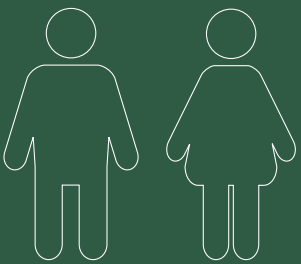


NEGOTIATING FOR EQUALITY - GENDER AND PAY

TOOLKIT



CONTENTS

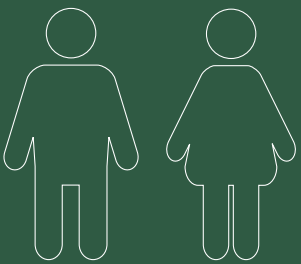
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Disclaimer

The purpose of the material in this toolkit for negotiators is to provide information of a general nature only. It is not intended to address specific circumstances of any particular individual, union or organisation. It is not exhaustive and should not be considered as legal advice.

The briefing notes on legislation provide information on key areas concerning workers' rights under the legislation covered. They do not cover all the provisions of the legislation and do not purport to be legal interpretations of the various Acts covered. They are subject to amendments to the legislation and the development of case law at national and European level. The relevant legislation should always be consulted to ascertain the precise legal provision. If you need specific advice and/or legal advice you should seek it from your union.



FOREWORD

FOREWORD

“The IWWU can now congratulate themselves on having broken through the man worker’s conception of the woman worker as half the value of himself.”

Irish Women Workers Union Annual Report 1950-1951

Thankfully the concept of equal pay for equal work has become more widely accepted than it was in the early fifties, as is illustrated in the various quotes from the Irish Women Workers Union Archives, which you will find throughout this report. However the pace of change has been uneven and a gender pay gap of just under 15% still remains in Ireland. This is surprising in that legislation has existed since 1975 to outlaw wage discrimination on the grounds of sex and there have been major changes in the role of women in society and a marked increase in the number of women in the workplace.

It has become increasingly clear that closure of the pay gap will only come about by both legislative and attitudinal changes.

Congress and our affiliated unions want to ensure that women are paid equally, and properly valued in the workforce. We further wish to influence labour market policies so that they recognise the needs of all workers to have conditions that take into account their multifaceted roles and responsibilities in wider society, not just in the workplace.

This publication seeks to explain the reasons for the gender pay gap and to put forward an agenda for action for its reduction and eventual elimination.



David Begg
General Secretary
Congress



INTRODUCTION TO GUIDE

INTRODUCTION

While there have always been women in the workforce in Ireland, they were largely in occupations such as laundering, cleaning and domestic work. From the early 20th Century they began to assert their independence, broke down the barriers to education and entered other areas of the workforce. Despite these changes, up to the 1970s women in occupations such as the civil service, banks, printing, and other trades and professions (including trade unions) had to give up work when they married. Some were allowed back after marriage but on less favourable and more tenuous terms. This was due to societal norms where men were seen as the main breadwinners.

Ireland's entry to the EEC (EU) triggered massive changes in equality legislation and the abolition of the marriage bar. Women are now to be found in almost all occupations and have achieved increased recognition for their work. However, despite these changes and the raft of equality legislation that now exists, a gap still stubbornly remains between average male and female wages.

What causes the GAP?

National and international research highlights a number of causes of unequal pay:

OCCUPATIONAL SEGREGATION

Women are concentrated in occupations such as services, health and teaching, which tend to be paid less than those jobs predominantly occupied by males, such as engineering and crafts. Even in those sectors that are predominantly female, the senior positions are often held by males.

REDUCED LABOUR MARKET ATTACHMENT

Usually women bear most of the family responsibilities and therefore tend to work in jobs that facilitate flexibility, or they have time out of the workplace, which can reduce their promotional prospects.

DISCRIMINATION IN RECRUITMENT, TRAINING, PENSIONS AND PAY SYSTEMS

While discrimination may not be immediately apparent it may be that the classification of jobs gives rise to inequalities in pay systems.

A UNION CONCERN

International research points to the fact that membership of a trade union can reduce the gender pay gap in a specific area by 1%. Figures from Britain show a staggering 22% difference between unionised and non-unionised women's pay.¹

Since the eighties, Congress has initiated a number of action plans on gender equality. The Fourth programme, '**Delivering Gender Equality**', which runs to 2004 includes the following undertakings:

- To eliminate the pay gap between women and men's rates of pay and to desegregate jobs within sectors and employments.
- To promote equal opportunities for women and men and to remove existing inequalities and barriers to equal opportunities in access to training, employment and promotion.
- To gender proof collective agreements, practices and policies

In line with these commitments the GAP project was initiated in 2002 and this toolkit is a major outcome of the project.

Other related Congress work

A previous Congress publication **European Case Law on Equality** has been updated.

A further publication is being prepared to assist in the preparation of cases to be taken under the 1998 Employment Equality Act on all grounds.

Taken in conjunction with the **Congress Family Friendly Toolkit**, these should form a suite of tools needed to ensure that the gender pay gap can be eliminated.

i Labour Research Department, London (2002)

Using this toolkit

While this toolkit is one complete publication, the individual sections can stand-alone and are cross-referenced.

Section

3. ***Gender Pay Gap - Current Findings***
This section gives details of the current pay gap and explanations of the main reasons for its existence.
4. ***The Law and Equality***
This section sets out the background to equality legislation and other related legislation and provides a brief guide to taking a case.
5. ***Equality Audit***
This details the steps that need to be taken and the information required to conduct an equality audit in the workplace.
6. ***Job Evaluation***
This provides a methodology to be used in conducting a job evaluation that is free of gender bias.
7. ***Gender Proofing/Gender Impact Assessment***
This explains the rationale behind and the necessity for gender proofing agreements and the process of conducting a gender impact assessment.
8. ***Recruitment & Selection***
This section gives a guide to employers for complying with equality legislation when conducting interviews.
9. ***Gender Pay Questionnaire***
Gives a sample gender pay questionnaire, which can be tailored to suit the needs of individual organisations.
10. ***Promote Yourself - Training for Women In the Workplace***
This sets out a three-day training session for women who wish to be promoted in their organisation. It aims to equip participants with skills and knowledge to set career goals for themselves.
11. ***Equality Briefing for Employers***
This is a one-day session designed for middle management. It gives them the chance to benchmark how they maximise the potential of the workforce and understand their responsibilities under Equality legislation.
12. ***Glossary/Bibliography***
Is a guide to relevant research and the publications used in this publication.
13. ***Resources***
This section gives summaries of cases taken to the ODEI- The Equality Tribunal dealing with gender grounds, and useful contact addresses for further information.

Acknowledgements

Congress gratefully acknowledges the support and assistance received from the National Development Plan, the Department of Justice, Equality & Law Reform and the support structure of the WRC. Congress also acknowledges a number of others who contributed in some way to its completion including:

A number of people were consulted on specific topics, however the views expressed in the manual are those of Congress and not necessarily of those consulted. Thanks to: Eugene Kearney, IDEAS; Helen Newman; Dr Jane Pillinger; Caroline Rougheen, TCD; The FÁS Gateway Project and the CPSU Sligo, Madeleine Reid & Ruairi Gogan, ODEI - The Equality Tribunal; Patrick O’Leary, The Equality Authority; Maria Hegarty, Equality Consultant; Clare Jones, IBEC; Jacki Conway.

Congress staff Joan Carmichael and Esther Lynch gave support, commentary and critiques, and technical assistance was provided by Jan Boud, Marian Flynn, Mary Twohig, Barbara Keogh and Frank Vaughan.

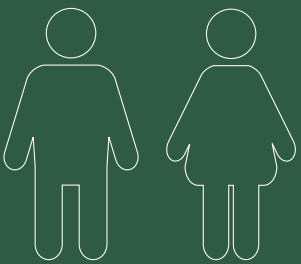
The GAP Steering Committee members were a major source of information and a number of sub committees worked on the different sections of the manual. The committee consists of:

Project Manager: Mags O’ Brien

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i Labour Research Department, London (2002)

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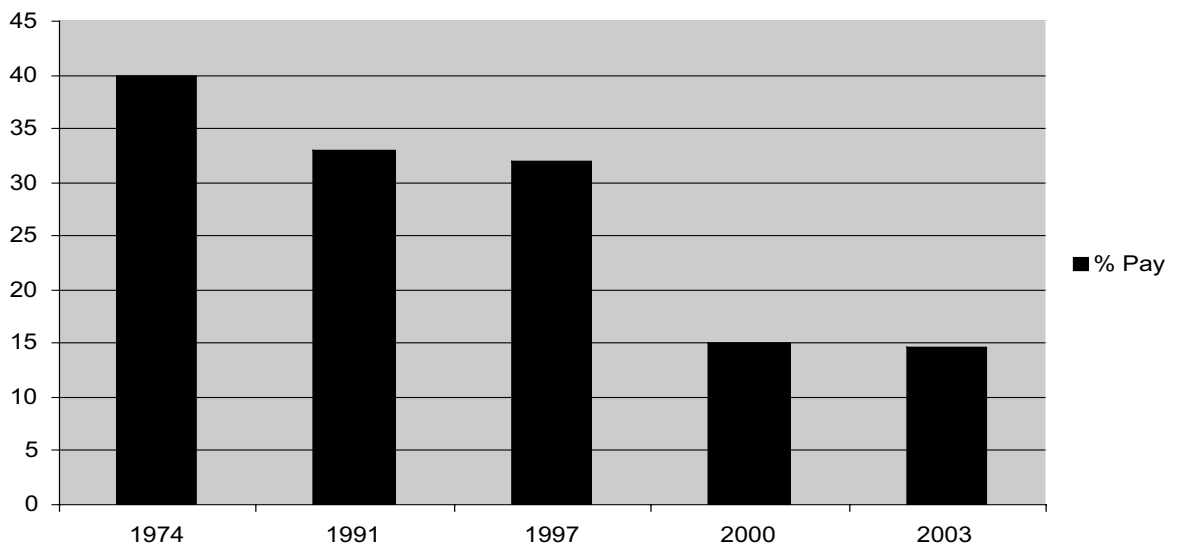
RESEARCH FINDINGS

GENDER & PAY – RESEARCH FINDINGS

IWWU Annual Report 1949-1950

The Labour Court has not given sufficient study to the position of women in industry, and has considered their wage standards from the point of view of the men's standard rather than from the value of women's work and the skill or efficiency required.

Gender Pay Gap



What is the GAP?

In 1974 the gender pay gap stood at 40%. By 1979 it dropped to 33%, then took 12 years to reduce by 1%, speeded up in the early 1990s, to fall by 16%, but then slowed again to fall by a mere .03% from 1997 to 2000. It currently stands at just under 15%.

It is no coincidence that the periods of sharp decline occur following legislative changes. However legislation alone will not shift the remaining percentile. This view is borne out by the ESRI, who note that 'Prior to the introduction of the (European) employment strategy in 1998 the male-female wage gap was already on the decline, and if anything the pace of this reduction has slowed since its introduction'.ⁱ

The gap is narrower in the public than in the private sector, partially due to the higher rate of unionisation in the public sector. This is mirrored in the EU, where women's wages in the private sector are approximately 10% less than the public sector.

ⁱ Russell & Gannon (2002:64). ESRI Impact Evaluation of the Employment Strategy in Ireland

<i>Male-female Wage Differentials in the Public and Private Sectors</i>							
	1994 Ratio	1997 Ratio	2000 Ratio	Mean Male	(euro) Female	Hourly Wage 2000	€ Equiv.
	%	%	%	£		£	
Private Sector	76.9	80.0	78.0	9.35	12.70	7.29	9.26
Public Sector	93.7	92.6	95.2	12.93	16.42	12.31	15.63

ESRI 2002

HOW IS THE GAP MEASURED?

The hourly pay gap is measured by looking at the average hourly rate for males and females. The figures above show a difference of £2.06 (e2.62) for 2000 in the private sector and 0.62p (0.79 cent) in the public sector.

The weekly pay gap is larger than the hourly pay gap firstly because on average women work a shorter working week but also men do more overtime which increases the differential between men's and women's pay.

A source of major concern is that the gap has actually widened in some areas. The ESRI Report to Enterprise Trade & Employment in March 2002 found that the pay gap actually worsened in the hotel/restaurant sector. Initially it had improved from 76% to 86% from 1994 to 1997, however it fell to 62% by 2000. This indicates that market forces and the supply of labour from abroad hit those at the lower end of the pay scale most, and as these are predominantly female, it adversely affects the gap.

The research also highlights the differences between single and married men and women:

- Single women earn 5% less than single men
- Married women earn 19% less than married men
- Single men earn 20% less than married men
- Single women earn 25% less than married men

While these figures may surprise many people there are underlying reasons that account for the differences, which are detailed in this overview.

WHAT CAUSES THE GAP?

Equal Pay legislation came into effect in Ireland in 1975. However, despite almost 30 years of legislation and the introduction of the National Minimum Wage, there is still a significant gap between women and men's pay. In Ireland women's average hourly earnings are just under 15% less than men's and in Britain (which has the worst record in Europe) women working full-time average 18% less than men.

Men are also more likely than women to have jobs that include a range of benefits, the most valuable of these being pensions. For example, while 53.7% of male workers have job related pension entitlements, only 38% of women employees have; and 16.2% of male employees receive health and medical insurance benefits, compared to only 7.2% of women. If this is taken into account the total gap widens to between 16.5% and 17.5%.

As the gap had stubbornly persisted Congress obtained a commitment in P2000 that the government would follow up on previous ESRI studies on the male/female wage differential. The Report that was produced, **How Unequal? Men and Women in the Irish Labour Market**, highlighted a number of issues that contribute to the gender pay gap both nationally and internationally.

The ESRI broke down the pay gap and maintained that approximately 10% of the average 15% gap can be 'explained' by differences in age, labour market experience and education. The remaining gap is felt to be the result of 'hidden' discrimination.

Of course measures must be put in place to address **all** the reasons for the gap, not just the 'hidden discrimination'.

There are three main factors that contribute to the gender pay gap:

- Occupational Segregation
- Reduced Labour Market Attachment
- Discrimination in recruitment, training and pay systems

OCCUPATIONAL SEGREGATION

Part of the pay gap occurs because women tend to be employed in low paid sectors with a high number of female employees.

In Ireland 67% of female employees were concentrated in just three occupations, services, clerical and professional/technical.

In 1997 women represented 38% of all workers but made up 80% of service workers. Between 1984 and 1997 the proportion of women clerical workers rose from 72% to 80%; the proportion of female shop assistants and bar staff rose from 56% to 64%; and the proportion of service workers rose from 54% to 63%.

Horizontal segregation by sector or occupation contributes to the gender pay gap because occupations are valued and paid differently. Caring skills and taking responsibility for people are less valued and lower paid than responsibility for machinery or work requiring physical strength. However research highlights that the wage gap **within** occupations is as large as between different categories. One of the key differences between men and women within occupations is the provision of pensions and other benefits. In the past men were more likely than women to benefit from pensions, medical insurance, free or subsidised leisure or sports facilities, and housing related benefits, including subsidised mortgages. Pension benefits are the most important of these both in terms of incidence and monetary value.

Vertical segregation is an additional cause of the pay gap. As well as women's over-representation in some sectors, there are less of them higher up the responsibility and pay ladder (the glass ceiling). For example, in professions such as teaching and nursing, women make up the vast majority of entrants but a greater proportion of men are represented at senior and managerial levels. Figures for the civil service show that only 9% of Secretaries General are women and in the Private Sector, the IBEC Women in Management Study found that only 3% of CEOs were female.

A consultative group, set up under the PPF commissioned a number of sectoral surveys, conducted by Indecon. These were useful in highlighting the position on the ground in Ireland. While the findings showed differences between sectors, there was an overall pay gap and stark differences in the % of women in management positions.

		<i>Retail</i>	<i>IT</i>	<i>Food</i>	<i>Local Govt.</i>
% In management positions	Females	13	14	11	2
	Males	30	20	15	9

Indecon 2002

REDUCED LABOUR MARKET ATTACHMENT

The fact that women tend to have breaks in their working lives has a major effect on average wages. Gaps in service also lead to pay penalties in the future in relation to promotion, overtime, long service awards or other pay bonuses.

Women are increasingly challenging the roles assigned to them but it is still widely the case that they bear the main share of responsibility for caring in the family. One of the major influences on whether women work outside the home or not is the arrival of children. Taking a break to raise a family, working part-time, having to work around school holidays and half terms, all interrupt women's employment and lower their wages over a lifetime.

The ESRI have identified that for a "typical" man the arrival of children has little impact on his career, but a woman with identical qualifications and experience would typically, under current circumstances, end up with nine years less experience by the age of 47. As they calculate that all other things being equal each year of experience adds 1% to wages, then the cost implications are obvious. If women are to continue to work then it is imperative that a substantial improvement is made in childcare provision. The provision of good quality, affordable childcare services would reduce the need for women having to take time out of employment and allow mothers who wish to continue working to compete in the labour market on equal terms with their colleagues.

In **Getting out of the House**, the ESRI outline the fact that when women return to employment from a period of full time childcare they often can only obtain a job at lower grade than they left the workforce, either because of an erosion of skills or because they are unable to commit to long hours that sometimes go with senior jobs, due to an absence of after-school care. This leads to reduced earnings and fewer opportunities for promotion. These findings were echoed in Congress research on childcare, **Identifying Childcare Needs**.

Part-time work

Another key feature of the gender pay-gap is the role of part-time work. While it is clear that the introduction of family friendly working arrangements within workplaces can be an effective in allowing women to remain within the workplace, the effect of introducing greater work flexibility still is a concern if these options continue to be taken predominately by women. Women represent 73% of part-time workers in the Republic, which equates to 32-33% of all women wage earners.

In the past, as well as having lower hourly pay, female part-timers also had reduced entitlement to a range of benefits such as unsocial hours premiums and occupational pension contributions. Part-time workers are also marginalised in work and have fewer prospects for career advancement and limited access to training. A study of Irish Health Boards found that when women availed of job sharing or career breaks this was interpreted as them having less commitment and therefore potentially damaged their promotional prospects.

The recent introduction of legislation providing for the removal of discrimination against part-time employees has given unions the opportunity to begin to address some of these inequalities. Under the provisions of the Part Time Workers Act (2002) it is unlawful to treat part-time employees less favourably than a comparable full time employee in respect of his/her conditions of employment, including remuneration (subject to certain exceptions). The provisions on a comparable employee covers an employee either of the opposite sex to the part time employee concerned or of the same sex as him or her.

Women report that when they work part time they are more likely to be expected to perform the lion's share of household tasks. If flexible work options are to reduce the gap they need to be accompanied by changes in occupational culture so that employment commitment is not equated with long hours and by changes in attitudes so that options to combine employment and family life are taken up by both men and women.

DISCRIMINATION IN PAY SYSTEMS

Part of the gap is caused by discrimination in pay systems, with many women being underpaid in comparison with male colleagues doing the same job. This is sometimes called the 'female forfeit'. A recent study highlighted differences in the pay of men and women in the legal profession.

Research carried out by the Equal Opportunities Commission for Northern Ireland found that in the absence of discrimination, women's pay would rise by 14.2%. The study concluded that if men and women with the same qualifications, working the same number of hours, with the same potential work experience and in the same industry and occupational class received the same payment, then for all employees, average male earnings would exceed women's earnings by 7% rather than the 23% observed.

It is clear that blatant discrimination involved in separate wage rates for men and women doing the same job is becoming rarer and more sophisticated approaches are now needed to close the gap. Current legislation provides for equal pay for work of equal value, which covers workers employed by the same or an associated employer, who use the same level of skill, mental or physical effort, and responsibility in their jobs and work in the same conditions.

In practice it has proved difficult to ensure equal pay because of the segregation of men and women into different occupations in the workforce and the problems of quantifying the value of work. There have also been problems in overturning long standing gender biases in skill definitions. Pay systems do not always include a range of job features and demands that capture the content of both predominately male and predominately female jobs so that both can be evaluated using a fair standard. Some of the hidden discriminations are due to an undervaluing of traditionally female skills such as manual dexterity, human relations skills and caring.

Some managers still have outdated views on women's reasons for working and the perception of the male as breadwinner still persists.

Other aspects of pay determination operated by employers such as grading structures, performance-related pay or appraisal systems, incremental pay scales and competency pay contribute to the gender pay gap. For example a lack of openness and transparency about criteria for merit/performance payments means that the potential for discrepancies to creep into these systems is considerable. When women are assessed for performance-related pay, they tend to receive lower ratings on average than men/and or a lower proportion of the highest category of rating. Performance related pay figures from a number of employers in the finance sector showed that men were receiving a larger share of higher percentage pay increases than women. This under-valuing of the work women do, and the discriminatory pay practices that arise from it, has a major impact on the gender pay gap given the concentration of women into certain jobs.

Promotion

Patterns of promotion have a direct impact on vertical segregation in the labour market and on wage differences. There are a number of identified barriers within organisational cultures that prevent women obtaining promotion, these include the historical shadow cast by past discriminations, for example by, the marriage bar, which has left an absence of women in senior positions, meaning a lack of visible role models. Other continuing barriers include the lack of communication about promotional opportunities, remaining stereotypical attitudes about women's abilities and career aspirations, reduced access to training and exclusion from informal male networks. A number of recent studies, including **Off the Treadmill**, by Dr Eileen Drew TCD, have found that women do not apply for promotion as they may be required to give up flexible working options such as job or work sharing if they are promoted. In addition the continuing trend towards "presenteeism" (the long hours culture) has been identified as a barrier. In the IPA's **Gender Equality in the Civil Service** The study concluded that women are less likely than men to be placed in high profile, core activities within the service. This low visibility means that they are less likely to be targeted for accelerated career progression.

WHAT DOES THE LOSS IN PAY MEAN OVER A LIFETIME?

British research carried out by the Women and Equality Unit in 2000 estimated that that, a woman with low skills earned £197,000 less than her male counterpart over her lifetime. If she had children her additional loss of earnings was £285,000. A graduate female without children earned £143,000 less than her male counterpart and if she had children forfeited an extra £19,000. While the Irish pay gap is slightly lower, there is no reason to believe that the 'female forfeit' does not affect Irish women in the same way.

