibility in order to achieve better use of all human resources'; to 'take, continue or promote positive action measures in the public and private sectors', among other things. Section 16. Section 5. As amended in 2003 to give effect to the EU Framework Directive 2003/78/EC. Article 4. Article 4. And the UK's EOC in their submissions to the DLR recommend that protection to carers is included in a Single Equality Act: 'Submission to the Discrimination Law Review, Green Paper' April 2006, EOC, para 39. Article 2(7) of the Amended Equal treatment Directive 76/207/EC (as amended by Council Directive 2002/73/EC) provides that less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of Directive 92/85/EEC is deemed to constitute discrimination within the meaning of the directive, without any requirement for comparative less favourable treatment. Cf section 3A of the SDA. There are limited

- exceptions now made in the context of maternity pay where the identification of a male comparator has obviously proved impossible: section 1(2)(d), EPA.
- 83 For a recent example see *Hoyland v ASDA* [2006] IRLR 468.
- 84 <http://www.docep.wa.gov.au/LR/WorkLife/Pay%20Equity/Pages/Pay%20Equity%20.html>
In February 2006, women's pay equity ratio compared to men's was: 84.4 per cent for full-time adult ordinary time earnings; 80.8 per cent for full-time adult total earnings; see Human Rights and Equal Opportunity Commission Submission to the Australian Fair Pay Commission (July 2006), available at http://www.hreoc.gov.au/pdf/200607submission_fairpay.pdf
- 85 'Pay Equity – 20 years of change and continuity', Gillian Whitehouse, School of Political Science & International Studies, University of Queensland. Available at: http://www.hreoc.gov.au/sex_discrimination/20thanniversary/women_work_equity/speeches/whitehouse.html
- 86 *ibid.* - internal references removed.
- 87 'Women's pay and conditions in an era of changing workplace regulations: Towards a "Women's Employment Status Key Indicators" (WESKI) database' (September 2006), prepared by Alison Preston, Therese Jefferson, Richard Seymour, WiSER - Women in Social & Economic Research, Curtin University of Technology, for The Human Rights and Equal Opportunity Commission, The Women's Electoral Lobby, The National Foundation for Australian Women.
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- 89 Employment Equity Act 1998. See also the Canadian Employment Equity Act 1995 for reporting and auditing obligations.
- 90 See, the Canadian Pay Equity Task Force, 'Pay Equity: A New Approach to a Fundamental Right' (2004), ISBN 0-662-34045-0, 108-9.
- 91 *ibid.* 141.
- 92 *ibid.* 155.
- 93 *ibid.* 86.
- 94 Manitoba. Pay Equity Act. S.M. 1985-86, c. 21, C.C.S.M., c. P13.
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- 96 Task Force Final Report, p 68.
- 97 See EIRO study Gender pay equity in Europe, available <http://www.eiro.eurofound.eu.int/2002/01/study/tn0201101s.html>.
- 98 *ibid.*
- 99 *ibid.*
- 100 The equal pay provisions in Manitoba and Ontario provide well-known examples of schemes which impose positive obligations (in the latter case including on private sector employers) to redress pay discrimination. See 'Equality: A New

