



The Scottish Parliament  
Pàrlamaid na h-Alba

EO/S4/13/13/A

## EQUAL OPPORTUNITIES COMMITTEE

### AGENDA

13th Meeting, 2013 (Session 4)

Thursday 25 April 2013

The Committee will meet at 9.30 am in Committee Room 4.

1. **Women and work:** The Committee will take evidence from—

Eileen Dinning, Equalities Officer, UNISON Scotland;

Gavin MacGregor, Head of HR & Organisational Development, North Ayrshire Council;

Lynn McDowall, RCN Officer, Lothian and Borders, RCN Scotland;

Emma Ritch, Project Manager, Close the Gap;

Jill Wood, Policy Analyst, Engender.

Douglas Thornton  
Clerk to the Equal Opportunities Committee  
Room TG.01  
The Scottish Parliament  
Edinburgh  
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The papers for this meeting are as follows—

**Agenda item 1**

PRIVATE PAPER	EO/S4/13/13/1 (P)
Submission from Close the Gap	EO/S4/13/13/2
Submission from Engender	EO/S4/13/13/3
Submission from North Ayrshire Council	EO/S4/13/13/4
Submission from RCN Scotland	EO/S4/13/13/5
Submission from UNISON Scotland	EO/S4/13/13/6

## SUBMISSION FROM CLOSE THE GAP

Close the Gap is a partnership initiative whose project partners include Scottish Government, Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, Scottish Trades Union Congress (STUC) and the Equality and Human Rights Commission (EHRC).

Close the Gap works with employers, economic development agencies and employees. The breadth of partnership recognises that equal pay is a productivity issue as well as an issue of fairness and equality, and that narrowing the gender pay gap would return aggregate productivity gains to the Scottish economy.

Close the Gap works with a range of organisations that are stakeholders in women's employment, including directly with employers and employer representative bodies. The project is exposed to a breadth of thinking on the part of policymakers and employers about women and the labour market, including perspectives on the regulatory context and interventions that have been designed to tackle the causes of the pay gap. It also works with policymakers across a range of issues, including occupational segregation, care, and women's entrepreneurship.

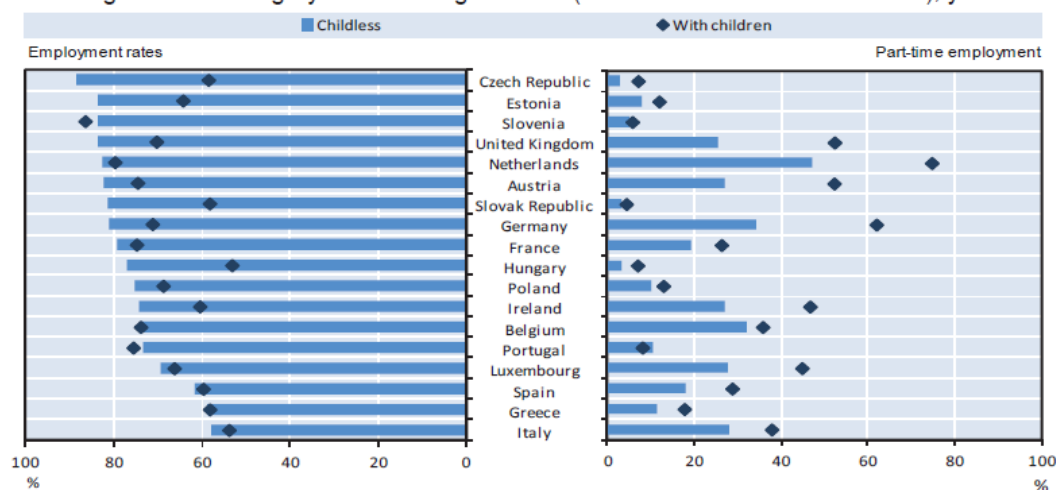
Emma Ritch is the manager of Close the Gap.

## 1.0 Flexible working

Flexible working is a gendered issue because it is principally used as a method to reconcile work and family life. Women in Scotland, as elsewhere in Europe and across the world, still retain principal responsibility for care for children, sick people, and older people, and for most domestic labour.

The most common type of flexible working is part-time working, which is strongly associated with motherhood across most of the OECD countries.