PENSIONS

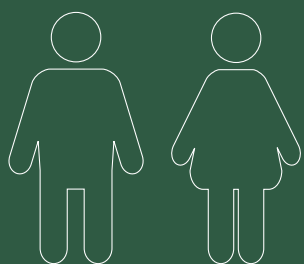
The 'female forfeit' has implications for older women as well, because if they are lucky enough to have a pension, it is calculated on salary. Therefore if women earn less than men they will also receive a smaller pension on retirement.

CONCLUSIONS

This section provides an overview of the key components of the gender pay gap in order that the necessity for adopting a multifaceted approach to eliminating the gap is understood. What cannot be measured is the loss of human potential caused by the undervaluing of women and their worth. Employers should, even for business reasons, if not for equity, ensure that women feel that they receive equal treatment in their workplace. If an organisation gains a reputation for fairness they will be more likely to hold on to staff, who in turn will be more highly motivated.

The Indecon sectoral survey under the PPF made similar recommendations to the Kingsmill Report in Britain, namely: That each sector conduct equality reviews and prepare action plans, it also recommended programs in work for women to encourage them to seek senior management positions and greater promotion of family friendly and flexible working arrangements.

For a more in depth analysis and statistical evidence please refer to the bibliography.



EQUALITY (GENDER)

THE LAW AND EQUALITY (GENDER)

This section looks at equality legislation, gives an outline for taking cases and explains some of the terminology used in equality legislation. A number of relevant ODEI - The Equality Tribunal Decisions are filed in the resource section.

We accept in full the principle of equal pay for work of equal value ...
But at this stage of industrial development in the Republic of Ireland it would be very difficult to implement this principle in industry for the following reasons

1. The wage structure in most industries is based fundamentally on the theory of the family wage. The evaluation of the job is not made purely on its value. The evaluation is influenced by the consideration of the family factor and the consequent need of a man with dependents to a higher wage rate than the average woman.
2. Whatever may be the real value of the woman's job her wage standard is kept at a low level solely on the grounds of sex...

Extract from Irish Women Workers Union Annual Report 1949-50

Background

While younger people might be forgiven for thinking that equal pay for equal work has always been a fundamental right, the IWWU Report quoted above illustrates that the concept was not even fully accepted in the mid twentieth century.

In theory, if not in practice, the principle of equal pay for equal work is now agreed and it is illegal for an employer to discriminate against a woman just because she is a woman.

Ireland's entry to the EEC (now EU) in 1971 was one of the most significant milestones on the road to equal pay between men and women. Following this the Irish government were forced to introduce the Anti-Discrimination (Pay) Act 1974.

The following is a brief overview of the historical context of equality legislation and a summary of the 1998 Equality Act which is the most significant for those intending to take a case. The Equality Bill 2004 is before the Oireachtas at the moment (March 2004) and details of its proposed amendments are also included. If passed, this will further strengthen equality legislation.

Historical Context

Anti-Discrimination (Pay) Act 1974

This Act ensured that women and men who worked side by side for the same employer, doing 'like work' were entitled to equal pay. (It also applied to an associated employer if the same terms and conditions applied to males and females).

Like Work

A man and woman were considered to be employed on like work where:

- Both performed the same work under the same or similar conditions;
- were interchangeable with one another in relation to the work
- the work performed was of a similar nature, with any differences being infrequent or of small importance in relation to the work as a whole
- Where the work was equal in value in terms of the demands it made in relation to such matters as skill, physical or mental effort, responsibility, and working conditions.

Employment Equality Act 1977

This Act progressed the equality agenda by adding the prohibition of discrimination on grounds of sex or marital status in:

- recruitment
- training
- conditions of employment
- opportunities for promotion

A marked decrease in the gender pay gap followed the enactment of these two pieces of legislation. However the test of time showed that, while they succeeded in addressing the more blatant and obvious examples of inequality, the less visible inequality lived on. These Acts were superceded by the Employment Equality Act 1998.

Congress and the ETUC have continued to work at national and European level to progress the equality agenda and have been instrumental in broadening the concept of equality. The 1998 Act saw a further progression of the legislation dealing with equality and the 2004 Bill is before the Oireachtas at present, which should push the equality agenda further.

Employment Equality Act 1998

This Act widened the areas where direct and indirect discrimination is prohibited in relation to employment to include nine grounds, as follows:

- Gender
- Marital Status
- Family Status
- Age
- Disability
- Sexual Orientation
- Religious belief
- Race
- Membership of the Traveller Community

It covers discrimination against employees or prospective employees in relation to:

- Access to employment
- Conditions of employment
- Pay for like work
- Training/experience
- Promotion/re-grading
- Classification of posts

The Act also prohibits harassment and sexual harassment of employees.

The Equality Bill 2004 is currently before the Houses of the Oireachtas. A number of its provisions, if passed into law will build on the 1998 Act, as follows:

- Harassment to be extended to cover 'imputed characteristics'. For instance if a person was being discriminated against on the grounds of sexual orientation because they were perceived to be gay, if they were not gay they were unable to take a case under the 1998 Act. The proposed amendments would now allow a case to be taken under 'imputed characteristics'.
- It will introduce the concept of discrimination by association. This means that if someone who works with a person covered by the nine grounds is discriminated against because of their association with that person, they would be able to claim under the proposed Act in their own right.

-
- A further proposed amendment would remove some of the requirements to produce extensive statistical evidence if taking a claim of indirect discrimination. It should be sufficient for the claimant to produce statistics regarding their own area rather than the wider workforce.
 - It also proposes that, If presented with a claim on multiple grounds, the equality officer may now hear it as one claim.
 - The Bill also proposes that, in the case of discrimination on pregnancy or maternity leave grounds that a comparator can be male or female.

N.B. As these proposals have not been passed into law no case law exists as yet. As with previous equality legislation they will be subject to interpretation by equality officers and the courts.

A number of other pieces of legislation give protection against discrimination against women in the workforce:

Maternity Protection Act 1994

This impacts on equal pay in that it ensures that time off for maternity leave is reckonable for annual leave, for seniority and incremental purposes.

Adoptive Leave Act 1995

Again adoptive leave is reckonable for annual leave, seniority and incremental purposes.

Parental Leave Act 1998

Periods of parental leave are counted as reckonable service and the worker retains all of their employment rights, including annual leave, increments, etc., except the right to remuneration.

National Minimum Wage Act 2000

The National Minimum Wage Act 2000 came into force on 1 April 2000 and was updated on 1st February 2004 to 7.00 euro per hour. While the Act was not directly aimed at closing the gender pay gap, as more women tend to be in lower paid and part-time employment, it has had the effect of narrowing the gap, however the ESRI maintain that it is difficult to quantify how many people benefited from its introduction because it was at a time of economic growth and therefore market forces meant that wages were increasing.ⁱ

i ESRI Quarterly Economic Commentary Winter 2003

questions of both sides for clarification purposes. The claimant is of course, free to respond to any points put on the day. The Equality Officer will issue a written decision, which gives a background to the case, and the decisions reached. Either side can appeal to the Labour Court if they are unhappy with the decision reached, however an appeal must contest specific findings of the equality officer, not just re run the case.

WHAT COMPENSATION/AWARDS ARE GRANTED?

The Equality Tribunal may grant one or a combination of the following:

- An order for arrears of up to three years before the date of the complaint
- An order for equal pay to be paid from the date of the complaint
- An order for equal treatment
- An order for compensation for discrimination/victimisation which occurred upto six years from the date of the complaint¹
- An order that a specific course of action should be taken²

ISSUES TO BE AWARE OF WHEN PREPARING A CASE

Beneficial Treatment

A case cannot be taken against an employer who gives women beneficial treatment arising from pregnancy, maternity, breastfeeding or adoption.

Collective Agreements

Any clause in an agreement between unions and employers that discriminates against a particular group of workers is null and void under the 1998 Act.

Comparator

In order to process a claim for equal pay, you must have a comparator who receives greater pay benefits, or terms and conditions. This is a person, in the case of gender claims, of the opposite sex working for the same or associated employer. They must perform the same, or 'like work' to the claimant. In the case of an inspection by an equality officer they will observe and question both the claimant and the comparator regarding the tasks they perform.

The 2004 Bill also proposes that, in the case of discrimination on the pregnancy or maternity grounds that a comparator can be male or female.

1 The Finance Bill 2004 proposes the exemption of orders for compensation from tax (arrears of pay are taxable)

2 A specific course may be such remedies as: to move an alleged harasser or to ensure that a policy on sexual harassment is drawn up and circulated

The Protection of Employees (Part Time Workers) Act 2001

This Act is also significant in that it states that a comparable employee may be:

- a) Working for the same or an associated employer
- b) Specified in a collective agreement (if (a) does not apply)
- c) In the same industry or sector (where (a) or (b) do not apply)

These Acts significantly affect how employers and unions should look at cases of equal pay and give wider scope than heretofore for claims to be made. However as there is little case law on these so far, the long-term effects are unclear.

WHAT BODY DEALS WITH COMPLAINTS?

Most claims are taken to the Office of the Director of Equality Investigations (ODEI) - The Equality Tribunal - who will appoint an equality officer to deal with the case.

In the case of claims for discrimination, equal pay or victimisation, cases are usually referred to the The Equality Tribunal. If a person is dismissed on the grounds of gender they can either go to the The Equality Tribunal or appeal directly to the Circuit Court.

TAKING A CASE TO THE OFFICE OF THE DIRECTOR OF EQUALITY INVESTIGATIONS (The Equality Tribunal)

(See also the new Congress Guide to taking cases under the 1998 Employment Equality Act, which gives fuller details of taking cases on all nine grounds.)

The following is a brief summary of to how a gender case should be progressed under the 1998 Act. This checklist deals with discrimination only and not with harassment, victimisation etc.

WHAT TO DO WHEN NOTIFIED OF A POSSIBLE CASE

When a union member contacts a shop steward or an official and registers a complaint of discrimination, then a number of questions must be asked, the most obvious being, does a case exist under the Employment Equality Act 1998?

Don't forget, the claim must be on one or more of the nine grounds:

<i>Gender</i>	<i>Marital Status</i>
<i>Family Status</i>	<i>Age</i>
<i>Disability</i>	<i>Sexual Orientation</i>
<i>Religious belief</i>	<i>Race</i>
<i>Membership of the Traveller Community</i>	

On the gender ground, for instance they must have a person of the opposite sex who, they feel is being treated more favourably than they are.

As a primary step to taking the case the employee should be asked to write his or her own account of the alleged discrimination. This will help in identifying if there is a possible claim and under what grounds.

Negotiating

Before entering a claim to the Tribunal you should write to the employer detailing the claim and requesting that they rectify the situation. If they meet with you detail any negotiations. If they maintain that there is no claim then inform them that you will have to refer the case to the Tribunal. Keep copies of any relevant documentation.

Beware though of entering into lengthy negotiations as you have a time limit on lodging a claim. If you feel that the negotiations may not be successful lodge the claim anyway as it can be withdrawn if you reach a successful conclusion. Once you lodge it you stop the clock on conforming with the time frames.

Time Limits:

Any claim must be referred within 6 months of its occurrence. (In the case of sexual harassment/victimisation if there is more than one occurrence it must be within 6 months of the latest incident.) In exceptional circumstances this may be extended to a year but this is not often granted.

Have you conformed to the requirements for submitting a claim?

The case must be under the relevant grounds, in this case obviously gender is the relevant ground, however marital/family status may also apply if a woman is being discriminated against, for instance in **Elizabeth Barry v BOM Aishling Project, Virgin Mary Schools**, Ms Barry was asked how would she cope with looking after a family and working outside the home.

Multiple grounds

At present cases may be on more than one ground, in **Burke v The Ashford Clinic**, the case was taken on the grounds of Gender, Family Status, Age, Race and Victimisation. (However the **2004 Bill** proposes that if there is multiple grounds the Equality Officer may hear it as one case, which should reduce the time taken hearing cases) It would still be important to list all the grounds as the case may fall on one but succeed on another.

The case must be either direct or indirect discrimination in relation to the following:

Job advertising; Recruitment; Terms and conditions of work (including pay); Promotion; Training; Dismissal

More than one claimant

As the Act does not deal with group cases, if taking a claim then you should either ensure that there is a claim form for every individual or that all claimants within a group are **separately** listed. If a name is omitted then they are not covered by the claim.

Application Form:

The appropriate application form (obtained from ODEI The Equality Tribunal) is completed.

Information:

Documentation must be collected to back up the claim e.g. lists of pay rates etc. If information is requested from the employer but not subsequently supplied then the ODEI - The Equality Tribunal may draw inferences from the failure to provide the information.

Check other cases

You should check previous similar cases to see what conclusions were reached and to quote them as examples if favourable.

PREPARE YOUR FILE

You should also have a file prepared, in chronological order with the following:

- Initial statement of complainant
- Copy of application form
- Any correspondence with employer seeking information/redress
- Any other correspondence regarding the case
- Your own notes
- Copies of any other information you wish to present to the ODEI (for example comparative rates from similar employments)
- Notes on similar cases

N.B. This summary is by no means definitive but can be useful as a checklist.

When the ODEI - The Equality Tribunal receives the complaint form they will assign it to an Equality Officer and confirm receipt. It is important to keep this acknowledgement, as it is proof that you have conformed to the time limits for submitting a claim.

WORK INSPECTIONS

In the case of equal pay claims the ODEI - The Equality Tribunal may decide, before hearing the full case, to carry out a work inspection to assess the work being disputed. Both the claimant and the employer are entitled to be present when a work inspection takes place. The officer may question the claimant and the comparator to clarify the tasks they perform and their frequency. It is advisable therefore to speak to both beforehand to let them know, as they may feel they are on trial if the reason for the inspection is not clear to them.

MEDIATION

New mediation guidelines state that the Director of The Equality Tribunal, when responding will indicate that if there are no objections the case will be sent to mediation in the first instance. Currently mediation cases are being concluded in about seven months whereas a full hearing is taking about eighteen months from application to the issue of a decision. If one party agrees to mediation, it will not be disclosed unless the other party also agrees to mediate.

Mediation is in private, with the Mediator acting as an independent facilitator. Either party may withdraw at any time by notifying the Mediator in writing.

If an agreement is reached the Mediator will write up the settlement for signature by both parties. (The contents of mediated settlements are not published.) Once signed, this agreement is legally binding on both parties and may be enforced through the Circuit Court.

If, during mediation, one party withdraws or the Mediator feels that the case cannot be resolved, it can be withdrawn. The complainant may then re-lodge the complaint by writing to the Director, within 28 days of the issue of the mediator's notice, a copy of which should be enclosed.

Some officials are wary of mediation as they feel that employers will use items disclosed against them if the mediation breaks down, however it can be argued that these facts would surface at a full hearing and that the claimants also gain information. Others feel that they are not prepared to settle for less than the full claim for their members, however it appears that some equal pay cases settled have resulted in maximum awards if the case is strong enough.

At the end of the day whether to mediate or not is a strategic decision that is best taken by the official taking the case. If there is a high degree of trust between union and employer then mediation may be the quicker route. The official should take into account the member's disposition, the employers willingness and the strength or otherwise of the case. Sometimes if an official feels that a member has a genuine grievance but a case may be lost at a full hearing, for instance if they are unsure if it is really 'like work' then mediation may result in an award and fairness rather than justice may prevail.

THE HEARING

If you proceed to a full hearing or opt not to mediate, the Equality Officer will set up a meeting and both the claimant and employer are asked to make submissions. While this is quasi judicial it is not as formal as an ordinary court of law. When the submissions are heard both the claimant, (represented by their union) and the employer, (who may be represented by IBEC) or A.N. Other can query with the officer aspects of the other side's submission. The Officer may also ask further

Discrimination

Direct discrimination occurs when a woman is treated less favourably than a man is, has been or would be treated, solely because of gender. (It also applies if a man is treated less favourably than a woman)

Indirect discrimination can occur when the application of an apparently neutral requirement for a position disadvantages a higher proportion of one gender compared with another (however, refer also to note on objective justification). An example of indirect discrimination is illustrated in **Ms Josephine Riney V Donegal VEC**, where the Equality Officer found that the use of length of service as a 'tie breaker' favoured male candidates who generally had longer service than female candidates.

Equality Clause

The **1998 Act** further provides that a contract is taken to include an equality clause, whether it is stated or not. An equality clause is a provision which relates to terms of a person's contract which states that if they are employed in circumstances where the work done by them is not materially different from that being done by a person of the other sex in the same employment then both must be treated equally.

Harassment (See also sexual harassment)

Harassment is defined as any act or conduct that is unwelcome to you and could reasonably be regarded, taking into account your relevant characteristic (i.e., your race, gender etc.), as offensive or humiliating or intimidating to you.

Any act or conduct includes spoken words, gestures or the production and display of written words, pictures and other material. This includes offensive gestures or facial expressions, unwelcome and offensive calendars, screen-savers, e-mails and any other offensive material.

If an employee is harassed by a client or customer of the employer the employee can still take a complaint against the employer.

Like Work

'Like work' is shown by comparing the work of the claimant with another person (comparator) working for the same, or an associated, employer, either at the same time as the claimant, or during the previous or following three years. The comparator does not have to be employed in the same place as the claimant.

The work must be the same, or more or less the same, with any difference being minor and infrequent or, of equal value.

This does not mean that one employer can be compared with another. For example if a supermarket pays 10 euro per hour, a case cannot be taken by an employee of another supermarket who only earns 9 euro per hour under like work, unless the same person or company owns/has an interest in the first supermarket.

Objective Justification

Obviously certain occupations require a level of expertise and therefore it is justified, for instance to advertise for specific qualifications. For example, in **Conlon V University of Limerick**, the university was found to be correct in using criteria such as the possession of a higher law degree, experience at senior level and having published research in a specific field of law as being appropriate for the position that was advertised.

Pay/Remuneration

A claim may not be only on the basis of basic pay being different between the claimant and the comparator, it is the total package that the employee receives. This may include items such as bonus, commission, access to overtime, health insurance entitlements, even the provision of uniforms.

Prima Facie Case

When a case is taken the onus is on the claimant to prove that they have been discriminated against. If, for instance, they can bring documentary evidence that an unfair selection procedure was used, then they have a prima facie case and the burden of proof shifts to the employer to prove that they did not discriminate. For example in the case of **Williamson v County Monaghan VEC**, the claimant was able to prove, on balance that they were better qualified than two of the successful male applicants, thus establishing a prima facie case. However, after questioning the interview panel the equality officer found their evidence credible and therefore did not uphold the claimant's case.

Sexual Harassment

The gender ground includes sexual harassment. This is unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of men and women at work. It may, for example include physical intimacy or may be words or gestures that are unwelcome and offensive, humiliating or intimidating. For example in **A Complainant v A Health Board** the equality officer found that there was sexual harassment and ordered that the alleged harasser be moved and the respondent should review its policy on dealing with complaints of sexual harassment.

If an employee is sexually harassed by a client or customer of the employer the employee can still take a complaint against the employer.

Vicarious Liability

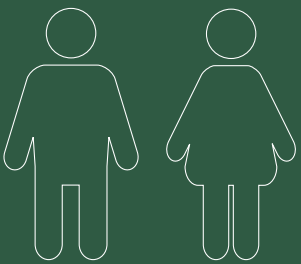
If an employee discriminates against another employee, the employer may be held responsible for their actions (whether the employer knows of the discrimination or not) if carried out in the course of their employment. The complaint is taken against the employer rather than the individual employee. For instance in **An Employee v An Employer (DEC-E2003-027)** it was found that the complainant was harassed by her supervisor and the employer was vicariously liable for his actions. An employer may be able to guard against vicarious liability by ensuring that they take reasonable steps to prevent discrimination, for instance by having a policy in place to deal with harassment and ensuring that staff are aware of the policy.

Victimisation

has a specific meaning under the Act. It occurs where an employee claims that they were unfairly treated, then the fact that they made a complaint was used against them in the future. For instance in *Bleach v Our Lady Immaculate Senior School and the Dept of Education and Science* the claimant maintained that she was victimised because she had complained in previous promotion competitions and her case was upheld. (The Equality Bill 2004 proposes to include victimisation by association; i.e. that a person can take a case themselves if they are victimised because of their association (e.g. acted as comparator/ provided support/ went as a witness) with someone discriminated against on any of the nine grounds who takes a case under the Act).

Work of Equal Value

Equal value is when the job is equal in terms of skills, responsibilities, and mental and physical effort. Equal value claims often require a job evaluation. For example, in **Kenna, Lynch, McLoughlin and Slevin v Central Bank of Ireland**, the equality officer found that, while the mental effort and responsibility of the complainants (Senior Operators) and the comparators (Printers) were similar, the skill and physical effort required by the comparators was greater and working conditions were not comparable and therefore the work was not of equal value.



EQUALITY AUDIT

EQUALITY AUDIT

WHY UNDERTAKE A PAY REVIEW?

This section deals with equality in the workplace, which is a wider subject than just equal pay, covering all the aspects of pay and reward that make up a total package for employees.

Often people feel that their pay and reward structure is unfair, but they have no way of judging if feelings are justified. A review is the only transparent way to test the validity of the system. Further, the 1998 Employment Equality Act gives power to the Equality Authority to invite an employer to carry out an equality audit in employments where over 50 people are employed. Obviously this gives unions leverage when requesting an audit in a company. A number of audits are underway at present.

Management may, in turn, feel that they operate a fair structure but as systems in companies have evolved over time, the reason for the original differentials in wages may have long gone. For instance in the past people in factories often had to perform heavy physical tasks, but new technology fundamentally changed their roles, while pay systems remained the same. This also applies, for example, in the clerical area, where people formerly performed very basic functions such as work in the typing pool or as punch card operators. With the advent of personal computers their work often became more interesting and varied, but also more demanding than the older, simpler systems.

Historically work was often classified as 'men's work' or 'women's work', also some pay systems have been in place for years or may have been copied from other organisations, so a review of the system makes sense for all staff. Reviews should be seen as a fair and positive way of ensuring that all staff are paid based the value of the functions they perform, and should be a way of ensuring that any traditional prejudices or assumptions are eliminated in the workplace.

Ideally an audit/evaluation should take place when there are wider changes afoot in an organization. If it is undertaken as a stand-alone option then care should be taken to ensure that it is not hijacked as a way of devaluing current jobs.