- Framework, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation' Hepple, Coussey, Choudhury (2000), University of Cambridge Centre for Public Law and Judge Institute of Management Studies, 73.
- 101 O'Connell, C., 'Taking Equal Opportunities Seriously: The Extension of Positive Duties to Promote Equality', Equality and Diversity Forum and EOC.
- 102 *ibid.* 22-24. See also Fredman, S., and Spencer, S., 'Opinion' [2006] EHRLR 6, 597, 598.
- 103 Commission of the European Communities, Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities (COM(96)final).
- 104 Fredman, S., and Spencer, S., 'Opinion' [2006] EHRLR 6, 597.
- 105 Section 76A, SDA.
- 106 SDA 1975 (Public Authorities) (Statutory Duties) Order 2006 2006/2930.
- 107 Fredman, S., and Spencer, S., 'Opinion' [2006] EHRLR 6, 597, 599.
- 108 As has been seen with some regional government bodies, for example, the GLA. The experience in Northern Ireland as described above also demonstrates that political commitment is important.
- 109 Women and the Equality Unit, Advancing equality for men and women: government proposals to introduce a public sector duty to promote gender equality', para 30.
- 110 Fredman, S., and Spencer, S., 'Opinion' [2006] EHRLR 6, 597, 601.
- 111 Section 24(1).
- 112 Section 25.
- 113 Section 28.
- 114 With some exceptions being the National Defence Force, the National Intelligence Agency and the South African Secret Service.
- 115 Designated groups being black people, women and people with disabilities.
- 116 Sections 15 & 20.
- 117 Section 5. 'Designated groups' are defined to include women, aboriginal peoples, persons with disabilities and members of visible minorities, as referred to above.
- 118 As amended in 2003 to give effect to the EU Framework Directive 2003/78/EC.
- 119 Article 55.
- 120 '2004, Monitoring Report: Monitoring Report No.15, A Profile of the Northern Ireland Workforce, Summary of Monitoring Returns 2004' (2004), Equality Commission, 1. See also the Equality Commission's most recent annual report dated November 2006, 23-24, available at <http://www.equalityni.org/uploads/pdf/SeventhAnnualReport0506.pdf>. The report this year shows a closer correlation between the proportions of Protestants and Roman Catholics in the monitored workforce (57.7% and 42.3%) and their proportions among those available for work (57.3% and 42.7%), than ever before and that utilisation of Article 55 reports by the equality Commission and the implementation plans developed from them 'remains at the core of [their] work with employers to improve the composition of their workforces'.
- 121 Hepple, Coussey Choudhury 'Equality: A New Framework, Report of the Independent Review of the Enforcement of UK Anti Discrimination

- Legislation' (2000) Hart, 71. This might include Trades Unions.
- 122 Fredman, S., 'The Future of Equality in Britain', Working Paper Series No.5, Equal Opportunities Commission (2002) ISBN 1 842060384,32; Discrimination Law', (2002, OUP) 176 et seq.
- 123 'Discrimination Law', supra, 177.
- 124 'Equality: A New Framework, Report of the Independent Review of the Enforcement of UK Anti Discrimination Legislation', supra, 60, citing the response by Professor McCrudden to their consultation paper identifying the six key principles underpinning the Northern Ireland duties.
- 125 See, in the context of race, the findings in 'Ethnic Minorities in the Labour Market, Final Report, March 2003, Cabinet Office Statutory Unit'.
- 126 Fredman, S., 'Discrimination Law', supra, 183
- 127 *ibid.* 'Black people' means African, coloured or Indian people, section 1.
- 128 Sections 9 and 10.
- 129 Andrades, C., Recent Legislation: Women, Work and Unfinished Business - The Equal Opportunity for Women in the Workplace Act 1999 (2000) Australian Journal of Labour Law, Vol 13, 6-7.
- 130 2004/17/EC and 2004/18/EC.
- 131 See sections 63 and 66, Promotion of Equality and Prevention of Unfair Discrimination Act 2000.
- 132 Section 21, Promotion of Equality and Prevention of Unfair Discrimination Act 2000. And there are deterrent measures in place, including power to make 'recommendation to the appropriate authority, to suspend or revoke the licence of a person' (s.21(2)(g) and (l)).
- 133 *ibid.*
- 134 Though without depriving individuals of the right to bring cases in their own name, as is required by EU law. Providing a commission with exclusive rights to bring proceedings has not worked in other jurisdictions: the Canadian Human Rights Commission has exclusive responsibility for receiving, investigating and to a large extent processing discrimination complaints. Research demonstrates that these institutional arrangements have caused delay and conflicts and taken away control over litigation from individual complainants.
- 135 Hepple, Coussey Choudhury 'Equality: A New Framework', supra, 87 et seq.
- 136 The EOC recommend that consideration should be given to such an approach: 'Submission to the Discrimination Law Review Green Paper' (April 2006), EOC.
- 137 Submission to Discrimination Law Review Green Paper, Equal Opportunities Commission, April 2006.
- 138 See, for example, the preamble to the South African Constitution: 'We, the people of South Africa, Recognise the injustices of our past; Honour those who suffered for justice and freedom in our land; Respect those who have worked to build and develop our country; and Believe that South Africa belongs to all who live in it, united in our diversity. We therefore, through our freely elected representatives, adopt