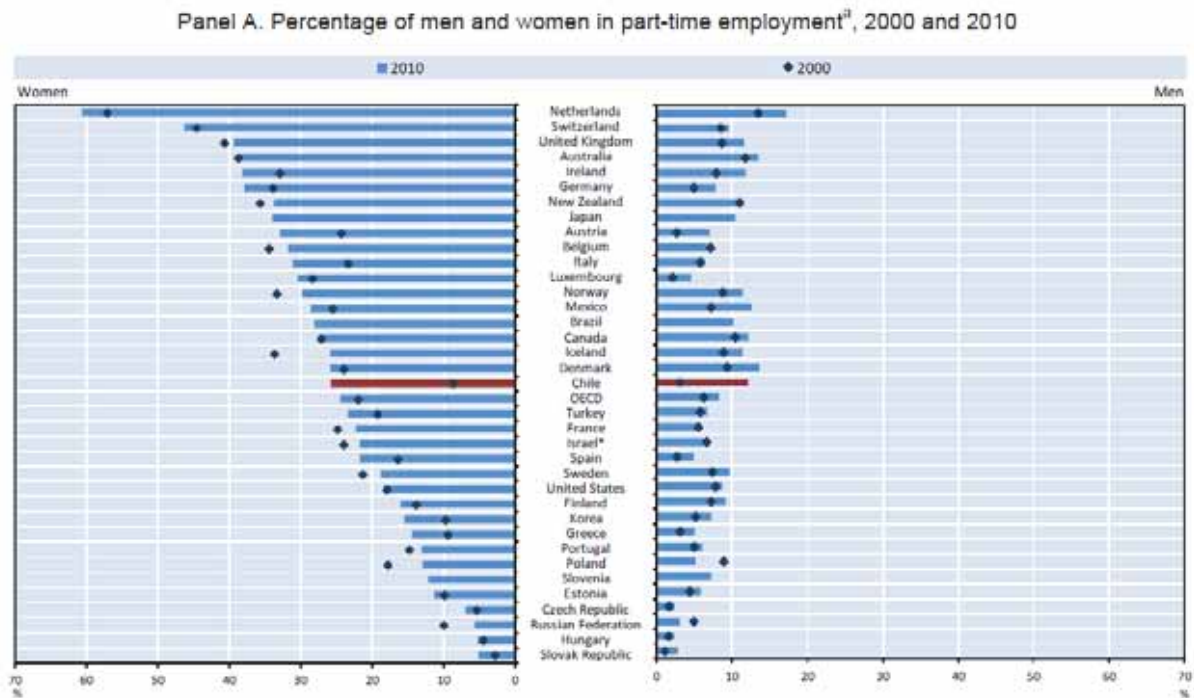
**Figure 3.2.2. Motherhood makes part-time work much more likely**  
Percentage in each category of women aged 25-54 (childless/with children under 15), year 2009



Taken from: OECD (2012) *Gender Equality in Education, Employment and Entrepreneurship: Final Report to the MCM 2012* OECD: Paris

Patterns of participation in the formal labour market by mothers are influenced by a number of factors, including the shape of the school day (in many European countries there is a long break in the middle of the day); childcare provision (there are significantly lower rates of part-time working in countries which provide universal access to childcare); men’s engagement in domestic labour; and cultural norms around work.

Figure 3.2.1. There are large gender gaps in part-time work<sup>a</sup> and full-time equivalent employment rates<sup>b</sup>



Across Europe, part-time work is more commonly found in certain occupational groups, including professional, services and sales, and unskilled workers. It is rare in senior managers, skilled workers, and machine operators<sup>1</sup>.

Analysis of the prevalence of flexible working in the UK (often captured within other measures under the rubric ‘family friendly practices’) suggests that there has been a shift over time towards *formal* provision of flexibility<sup>2</sup>. Over 95 per cent of employers in the UK offer at least one flexible working practice<sup>3</sup>, with three or more types of flexible working being offered by 97 per cent of public sector employers and 66 per cent of private sector employers<sup>4</sup>. The increase in the number of organisations with formal

<sup>1</sup> European Foundation for the Improvement of Living and Working Conditions (2007) *Gender and Working Conditions in the European Union* Eurofound, Dublin

<sup>2</sup> Department for Business, Enterprise, and Regulatory Reform (2007) *Reassessing the ‘Family-friendly Workplace’: Trends and Influences in Britain, 1998-2004* London: HMSO

<sup>3</sup> Department for Business, Innovation, and Skills (2011) *Consultation on Modern Workplaces* London: HMSO

<sup>4</sup> CBI/Harvey Nash (2011) *Navigating Choppy Waters: CBI/Harvey Nash Employment Trends Survey 2011* CBI: London.

flexible working policies, however, has not altered the part-time pay gap, or the proportion of women working part-time<sup>5</sup>.

**Table 1: Numbers of men and women working part-time and full time in the UK**

	MEN				WOMEN			
	Full-time	%	Part-time	%	Full-time	%	Part-time	%
Aug – Oct 2012	13,780	87	2,121	13	7,702	56	5,998	44
June – Aug 2012	13,733	86	2,142	14	7,729	56	5,986	44
March - May 2012	13,648	86	2,122	14	7,719	57	5,865	43
Dec – Feb 2012	13,565	87	2,074	13	7,668	57	5,865	43
Sept – Nov 2011	13,574	87	2,014	13	7,686	57	5,845	43
June – Aug 2011	13,620	87	1,958	13	7,698	57	5,825	43
March – May 2011	13,660	87	2,052	13	7,660	56	5,907	44

Source: ONS, Labour Market Statistics [www.ons.gov.uk](http://www.ons.gov.uk)

This suggests that there has not been an increase in ‘good quality’, or higher paid, jobs being offered on a part-time basis, and that full-time work is still insufficiently flexible to enable women to work full-time. Close the Gap’s work with employers, including speaking to hundreds of women across the private and public sector about their own experience of work, suggests a gap between practice within organisations and the contents of formal equalities or flexible working policies.