BUSINESS CASE FOR EQUAL PAY

A tightening labour market has led employers to complain about an inability to recruit and retain good staff. Organisations that are seen to be champions of fair play and equal pay will obviously have less difficulty in attracting high calibre staff into their workforce.

Women employed in companies who do not feel fairly treated will rapidly become de-motivated and either under perform, or seek opportunities elsewhere. This leads to increased recruitment and training costs and a decrease in the 'value added' that comes from having staff who have organizational knowledge and the capacity to train new staff and to retain staff morale.

An audit and job evaluation study also provides the opportunity for employers to ensure that the present jobs, tasks and responsibilities match the current requirements of the organisation.

An audit will assist in building employee confidence and trust in the pay grading system.

DOES THE ORGANISATION HAVE AN EQUALITY ACTION PLAN?

Obviously the first step in looking for a pay review is to quantify the current situation. A small number of employers have already engaged in audits but in the main this has been confined to the State Sector. Some companies have begun to undertake audits with approved Equality Authority auditors, however this work is at an early stage. The government has, under the Strategic Management Initiative, initiated an equality policy in the civil service in 2001. This is an example of work being done under Equality Action Plans.

Civil Service Equality Policy

The Public Sector has already begun to look at equality goals and the Civil Service Equality Policy requires individual Government Departments to set strategic objectives and equality goals for increasing women's representation at all levels, but in particular at the higher management grades where women are under-represented. This is being done in Departmental Strategy Statements.

To focus the policy, the Government has set a target for the key Assistant Principal grade. Departments must work to ensure that, by 2005, one third of Assistant Principal posts are filled by women. At present, women fill only 27% of these posts. The aim is to ensure that there will be more women who can be promoted to senior levels.

The policy also requires Departments to set goals to deal with obstacles to career progression for women at all levels. The Equality Unit in the Department of Finance has held a series of meetings with Departments, with the aim of exchanging ideas on how best to implement the policy. The Unit is now preparing a short report, which will summarise what Departments are doing and make proposals about what more could be done. These discussions have shown that Departments are working on implementing the policy effectively.

WHAT YOU NEED TO KNOW TO CONDUCT A REVIEW

If you decide to go for a review then the first step is to ascertain the current situation in the organisation. Obviously any unionised employment should know what policies are in place, but the following questions should be asked of members and the employer.

1. Does your organisation have a policy on equal pay?
2. Has the policy been communicated to the employees and their representatives?
3. Has someone within the organisation been given responsibility for ensuring that the policy is implemented?
4. Has an equal pay review been carried out to establish if the company complies with equality legislation?
5. Does your organisation use a single job evaluation system covering all employees to determine who is performing equal work?

If an employer answers 'YES' to all of these questions they are aware of their responsibilities, however they still need to regularly review the situation. If the answer to the above questions is 'NO' (especially 4 and 5) then obviously there can be no confidence that the organisation is an equal pay employer.

If you are working with an employer on implementing equality policies see, 'Guidelines for Employment Equality Policies', jointly published by the Equality Authority, IBEC and ICTU. As this document was jointly published there should be confidence from employment and unions in its use.

FIRST STEPS

KEEP EVERYONE POSTED

Before undertaking a review in any employment a meeting of the members should be called. The employer should also brief management staff to ensure full co-operation.

The reason for doing this before a review is fourfold:

- So that staff understand why a review of pay is planned
- To inform people of what the process will be
- To get them to support the review
- To ensure that there is union representation on the audit team

BEFORE COMMENCING A REVIEW

There are a number of questions that should be asked before undertaking a pay review.

1. Who is conducting the review? (Is it internal or external?)
2. If it is external have the consultants been agreed by both management and unions jointly before they have been appointed?
3. Is there a steering committee and if so, is there adequate union representation on the committee? (If there is not adequate representation then members will not trust the findings of any review)
4. What is the time frame for the review? Care should be taken to ensure that the audit is not taking place at a pressurised time in the organisation so that committee members are unavailable for meetings. (Again members will be unhappy if the time frame is not adhered to).
5. Is there a commitment from the company that any findings will be followed up on?
6. Are adequate resources being given to the review? This could mean:
 - management time
 - union reps time
 - union officials time (the union itself should also recognise this)
 - time of the administrative staff who have to collate information
 - consultant's costs
 - a commitment to funding for possible changes

As well as planning time for the committee meetings, time should also be planned for ongoing communication to ensure that the workforce is kept fully informed of progress.

GATHER THE FACTS

In gathering facts for a pay review there are two different sets of information required.

The first is: **organisational details**:

- How is pay determined for everyone in the workforce?
- Who makes decisions on where people are in the pay system?
- What criteria are the systems based on?
- If there are shifts involved do they have special rates?
- Are there any collective agreements in place?

All the relevant documentation to answer these questions should be gathered first.

The second is: **personal details**:

This should give details of basic pay and all the other components that go up to make the gross amount that an individual receives in their pay cheque, including any annual/ occasional payments such as bonus, Christmas pay (see sample questionnaire for additional categories)

DETAILED INFORMATION TO BE COLLECTED

Numbers

- List the numbers of men and women, positions held by men and women, full time, part time, temporary, permanent, job share, flexi and any other system operating locally
- What functions do they perform and what are their promotional paths?
- Note the job titles, pay rates in the two categories. (Add more categories if there are other grounds relevant in the employment)
- Are there workers who may have higher pay or more extras, and if so what are the reasons?

Terms of Employment

While contract law covers the basic contract, there are individual details pertaining to each job so pay may differ even if the basic contract is the same. The following information should be ascertained regarding individuals.

- Gather copies of contracts especially the pay scales and any other merit/performance pay clauses.
- What positions and people are covered by collective agreements?
- What positions are covered by individual contracts?

-
- Do similar positions have different contract arrangements? E.g. are people covered by individual contracts working in the same positions as people covered by collective agreements?
 - Do new employees have different contracts than longer term employees and if so, why?
 - Do new employees recruited to similar positions have different contracts than each other?¹

CONFIDENTIALITY CLAUSES REGARDING PAY AND REWARD

- Which positions/people have them?
- If confidentiality clauses apply to some individuals then in order to gather information on these, either ask management to supply them as codes rather than names, or ascertain if the people will volunteer the information on the basis that codes are used to disguise their identity.

Job Descriptions

- List the major jobs in your workplace and obtain job descriptions for them. These should be listed under two columns, male and female. **(If there are a large number of jobs it may only be feasible to use a representative sample, but numbers in each category should be recorded under male and female.)**
- If there are people in the same job with different job descriptions – collect them all.
- Check for differences of men and women in the same jobs.

Elements of the current pay package

- Ask who gets what, and why? Gather all pay scales and check, starting rates, entry criteria
- Check progression criteria, skill base payments, and training grades.
- If qualifications attract higher recruitment rates does this apply to males and females equally?
- Check add-ons: overtime, compensatory leave, bonus (see questionnaire for fuller list)

¹ It should be noted that in some equal pay cases the argument of objective justification because of market forces has been used to justify differences in pay and reward. (Rogers v. Comhfhorbairt Gallumh Teo t/a Aer Arran Dec:E2002-32)

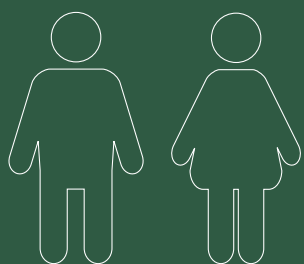
PERFORMANCE RELATED PAY (PRP)

- On what basis are workers included in the PRP system?
- Have all those involved in the design and development of PRP systems been trained in gender awareness and the avoidance of bias?
- What groups of workers are included in PRP systems? Check if casual, part time and temporary workers are included as there are usually more women in these categories.
- Have the criteria that make up the PRP score and reward system been checked for possible bias?
- Is there a discretionary element to the PRP system and if so are clear guidelines issued to managers this?
- Are PRP arrangements regularly monitored by gender and by full and part-time status?
- Do men and women regularly achieve comparable performance assessments and payments both within and between schemes?
- Do junior grade employees receive comparable assessments and payments within and between schemes?
- Can any differences between men and women, which are attributed to performance, be objectively justified?
- What arrangements are in place to ensure that workers on maternity, paternity, parental, adoptive or carer's leave are not adversely affected by their absence in the PRP system?
- Are bonuses performance related?

RECRUITMENT & PROMOTION

Is there firm statistical evidence that:

- Women are recruited at the same salary levels or points into jobs as man, and in the same pay grades and bands? (List any specific criteria that attract higher awards, and gender breakdown)
- All male and female starters are given the same rate for the job?
- Women are promoted into the same jobs, grades and bands at the same points as men?
- Women are assimilated, after regrading/restructuring/promotion into at the same levels as men?
- Men and women are equally affected by any red circling arrangements that exist?



JOB EVALUATION

JOB EVALUATION FREE OF GENDER BIAS

Job evaluation is used to:

- Develop a ranking of jobs for grading/pay structures
- To allow comparisons of different jobs in an organisation in order to achieve a fair result that can be understood by all and can be used to illustrate decisions if there are grievances

The success of any job evaluation will depend on a number of factors:

- Who carries it out
- The value judgments held by the evaluators
- The method used
- The extent to which traditional methods are questioned
- The use made of the results
- The comparative scores given to each weighting

Bias in Job Evaluation can typically arise from one or both of two principal factors: the actual scheme that is used, and/or the methodology that is used to implement the scheme. It is therefore important that both facets are considered at the outset.

Job evaluation (also called job appraisal or job assessment) is important to ensure equal pay, particularly in situations where women and men do not normally work alongside each other.

Job evaluation is a comparison of the relative value of different jobs in terms of the level of demand the work makes on the **average** worker. The abilities of the individual workers are not measured.

Where sex stereotypes are used in the process of evaluation, this can result in the undervaluation of the jobs mainly held by women. For example, traditional schemes tend to measure only the physical and mental aspects of work and do not include factors that adequately measure dexterity, caring functions, organising or coordinating activities of people. Or where market rates are used to establish the relative weight of factors, these may simply reflect historical discrimination in the labour market.

Types of schemes

There are two basic types of evaluation, qualitative and quantitative.

Qualitative Methods

Qualitative methods look at jobs as a whole. They do not use point scores to determine relative job worth.

These consist of methods such as job ranking, where jobs are ranked based on their perceived importance to the particular organisation, and job classification, where common factors of jobs are defined and individual jobs are compared against these factors to give a specific level or classification for pay purposes.

Quantitative Methods

Quantitative methods break jobs down into factors and apportion points for each attribute. Based on the description and observation of the job, a score is assigned to each factor. Totalling the scores for each factor results in an overall score for the job.

Factors are elements of a job that are defined and measured, usually under the following four headings:

- Knowledge/skills
- Responsibilities
- Effort
- Working Conditions

A **weighting system** is applied to each of the factors. This puts a score or value on the different factors that make up a job, and the levels of each factor, for instance is the job high, medium or low in terms of responsibility. The factors themselves also are weighted.

A number of quantitative systems exist, including the Hay/MSL and the Imbucon/AIC method. (These methods were developed by consultancy firms, and named for them.) The objective of most of these consultant designed systems is to achieve results that win acceptance from both workers and management.

In many situations, however, a specific plan is "tailor-made" for the organisation. These can be successful if care is taken in their evolution and if their preparation has involved all interested parties.

Unions should, therefore, bargain for the use of gender neutral job evaluation criteria that define and value factors in an objective manner — taking into account only those aspects required to perform the work to the expected level of accuracy and

efficiency, without being influenced by feminine stereotypes or bound by traditional criteria; and that conceptualize work as having human relations skills and emotional aspects, as well as mental and physical aspects.

The following list details factors that contribute to the development of a gender neutral job evaluation model.

Gender neutral job evaluation criteria

I. Objective job evaluation criteria:

1. Knowledge and Skills
2. Physical Skills
3. Mental Skills
4. Communication Skills
5. Human Relation Skills

II. Effort:

1. Physical demands
2. Mental demands
3. Emotional demands

III. Responsibility (for):

1. Information and material sources
2. Direct supervision over other employees
3. Direct responsibility for the well-being including health and safety of other people
4. Planning, organisation and development

IV. Working Conditions:

1. Hazards - exposure, risk of injury, diseases
2. Environment - exposure to disagreeable working environment etc

Source: Equity at Work: An Approach to Gender-Neutral Job Evaluation, States Services Commission, New Zealand

Job Evaluation Process

1. *Steering Committee*

Control of the exercise should be jointly shared between management and unions through a Steering Committee.

The Committee should have clear Terms of Reference, which should highlight the fact that ending wage discrimination is an agreed goal of the exercise and contain an acknowledgement that avoiding and/or removing gender bias will challenge existing relativities.

The Steering Committee should have a definite lifespan – with a clear starting date.

The steering committee, who will oversee the total exercise, should be representative of:

- The job population covered by the exercise
- The trade unions representing the workforce
- And, should have a gender composition which reflects the workforce.

The Steering Committee should receive training in Job Evaluation techniques, with particular emphasis on the methodologies to be used in avoiding gender bias.

The Steering Committee should have a Chair, who is:

- Agreed by management and unions
- Impartial
- Aware of gender bias issues
- Available to devote the necessary time to the process.

It is the job of the Steering Committee to monitor all actions being undertaken in its name, over the course of the exercise, and to reach agreement at each stage.

2. *Job Evaluation Committee*

The initial task of the Job Evaluation Committee will be to develop a job evaluation plan for use in the exercise. This may result in a suggestion to the Steering Committee that a proprietary system be utilised, or it may suggest that a specific tailor-made approach is adopted.

The Job Evaluation committee will usually be a sub-grouping of the Steering Committee, and as such will have received the necessary training in methodologies and techniques. If they are a different group, then this training will have to be arranged and provided.

Both parties to the exercise should have the right to avail of independent technical advice on all aspects of their deliberations.

3. *Job Evaluation Plan*

The evaluation plan itself must be described completely and comprehensively and sufficient back up information given.

The factors involved must be clearly defined and the differences in the number of points be clearly demonstrated.

The final version of the plan should be published and made freely available to all jobholders. Provision should also be made for the plan to be updated as required.

The following questions need to be asked of the job evaluation plan:

- Is the scheme appropriate to the jobs covered and has it been gender proofed?
- If there is more than one scheme being used to evaluate the jobs in an organisation is there objective justification for having more than one method of evaluation?
- Do the factors chosen represent the full range of work being assessed?
- Where physical effort is a factor is continual application to lighter tasks given equal rating to occasional heavy lifting?
- Is there a fair balance between factors such as manual dexterity and job complexity?
- Is there any double counting?
- Is the number of factor levels realistic?
- Do the points awarded to jobs equate with the job requirement?
- Do any high or low weights predominantly affect men or women?
- Will the methodology lead to an equivalent rating being given by two individuals assessing the same job?

4. *Information Collection*

Documentation

When looking at specific jobs, any documentation that may have a bearing on the job must be taken into consideration. This includes the Contract of Employment, terms of employment, letters of employment and, if it exists, the job description.

Job Descriptions

A job description, jointly agreed and signed off between the jobholder and their superior, is an absolute pre-requisite for a job evaluation process.

It may be decided, by the job evaluation committee, that the job descriptions should be prepared by a separate job analyst, rather than by individual jobholders themselves. This has the advantage that all descriptions will be comparable, and will

assist in overcoming the problems associated with some descriptions being “over-written” and others “under-written”.

A typical job description should, at minimum, include the following:

- a) Job title
- b) Relationships at work (e.g. if supervised, degree of supervision, nature and extent of co-operation with other workers)
- c) A description of the specific duties of the job showing the approximate percentage of time spent on each duty and the extent of responsibility/discretion in relation to each duty
- d) The job requirements listed under the headings used for the job evaluation procedure, e.g., physical and mental effort, responsibility, skills knowledge and working conditions

If the format differs significantly from the above, care should be taken to ensure that omissions or additions are likely to result in jobs commonly performed by women being underrated.

- If workers rotate between jobs does the description recognise the tasks in both jobs?
- Are descriptions based on what is done, not what someone feels should be done, and are they consistent, realistic and objective?
- Is there too much reliance on generic job descriptions?
- Is there guidance provided on the completion of job descriptions?
- Is the jobholder involved in writing the description?
- Does the description follow a standard format and are there at least 6 to 10 tasks described?
- Supervisors should not have the right to alter the descriptions unilaterally

Job Titles

Care should also be given to ensuring that bias is not present in the job title, and if there is no reason other than a historical one for two different titles denoting male and female jobs, then the title should be changed. For example:

Male Job Title	Female Job Title
Assistant Manager	Manager’s Assistant
Administrator	Secretary
Technician	Operator
Chef	Cook

5. *Evaluation Process*

Benchmarking

In job evaluation systems specific jobs are initially selected and are referred to as benchmark jobs. Normally they will be used to test the system, and will be composed of a selection of jobs that are viewed as being at different levels within the organisation. When looking at the benchmarks the following questions should be asked.

- Are there any categories excluded and if so why?
- Are benchmarking jobs:
 - a) Unbiased?
 - b) Reflective of the full range of men and women's work?
 - c) Selected by agreement.

6. *Appeals Process*

A procedure should be set up for appeals once the job evaluation has been accepted. Normally there will be a time limit set for appeals to be lodged, and there should also be a time limit for decisions to be made on the appeal.

The procedure should determine who has the right to appeal a decision of the Evaluation Committee, and under what grounds.

The Appeals Committee should be separate from the Evaluation Committee and should receive similar training.

Union and management should jointly agree the Chair of the Appeals Committee.

7. *Negotiation/Implementation of Results*

The evaluation process will result in a hierarchical ranking of the jobs in the organisation, together with their relative scores. It will be for the Steering Committee to propose break points between grades, or cut-off points. This proposal will then be subject to final negotiation between management and unions under the normal industrial relations procedures that exist.

All grades should ideally cover jobs being performed by men and by women.

Grade break points should be made where clear relative differences exist between jobs.

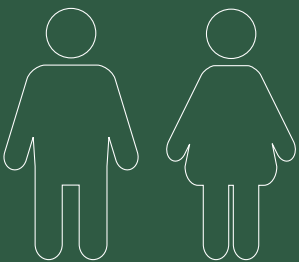
If the previous scheme or system was found to be biased then there will be movement, both up and down, in the rank order of jobs. While this will result in a number of female dominated jobs moving up the ranking, it cannot be assumed that some will not move down and some male dominated jobs will not move up.

Where a job is being downgraded as a result of the exercise, it should be "red-circled" or the rate left "personal to holder". However, if greater than 4% or 5% of positions are "red-circled" it would suggest that the payment attaching to the proposed grade needs to be examined.

8. *Review Process*

Periodic reviews should take place to ensure that bias does not creep in to any job evaluation system. A full review should take place at least every five years.

If revisions are made after the initial evaluation, then care should be taken to ensure that if jobs are revised upwards or downwards, then they should not disproportionately affect either men or women.



GENDER PROOFING/ GENDER IMPACT ASSESSMENT

GENDER PROOFING/ GENDER IMPACT ASSESSMENT

GENDER VERSUS SEX

In discussing differences in pay between males and females, the term gender is used rather than sex. This is because sex describes the biological differences between women and men, which are the same the world over. Gender refers to cultural and social differences between men and women, which can vary from country to country and can change over time.

Example: Up to the seventies Irish women in the Civil Service were barred from working after marriage. In the Ireland of today such a ban would be illegal and would also be culturally unacceptable.

WHAT IS GENDER IMPACT ASSESSMENT?

Policy decisions in the workplace that appear to be gender neutral may have a different impact on women than on men, even if this was not the intention of the policy change.

Gender impact assessment is a tool that can be used to:

- avoid unintended negative consequences of change,
- or to improve existing agreements.

Gender impact assessment is the comparison and assessment of the current situation in the workplace against the expected changes that would result from the introduction of any new policy.

Policy changes may not always be written or formal, they may also occur gradually, therefore care should be taken that practices are not changed without due thought/negotiation.

When a policy is proposed it is useful to first ascertain what the aim of the policy is, and if there are any associated objectives. This will make it easier to look at alternatives that might better promote equality of opportunity.

EMPLOYMENT EQUALITY ACT 1998

Employers must bear in mind that they are responsible in law for upholding equality legislation and therefore any changes in terms or conditions of employment for members must be equality proofed in order to ensure that there is no adverse affect on individuals. Union officials therefore should be vigilant regarding any changes, particularly in collective agreements, which may have an adverse impact.

CHECKING RELEVANCE OF GENDER IMPACT ASSESSMENT TO PARTICULAR POLICIES/DECISIONS

Firstly you should establish if the process is relevant to the particular policy you are studying.

The following questions should be asked:

- 1 What is the numerical breakdown of men/women affected by the policy?
- 2 Will it affect the daily lives of the section of the workforce for which the change is proposed?
- 3 Are there differences in the way this policy affects men and women with regards to rights, resources, representation, values and norms or ability to participate?

If the answer to question 3 is yes then the policy has implications for gender relations and an assessment should be carried out.

CHECKLIST FOR GENDER IMPACT ASSESSMENT

- Look at the numbers of males/females in the target group and check the representation of men and women in decision making positions
- Look at the current pay rates for men/women in the target group
- Include all aspects of pay/benefits
- Check that women in the target group are represented on the union committee negotiating on change. If they are not on the team then ensure that they are consulted before and during negotiations
- Ensure that anyone on maternity leave, parental leave or absent because of seasonal work or prolonged illness is considered

Ascertain what effect will the proposed change have on the following:

- Number of men/women better paid as a result of change?
- Number of men/women who see their pay blocked or remain the same?
- Number of men/women worse paid as a result of change?
- What are the movements of any men or women regarding grading, classification or competence testing systems?
- Do the changes adversely affect family friendly work patterns?
- Do the changes adversely affect part time or temporary workers?
- Impact of job cuts or job creation measures on gender?
- Access to training and retraining for men and women?
- Physical ability to do work?

Example:

A company wishes to change starting/finishing times because of a request from some staff members who wish to 'beat the traffic'.

While this might, on the surface seem to be a sensible arrangement, it may interfere with childcare arrangements/school collection times. It may also adversely affect those dependent on public transport.