- this Constitution as the supreme law of the republic so as to - Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights; Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law; Improve the quality of life of all citizens and free the potential of each person; and Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.'
- 139 For example, In Australia the Preamble to the Race Discrimination Act provides that: 'WHEREAS a Convention entitled the 'International Convention on the Elimination of all Forms of Racial Discrimination' (being the Convention a copy of the English text of which is set out in the Schedule) was opened for signature on 21 December 1965: AND WHEREAS the Convention entered into force on 2 January 1969: AND WHEREAS it is desirable, in pursuance of all relevant powers of the Parliament, including, but not limited to, its power to make laws with respect to external affairs, with respect to the people of any race for whom it is deemed necessary to make special laws and with respect to immigration, to make the provisions contained in this Act for the prohibition of racial discrimination and certain other forms of discrimination and, in particular, to make provision for giving effect to the Convention'.
- 140 Identifying the purpose of any equality legislation has been the subject of some consideration by the Canadian Human Rights Act Review Panel. They referred to Section 2 of the Canadian Human Rights Act (above) and noted the importance of this 'in the interpretation of the protection provided by the Act, its remedial focus and the concept of discrimination itself'. They concluded that 'a purpose provision in the Act is necessary' and recommended that the Act should in addition contain a preamble referring to various international agreements to which Canada was a party and identifying 'the broad aims of the Act, including the relevance of Canada's commitment to achieve equality' with a purpose section identifying more precisely the principles underlying the Act: 'Promoting Equality: A New Vision', published 23rd June 2000 and available from the Canadian Human Rights Act Review Panel (ISBN0-662-84622-2), 9-12.
- 141 Examples can be seen in Section 1 of the Health and Safety at Work Act 1974 and the Income and Corporation Taxes Act 1988, Section 488(1).
- 142 See for example Section 53 of the SDA 1975; Section 43 of the Race Relations Act 1976 and Section 2(1) of the Disability Rights Commission Act 1999.
- 143 See, for example, section 8, Equality Act 2006.
- 144 See, for example the concerns of the Better

- Regulation Commission that any law be 'transparent': http://www.brc.gov.uk/about_us/
- 145 A Fairer London, The Living Wage in London, Living Wage Unit, GLA Economics, May 2006.
- 146 Women in ITEC, International Comparative Research Phase One, November 2006, published by Intellect, the trade association for the UK hi-tech industry, available from www.intellect.org
- 147 EOC Press release 30 May 2006.
- 148 'What is the DLR?', www.womenandequalityunit.gov.uk/dlr/index.htm
- 149 Making work work, ACAS, 12 December 2006.
- 150 The gender pay gap, Professor Alan Manning, CentrePiece, Summer 2006, Centre for Economic Performance, London School of Economics.
- 151 Equal pay reviews survey 2005, Working Paper Series No.42, IFF Research for the Equal Opportunities Commission, 2006.
- 152 Back to basics - Acas' experience of equality and diversity in the workplace, Advisory, Conciliation and Arbitration Service (ACAS), November 2006.
- 153 Moving on up? Bangladeshi, Pakistani and Black Caribbean women and work. Early findings from the EOC's investigation in England, September 2006.
- 154 Equal pay reviews survey 2005, Working Paper Series No. 42, IFF Research for the Equal Opportunities Commission, 2006.
- 155 Eg The Daily Mail, 4 October 2006, 'Equal pay defeat for women who go on maternity leave'.
- 156 Equal Opportunities Commission Statement: EOC responds to Cadman equal pay ruling, October 2006.
- 157 Pregnancy discrimination at work: a Review, G. James, EOC Working Paper Series 14. 2004.
- 158 Moving on up? Bangladeshi, Pakistani and Black Caribbean women and work. Early findings from the EOC's investigation in England, September 2006.
- 159 The Female FTSE Report 2006, Identifying the New Generation of Women Directors, Dr Val Singh and Professor Susan Vinnicombe, International Centre for Women Business Leaders, Cranfield School of Management, 2006.
- 160 The definition is 'an employee who is or expects to be caring for an adult who: is married to, or the partner or civil partner of the employee; or is a near relative of the employee; or falls into neither category but lives at the same address as the employee.'
- 161 EOC Press Release 10 November 2006, Carers UK Press Release 9 November 2006.
- 162 Forthcoming report to be published by LDA.
- 163 Gender Equality Duty Draft Code of Practice England and Wales, Equal Opportunities Commission, November 2006.
- 164 A Fairer London, The Living Wage in London, Living Wage Unit, GLA Economics, May 2006.
- 165 See Regional Trends 37, Notes and Definitions, pp 34 at http://www.statistics.gov.uk/downloads/theme_compendia/Regional_trends_37/Regional_trends_37_Notes_and_Definitions.pdf.