ROLE OF THE NEGOTIATOR

The negotiator should consider measures that might mitigate any adverse impact and should put forward alternative policies that can better achieve the promotion of equality.

In the example given, an obvious negotiating tactic would be to look for flexi time, which may then result in a solution for all the members rather than a win/lose situation.

GENDER PROOFING

Strong leadership is needed in organisations to ensure that a significant majority of the workforce understands the need for gender proofing and accepts the fact that there are historic inequalities in the system

Gender proofing is not intended to eliminate or ignore differences, it is about eliminating the disadvantages and discrimination that exist solely because of gender.

It is a means to ensure that all policies and practices within organisations have equally beneficial effects on men and women. It is not about blaming anyone for inequalities; rather it is a mechanism to eliminate the inequalities.

Gender Proofing is a mechanism to systematically assess the gender impact of a particular policy or procedure. This can be used as an integral part of a gender mainstreaming process, a definition of which can be found below. In the context of negotiations on equality in the workplace, it can be a useful tool in looking at systems of pay and reward.

DO EXISTING AGREEMENTS STAND UP TO PROOFING?

Agreements should be checked to see if they contain any of the following:

- Discriminatory clauses that disadvantage women or minority groups
- Negative assumptions about the value of the skills held by women in particular occupational groups
- Monetary or non-monetary benefits that favour male dominated occupational groups
- Lower wage rates given to women's occupational groups, part-time or temporary workers

Gender proofing should address both formal and informal policies. Often the world of work has evolved and practices are not necessarily written down, so it is important to record the informal aspects of work when gender proofing.

Statistics

Obviously gender proofing requires the accurate collection of statistics. It is impossible to embark on a gender proofing exercise if accurate data is not available. Co-operation is therefore needed between management and representatives in assembling figures. Obviously the best way to begin checking is to do a pay audit. This involves collecting data on all aspects of employment. The easiest way to do this would be to issue a questionnaire to all staff, highlighting the following:

A checklist for assessing agreements/policies for gender bias

- Do women have lower average earnings* than men with the same job title?
- Do women have lower average earnings than men in the same grade?
- Women in female dominated unskilled jobs are paid less than the lowest male dominated unskilled job
- Jobs predominantly occupied by women are graded/evaluated lower than those predominantly occupied by males at similar levels of effort/skill/ responsibility and more men than women hold managerial positions in those jobs
- Where separate bargaining arrangements exist in an organisation those dominated by men receive higher pay than groups dominated by women
- Women are paid less than men with equivalent entry qualifications and length of service
- Part time or temporary workers (who are predominantly women) have lower hourly rates of pay than full time permanent workers in the same job or grade

-
- Different overtime rates and/or piece rates/bonus/'payment by results' exist in different areas of production, affecting disproportionately one gender
 - Holiday entitlements differ in the same grade, affecting disproportionately one gender
 - Pension entitlements differ within the workforce

* e.g. less access to overtime, lower starting point on pay scale, lower commission

GENDER MAINSTREAMING

Gender mainstreaming is the (re) organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies and at all levels and at all stages, by people normally involved in policy making. (Council of Europe)

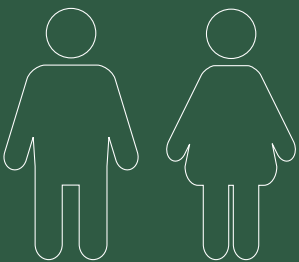
Mainstreaming is a policy for getting ordinary workers, - administrators, clerical workers, leaders etc. to put on 'gender lenses' and to enhance equality in their everyday practice.

The mainstreaming process might have an impact on the following:

- Structures & Resources – formal management, organizational culture
- Methodologies – Analytic, process and training tools
- Symbolic – Images of equality, using gender-neutral expressions
- Interpersonal – Partnerships, Networks
- Intrapersonal – Gender identity

In order to promote gender equality within organisations political and operational changes are needed in:

- The behaviour and discourse of managers and leaders
- Choice of strategies used – documents, regulations, budgeting etc
- Commonly defined gender objectives, which are monitored and assessed
- Setting up an equality network
- Gendered training/capacity building in organisations



RECRUITMENT AND SELECTION

RECRUITMENT AND SELECTION PANELS

This section is intended to provide information and assistance on promoting equality and ensuring against unlawful discrimination in relation to the recruitment and selection process of employers.

It should be read in conjunction with:

- The Employment Equality Act 1998

In addition the following provide useful background information:

- Guidelines for Employment Equality Policies in Enterprises, published by the Equality Authority
- Annual Reports, Legal Review & Case Summaries, published by the ODEI - The Equality Tribunal

What is Discrimination

It is clear that the very process of recruitment requires decisions to be made about a candidate. Choices must be made and the best candidate for the job selected.

The aim of this guide is to provide information to selection and recruitment panels on how to ensure that the choices and decisions they make do not use unlawful discrimination and that equal opportunities are built into the recruitment and selection processes.

Discrimination as referred to in this guide means unlawful discrimination as described in the Employment Equality Act 1998. It includes the nine grounds covered in the Act, 1) gender, 2) marital status, 3) family status, 4) age, 5) disability, 6) sexual orientation, 7) race, 8) religion and 9) membership of the traveller community.

Different Forms of Discrimination

The European Court of Justice in the Schmacker and Gillespie cases stated that “It is well settled that discrimination involves the application of different rules to comparable situations or the application of the same rule to different situations”. Put simply it means treating the same people differently and different people the same.

The Employment Equality Act 1998 provides that discrimination will occur where one person is treated less favourably than another is, has been, or would be treated on any of the nine grounds.

Intention to discriminate is not a necessary condition for liability under the Act.

Indirect discrimination happens where people are refused employment because of a practice or requirement that impacts negatively on a particular group.

Equal opportunity requires the recognising of difference and the taking into account of difference in a way that ensures equality.

Adjustments for People with Disabilities

The advertising, selection and interview process should allow all candidates to compete with each other on an equal basis. An adjustment for people with disabilities gives them a chance to compete on an equal footing.

Necessary measures to be undertaken include having accessible advertising and application procedures along with ensuring access to the physical location for the interviews. All candidates selected for interview should be informed in the letter inviting them for interview of the location of disability car parking and the location of lifts in the building.

Positive Action Programmes

Positive Action programmes that aim to reduce and eliminate the effects of past discriminations and to secure the integration of particular groups are provided for under the Employment Equality Act 1998. The Act allows for particular programmes and actions to be put in place to encourage and assist people over 50 years of age, members of the traveller community, people with disability and actions to remove existing inequalities affecting womens' opportunities.

Positive discrimination is permissible where it does not automatically and unconditionally give priority when candidates are equally qualified and where the candidates are the subject of an objective assessment which took account of the specific personal attributes of all candidates¹.

1 In *Badeck* the ECJ upheld a Hesse Law that gave women in the Public Service certain advantages when seeking promotion to posts where women were under represented. The Court noted that even where candidates were equally qualified males tended to do better. This meant that just because a man and women were equally qualified this did not ensure that they had the same chance in competition for promotion. Previously, in *Kalenke v Frieie Bremen* the Court condemned a quota system operated by the state of Bremen.

Building Equality into Key Stages in the Selection and Process

There are a number of stages in the selection process that provide an opportunity to build in equality and guard against discrimination.

- Choosing a Selection Committee and Interview Board
- Job Description/Job Specification and Essential Requirements
- Advertising
- Selection for Interview
- Interview
- References
- Medical Examinations
- Retaining Records and Confidentiality

Choosing a Selection and Interview Board

The selection committee and interview board should be gender balanced and comprise as wide a mix of people as is possible including people of varying ages, religions, disability or ethnicity.

In addition to this guide the interview board should be provided with a briefing on the legislation and on equality issues and provided with copies of the other relevant support documents.

Job Description/Job Specification and Essential Requirements

The Job Description, Job Specification, assessment criteria and the marking systems should be in place before the selection process begins as these provide the mechanism for objectively assessing each candidate against the necessary and desirable constituent elements of the job.

A particular skill, qualification, length or level of experience, capacity or ability can be specified as essential only if it based on bona fide occupational requirements. For example in **Conlon v University of Limerick** McCracken J held that the criteria adopted for the selection, being in possession of a higher law degree, several years experience at senior academic level and having published research in a special field of law were entirely appropriate requirements. However in **Weir v St Patricks Hospital** the Equality Officer found that a failure to examine the suitability of a post for job sharing and the failure to objectively justify the policy of not permitting staff at supervisory level to avail of job sharing was discriminatory.

Care must be taken to ensure against indirect discrimination occurring through the application of a requirement being more advantageous to one group over another, or through its application disadvantaging a "substantially higher proportion" unless that treatment is justified by objective factors unrelated to any discrimination. A good example of this is also provided in **Weir v St Patrick's Hospital** where Equality Officer found that the employer had indirectly discriminated against the claimant by having a discriminatory policy in place which adversely affected more females than males.

A requirement that may seem to be neutral may in fact be discriminatory. For example, in **Ms Josephine Riney v County Donegal VEC** the Equality Officer found that the use of length service as a "tie-breaker" favoured male candidates who generally had longer service than female candidates.

Before identifying a requirement as essential, consideration should be given to finding an alternative approach to the job so that any restrictive or negative impact on a group can be eliminated. For example in **Kehoe v Convertec Limited**² the Equality Officer found that the employer had discriminated against the employee by failing to examine options available to accommodate his needs given his disability.

Advertising the Position

Advertising of the position should avoid displaying intentionally or unintentionally wordings that suggest implicitly or explicitly that jobs are not open to candidates from within all nine grounds.

Advertisements cannot describe a position on the basis of gender, for example Foreman or Head Waiter/Manager, and if the job was previously carried out by one gender it should be made clear that the job is open to both (**Independent Newspapers Ltd and Irish Banqueting v Employment Equality Agency**).

An advertisement is discriminatory not only if it discriminates on the grounds of gender but also in relation to any of the other grounds of discrimination. Any terms that may be discriminatory, such as "a young and dynamic professional" or have the effect of favouring a particular type of person should not be used (**Equality Authority v Ryan Air**).

The advertisement should state that the position is open to all qualified persons and make it clear that the employer is an equal opportunities employer. If any pictures or photographs are to be used as part of the advertisement then they should reflect diversity.

² This ruling is under appeal to the Labour Court.

Where to Advertise

Advertising should be through the medium that will attract the widest possible audience and reach the widest pool of qualified applicants. National Newspapers will give the widest spread and will ensure against discrimination in a selection procedure caused by using only one medium. Where a vacancy is advertised solely in a newspaper that has a predominately Catholic or Protestant readership this could constitute religious discrimination.

However **additional** advertising in newspapers or magazines whose primary readers are for example, women, members of the Traveller Community, people with disabilities, gay lesbian or bisexual, members of visible ethnic and minority groups, communicates a clear message that qualified individuals from traditionally disadvantaged groups are welcome. To avoid any discrimination additional advertising should ensure coverage to groups across all nine grounds.

Selection for Interview

Requiring applicants to send curriculum vitae (CV) is by the most preferable option from an equality perspective. Application forms if they are used should only seek information that is relevant to the capacity of the person to do the job.

Short listing for interview should be on the basis of objective justifiable criteria based on the job specification.

N.B. Northern Ireland legislation requires application forms.

The Interview Process

A job specification, clearly defined assessment criteria and the marking of candidates by reference to the criteria are essential elements for complete transparency in all appointments.

From an equality perspective the Job Specification and the associated assessment scoring sheet should ensure against direct and indirect discrimination in terms of establishing essential and desirable skills, qualifications, level and length of experience and any other requirements.

As stated previously before identifying a qualification, ability, capacity or skill as essential consideration should be given to finding an alternative approach to the job so that any restrictive or negative impact can be eliminated.

In assessing a candidate's ability to meet the requirements the focus should be on the persons actual ability not assumptions based on a group characteristic.

All candidates should be provided with the same process. This was confirmed in **Nevin v Plaza Hotel** where it was found that it was discriminatory to apply a one day trial period inconsistently, in this case to a member of the traveller community. Interestingly the hotel tried to rely on evidence that it had a positive approach to employment of people from other grounds under the Act. However the Equality Officer stated that “a positive employment programme in certain other areas had no bearing on a complaint of discrimination on the ground of membership of the traveller community”.

Asking Questions at Interview

Discriminatory comments should not be made at any stage of the process. For example in **Rodmell v Trinity College** a member of the interview panel collected the candidate from the waiting area with the words, “Im looking for the lady electrician”. The Equality Officer found that the fact that a member of the interview board clearly identified the candidate by her gender, prior to the interview commencing was sufficient to constitute discrimination under the Employment Equality Act 1998.

All candidates should be provided with the opportunity to answer a core set of the same questions. These questions should be objectively justified and aim to ascertain the ability of candidates to do the job. Asking questions about family commitments may disadvantage female candidates even though no males are applying. For example in **Elizabeth Barry v BOM Aisling Project Virgin May Schools** Ms Barry was asked how she would cope with looking after a family and working full time outside the home. The Equality Officer was satisfied that despite there being no male candidate for the position this question still constituted discrimination against Ms Barry on grounds of her gender along with marital status.

On the more complex question on whether it is discriminatory for an employer to ask detailed questions about the willingness of a candidate to work atypical hours. It is clear that a requirement of flexibility to work outside normal hours needs to be made on objective criteria and must be a necessary feature to achieve the job objectives before it can be a requirement. No assumptions should be made based on a candidate’s ability to meet this requirement based on their identity in respect of the nine grounds.

It is important that there is objectivity and consistency in the marking of all candidates. For example in **Riney v Donegal VEC** the Equality Officer found that the female applicant was clearly better qualified for the job than the successful male appointee, in particular that the interview marking failed to reflect her higher qualifications and experience and that this was due to gender based discrimination.

Proper weight must be accorded to qualifications obtained outside Ireland and the European Economic Area (EEA). This issue was discussed in **Eng v St James Hospital**. The Equality Officer found that the displacing of exam rankings of non EU national was not sufficient to rebut the complainants claim of pay discrimination on grounds of race³.

³ This case is being appealed.

At the interview all candidates should be asked if there is anything that the board has not asked that they would like to add. In addition the candidate should be provided with an opportunity to ask the interview board questions.

The same questions and process should be followed, even for internal candidates.

Keeping a Record and Making Interview Notes

Keeping a record of how a candidate has been selected is essential to demonstrate and establish the objectivity of the process. It is important to keep the sheets of awarded marks in relation to how every candidate scores against the previously agreed selection criteria.

The interview panel will have been provided with copies of candidates CVs and often when applicants are being interviewed interviewers sometimes make notes on the CVs to assist in recalling particular points made.

However even though these are solely for the purpose of reminding the interviewer they must not identify or differentiate candidates according to the prohibited grounds. This is a similar issue as discussed in **Rodmell v University of Dublin, Trinity College**, where the employer had denied that the reference to the “lady electrician” as discriminatory as it was used simply to identify the candidate from among a crowd of people and that there was no intention to discriminate.

All notes from the interview process should be kept in *Hanlon v ESB* and again confirmed in the ODEI Annual Report 2001 it is not an appropriate practice for interview panel members to destroy their notes and that “such a practice could well form part of an evidential chain on which a claim of discrimination could rest”.

The length of time that interview records should be kept was identified in **Barry v Board of Management Virgin Mary Schools**, where the Equality Officer ordered that in future interview records should be retained for a period of at least one year from the end of any competition and in the event of a complaint being made under the equality legislation pending the conclusion of any investigation of the complaint.

Obtaining References

Obtaining references is an important aspect of the recruitment process. All equality principles continue to apply to this part of the process. It may be an implied term of a contract that the employer will give a reference if required (**Kidd v Axa Equity Assur. Soc. 2000 IRLR**). It used to be thought that no liability could arise in respect of an erroneous reference due to negligence but that is no longer the case. Employers providing a reference owe a duty of care to the employee (**Spring v Guardian Assurances 1995**) who is subject to the reference and the prospective employer (**Donlon v Colonial Mutual Group Ltd 1998**).

Medical Tests

Offers of employment can be made conditional on successful completion of a medical exam. However medical exams should only be conducted after selection and should only deal with an employee's ability in relation to the carrying out of the specific job.

The appointed doctor for the medical test should be informed of the necessary requirements of the post and tests should be confined to an examination of the candidates ability to meet those requirements rather than fitness in general. In particular while there is as yet no specific legislation that deals with various testing practices including HIV and diabetes testing it is likely that these forms will not be permitted under both equality legislation and the constitutionally guaranteed right of privacy.

A disability or medical condition should not necessarily mean the refusal of an appointment. Special facilities and workplace adjustments should be considered and provided in the first instance.

Refusal for employment should only occur where in the opinion of the medical professional the appointment of the candidate to that job would be injurious to their health and safety or the health and safety of others. The candidate should have the opportunity to appeal this and to have the opinion of to another medical professional considered.

Confidentiality

Confidentiality is crucial to a successful recruitment and selection process. Responsibilities arise under the Data Protection Act 1998 in relation to computer held information on employees. The rights, responsibilities and the principles in relation to individual privacy and confidentiality under the Data Protection Act 1998 should also apply to files held on paper.

USING PSYCHOMETRIC TESTING IN SELECTION OF CANDIDATES

What is psychometric testing?

These are structured exercises, often in the form of multiple choice questions. They may use pen and paper or computer.

There are two distinct types of psychometric testing, ability testing and personality testing.

Ability (cognitive) testing measures characteristics such as numerical, verbal or diagrammatical aptitude or reasoning. It may also measure manual dexterity and speed.

Personality testing is used to draw up a profile of you as a person and how you relate to others and your style of working.

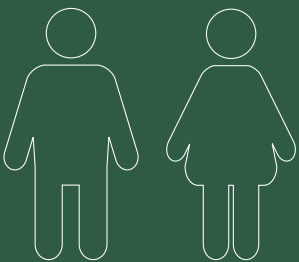
Why do employers use psychometric testing?

Psychometric testing is often used in conjunction with other selection methods when recruiting for jobs. Psychometric tests are sometimes used prior to a first interview and often candidates must reach a certain score in the test to proceed to interview stage. In some instances they may be used to decide between candidates who have similar formal qualifications.

Discrimination in psychometric testing

Ability or cognitive testing are more exact types of testing and provided employers are not setting the bar too high for a particular job, can be of use to ensure suitability. However they may also discriminate in certain circumstances. For instance where the overwhelming majority of tests are in English, if English is not the candidates first language, then they may not perform as well in such tests.

Personality testing is more problematic. Often employers use this to test issues such as competitiveness, assertiveness, and leadership qualities. While there is nothing intrinsically wrong in looking for these qualities, the question that must be asked is, are they necessary for the post to be filled, and were decisions on the qualities needed for the post objectively decided. Some off the shelf psychometric testing methods have been screened for gender and race bias and employers should seek proof that this has been done to ensure that they comply with equality legislation. If they are to be used in interviews unions should ensure that they have been proofed for bias.



GENDER PAY QUESTIONNAIRE

GENDER PAY QUESTIONNAIRE

Officials should gather any collective agreements, on pay, overtime, etc together. In some employments it will be known if all staff are covered by collective agreements, however other employments may have differing structures for each grade. The questionnaire should therefore be tailored to suit the employment. If information is known to be general then it should be transferred to the first section and the only questions needed on the individual form should be those that may differ between staff members. **If in doubt leave the questions in.**

Remember there may be differences across grades between allowances, hours, holiday entitlements, type of car provided etc. Officials can note this on the main form. Keep the individual questionnaire as short as possible, without sacrificing accuracy.

Model Employer/Union Review of Pay System

EMPLOYMENT: _____

GENERAL INFORMATION ON EMPLOYMENT TO BE COMPLETED BY OFFICIAL

TOTAL NUMBER OF STAFF	<input type="text"/>	Males	<input type="text"/>	Females
TOTAL IN GRADE _____	<input type="text"/>	Males	<input type="text"/>	Females
TOTAL IN GRADE _____	<input type="text"/>	Males	<input type="text"/>	Females
TOTAL IN GRADE _____	<input type="text"/>	Males	<input type="text"/>	Females
TOTAL IN GRADE _____	<input type="text"/>	Males	<input type="text"/>	Females

SAMPLE INDIVIDUAL EMPLOYEES QUESTIONNAIRE FOR MODEL EMPLOYER/UNION REVIEW OF PAY SYSTEM

Hours and rosters worked

Hours worked per week Number of hours in roster

Flexi time details _____

Type of Contract (please circle)

Permanent/Temporary/Casual/Fixed Term/other (specify) _____
Part- time/full-time/job share/term time/other (specify) _____

PAY

Are you Weekly/fortnightly/monthly paid? (circle)

Annual Salary (excluding any 'add ons'
such as bonus, allowances, overtime etc) _____

If your pay varies from time to time please list reason for differences and average for last period paid (state period if it varies from your normal payment period)

Overtime _____

Shift allowances _____

Red circle payments _____

Any other payments _____

Amount and frequency
of any bonus Payments _____

Increases

When you started your job were you told the rate of pay or did you have to negotiate a starting rate?

When did your pay last change and why? _____

Annual increase/ automatic increase/other _____

If not part of an annual increase when did your pay last increase (apart from any national agreement)?

List any cash allowances in addition to salary and state frequency

Employer superannuation contribution _____
Entertainment or clothing allowances _____
Telephone or other bills paid _____
Subscriptions Paid _____
e.g. AA Professional Org. Golf club _____
Health Insurance Paid (VHI/BUPA etc) _____
Travel Subsidy _____
Car allowance _____
Any non-cash benefits (please circle)
Car provided/free car parking/
computer provided, Other (please specify) _____

LEAVE

Holiday entitlement
How many days? _____
Sick leave entitlements
Days/weeks/months at full pay Certified _____
Uncertified _____
Days/weeks/months at half pay _____

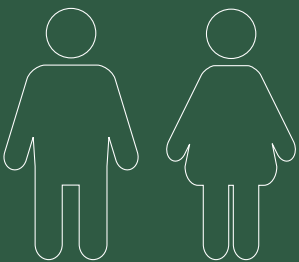
EMPLOYEE NAME OR CODE: _____

Male Female

Job title/position _____
Department/Section _____
Grade: _____
Point on incremental scale _____
Years in current employment _____
Years in current position _____

Age Band: 16-26 27-55 55+

Please indicate (if you wish) if you have been adversely affected by any of the non-gender grounds covered in the **Employment Equality Act** with regards to pay and promotion. The non-gender grounds are: disability, family status, marital status, religious belief, sexual orientation, age, race, and membership of traveling community. Please circle relevant ground/s.



PROMOTE YOURSELF - TRAINING
FOR WOMEN IN THE WORKPLACE

PROMOTE YOURSELF - TRAINING FOR WOMEN IN THE WORKPLACE

Introduction

Background

These training materials are designed for use by trade unions tutors in conjunction with Congress Gender and Pay Project, gender-neutral guidelines for job evaluation and for gender proofing and gender impact assessment. They are part of the GAP project, which ran from January 2002 to March 2004. Congress acknowledges support from the NDP funded through the Department of Justice, Equality & Law Reform.

Aim

Many individuals and most notably women stay in the same jobs and watch others getting promoted knowing that they could do the job but stop short of ever applying. "I wouldn't have the confidence to do it", "I'd never get it" are lines often heard.

This three-day course is for anyone who would like to move into another area of work, get promoted or even try something different. It will provide an easy step by step guide to how participants can find out their skills and talents, become assertive in getting what they want and develop individual action plans for the future.

This course aims to equip participants with skills and knowledge, encourages them to analyse and assess themselves, set personal and career goals and offers support to achieve these.

Course Objectives

The course will provide a supportive learning environment that provides participants with opportunity to

- Assess and reflect on their working lives and set/ plan for personal and career/job goals
- Identify their strengths and skills
- Practice interview techniques
- Prepare an action plan towards getting a promotion or changing jobs

Learning outcomes

At the end of the course participants will have

- An understanding of their strengths and skills
- Set personal and/or career goals
- The skills to prepare for job applications and interviews
- Information/Knowledge of career paths open to them
- Heard stories and experiences of other women who once held comparable positions to those the participants currently hold (or of men who have a track record on promoting women)
- Made decisions on next steps to take towards advancement

Training methods

The course will be designed to be highly participative and interactive. The emphasis will be on facilitating a discussion and on identifying participants' knowledge, skills and techniques through training input, group discussions and practical hands-on exercises with the women participating. A challenging, but supportive learning environment will be created throughout. Key issues will include communication, roles, identity, uncertainty, career/job. The notion of balance will govern the design and delivery of the programme between theory and practice, creativity and rationality, personal and professional life.

Value is placed on principles of adult learning that recognise participants have significant life and work experience to bring to the learning environment.

Varying the training methods to suit the varied learning needs and preferences of the participants and to suit the different topics is important. Therefore brainstorming is effective for large group discussion and for generating ideas, practical exercises will provide participants will the opportunity to explore issues in detail while mock interviews offer the opportunity to practice skills and learning.

The following methods are used in the delivery of this training course

- Icebreakers
- Brainstorming
- Whole and Small Group Discussions
- Simulated Exercises
- Mock Interviews
- Presentations
- Personal Stories
- Case Studies
- Self Assessment
- Handouts and reading

Target Group

This course will interest women with a lot of work experience and little evidence of promotion. It will also interest those who have not participated in union committees.

It is essential that women self nominate on to the course.

Target Number of Participants

Between 8 and 12

Course materials

The course uses research and materials provided in the Gender and Pay Project Guidelines/Toolkit. Tutors will need copies of this/these packs.

Tutors will also need to organise

Photocopies of activity sheets/exercises

Myers Briggs (or similar) questionnaire and fact sheets

Copies of case studies

Participant registration forms

Equipment required

Flipchart and markers

Overhead projector/PowerPoint facilities

Paper and pens

Name Cards

Venue Requirements

1 large room

1 breakout/syndicate room

A number of tables and chairs (informally arranged)

Format and Adaptation

The course will consist of three days held over two blocks, the first block consisting of one day and followed by a second two-day block, three weeks later.

The suggested activities and sessions outlined in this manual should be adapted to suit the needs and preferences of the group of participants. Tutors should feel free to change the length of time given to sessions and the order of sessions. Other exercises can be substituted and used by Tutors as appropriate.

It is important that Tutors become aware of any special learning needs in advance of the course commencement so as to adjust sessions. This may require adaptation to suit needs associated with, for example:

Physical Disability

Learning Disability – dyslexia

Literacy

Suggested Timeframe

DAY 1			
Time	Topic	Appropriate Duration	Session
10.30	Introduction	15 Minutes	Day 1 Session 1
10.45	Icebreaker	30 Minutes	Day 1 Session 1
11.15	Women; Work and Worth	30 Minutes	Day 1 Session 2
11.45	Personal Skills Inventory	75 Minutes	Day 1 Session 3
LUNCH			
2.00	Role Model Stories	90 Minutes	Day 1 Session 4
3.30	Action Learning	60 Minutes	Day 1 Session 5
DAY 2			
Time	Topic	Appropriate Duration	Session
10.30	Welcome and warm-up	15 Minutes	Day 2 Session 1
10.45	Feedback on Personal Inventory	90 Minutes	Day 2 Session 2
12.00	Communication and Interviews	60 Minutes	Day 2 Session 3
LUNCH			
2.00	Relaxation Techniques	30 Minutes	Day 2 Session 4
2.30	Promote yourself – goal setting	120 Minutes	Day 2 Session 5
DAY 3			
Time	Topic	Appropriate Duration	Session
10.30	Interview Preparation	90 Minutes	Day 3 Session 1
11.00	Mock Interviews	Commences early morning and runs parallel to the training session	Day 3 Session 2
12.00	Interview Feedback	Commences morning and runs parallel to the mock interviews	
LUNCH			
2.00	Interview Feedback	Continues to run parallel to the mock interviews	Day 3 Session 3
4.00	Learning Review	30 Minutes	

WELCOME AND REGISTRATION SESSION

Aim of activity

To welcome participants and introduce the course at the first session

Learning Objectives

At the outset it is important that a range of issues is addressed so as to ensure that the course runs efficiently and effectively.

This session gives participants the opportunity to learn about the details of the course, housekeeping arrangements such as start and finish times, venues, lunch breaks, to identify dietary needs etc.

Any paper work requiring completion such as the registration forms can be completed.

Time

15 minutes

Resources required

- Name Cards
- Registration Cards
- Flipchart
- PowerPoint (optional)
- Course Packs to include folder, pen and paper

DAY 1

Day 1 Session 1

Icebreaker

Aim of the activity

Introduce participants to each other, clarify their expectations and hopes for the course and provide an overview of course content.

Agree a learning contract with the group

Learning objectives

By the end of this session, participants will

- Be clear on their own and other participants' expectations, hopes/fears for course
- Begin to build rapport with other participants
- Be clear and have agreed a learning contract for the course

Time 45 minutes

Resource materials

Flipchart and Markers

Instructions for tutors

1. Welcome everybody
2. Tell the group that you are going to do a simple introduction to help them get to know each other. Ask the group to form two parallel lines facing each other. Every three minutes each person will move to the right until they have spoken to each person on the course. With each move the Tutor provides a topic to focus the conversation. Topics should be fun and include – favorite hobby/ food/ drink, pet hate, most embarrassing moment, last holiday, my family, my job, first date, greatest fear, happiest moment...
3. Ask the group to fill in the participant activity sheet
4. Ask the group to form into threes, preferably with people they do not know well and discuss their sheets

-
5. Participants reform the main group. Each trio shares their reasons for coming on the course.
 6. The Tutor on the flip chart lists participant aspirations
 7. Tutor links aspirations to the learning objectives. Tutor goes through the format of the course.
 8. Brainstorm what will support and/or hinder their learning. Place all suggestions on the flipchart. From responses Tutor develops this to ensure its clear what participants, the group and the Tutor will need to contribute in order to make the course successful.
(Learning Contract)

Participants activity sheet

The aim of this session is to provide participants with an opportunity to be introduced to each and to clarify their expectations and hopes for the course.

Complete the questions below and then discuss them with two others in the group.

1. What do you hope to learn from the Course?
2. How long are in your current position?
3. What kind of changes would you like to make as a result of the course?
4. Have you any concerns about the Course, if you have what are they?
5. When did you last participate in a course from work?

Day 1 Session 2

WOMEN, WORK AND WORTH

Aim of the activity

To gain a great understanding of the nature of participation of women in the workplace in Ireland and identify what currently supports and/or hinders participation.

Learning objectives

By the end of the session, participants will

- Have a clear understanding of the nature and level of participation of women in employment in Ireland
- Know how to complete an analysis of the promotions and pathways in their own workplaces
- Have assessed supports and barriers to participation for themselves

Time 30 minutes

Resource materials

- Statistics from GAP research on participation in work and promotion (Fact sheet)
- Activity Sheet
- Powerpoint presentation (if required)

Instructions for tutors

1. Using the materials/toolkit section on 'participation' make a presentation to the group on current participation rates by women in Irish workforce. You may wish to use PowerPoint or overheads.
2. After this presentation ask the participants, in pairs, to briefly discuss the issues raised, and to relate it back to their own experiences.
3. Ask each pair to identify the supports and barriers they experience personally to participating in work and in particular to seeking promotion
4. Back in the main group, list these on flip chart. Discuss in detail the impact of this on their personal and work lives.

Some pointers for inclusion in discussion

Supports and barriers may be grouped according to whether they are at the level of the individual participant and/or family situation, the employing organisation, and/or knowledge/skills gaps.

Day 1 Session 3

PERSONAL SKILLS INVENTORY

Aim of the activity

To broaden participants understanding of their skills, competencies and knowledge by identify their strengths

Learning objectives

By the end of the session participants will

- Understand the purpose of skills inventory
- Have completed the Myers Briggs questionnaire/or alternate for assessment by the Tutor later
- Understand the differences in personality types indicators

Time 45 minutes

Resource materials

Myers Briggs Questionnaire (or alternate)
Myers Briggs Explanation Sheet

Instructions for tutors

Day 1 Session 4

ROLE MODELS SPEAKERS

Aim of the activity

To hear the personal stories of women working at a higher level than the participants who give a talk about their careers, how they overcame difficulties balancing their personal and professional lives and any advice they would like to offer others as a result of their own experiences.

Learning objectives

By the end of the session, participants will

- Have a clear idea of what was involved for others in promoting themselves at work
- Identify the supports and barriers to promotion at a personal and professional level
- Have heard practical solutions from the working lives of other women addressing issues of coping with career breaks, developing confidence, taking initiative, working for professional qualifications in their own time and passing exams against expectations, coping with negative events (such as divorce, redundancy) forcing them to rethink their lives.

Time 90 minutes

Resource materials

May need to complete small written biographical note on the Speaker(s) to aid their introduction

Instructions for tutors

1. Tutor introduces the session emphasizing the value in learning from other people's experience, success stories
2. Introduce the Speaker(s), background, interest in participating
3. Speaker gives talk on their experiences to date focusing on career history, short personal history, supports and barriers
4. Open discussion on what struck people about the talk, insights relevant to their own situation, surprises, what might they do differently as a result of hearing other people's stories.
5. Some pointers for inclusion in discussion
6. The Tutor can link the personal stories back to the earlier session (2) when the women identified their own supports and barriers

Day 1 Session 5

ACTION LEARNING

Aim of the activity

To review learning at the end of Day 1 and to set some targets for the second block of training

To learn how to complete an analysis of the promotion pathways in their workplace(s)

Learning objectives

Following the session, participants will have identified

Time 60 minutes

Resource materials

Promotion Pathways in my work place

Activity Sheet Learning Review

Instructions for tutors

1. Go through the "Activity Sheet Promotion Pathways in My Work Place". (Developed by HR Department in advance of training). Distribute the activity sheets and ask participants to complete them. Discuss in large group, placing emphasis on positive action participants can take.
2. Ask each participant to identify a position they would like to apply for in the next six months. This may be an actual or fictional vacancy. Explain that during the second block, they will be role play simulated and mock interviews for the position. The Tutor should write a list of the position/vacancy of interest to each individual participant. Note that there will be time to prepare for interview during the second block and that they should wear clothes that they deem appropriate for interview on both days.
3. Explain the Activity Sheet Learning Review and ask participants to complete it individually.
4. Back in the main group discuss each section of the activity sheet. Pay particular attention to emphasising the positive and to addressing any concerns/questions participants may have at this stage.

ACTIVITY SHEET LEARNING REVIEW

Complete the activity sheet below, indicating what you found useful (+), what was difficult for you (-), what questions do you now have about promoting yourself (?) and what surprised you to date (!).

Share with one other participant.

+	-
?	!

DAY 2

Day 2 Session 1 WARM UP

Aim of the activity

Participants will share insights or thoughts since the first day, get to know each other through a short warm up exercise and learn about the format for the second block of training.

Learning objectives

At the end of the session, participants will

- Recap on their learning to date
- Know what to expect in the second block of training

Time 15 minutes

Resource materials

Tutor may go through the overview of the second block using powerpoint or from a handout.

Tutor should have video camera set up in advance. Although not used in this session, it will help participants become familiar with it.

Instructions for tutors

1. Tutor welcomes the participants to the second block of training and invites them to share any insights since the first day. Discuss briefly.
2. Ask participants to form pairs and explain that they have 3 minutes to teach each other something new. (A teaches B and visa versa). Suggestions include (a yoga position, how to make bread, a sentence in another language, sign language, the ingredients for their favorite drink/cocktail, the words of a song, a dance movement, a joke, etc).
3. Go through the overview for the second block. Answer any questions/concerns the participants may have.

Day 2 Session 2

FEEDBACK ON PERSONAL INVENTORY

Aim of the activity

To provide feedback to participants on the results of the Myers Briggs Type Indicator so as to identify participants' strengths and preferences.

Learning objectives

By the end of the session, participants will

- Have an understanding of their own and other people's preferences that will help them to identify their special strengths.
- In gaining this understanding they will have greater insight into the kinds of work they might enjoy and be successful doing
- Understand how people relate differently due to differences in how they look at things and make decisions.

Time 90 minutes

Resource materials

Results of Myers Briggs Type Indicator

Instructions for tutors

1. Return the results of the Myers Briggs Type Indicator to all participants (individually) and provide them with the opportunity to read them on their own.
2. Ask participants if they agree/disagree, are surprised about the results. Ask each participant to identify what strikes her about the results. What are they learning about themselves and their strengths?
3. Form groups of three to discuss the results with others, focusing on the differences between the various types.
4. While participants are in groups of three, the Tutor can provide clarification to individuals who are not sure about the results.

Day 2 Session 3

COMMUNICATION AND INTERVIEWS

Aim of the activity

To consider interviews as means of communications between two partners and identify the supports and barriers to how they currently communicate.

Learning objectives

Following the session, participants will

- Define Communication
- Provide a list of barriers to communication and examples of how they manifest themselves

Time 60 minutes

Resource materials

Definition of Communication (on flipchart/powerpoint)
Supports and Barriers to Communication

Instructions for tutors

1. Brainstorm the purpose of interviews placing all responses on flipchart. Link to the role communication plays in interviews to how we communicate everyday.
2. Emphasise the percentage rates to the elements of communication (55% Visual, 38% Vocal and 7% Verbal) Discuss the implications for interviews
3. Using powerpoint/flip chart, discuss the supports and barriers to communication linking back to the implications for interviews.
4. Form pairs and communicate/talk with each other on a topic of your choice. Participants give feedback to each other using the supports and barriers to communication as a checklist.

Supports and Barriers to Communication

Facial Expressions and Enthusiasm

- Smile
- Adopt a pleasant expression
- Display confidence
- Spirited
- Confident and active

Dress and Appearance

- Wear appropriate colours and patterns
- Ensure clothes are clean and neatly pressed
- Use minimum make up and jewelry

Eye Communication

- Avoid eye darting
- Look directly at the interviewer
- Hold gaze for 2 to 3 seconds
- Look at all the on the interview panel
- Look at listener's forehead if you feel intimidated

Posture and Movement

- Carry your energy forward
- Avoid slouching, leaning or rocking
- Avoid backing away from the interviewers
- Use minimum gestures and do not fidget

Voice

- Vary the pitch of your voice
- Speak clearly and loudly enough
- Project voice

Language

- Clear, easily understood
- Avoid jargon and acronyms
- Use words at audience's level

Day 2 Session 4

RELAXATION TECHNIQUES

Aim of the activity

To review the four recognised stages of communication and practice a series of relaxation techniques for use prior to interviews

Learning objectives

By the end of the session, participants will

- Be familiar with four stages associated with interviews/communication
- Know simple relaxation techniques

Time 30 minutes

Resource materials

Slide/flip chart with stages of communication
Activity Sheet Relaxation Techniques
Tape recorder/ light relaxation music (play in the background during the session)

Instructions for tutors

1. Tutor displays stages in communication and gives examples from her own experience of each stage
2. Asks participants at what level they would currently place themselves in relation to interviews.
3. Explain that the single biggest barrier to getting what you want and in particular to interviews is fear. It is important that the Tutor points out that fear is a learned behaviour. Give examples of children having no fear. Note that any learned behaviour can be unlearned through practice and using simple techniques.
4. Play light music and bring the participants through one of the exercises on the activity sheet relaxation techniques.

Some pointers for discussion

Do not dwell too long on fear, as participants may be nervous about mock interviews without reinforcement. Focus on relaxation rather than fear.

Stages of Communication

<i>Level</i>	<i>Feeling</i>	<i>Behaviour</i>
1. Beginner	Panic	Avoidance
2. Basic	Fear	Resistant
3. Advanced	Tension	Acceptance
4. Professional	Excitement	Willing

ACTIVITY SHEET RELAXATION TECHNIQUES

Deep Breathing

Sit in a relaxed position
Close your eyes
Imagine hearing soft, pleasant music or feeling the warm sun on your face
Count to 4 while breathing in slowly
Hold your breath for 4 slow counts
Count to 4 while exhaling slowly
Continue this cycle for 2 to 5 minutes

“There is no such thing as a formal interview. I’m going to have a conversation with people.”

Muscle Relaxation

Sit or stand in a comfortable position
Close your eyes
With hands hanging at your side, clench your fists
Breathe in slowly and
Lift your shoulders, trying to touch your ears
Drop your shoulders and release your fists with a thrust
Exhale slowly
Shake your hands and arms
Repeat this cycle several times

“I know more about my career than those interviewing me. That’s why I am here!”

Visualisation

Sit in a comfortable position
Close your eyes
Imagine a peaceful, calm, relaxing setting
Imagine seeing, feeling, hearing and even smelling that setting
Breathe evenly and slowly as you feel yourself relax
Think of a word to identify the setting
Say the word to yourself and take a deep breath
Recall the setting as you repeat the word
Continue this process for several minutes

RELAXATION TECHNIQUES....Continued

Exercise

Sit in a comfortable position
Close your eyes
Let your hands hang loosely at your sides
Gently shake your hands
Imagine stress and tension draining out of the tips of your fingers
Stretch your fingers and count to 3
Slowly clench your fingers into a fist, counting to 3
Repeat steps 6 and 7 several times

“Nervousness is normal and natural. I can use this energy to my advantage!”

Day 2 Session 4

PROMOTING YOURSELF GOAL SETTING

Aim of the activity

To identify long and short term goals for work and personally

Learning objectives

By the end of this session participants will

- Set personal and career goals
- Agreed steps towards achieving one personal and one career goal

Time 120 minutes

Resource materials

Activity Sheet: "Applying Five Well-Formed Conditions for an Outcome/Goal"
Activity Sheet: "Applying the Five Well Formed Conditions for an Outcome of Your Own Life"

Instructions for tutors

1. Brainstorm some goals for the coming year and write up clearly on a flip chart
2. Present a summary of the five rules of well-formed outcomes/goals. Go through each rule making reference to examples provided by the participants earlier. Place equal emphasis on the need for goals to be positive, specific and contextualised. Note that the individual must be in control and that the new goal must be aligned to and preserve any positive by-products of the current situation.
3. Distribute the Activity Sheet "Applying Five Well-Formed Conditions for an Outcome/Goal" and discuss
4. Distribute the exercise Applying the Five Well Formed Conditions for an Outcome of Your Own Life. Talk through and allow participants as much time as is needed to complete it. Tutor may need to provide one-to-one points of clarification on the exercise. Minimum disruption should occur during this exercise
5. Invite participants to nominate two goals, one personal and one related to the work. Discuss in large groups

Activity Sheet

Applying Five Well-Formed Conditions for an Outcome/Goal

Read each sentence and decide if it is a well-formed outcome. If the outcome is not well formed rewrite the statement so that it meets the well-formed conditions.

1. I do not want to be fat any more
2. I want to be successful
3. I want to be able to drink and not pick up a cigarette
4. I want to feel good about myself
5. I want to live in a nice house and drive an expensive car
6. I do not want to be depressed any more
7. I want my boss to tell me that I have done a good job, when I have
8. I want to learn how to tell my children that I love them
9. I want to be happy
10. I want to pass the examination

Activity Sheet

APPLYING THE FIVE WELL FORMED CONDITIONS FOR AN OUTCOME OF YOUR OWN LIFE

(adapted from McHugh 2000 "Mind with a Heart, Creative Patterns of Personal Change")

Start by making an inventory of your dreams, desires, wants, the things you have to do, want to be and wish to share. Keep your pen moving non-stop for no less than 10 – 15 minutes. Just write them down with no limits. Remember that everything is within your grasp. When you impose limitations on yourself, be aware that those are limitations you have created.

Go over the list you have made, estimating when you expect to reach those outcomes. It is helpful to set a time frame even though it may be necessary to change it as you progress

Pick your four most important goals for the year. Pick the ones you are most excited about, that will give you the most satisfaction. Find out all the reasons why you will absolutely achieve them. Reasons are the differences between being interested versus being dedicated in accomplishing something.

Review the list against the five rules for well-formed outcomes. Are the outcomes positive, specific, contextualised, in your control and maintainable by you? Do they keep positive aspects of your current situation?

Make a list of the resources you already have. You need to know the tools at your disposal. The list would include character traits, friends, financial resources, education, time, energy etc. Find out all your strengths, skills, resources and tools.

Focus on the time you skillfully used some of these resources. Write them down. Describe what you did that made you succeed, what questions and resources you effectively used, and what was about the situation that made you feel successful.

Describe the kind of person you would have to be to attain your goals. We hear a lot about success, but we do not hear as much about the components of success – the attitudes, beliefs or behaviours that go into producing it. Write down a few paragraphs about all the character traits, skills, attitudes, beliefs and disciplines you would need in order to achieve all that you desire.

Now take each of your four key goals and create a first draft of a step-by-step plan on how to achieve them. Ask yourself,

- What would I have to do first to accomplish this?
- What prevents me from having it now?
- What can I do to change this?

A helpful way to form a plan is to think of your ultimate goal and then to work backward, step by step. Be sure your plans include something you can do today.

DAY 3

Day 3 Session 1 INTERVIEW PREPARATION

Aim of the activity

- To match the participants experience and knowledge to the job specification of the positions of interest to them
- To prepare for mock interviews

Learning objectives

By the end of this session, participants will

- Understand the purpose and structure of interviews
- Analysis skills and knowledge specification for a position of interest
- Name and list their individual experiences and skills of relevance to the job specifications of interest

Time 90 minutes

Resource materials

Structure of Interviews
Examples of job and personal specifications for relevant positions
Activity Sheet Interview Planning

Instructions for tutors

1. Brainstorm the purpose(s) of interviews from the perspective of the employer/interviewer and from the perspectives of the interviewee.
2. Brainstorm what they deem as critical to the successful preparation
3. Explain the purpose of job/personal specifications.
4. Proceed to explain the activity sheet Interview Planning and invite the participants to complete the sheet for a position of interest. Once they have completed ask the participants to go through their sheet with one other person. The Tutor should visit each pair, provide clarification and help people identify examples of how they demonstrate the knowledge and skills required in the personal specification. Stress through out that the purpose of the interview is to help the interviewers get to know them and to identify how they meet the requirements of the personal specification. Allow time for this. It is important that each participant has (what?)

ACTIVITY SHEET INTERVIEW PLANNING

INTERVIEW PLANNING

<i>Position:</i>	
<i>Skills and knowledge</i>	<i>Personal Examples</i>
1.	a. b. c.
2.	a. b. c.
3.	a. b. c.
4.	a. b. c.
5.	a. b. c.
6.	a. b. c.
7.	a. b. c.

Day 3 Session 2

INTERVIEW FEEDBACK

Aim of the activity

To complete mock interviews and receive feedback from the interview panel and complete self/peer assessment

Learning objectives

Following this session, participants will

Have practiced completing an interview
Received feedback from the interview panel, their peers and Tutor
Assessed their own performance

Time 180 minutes to include two breaks

Resource materials

Video Recorder
Television
Activity Sheet Interview Skills Checklists

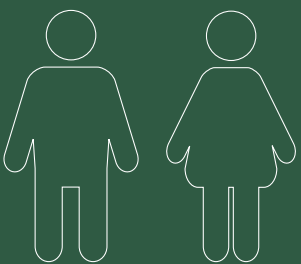
Instructions for tutors

1. Each participant completes a 10 – 15 minute interview late on Day 1 and early on Day 2. Each interview is recorded on video. The interview panel completes Interview Skills Checklists. The interviewee also completes an Interview Skills Checklist.
2. It is critical that the Tutor explains the purpose of feedback as a learning tool.
3. Each interview is reviewed separately. The interviewee is asked what she did well and what she might improve on. Then others are invited to comment. Tutor also provides feedback.
4. Key learning points emerging from the presentations can be noted on the flipchart
5. Learning Review.

ACTIVITY SHEET INTERVIEW CHECKLIST

INTERVIEW SKILLS CHECKLIST

<i>Interview Skills</i>	<i>Improve</i>	<i>Good</i>	<i>Comments</i>
1. Enthusiasm <ul style="list-style-type: none">- Smiled- Good eye contact- Spirited/Energetic- Confident			
2. Questions <ul style="list-style-type: none">- Answered clearly- Answered appropriately- Listened- Gave practical examples- Elaborated			
3. Appearance <ul style="list-style-type: none">- Dressed appropriately- Appeared comfortable			
4. Gestures <ul style="list-style-type: none">- Natural hand movements- Did not fidget- Relaxed			
5. Voice <ul style="list-style-type: none">- Spoke loud enough- Spoke clearly			
6. Other Comments			



EQUALITY BRIEFING FOR EMPLOYERS

EQUALITY BRIEFING FOR EMPLOYERS

Introduction

Background

It is essential that companies realise the potential of all the staff skills at their disposal. Studies indicate that latent skills exist and are at the disposal of managers, most notably line managers, yet are not being applied or made available to the performance of the company/department. Greater efficiencies and effectiveness are possible when line managers get the best from the workforce.

These training materials are designed for use by trade unions tutors in conjunction with Congress Gender and Pay Project gender-neutral guidelines for job evaluation and for gender proofing and gender impact assessment. They are part of the GAP project, which ran from January 2002 to March 2004. Congress gratefully acknowledges support from the NDP funded through the Department of Justice, Equality & Law Reform.

Aim

This one-day briefing provides an opportunity for line managers to benchmark/assess how they and their company perform in maximising the performance potential of their workforce, understand their responsibilities under Equality legislation and the links between equality, performance and participation.

Course Objectives

Briefings will support managers to:

- Critically review the business case for equality and how gender equality impacts on women's participation and performance in their workplace
- Raise awareness of what is necessary to ensure their work policies and practices are compliant with equality legislation
- Explore the contribution managers can make towards improving individual and company performance by addressing equality in the context of business objectives

Learning outcomes

At the end of the course participants will:

- Have assessed company performance in relation to equality and participation
- Have a greater understanding of equality legislation

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- Be familiar with a range of improvement strategies including job evaluation, mentoring, mapping explicit pathways
 - Understand how training, development and mentoring contribute to equality
 - Understand the role managers can potentially play
 - Have exchanged information on good practice

Training methods

The one-day briefing is designed to present facts and information in a way that allows participants to reflect on current policy and practice in their work places. The briefing will also facilitate discussion between participants through practical exercises.

Varying the training methods will support a dynamic learning environment. To facilitate a dynamic learning process a number of training methodologies, including the following, will be used to deliver the course:

- Brainstorming
- Whole and Small Group Discussions
- Presentations
- Case Studies
- Company Assessment
- Handouts and Reading

TARGET GROUP AND NUMBER OF PARTICIPANTS

This course will be of interest to Human Resource Departments and also Middle Managers and Line Managers

Between 8 and 10

Pre briefing

In advance of the briefing day, the trainers will liaise with the human resource department to ascertain the participation rates of men and women in the companies attending the briefing. This information will provide general facts and figures on positions held, the promotion patterns and training and development provision. Examples used over the day will therefore emerge from the actual practice of the companies attending.

Course materials

The course uses research and materials provided in the Gender and Pay Project Guidelines/Toolkit. Tutors will need copies of this pack.

Tutors will also need to organise

- Photocopies of activity sheets/exercises
- Copies of case studies/videos
- Participant registration forms

Equipment required

- Flipchart and markers
- Overhead projector/PowerPoint facilities
- Paper and pens
- Name Cards
- Television and Video

Venue Requirements

- 1 large room
- 1 breakout/syndicate room
- Chairs organised in boardroom style

Format and Adaptation

The suggested activities and sessions outlined in this manual should be adapted to suit the needs and preferences of the group of participants. Tutors should feel free to change the length of time given to sessions and the order of sessions. Other exercises etc can be substituted and used by Tutors as appropriate.

Suggested Timeframe

<i>DAY 1</i>			
<i>Time</i>	<i>Topic</i>	<i>Appropriate Duration</i>	<i>Session</i>
10.00	Welcome and Registration	20 Minutes	Session 1
10.20	Women, work and worth	30 Minutes	Session 2
10.50	Equality, the Business Case	30 Minutes	Session 3
11.30	BREAK		
11.50	Equality Legislation	30 Minutes	Session 4
12.20	Attitudes at Work	40 Minutes	Session 5
1.00	LUNCH		
2.15	Improvement Strategies	45 Minutes	Session 6
3.00	Improvement Strategies	45 Minutes	Session 7
3.45	Action Planning	45 Minutes	Session 8
4.30	CLOSE		

Session One

WELCOME AND REGISTRATION SESSION

Aim of activity

To welcome participants and introduce the course at the first session

Learning Objectives

At the outset it is important that a range of issues is addressed so as to ensure that the course runs efficiently and effectively.

This session gives participants the opportunity to learn about the details of the course, housekeeping arrangements such as start and finish times, venues, lunch breaks, etc.

Any paper work requiring completion such as the registration forms can be completed.

Time 20 minutes

Resources required

1. Name Cards
2. Registration Cards
3. Flipchart
4. PowerPoint
5. Course Packs to include folder, pen and paper

Instructions

1. Welcome participants, present the course aims, objectives and the format for the day.
2. Ask participants to introduce themselves, their positions and their company
3. Invite participants to nominate questions/issues they would like to see addressed during the day
4. Summarise when/how/if the issues raised will be addressed.

Session two

WOMEN, WORK AND WORTH

Aim of the activity

To gain a greater understanding of the nature of participation of women in the workplace in Ireland and identify what currently supports and/or hinders participation.

Learning objectives

Following the session, participants will

- Have a clear understanding of the nature and level of participation of women in employment in Ireland
- Know how to complete an analysis of the promotions and pathways in their own workplaces
- Have assessed supports and barriers to participation for themselves

Time 30 minutes

Resource materials

Statistics from GAP research on participation in work and promotion (Fact sheet)
Activity Sheet
Powerpoint (optional)

Instructions for tutors

1. Using the materials/toolkit section on 'participation' make a presentation to the group on current participation rates by women in Irish workforce. You may wish to use PowerPoint or overheads.
2. After this presentation ask the participants, in pairs, to briefly discuss the issues raised, and to relate it back to their own experiences.
3. Ask each pair to identify the supports and barriers they experience personally to participating in work and in particular to seeking promotion
4. Back in the main group, list these on flip chart. Discuss in detail the impact of this on their personal and work lives.

Session three

EQUALITY - THE BUSINESS CASE

Aim of the activity

To highlight the links between the performance at work, women's perception of their own performance, self-confidence and quality of performance

Learning objectives

Following the session, participants will

- Understand the difference between women's and men's self rating of performance
- Understand the barriers to women putting themselves forward for promotion, progression, training and education

Time 30 minutes

Resource materials

- Quality of Work Factsheet (UK) (see resources)
- Statistics from GAP research on participation in work and promotion (Fact sheet)
- Activity Sheet

Instructions for tutors

1. Using Quality of Work research present summary of findings of the differences of women's and men's self-rating on the quality of their performance. Draw out the implications for the performance of a section/department/company
2. Provide a summary of women's participation in upskilling and in training and development. (Make reference to Fact sheet Quality of Work)
3. Draw out connections between quality of performance, self-rating, upskilling and participation in training and development.
4. Invite open discussion on the implications of this for managers and HR Departments

Session four

EQUALITY LEGISLATION

Aim of the activity

To outline and discuss Equality Legislation to include the Employment Equality Act 1998 The 2004 Equality Bill and guidelines on Employment Equality Policies

Learning objectives

Following the session, participants will

- Have a greater understanding of equality legislation in Ireland
- Be familiar with the impact of the legislation on company practice
- Have considered the implications of the legislation for their company employment practice

Time 30 minutes

Resource materials

- Employment Equality Act 1998
- 2004 Equality Bill
- "Guidelines for Employment Equality Policies" jointly published by the Equality Authority, IBEC and ICTU
- The protection of Employees (Part-Time Workers) Act 2001
- Powerpoint presentation

Instructions for tutors

1. Summarise the salient points from the legislation relating to gender equality
2. Present case studies highlighting the implications of the legislation for employers
3. Open Discussion inviting participants to discuss case studies and any implications for their employment practice

Session five

IMPLICIT AND EXPLICIT ATTITUDES TO FEMALE WORKERS

Aim of the activity

To highlight the implicit and explicit attitudes to women and the implications for employment practice and for women's participation and performance

Learning objectives

Following the session, participants will

- Understand how implicit and explicit attitudes impact on women's participation and performance at work.
- Reflect on the attitudes evident in their workplaces and the role(s) managers may play in sustaining and/or changing attitudes

Time 40 minutes

Resource materials

- Video on gender inequality available from North Leitrim & Sligo Video Project nlwrg@eircom.net
- Activity Sheet

Instructions for tutors

1. Introduce session and present video
2. Following the video, invite participants to form four/five discussion groups and to address the questions raised in the activity sheet
3. Invite participants back into main group for open discussion on issues arising.

Activity Sheet Implicit and Explicit Attitudes at Work

Having reviewed the video please reflect on the following

Was the video relevant to my workplace?

What sustains positive and/or negative attitudes?

What role might managers play in sustaining and/or challenging attitudes?

What role might HR play?

Session Six

IMPROVING EMPLOYMENT PRACTICE AND PERFORMANCE

Aim of the activity

To highlight practical steps that will improve the employment practice and hence performance

Learning objectives

Following the session, participants will

- Understand the positive contribution of job evaluation as a tool that can ensure equality in the workplace
- Understand how policies and practice can be assessed to avoid unintended negative consequences of change and/or to improve existing arrangements

Time 45 minutes

Resource materials

- Statistics from GAP research on participation in work and promotion (Fact sheet)
- A guide to negotiators dealing with gender equality in the workplace (GAP Project)
- Activity Sheet
- Powerpoint

Instructions for tutors

1. Using power point, define job evaluation and how it is used.
2. Go through the checklist for avoidance of gender bias in job evaluation
3. Go through a practical case study of how job evaluation positively influenced women's employment in companies comparable to those attending
4. Define gender impact assessment and briefly bring participants through the checklist on gender impact assessment

Session seven

IMPROVING EMPLOYMENT PRACTICE AND PERFORMANCE

Aim of the activity

To highlight practical steps that managers can take to address equality and hence improve employment practice and company/department performance

Learning objectives

Following the session, participants will

- Understand the critical role managers play in sustaining and/or changing employment practice
- Be familiar with the explicit/implicit promotion pathways operating in their workplaces
- Understand how mentoring and role models can positively influence performance and equality practice

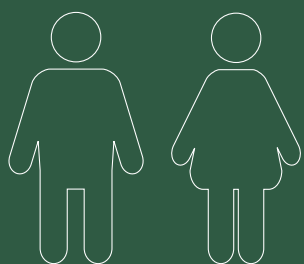
Time 45 minutes

Resource materials

A guide to negotiators dealing with gender equality in the workplace (GAP Project) Activity Sheet

Instructions for tutors

1. From exercise (numbers of men/women & grades) completed with human resource departments ask managers to reflect on the current situation for women gaining promotion in their work places. Can they identify progression routes in their companies. Tutor can summarise relevant progression routes, emphasising the role that managers play in nominating, encouraging, supporting and role modelling.
2. Present summary of a manager's role in supporting or hindering the performance of his/her team and the relevance of this to women's participation and performance
3. Present a summary of statistics of women's participation in training and development in each company and the role managers/HR can play in supporting training and development
4. Through group discussion, explore what action managers can take.



GLOSSARY

GLOSSARY

GENDER PAY GAP REFERENCES

WEB ADDRESSES

Ireland

<http://www.ictu.ie>

Irish Congress of Trade Unions (Congress)
list of links to all affiliated trade unions is available on this site.

<http://www.familyfriendly.ie>

Website of the National Framework Committee for the development of Family Friendly Policies at the level of the Enterprise. (Established under the PPF)

<http://www.equality.ie>

The Equality Authority

<http://www.entemp.ie>

Dept of Enterprise Trade and Employment

<http://www.welfare.ie>

Dept of Social and Family Affairs

<http://www.justice.ie>

Department of Justice, Equality and Law Reform

<http://www.odei.ie>

Office of the Director of Equality Investigations -the Equality Tribunal. Access to case decisions under the Employment Equality and Equal Pay Acts, and to the European Court of Justice decisions.

<http://www.lrc.ie>

The Labour Relations Commission

<http://www.labourcourt.ie>

The Labour Court

<http://www.eurofound.ie>

European Foundation for Working and Living, Dublin

<http://branchwebs.cipd.co.uk/ireland/>

Chartered Institute for Personnel and Development in Ireland

INTERNATIONAL

<http://www.tuc.org.uk>

Trade Union Confederation (TUC)

<http://www.etuc.org>

European Trade Union Confederation

<http://www.dti.gov.uk>

UK Department of Trade & Industry,

<http://www.aflcio.org/women/index.htm>

American Trade Union Confederation

<http://www.oecd.org>

Organisation for Economic Co-operation and Development, Paris

<http://www.familiesandwork.org>

Families and Work Institute, US

<http://www.employment-studies.co.uk>

Institute for Employment Studies, UK

<http://www.jrf.org.uk>

Joseph Rowntree Foundation, UK

<http://www.theworkfoundation.com>

The Work Foundation (formerly the Industrial Society), UK

<http://www.workliferesearch.org>

The Work Foundation Research Centre, UK

<http://www.parentsatwork.org.uk>

Parents at Work, UK

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Behning Ute, Serrano Amparo (Eds)(2001) Gender Mainstreaming in the European Employment Strategy European Trade Union Institute, Brussel

Beijing Declaration & Platform of Action, 1995

Beijing Plus Five National Report

Conroy, Dr Pauline, (2001) Reflecting at the Crossroads, Ralaheen Research, Dublin

Dept of Justice, Equality & Law Reform (2001) Draft National Plan for Women,

Dept of Justice, Equality & Law Reform, Strategy Statement, 2001-2004

Dublin Equality Authority, IBEC, ICTU, Guidelines for Employment Equality Policies in Enterprises

Equality Commission for N. Ireland (2001) Section 75 of the Northern Ireland Act 1998, Practical Guide on Equality Impact Assessment.

European Commission on behalf of transnational project of Womens Institute (Affiliate of Spanish Ministry for Labour and Social Affairs. A Code of Practice on the implementation of Equal Pay for Work of Equal Value for Men and Women.

Fawcett, Valerie(1994) Springboard Women's Development Programme, MCB University Press Limited

Fisher Hugh,(2000) Investing in People. Family Friendly Work Arrangements in Small and Medium Sized Enterprises. Equality Authority.

Foreman Jim: O'Brien Fiona (2000) Gender restructuring and management in the UK: Project management and human resources management influx Management Research News Print Media Volume: 23 Issue: 9-11 Patrington, United Kingdom

Lewis Sue: (1998) Volume:71 Part 4 Empowering Women in the Workplace: Perspectives, Innovations, and Techniques for Helping Professionals Journal of Occupational and Organizational Psychology Leicester Dec

Galligan, Dr Yvonne (2000) The Development of Mechanisms to Monitor Progress in Achieving Gender Equality in Ireland. Report Commissioned by the Dept of Justice, Equality & Law Reform.

Good Practice Guide to Guarantee Equal Pay (1999)

Humphreys, Peter C. Drew Eileen, Murphy Candy (1999) Gender Equality in the Civil Service, IPA, Dublin

Humphreys, Peter C., Fleming Sile, O'Donnell Orla, (2000) Balancing Work and Family Life, The Role of Flexible Working Arrangements. Department of Social, Community and Family Affairs. Dublin.

Indecon (December 2002) Study of the Gender Pay Gap at Sectoral Level in Ireland

Irish Congress of Trade Unions (undated)European Case Law & Equality – A Guide for Negotiators

Irish Congress of Trade Unions (March 2002) Congress Report on Survey of Childcare Practices – Identifying Members' Childcare Needs

Kingsmill, Denise (2003) EOC Report on Women's Employment and Pay.

Irish Congress of Trade Unions (1999) Fourth Equality Programme, Delivering Gender Equality 1999-2004

Lewis Sue: (1998) Volume:71 Part 4 Empowering Women in the Workplace: Perspectives, Innovations, and Techniques for Helping Professionals Journal of Occupational and Organizational Psychology Leicester Dec

Mullally Siobhan and Smith, Olivia, (2000) Partnership 2000 Working Group Report on Equality Proofing. Government Publications.

Mullally, Siobhan, (1999) Gender Proofing and the European Structural Funds: Outline Guidelines. Report Commissioned by the Department of Justice, Equality & Law Reform, GSO Dublin

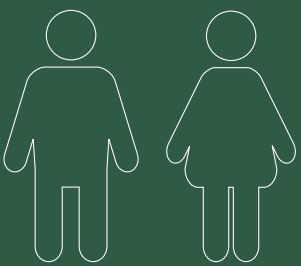
National Anti Poverty Strategy- Revised

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Programme for Prosperity and Fairness, 2000 -2002

Russell, Helen, Smyth Emer, Lyons Maureen, O'Connell Phillip, (2001) Women Returning to Employment in Education & Training, ESRI, Dublin. (NOT YET PUBLISHED)

White Paper on Adult Education 2000, Government Publications Dublin.



RESOURCES

SUMMARIES

Summaries for Employment Cases in 2003 Gender/Marital Status from ODEI - The Equality Tribunal website

Summary of Decision DEC-E2003-001

Summary of Decision DEC-E2003-002

An Employee

-v-

An Employer (In Liquidation)

(Represented by A Firm of Solicitors)

Headnotes

Employment - Equal Pay - Treatment - Harassment - Victimisation- Age- Sexual Orientation - Direct Discrimination - Prima Facie Case - Employment Equality Act, 1998: sections 6,8, 29,32 and 74.

1. *Background*

The complainant was employed as a cleaning operative by the respondent from September, 1997 until May, 2000. He alleged that he was paid a lower rate of remuneration than two comparators with whom he performed "like work" and that this difference was based on age contrary to the Act. He also alleged that he was discriminated against and harassed by his employer on grounds of sexual orientation because he had rejected his inappropriate behaviour. He alleged his employer was homosexual and he was heterosexual. Finally, the complainant alleged that he had been victimised contrary to section 74(2) of the Act (i) because he had rejected the aforementioned advances and (ii) because he had taken a complaint of unfair dismissal against a client of the respondent.

2. *Conclusions*

The Equality Officer held that the complainant failed to establish a prima facie case that he was paid a lesser rate of remuneration than that paid to the named comparators. As regards the allegations of discriminatory treatment, the Equality Officer was satisfied that the actions of the respondent comprised an effort on his part to address issues of a management nature, which involved the complainant, and which had a direct impact on business activity of his company and were not connected with the sexual orientation of the complainant. The Equality Officer also held that the complainant had failed to establish a prima facie case of harassment on the ground of sexual orientation contrary to the Act. Finally, the Equality Officer held that the allegations of victimisation fell outside the scope of the definition of victimisation provided in the statute.

3. *Decision*

The Equality Officer held that the complainant had failed to establish a prima facie case of equal pay, discriminatory treatment, harassment and victimisation contrary to the Employment Equality Act, 1998.

4. *Cases cited*

Dublin Corporation -v- Gibney EE5/1996

Summary of Equality Officer's Decision No DEC-E2003-006

Gordon

-v-

De Beers Industrial Diamonds Ltd

(Represented by IBEC)

Headnotes

Employment Equality Act, 1998 - employment - gender - direct discrimination - indirect discrimination - section 18; section 19; section 75; section 79 - "whether the different rates of remuneration...are lawful" - "grounds other than gender" - shift allowance - job evaluations - EU Directive No 91/533/EEC - Terms of Employment (Information) Act, 1994 - Industrial Relations Acts, 1946-1990.

1. Background

This dispute concerned a claim by Mr Brendan Gordon, employed as a security officer by De Beers Industrial Diamonds Ltd, that he was entitled to the same rate of remuneration as that paid to four named female comparators, employed by the respondent as shift operators, in accordance with the provisions of section 19 (1) of the Employment Equality Act, 1998. The main aspect of difference in his salary and that of the comparators was the application of a 20% shift allowance to the comparators. The respondent denied the allegation of discrimination. It said that the matter had been unsuccessfully referred to the Labour Court on two occasions. It noted that the complainant had named four female comparators, but pointed out that of 178 shift operators employed, just six were female.

2. Conclusions

The Equality Officer was satisfied that that a claim of direct discrimination could not be upheld because women had been employed in the grade only for the past few years, and also that a claim of indirect discrimination could not be upheld because males constituted 96.6% of the comparator grade.

3. Decision

The Equality Officer found that the respondent did not discriminate against the complainant on the basis of his pay in terms of section 19 of the Employment Equality Act, 1998.

4. Cases cited

Labour Court

De Beers Industrial Diamond Division (Irl) Ltd and Irish Transport and General Workers' Union (Recommendation No 50 97)

De Beers Industrial Diamond Division (Irl) Ltd and Services Industrial Professional Technical Union (Recommendation No LCR15742)

Dunnes Stores v Mandate (DEP 12/98)

Summary of Equality Officer's Decision No DEC-E-2003-016

Kenna, Lynch, McLoughlin and Slevin
(represented by SIPTU)

-v-

Central Bank of Ireland
(represented by IBEC)

Headnotes

Employment - discrimination - gender - equal pay - like work - similar work - work of equal value - work inspections - skill - physical effort - mental effort - responsibility - working conditions - Employment Equality Act, 1998: section 7 (1) (b); section 7 (1) (c); section 18; section 19 (1); section 75.

1. Background

This dispute concerns a claim by Ms Catherine Kenna, Ms Christina Lynch, Ms Deirdre McLoughlin and Ms Linda Slevin, employed as Senior Operators by the Central Bank of Ireland, that they are entitled to the same rate of remuneration three named male comparators, two of whom are employed as Printers and the third of whom is a Cutter, in accordance with the provisions of section 19 of the Employment Equality Act, 1998, on the basis that they perform like work with the comparators as defined in section 7 (1) (b) and section 7 (1) (c) of the Employment Equality Act, 1998. The respondent denied that similar work, as defined in section 7 (1) (b), or work of equal value, as defined in section 7 (1) (c), existed between the complainants and the comparators.

2. Conclusions

In relation to the claim under section 7 (1) (b), the Equality Officer found that there were many similarities between the jobs of the two Printers named as comparators, but that their jobs were not of a similar nature to that of the complainants. She also found that the job of the Cutter was not of a similar nature to that of the other two comparators, nor was it of a similar nature to that of the complainants. Accordingly, the work performed by the complainants and the comparators was not of a similar nature in the context of section 7 (1) (b). With regard to the claim under section 7 (1) (c), the Equality Officer found that the mental effort and the responsibility required by the complainants and the comparators were similar. However, she found that the skill and physical effort required by the comparators were greater than that required of the complainants, and that the working conditions were not comparable, and that therefore the work performed by both employees was not of equal value in the context of section 7 (1) (c).

3. Decision

The Equality Officer found that the Central Bank of Ireland did not discriminate against the complainants on the basis of their pay in terms of section 19 of the 1998 Act.

Summary Equality Officer Decision DEC-E 2003/010

Langan (complainant)

Represented by MANDATE

-v-

C-Town Limited t/a SuperValu (respondent):

Headnotes

Employment Equality Act, 1998 Sections 7 and 29 - Employment - Equal Pay - Like Work

1. Background:

The complainant was employed as a store man with C-Town Limited t/a SuperValu. The named comparator is currently employed as a store man by the respondent. According to the complainant he performed 'like work' with the named comparator in terms of Section 7 of the Employment Equality Act, 1998 and that the reason for the difference in pay was on the grounds of age. The respondent does not accept that 'like work' existed between the complainant and the named comparator. The respondent made no arguments on grounds other than age.

2. Conclusions:

Following detailed work inspections the Equality Officer concluded that the complainant and the named comparator did perform 'like work' with each other when the complainant was employed full-time. The Equality Officer was satisfied that there was a big difference in the ages of the complainant and the named comparator, the difference being some 19 years. The Equality Officer notes that there were no arguments made by the respondent that there were grounds other than age for the difference in pay between the complainant and the named comparator. The Equality Officer also found that 'like work' did not exist between the complainant and the named comparator when the complainant was employed in a part-time capacity.

3. Decision:

The Equality Officer awarded the complainant equal pay with the named comparator for the period when the complainant was employed in a full-time capacity as a store man.

Summary of Equality Officer's Decision No DEC-E2003-013

Moriarty

(represented by Thomas A Walsh & Co, Solicitors)

-v-

Dúchas - The Heritage Service

Headnotes

Employment Equality Act, 1998 - discrimination - victimisation - marital status - age - seasonal work - long term temporary contracts - permanent positions - contract extension - rostering anomaly - section 6; section 8; section 74; section 75 - European Communities (Burden of Proof in Gender Discrimination Cases) Regulations, 2001 (SI 337 of 2001).

1. Background

This dispute concerned a claim by Ms Michelle Moriarty that she was discriminated against by Dúchas - The Heritage Service on the grounds of marital status and age, contrary to the provisions of section 6 of the Employment Equality Act, 1998, in terms of section 8 of the Act, when an unadvertised position of seasonal guide was offered to a less experienced person who was single and younger than the complainant. The complainant also asserted that she had been victimised by the respondent. The respondent denied the allegations of discrimination and victimisation. It said that the complainant may have regretted her failure to apply for permanent positions when they were advertised, but that this could not constitute discrimination.

2. Conclusions

The Equality Officer noted that the complainant cited several incidents as evidence of discrimination, including the offer of a permanent position to a colleague, the employment of a seasonal guide, and the late offer of employment to another seasonal guide. In relation to each of these incidents, the Equality Officer found that the complainant had failed to establish a *prima facie* case of discrimination. In relation to the victimisation claim, the Equality Officer was satisfied that the matter could not constitute victimisation as envisaged by the Act.

3. Decision

The Equality Officer found that the respondent did not discriminate against the complainant on the grounds of marital status or age, contrary to the provisions of the Employment Equality Act, 1998, when the position of seasonal guide was offered to a less experienced person who was single and younger than the complainant. She also found that the complainant was not victimised by the respondent contrary to the Act.

4. Cases cited

High Court

Davis v Dublin Institute of Technology (Quirke J, unreported, 2000)

Labour Court

Mitchell v Southern Health Board (Cork University Hospital) (AEE/99/8)

Revenue Commissioners and O'Mahony & others (EDA033)

**SUMMARY of Equality Officer Decision DEC-E 2003/014
Burke Represented by the INO**

-v-

The South Eastern Health Board

Headnotes

Employment Equality Act, 1998 - Employment - Promotion - Gender - Direct - Sections 6 and 8 - **Prima facie** claim

1. Background:

The complainant applied for the position of Director of Nursing in St. Joseph's Hospital, Dungarvan, Co. Waterford. She was one of three candidates (two female and one male) who applied for the position and two candidates (one male and one female) attended for interview. The complainant was unsuccessful in her interview and the successful candidate was male. It is the complainant's contention that she was better qualified and had more relevant experience than the successful male candidate. The complainant appealed the decision of the interview board but to no avail.

2. Conclusions and Decision:

The Equality Officer found that the complainant failed to establish a **prima facie** claim of discrimination in this case. Consequently the Equality Officer held that the respondent did not discriminate against the complainant on the grounds of gender within the meaning of the relevant provisions of the Employment Equality Act, 1998. The Equality Officer recommended that the respondent, in advance of receiving applications for a competition, should set out in detail the markings to be awarded under each criteria

3. Cases Cited:

Equality Officer Recommendation - Dublin Corporation v Gibney - EE 5/1986
Labour Court Determination - Dublin Institute of Technology and A Worker - DEE994
Labour Court Determination - Rotunda Hospital v Noreen Gleeson - DEE 003/2000

Summary of Decision DEC-E 2003/019

Burke (complainant)

Represented by Ms. Honan B.L. and Mr. Sheridan B.L. instructed by Augustus Cullen & Son, Solicitors

-v-

The Ashford Clinic (respondent)

Represented by Haughton McCarroll, Solicitors:

Headnotes

Employment Equality Act, 1998 Sections 7 and 29 - Employment - Equal Pay - Like Work - Race

1. Background:

The complainant alleges that she was paid less than the named comparator even though they performed 'like work' within the meaning of Section 7 of the Employment Equality Act, 1998. It is the complainant's contention that the difference in pay related to her race. The respondent has denied the allegation.

2. Conclusions and Decision:

Having examined the work of the complainant and the named comparator the Equality Officer found that the complainant did not perform 'like work' in accordance with Section 7 of the Employment Equality Act, 1998 with that of the named comparator and was, therefore, not entitled to equal pay in terms of Section 29(1) of that Act.

Summary of Decision DEC-E 2003/018

Burke (complainant)

Represented by Ms. Honan, B.L. instructed by Augustus Cullen & Son, Solicitors

-v-

The Ashford Clinic (respondent)

Represented by Haughton McCarroll, Solicitors

Headnotes

Employment Equality Act, 1998 Sections 6, 8 and 74 - Employment - Promotion - Treatment - Gender - Family Status - Age - Race - Victimisation

1. Background:

The complainant alleges that she was discriminated against by the respondent by being treated less favourably on the grounds of gender, family status, age and race in terms of her grading, pay, childminding arrangements and promotion. The complainant also alleges that she was victimised in terms of pay and also when the respondent failed to sign a Social Welfare form. The respondent denies the allegations.

2. Conclusions and Decision:

The Equality Officer found that the respondent did not discriminate against the complainant on the grounds of gender, family status, age and race within the meaning of the relevant provisions of the Employment Equality Act, 1998. The Equality Officer also found that the complainant was not subjected to victimisation by the respondent in terms of Section 74(2) of the Act.

Summary of Decision DEC-E 2003/020
Six Named Employees (complainants)
Represented by IMPACT and SIPTU

-v-

Dublin Institute of Technology (respondent)

Headnotes

Employment Equality Act, 1998 Sections 7 and 19 - Employment - Equal Pay - Like Work - Gender

1. Background:

The Unions, on behalf of the six named male employees, allege that they are paid less than the named female comparator even though they perform 'like work' within the meaning of Sections 7(b) and 7(c) of the Employment Equality Act, 1998. It is the Unions' contention that the difference in pay related to gender. The respondent has denied the allegation.

2. Conclusions:

Following detailed work inspections the Equality Officer found that the complainants do not perform 'like work' with the named comparator within the meaning of Sections 7(b) and 7(c) of the Employment Equality Act, 1998 and as a result they were not entitled to equal pay with the named comparator.

3. Decision:

The respondent did not discriminate against the complainant on the grounds of gender in relation to pay.

**Summary of Decision DEC-E 2003/021
Waldron (complainant)**

-v-

North Western Health Board (respondent) Represented by VP McMullin Solicitors:

Headnotes

Employment Equality Act, 1998 Sections 6 and 8 - Employment - Working Conditions - Marital Status - Family Status - Time Limit - Jurisdiction

1. Background:

The complainant alleges that the respondent put her under considerable pressure to resign in October, 1999 and when she refused she was subjected to discrimination and harassment on the grounds of her marital status and her family status. The complainant is also alleging that, from October 1999, the respondent discriminated against her when her requests, for travel and subsistence expenses to an office other than her permanent office base, were refused. The complainant further contends that she was subjected to discriminatory treatment and harassment when she was given a formal written warning on 11th December, 2001 for not having adhered to an instruction to travel with clients to and from the Office Christmas Party on 7th December, 2001. It is the complainant's contention that she was precluded from adhering to the instruction due to her family commitments. The respondent denies all the allegations.

2. Conclusions and Decision:

The Equality Officer addressed the preliminary issue of whether the claim was referred within the time limits set out in the Employment Equality Act, 1998 and held that it was so referred hence she had jurisdiction to investigate the three allegations made by the complainant. In relation to each of the three allegations the Equality Officer found that the respondent had not discriminated against the complainant in relation to her marital and family status.

Summary of Equality Officer Decision DEC-E 2003/025

Stewart (complainant)

Represented by SIPTU

-v-

The Mid-Western Health Board (respondent)

Represented by the HSEA:

Headnotes

Employment Equality Act, 1998 Section 19 - Equal Pay - Gender - Grounds other than Gender

1. Background:

The complainant is employed as a Community Development worker with the respondent organisation. She claims that she is performing 'like work' with a named male comparator who is also employed as a Community Development worker. According to the complainant the named male comparator is in receipt of a higher rate of pay to her even though they perform 'like work' with each other. The complainant is seeking equal remuneration in accordance with Section 19 of the Employment Equality Act, 1998. The respondent accepts that the complainant does perform 'like work' with the named male comparator but says that there are grounds other than gender in terms of Section 19(5) of the 1998 Act for the difference in pay to the complainant and the named male comparator.

2. Conclusions and Decision:

The Equality Officer found that there are grounds other than gender for the difference in pay between the complainant and the named male comparator. Therefore the Equality Officer concluded that the respondent has not discriminated against the complainant in relation to her pay.

Summary of Equality Officer Decision DEC-E 2003/026

Tobin (complainant)

Represented by SIPTU

-v-

The Mid-Western Health Board (respondent)

Represented by the HSEA:

Headnotes

Employment Equality Act, 1998 Section 19 - Equal Pay - Gender - Grounds other than Gender

1. *Background:*

The complainant is employed as a Community Development worker with the respondent organisation. She claims that she is performing 'like work' with a named male comparator who is also employed as a Community Development worker. According to the complainant the named male comparator is in receipt of a higher rate of pay to her even though they perform 'like work' with each other. The complainant is seeking equal remuneration in accordance with Section 19 of the Employment Equality Act, 1998. The respondent accepts that the complainant does perform 'like work' with the named male comparator but says that there are grounds other than gender in terms of Section 19(5) of the 1998 Act for the difference in pay to the complainant and the named male comparator.

2. *Conclusions and Decision:*

The Equality Officer found that there are grounds other than gender for the difference in pay between the complainant and the named male comparator. Therefore the Equality Officer concluded that the respondent has not discriminated against the complainant in relation to her pay.

Summary of Decision Number DEC-E2003-027

An Employee(represented by the Equality Authority)

-v-

An Employer(represented by Doyle Lowney, Solicitors)

Headnotes

Employment - Gender - Sexual Harassment - Vicarious liability - Defence - Victimisation - Prima Facie case - The Employment Equality Act, 1998: sections 6(2)(a), 15, 23, 74(2) and 82

1. Background

The complainant alleged that she was discriminated against on the grounds of gender and was sexually harassed by her supervisor contrary to section 23 of the Employment Equality Act, 1998. She also alleged that when she complained of the mistreatment, she was victimised by the Management Committee of the respondent in that no proper investigation took place and she was left with no option but to resign. The respondent rejected the complainant's claim of discrimination and victimisation.

2. Conclusions of the Equality Officer

The Equality Officer found that a consensual relationship did not exist and that the complainant was sexually harassed. She found that the actions of the supervisor were carried out in the course of his employment and the respondent was vicariously liable for his actions. The Equality Officer found that there were serious flaws in the manner in which the respondent handled the complainant's complaint in the absence of a policy on sexual harassment. She found that the complainant was penalised by the manner in which the investigation was carried out and that the penalisation was solely or mainly occasioned by the complainant having in good faith opposed by lawful means an act which is unlawful under the Employment Equality Act, 1998.

3. Decision

The Equality Officer found that the respondent discriminated against the complainant and that the complainant was victimised within the meaning of section 74(2) of the Act. harassment. She ordered that the respondent pay the complainant the sum of 13000.00 compensation and interest from the date of reference of the claim and that the respondent draft an Equal Opportunities Policy.

4. Cases cited:

A Company v. A Worker AEE/00/1 Determination No. 018

Summary of Decision DEC-E2003-028

Bleach

(represented by the I.N.T.O.)

-v-

Our Lady Immaculate Senior School

(represented by Arthur O’Hagan, Solicitors)

and the Department of Education and Science

Headnotes

Employment - Direct Discrimination - Interview - Gender - Victimization - Prima Facie case - Issue of employer - The Employment Equality Act, 1998: sections 6(2)(a), 8(1) and 74(2) - The Education Act, 1998: sections 2 and 24

1. Background

The complainant claimed that the Board of Management and the Department of Education and Science discriminated against her on the gender ground in relation to the selection process for promotion to the post of Special Duties Teacher. She also claimed that by being ranked seventh in terms of Special Duties positions allocated, she was victimised in terms of section 74(2) of the Act for having appealed the results of previous competitions.

2. Conclusions of the Equality Officer

The Equality Officer considered that the employer of the complainant who is a primary school teacher is the first named respondent, namely, the Board of Management of the school. The Equality Officer considered that a serious question arose in relation to the authenticity of the documents and evidence presented, that the respondent had failed to demonstrate transparency in the selection process and had not shown that the selection of candidates was based on objective non-discriminatory factors. She found that the respondent discriminated against the complainant on the gender ground in the selection process for appointment to Special Duties teacher. The Equality Officer also found on the balance of probability, that the complainant was singled out in relation to her treatment at the interview and that the respondent failed to rebut the complainant’s claim of victimisation in relation to her specific ranking in seventh position.

3. Decision

The Equality Officer found that the complainant had been discriminated against and victimised and ordered that the first named respondent rank the complainant in the Special Duties No. 1 post with effect from 4 May 2000 and arrange to pay her through the Department of Education the arrears of the allowance accruing. She also ordered that the respondent draft an Equal Opportunities Policy and that the Chairperson of the school and the Principal participate in a course on interviewing skills.

4. Cases cited:

Tobin v. The Minister for Education [1993] 124 JR

Gillespie & ors v. Northern Health and Social Services Board & ors C-342/93
[1996] ECR page I-0475

The Rotunda Hospital v. Noreen Gleeson DEE003/2000

Dublin Corporation v. Gibney EE5/1986

Wallace v. South Eastern Education and Library Board (NI Court of Appeal) 1980
IRLR 193

Gerard Moore v. Board of Management of Holy Child National School & anor Naas
Circuit Court 29 July 2002

Sheils O' Donnell v. The Board of Management of St. Aengus N.S. And the
Department of Education and Science Determination No. DEE025

Summary of Equality Officer's Decision No DEC-E2003-030

**Glennon
(Represented by ASTI)**

v

Board of Management, St Clare's Comprehensive School and the Minister for Education and Science

Headnotes

Employment Equality Act, 1998: section 6; section 8; section 16; section 22; section 24; section 75 - Education Act, 1998 - Payment of Wages Act, 1991 - European Communities (Gender of Proof in Gender Discrimination Cases) Regulations, 2001 (SI 337 of 2001) - Employment Equality Act, 1977 - Council Directive 76/207/EEC - Article 141 EC - employment - discrimination - gender - teacher - promotion competition - gender balance - composition of Selection Committee - selection criteria - reckonability of career breaks for service - extra-curricular activity - reduced availability due to pregnancy, childbirth and childcare - positive action - quota systems - whether the Minister is a correct respondent.

1. Background

This dispute concerned a claim by a complainant that she was discriminated against by the Board of Management, St Clare's Comprehensive School, Manorhamilton and by the Minister for Education and School on the ground of gender, contrary to the provisions of the Employment Equality Act, 1998, when she was unsuccessful in a competition for promotion to Assistant Principal. The complainant alleged that certain comments attributed to the Chairman of the Board of Management, her qualifications and experience, the failure of the Selection Committee to credit her with service for a year on career break, her reduced availability due to pregnancy and childbirth, the lack of gender balance on the Selection Committee and the lack of transparency about how candidates were measured under the selection criteria all supported her claim of discrimination. She asserted that the Minister was correctly joined as a respondent because of the role of his Department in relation to selection and appointment of teachers to posts of responsibility.

The first-named respondent denied the allegation of discrimination. It denied the comments attributed to the Chairman, and asserted that the Selection Committee had used the criteria prescribed in the relevant circular to assess the candidates for interview. It pointed out that a career break was an agreed suspension of service and was unpaid, and said that the composition of the Selection Committee was in accordance with the relevant circular and was outside the discretion of the Board of Management. The Department of Education and Science, on behalf of the second-named respondent, confined its arguments to the joining of the Minister as a respondent. It said that complainant was employed under a contract of employment with the first-named respondent to which the Minister was not a party, and pointed out that any attempt by the Minister to intrude on the Board's exercise of its management functions would be ultra vires having regard to the provisions of the Education Act, 1998.

2. **Conclusions**

The Equality Officer noted the Education Act, 1998 confined the role of the Minister in appointing teachers to agreement of procedures, along with the patron, trade union and others. She was satisfied that the actual appointment was a function of the Board of Management, and found that the Board was the correct respondent. She was not satisfied that the comments attributed to the Chairman were as reported by the complainant, nor that they constituted prima facie evidence of discrimination. With regard to the complainant's absences relating to pregnancy and childbirth, the Equality Officer was satisfied she was given appropriate service credit. She did not find that non-reckonability of career breaks was prima facie evidence of discrimination. Referring to the comments of Quirke J in Davis, she did not find that the complainant had adduced any evidence that she was the best qualified candidate. She noted that the members of the Selection Committee were all members of the Board of Management, appointed in an ex officio capacity, and recommended that ongoing national negotiations designed to include parent and teacher representation as well as facilitate gender balance be brought to a speedy conclusion.

3. **Decision**

The Equality Officer found that the Board of Management of St Clare's Comprehensive School did not discriminate against the complainant on the ground of gender, contrary to the provisions of the Employment Equality Act, 1998, when she was unsuccessful in a promotion competition to the post of Assistant Principal. She further found that the Minister for Education and Science was not a correct respondent.

4. **Cases cited**

European Court of Justice

Hill and Stapleton v the Revenue Commissioners and Department of Finance (Case C-243/95)

Abrahamsson and Anderson v Fogelqvist (Case C-407/98)

High Court

Tobin v Chairman of the Board of Management of Mayfield Community School, Secretary of Mayfield Community School and Minister for Education (Mr Justice Kearns, 21 March 2000)

Davis v Dublin Institute of Technology (Mr Justice Quirke, unreported, 2000)

Labour Court

Mitchell v Southern Health Board (Cork University Hospital) (AEE98/9)

Dublin Institute of Technology and a Worker (DEE994)

Equality Officer

Riney v Co Donegal VEC (DEC-E2001-030)

Employment Appeals Tribunal

Sullivan v Department of Education (PW2/97)

Summary of Equality Officer's Decision No DEC-E2003-031

Benson (complainant)

Represented by IMPACT

-V-

Mayo County Council (respondent)

Represented by the LGSNB

Headnotes

Employment Equality Act, 1998 Sections 6, 8 and 74 - Employment - Acting-up Positions - Working Conditions - Gender - Marital Status - Victimisation

1. Background:

The complainant is employed with the respondent organisation as a Clerical Officer since October, 1984. She alleges that she has been discriminated against on the grounds of gender and marital status in relation to acting-up positions in 1999, 2000, 2001 and 2002. She also alleges that an offer of a Revenue Collector position was withdrawn and the decision to withdraw the offer was influenced by the fact that she was availing of parental leave. It is her contention that the respondent subjected her to victimisation when it transferred her to a Clerical Officer (Secretarial) position in the Veterinary Section.

2. Conclusions and Decision:

The Equality Officer found that there was no evidence to support any of the complainant's contentions in this claim. In conclusion the Equality Officer held that the complainant had not been discriminated against on the grounds of her gender or her marital status. The Equality Officer further held that the complainant had not been subjected to victimisation in terms of Section 74(2) of the Employment Equality Act, 1998 when she was transferred to the vacant Clerical Officer (Secretarial) position in the Veterinary Section of the respondent organisation.

3. Cases Cited:

Equality Officer Recommendation - Ms. O'Callaghan v Department of Defence - EE 16/96

Equality Officer Decision - Black vs Tesco - DEC-E2002-003

Equality Officer Decision - Ms. Boland v Eircom - DEC-E/2002/019

Labour Court Determination - Western Health Board and A Worker - AD.0234

UK - Voilet Mulligan vs Eastern Health & Social Services Board - 1258/93UD

UK - Gillen vs Scottish Power - Industrial Tribunal Glasgow, 1995

UK - Robinson vs Oddbins - Industrial Tribunal Reading, 1996 - Case No 4224/95

UK - Puttick vs Eastern Borough Council - Industrial Tribunal Brighton, 1995 - Case No. 38152/95

ECJ - Enderby v Frenchay Health Authority & Secretary of State for Health - C-127/92 [1993] ECR I-5535

ECJ - Gerster vs Bayer - C-1/95[1997] ECR I-5253

Summary of Equality Officer Decision DEC-E2003-037

Fearn

-v-

Emerald Contract Cleaners

Headnotes

Employment Equality Act, 1998 Sections 6 and 8 - Employment - Demotion -Discriminatory Comments - Sick leave pay - Gender - Pregnancy

1. Background:

The complainant alleges that she was subjected to discriminatory treatment by the respondent on account of being pregnant. She alleges that this manifested itself by way of:

- Demotion
- Lack of work and being sidelined
- refusal to pay sick leave which had always been paid before the pregnancy became known.

The respondent denies these allegations.

2. Conclusions:

The Equality Officer found that the movement of the complainant out of the Accounts area for no apparent reason, other than she was pregnant, meant that she had no expectation of further training and promotion in this area which had been promised on taking up the position. The Equality Officer concluded that this loss of expectation could be considered a demotion. The Equality Officer also found that the complainant was sidelined when she was moved to a new position and given no work or guidance. The Equality Officer found, on the balance of probabilities, that a number of alleged comments were made by the respondent and these were discriminatory. In relation to the allegation concerning pay for sick leave the Equality Officer did not find that the complainant was discriminated against in relation to these allegations.

3. Decision:

The Equality Officer held that the complainant had been demoted as a result of her pregnancy and ordered the respondent to pay her the sum of 15,000 for loss of opportunity and stress suffered as a result of the discrimination.

4. Cases Cited:

Equality Officer Decision - McKenna v The North Western Health Board - DEC-E-2001/025

Labour Court Determination - A Company v A Worker - EEO 4/92

European Court of Justice - Dekker v Stichting Vormingscentrum voor Jong Volwassen - Case No 177/88

European Court of Justice - Hertz v Aldi - Case No Her 179/88 [ECR 3979]

Summary of Equality Officer Decision DEC-E2003-043

Quilter (complainant)

Represented by Ms. Martin, EAP Consultant

-v-

Kerry Agri Business (respondent):

Headnotes

Employment Equality Act, 1998 Sections 6 and 8 - Employment - Discriminatory Treatment - Promotion - Regrading/Reclassification of Post - Gender - Age - Validity of claim

1. Background:

The complainant has been in the employment of the respondent organisation for a period of 39 years. She alleges that she has not been promoted, regraded or had her post reclassified in that time despite her level of experience and industry knowledge and despite taking on additional responsibilities on a regular basis. It is the complainant's contention that the respondent's failure to promote or regrade her or to reclassify her post is discrimination within the meaning of the Employment Equality Act, 1998. The complainant also alleges that she has been victimised by the respondent. The respondent denies the allegations.

2. Conclusions and Decision:

The Equality Officer found that no act of discriminatory treatment or victimisation has occurred within the 6 months time limit as prescribed by Section 77(5) of the Employment Equality Act, 1998 and therefore there is no valid claim before her for investigation. The Equality Officer notes that the complainant has raised issues relating to remuneration in her submission and states that discriminatory treatment in relation to conditions of employment excludes remuneration as set out in Section 8(6) of the 1998 Act. The Equality Officer notes that the complainant has brought a separate equal pay claim and a Decision has issued in this claim.

Summary of Equality Officer's Decision No : DEC-E2003-048
Ms Deborah Costello (Represented by Ms Mary Brunel)

-v-

Pamella Scott (Represented by Beauchamps Solicitors)

Headnotes

Employment Equality Act, 1998 - Equal Treatment Directive (76/207/EEC)- employment - discrimination - gender - pregnancy - interview

1. Background

The complainant was referred through an employment agency for a manager vacancy at Pamella Scott, a Dublin fashion shop. Having attended a first interview she was invited to a second interview however the second interview was cancelled at short notice. The complainant believes that the second interview was cancelled because she made it known to the employment agency that she was pregnant. The respondent stated that two candidates, one being the complainant, were called for second interviews but that the company had reservations about the suitability of both candidates in terms of their managerial experience and, in the light of an on-going review of the management of the branch in question, decided not to proceed with the scheduled second interviews. The respondent also argued that the unavailability of the senior manager who was to carry out the second interviews was a factor in the decision not to proceed.

2. Conclusion

Having heard the evidence in this case the Equality Officer formed the opinion that the respondent's various and overlapping explanations for the cancellation, none of which were communicated to the complainant up to the day before the scheduled interview, lacked credibility. The Equality Officer was satisfied that the respondent had made no attempt to contact the complainant or the other candidate regarding the cancellation of the interviews prior to a phone call from the employment agency to say that the complainant was pregnant. The Equality Officer was satisfied that

- the complainant had adduced prima facie evidence of discrimination on grounds of her gender by virtue of her pregnancy
- that the burden of proof must shift to the respondent to show that there were reasons other than her pregnancy for the cancellation and that the respondent has failed to discharge that burden.

3. Decision

The Equality Officer found that the respondent discriminated against the complainant on the gender ground contrary to the Equal Treatment Directive and the Employment Equality Act, 1998 when the complainant's second interview was cancelled by Pamella Scott and ordered that the respondent pay to the complainant compensation in the amount of 7,000 for the distress that she suffered because of the discrimination.

Summary of Equality Officer's Decision No DEC-E2003-049

Treanor & Two Named Female Employees (Represented by GPMU)

-v-

Donegal Democrat Ltd.

Headnotes

Employment Equality Act, 1998: section 7; section 19 - Anti-Discrimination (Pay) Act, 1974: sections 2 and 3- Equal Pay - Gender – Like Work.

1. Background

This dispute concerned a claim by the complainant and two other named female employees that they were entitled to the same rate of remuneration as that paid by the respondent to four named male comparators. The respondent disputed that the complainants and comparators performed like work and notwithstanding that argument, contended that the complainants were paid the same rate of remuneration as that paid to the comparators during certain periods of the working week.

2. Conclusions

The Equality Officer was satisfied that Ms. Treanor performed like work for the purposes of the Acts with two of the named comparators, but not with the other two. He also held that the other named female employees did not perform like work with any of the comparators. In addition, he concluded that the complainant and comparators were paid the same rate of remuneration as that paid to the comparators during certain periods of the working week when they were involved on pre-press duties in connection with publication of the newspaper.

3. Decision

The Equality Officer ordered that (i) Ms. Treanor be paid the same rate of remuneration as that paid to the two named comparators with whom she performed like work; (ii) the respondent pay Ms. Treanor arrears of pay from the period 1 September, 1998 to 26 February, 2000, the date on which her employment with the respondent ceased; (iii) the rate of pay at (i) above be applied to all overtime work or allowances calculated as a percentage of basic pay which arose during the aforementioned period and that this amount and that payment of this amount be made to the complainant.

*Summary of Equality Officer Decision DEC-E 2003/052
Mr. O (complainant)
Summary of Equality Officer's Decision No DEC-E2003-053*

*A Complainant
(Represented by O'Mara Geraghty McCourt, Solicitors
v
A Financial Institution
(Represented by McKeever Rowan, Solicitors)*

Headnotes

Employment Equality Act, 1998: section 6; section 18; section 23; section 74; section 75 - European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001 (SI No 337 of 2001) - Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002 (SI No 78 of 2002) - employment - discrimination - gender - sexual harassment - victimisation.

1. Background

This dispute concerned a claim by a complainant that she was discriminated against by her employer on the ground of gender, contrary to the provisions of the Employment Equality Act, 1998, when she was sexually harassed by her Manager. She claimed further that she was subjected to victimisation following her complaint to management. The respondent denied that the complainant had been subjected to discriminatory treatment, sexual harassment or victimisation. It said that the complaint of sexual harassment had been carefully and fully considered in accordance with its grievance procedures, and that a finding had been made that the Manager had breached proper procedures but had not intentionally bullied or harassed the complainant.

2. Conclusions

The Equality Officer found the matters complained of constituted sexual harassment in accordance with the provisions of the 1998 Act. She was satisfied that the respondent's investigation into the complaint was inadequate, and contrary to the respondent's own Harassment and Bullying Policy. She further found that the actions of the Manager and the respondent following the complaint constituted victimisation.

3. Decision

The Equality Officer found that the respondent had discriminated against the complainant on the ground of gender, and that the complainant had been victimised following her complaint of sexual harassment. The Equality Officer ordered that the respondent pay the complainant the sum of EUR15,000 in compensation for the effects of the discrimination; pay a further sum of €15,000 in compensation for the effects of the victimisation; ensure the complainant was protected from unnecessary contact with the Manager and that she suffered no professional detriment from any measures in this regard; and review its policy on dealing with complaints of sexual harassment, with particular reference to the provisions of the Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002 (SI No 78 of 2002).

4. *Cases cited*

Labour Court

Mitchell v Southern Health Board [2001] ELR 201

Flexco Computer Stationery Ltd and Kevin Coulter (EED0313)

Summary of Equality Officer's Decision No DEC-E2003-055

**A Complainant
(Represented by a union)**

-v-

A Health Board

Headnotes

Employment Equality Act, 1998: section 6; section 18; section 23; section 75 - European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001 (SI No 337 of 2001) - Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002 (SI No 78 of 2002) - employment - discrimination - gender - sexual harassment.

1. Background

This dispute concerned a claim by a complainant that she was discriminated against by her employer on the ground of gender, contrary to the provisions of the Employment Equality Act, 1998, when she was sexually harassed by a colleague. The respondent said that the complaint of sexual harassment had been investigated by the Assistant Manager, who found that the alleged harasser had behaved in an inappropriate manner and decided to transfer him. The transfer decision was rescinded by the Manager on appeal, because the alleged harasser undertook that there would be no recurrence, he offered an apology to the complainant and there had never been a previous complaint of this nature against him.

2. Conclusions

The Equality Officer found the matters complained of constituted sexual harassment in accordance with the provisions of the 1998 Act. She was satisfied that the sexual harassment continued after the conclusion of the initial investigation and found that the respondent's agreement to rescind the decision to transfer the alleged harasser was inappropriate in the circumstances.

3. Decision

The Equality Officer found that the respondent had discriminated against the complainant on the ground of gender, contrary to the provisions of the Employment Equality Act, 1998, when she was sexually harassed by a colleague. The Equality Officer ordered that the respondent pay the complainant the sum of EUR15,000 in compensation for the effects of the discrimination; proceed with the transfer of the alleged harasser and ensure the complainant did not have any unnecessary professional contact with him in future; and review its policy on dealing with complaints of sexual harassment, with particular reference to the provisions of the Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002 (SI No 78 of 2002).

4. Cases cited

Labour Court

Mitchell v Southern Health Board [2001] ELR 201

Flexco Computer Stationery Ltd and Kevin Coulter (EED0313)

Summary of Equality Officer's Decision No DEC-E2003-058

Ginley

(Represented by Mandate)

-v-

Tesco Ireland

Headnotes

Employment Equality Act, 1998: section 18; section 19; section 75; section 79; section 94; section 95; section 96 - employment - discrimination - gender - equal pay - like work - grounds other than gender - drawing of inference.

1. Background

This dispute concerned a claim by Ms Mary Ginley, employed as a canteen cook by Tesco Ireland, that she was entitled to the same rate of remuneration as that paid to three male comparators in accordance with the provisions of section 19 (1) of the Employment Equality Act, 1998. In relation to Comparator A, the respondent denied that like work existed between him and the complainant. Regarding Comparators B and C, the respondent accepted that like work existed, but claimed there were objective non-discriminatory reasons for the differences in pay.

2. Conclusions

The Equality Officer noted that Comparator A was paid the least of the three named comparators, and therefore did not consider further the question of like work between him and the complainant. With regard to the other comparators, the Equality Officer noted that the respondent failed to provide any evidence of the non-discriminatory reasons for the differences in pay, despite being requested to do so on several occasions. She was satisfied therefore that grounds other than gender did not exist for the differences in pay.

3. Decision

The Equality Officer found that the respondent had discriminated against the complainant on the basis of her pay in terms of section 19 of the Employment Equality Act, 1998. She ordered that, with effect from 13 February 2001 (the date of referral of the claim), the respondent pay the complainant the same rate of pay as that paid to whichever of Comparators B and C was more highly paid. She also ordered that arrears of this payment be made for the period of three years prior to the date of referral.

4. Cases cited

No cases cited.

Summary of Equality Officer's Decision No DEC-E2003-059

Williamson

(Represented by TUI)

-v-

County Monaghan Vocational Education Committee

Headnotes

Employment Equality Act, 1998: sections 6 and 8 - employment – direct discrimination – gender- promotion – reckonable service - policy of bias in favour of males in management positions.

1. Background

This dispute concerned a claim by the complainant that the respondent had discriminated against her on grounds on gender in respect of promotion to the post of Assistant Principal in Beech Hill College following interviews in December, 2000. The complainant also contended that the respondent operated a policy of bias in favour of males in respect of promotion to senior management posts both within the school and across Monaghan VEC generally. The respondent rejected the complainant's assertions.

2. Conclusions

The Equality Officer examined the CV's of the complainant and the four male candidates who were interviewed with reference to the selection criteria contained in the Department of Education and Science Circular which governed the competition (Circular 43/00) and was satisfied, on balance, that the complainant was better qualified than two of the successful male candidates. He therefore held that the complainant had established a prima facie case of discrimination. The Equality Officer was satisfied that the respondent had assessed all candidates across the pre-determined criteria contained in Circular 44/00. He was also satisfied that the composition of the Interview Panel was consistent with that Circular and that they all had considerable experience of interviewing. He was critical of the Panel for destroying any notes they had taken at interview – however some notes (recorded by the secretary to the Interview Panel) were available. On the basis of these notes the Equality Officer was satisfied that the candidates were asked broadly similar questions and had the duration of the interview were roughly the same. All three members of the Panel had attended the hearing and the Equality Officer had found their evidence to be forthright and credible. Consequently, the Equality Officer held that the respondent had rebutted the inference of discrimination raised by the complainant.

The Equality Officer accepted that the complainant was adversely affected as a result of delays in holding the interviews had resulted in a small period of part-time service in respect of two of the successful male candidates become reckonable. However, the Equality Officer was satisfied that the respondent was obliged to apply the terms of Circular 44/00 to the competition and it did so equally to all candidates. He was also satisfied that the marks awarded to the candidates was computed correctly in accordance with that Circular and consequently the actions of the respondent did not constitute unlawful discrimination.

The Equality Officer was not satisfied that the data furnished by the parties gave rise to an inference of bias in favour of males over the years to posts at Assistant Principal level, either at Beech Hill college or across Monaghan VEC generally

3. *Decision*

The Equality Officer found that (i) the respondent did not discriminate against the complainant on grounds of gender in respect of promotion to the post of Assistant Principal and (ii) the complainant had failed to establish a prima facie case of discrimination in respect of her assertion that a culture existed in Monaghan VEC and in particular Beech Hill College that was biased in favour of males for senior positions

4. *Cases cited*

Wallace and the South Eastern Health Board [1980] IRLR 193

Summary of Equality Officer's Decision No DEC-E2003-060

Carroll (Represented by TUI)

-v-

County Monaghan Vocational Education Committee

Headnotes

Employment Equality Act, 1998: sections 6 and 8 - employment – direct discrimination – gender- promotion – reckonable service - policy of bias in favour of males in management positions.

1. Background

This dispute concerned a claim by the complainant that the respondent had discriminated against her on grounds on gender in respect of promotion to the post of Assistant Principal in Beech Hill College following interviews in December, 2000. The complainant also contended that the respondent operated a policy of bias in favour of males in respect of promotion to senior management posts both within the school and across Monaghan VEC generally. The respondent rejected the complainant's assertions.

2. Conclusions

The Equality Officer examined the CV's of the complainant and the two male candidates who were interviewed with reference to the selection criteria contained in the Department of Education and Science Circular which governed the competition (Circular 43/00) and held, on balance, that the complainant was better qualified than the male candidates. As one of the male candidates had been successful the Equality Officer held that the complainant had established a prima facie case of discrimination. The Equality Officer was satisfied that the respondent had assessed all candidates across the pre-determined criteria contained in Circular 44/00. He was also satisfied that the composition of the Interview Panel was consistent with that Circular and that they all had considerable experience of interviewing. He was critical of the Panel for destroying any notes they had taken at interview – however some notes (recorded by the secretary to the Interview Panel) were available. On the basis of these notes the Equality Officer was satisfied that the candidates were asked broadly similar questions and had the duration of the interview were roughly the same. All three members of the Panel had attended the hearing and the Equality Officer had found their evidence to be forthright and credible. Consequently, the Equality Officer held that the respondent had rebutted the inference of discrimination raised by the complainant.

The Equality Officer accepted that the complainant was adversely affected as a result of delays in holding the interviews had resulted in a period of her service to Monaghan VEC not being reckonable. However, the Equality Officer was satisfied that the respondent was obliged to apply the terms of Circular 44/00 to the competition and it did so equally to all candidates. He was also satisfied that the marks awarded to the candidates was computed correctly in accordance with that Circular and consequently the actions of the respondent did not constitute unlawful discrimination.

The Equality Officer was not satisfied that the data furnished by the parties gave rise to an inference of bias in favour of males over the years to posts at Assistant Principal level, either at Beech Hill college or across Monaghan VEC generally

3. *Decision*

The Equality Officer found that (i) the respondent did not discriminate against the complainant on grounds of gender in respect of promotion to the post of Assistant Principal and (ii) the complainant had failed to establish a prima facie case of discrimination in respect of her assertion that a culture existed in Monaghan VEC and in particular Beech Hill College that was biased in favour of males for senior positions

4. *Cases cited*

Wallace and the South Eastern Health Board [1980] IRLR 193

QUALITY OF WORK

Performance, equality and staff development Human Resource Management Journal
London 1999

Authors: Michael White

Abstract:

A national survey shows that women in Britain rate the quality of their own work lower than do men. Quality of performance is likely to be influenced by skills, training, personal development and systems of performance assessment and reward. If women lag behind men in their access to these crucial aspects of HR development, then a gap in quality of performance is to be expected. Detailed evidence from the national survey confirms that women are consistently at a disadvantage in all these respects. Moreover, the disadvantage is greatest at the high end of development opportunities. Offering more of the existing low-level training and skills development is unlikely to solve the problem. But women respond strongly to performance management, making this a prime area for advancing both equal opportunities and effective HRM.

(This is an abstract of the article which should be sourced for reading on the course)



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