## 2.1 Current challenges

Part-time working is widely used across Scotland as a way in which women can balance work and family life, and particularly their disproportionate share of care. 17 per cent of working women work part-time, compared with 4 per cent of working men<sup>6</sup>.

There is anecdotal evidence that flexible working arrangements, including part-time work, are less likely to be agreed as a result of labour shedding across the public and private sectors. Efficiency savings appear to have placed significant pressure on individual employees to deliver public services with reducing resources. Close the Gap carried out a piece of work with the STUC Women’s Committee to look at the impact of public sector spending cuts on the workforce<sup>7</sup>. This work, which included submitting freedom of information requests to every local authority in Scotland, revealed that local authorities generally do not keep centralised records on flexible working, and so cannot provide information on whether flexible working arrangements are decreasing

<sup>5</sup> When comparing the part-time and full-time working figures in Table 1 to those in Grant, L., Yeandle, S., and L. Buckner (2005) *Working Below Potential: Women and Part-Time Work* EOC: Manchester

<sup>6</sup> Scottish Government (2012) *Scotland’s People Annual Report: Results from 2011 Scottish Household Survey* Scottish Government: Edinburgh

<sup>7</sup> Close the Gap (2012) *Invisible Women: Employment Data Collection In Scottish Local Government* Close the Gap: Glasgow

or increasing in number. This aligns with Close the Gap's experience of working with individual public sector employers.

Within the private sector, there are a range of attitudes to part-time working at the enterprise level. Close the Gap has worked with large private sector companies in which only a tiny proportion of employees work part-time, and there is a strong cultural presumption against part-time working. Others are more positive about part-time working, and in which there is also more flexibility around work in other ways, for example homeworking. Although the challenge is smaller in the second type of organisation, progression is problematic for part-time workers. Despite most organisations having some kind of commitment in policy to part-time working, this rarely translates into the suite of measures that would encourage and enable part-time workers to apply for, and be appointed to, promoted posts. Employers appear to view part-time working as an accommodation to encourage retention, rather than as something positive that may attract talent. The lack of a quality part-time work recruitment market in London has been the recent subject of an investigation by the Joseph Rowntree Foundation<sup>8</sup>, and there is no reason to suppose that the quality part-time labour market in Scotland is more buoyant.

Joseph Rowntree did identify some evidence of a virtuous cycle, in which employers who have benefited from skilled and talented part-time workers are more positive about recruiting part-time workers. However, progress is painfully slow.

Current UK Government policy, including Universal Credit, describes itself as 'making work pay' for lower-skilled mothers. (This paper does not assess whether that is an accurate description of welfare reform.) There has been no focus on supporting mothers with skills that are not currently being utilised by quality part-time work.

## 2.2 Solutions

One of the final pieces of work undertaken by the Equal Opportunities Commission before its functions were included as part of the new Equality and Human Rights Commission, was an investigation into the transformation of work. Identifying that the UK was lagging international comparators in flexible working, it suggested that stakeholders reflect on the ways that work could be transformed, giving workers autonomy, and flexibility in time and space.

Currently, there is no mechanism by which employers can be required to offer work on a part-time basis, although many employees have legal rights to request to work flexibly. In practice, employers are able to deny such requests on a variety of grounds. In the absence of a better lever, solutions to the lack of part-time working may have a focus on persuading employers of the business case for employing people part-time; in supporting employers to design part-time jobs appropriately; in linking part-time working in the public sector to compliance with the public sector equality duty; and in

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<sup>8</sup> Joseph Rowntree Foundation (2012) *Building a Sustainable Quality Part-Time Recruitment Market* JRF: London

building an evidence base of the benefits to an increase in quality part-time work to individual employers, specific economic sectors, and the economy as a whole.

Consideration could also be given to including issues around part-time and flexible working within public sector contracts, and within any investment made by Scotland's economic development agencies and other public investment in individual enterprises.

The Equality and Human Rights Commission, and any audit and scrutiny body that looks at equalities performance, or compliance with the public sector equality duty, may wish to consider whether the arrangements for approving, monitoring, and facilitating part-time working are adequate.

Universal childcare, available at low or no cost to families has the potential to transform women's participation in the labour market. Although it is beyond the scope of this paper, there are a range of models of childcare that would substantially reduce the constraints on women's choice of paid work.

Emma Ritch  
Manager  
Close the Gap  
22 April 2013

## SUBMISSION FROM ENGENDER

Engender is a membership organisation working on gender equality agendas in Scotland and Europe, to increase women's power and influence and to make visible the impact of sexism on women, men and society. We provide information and support to individuals, organisations and institutions who seek to achieve equality and justice.

Engender commends the Equal Opportunities Committee for its work on women and work in Scotland and we welcome the opportunity to respond to this inquiry. Engender is a key stakeholder in this debate, through our work with women's communities-of-interest (women living in poverty, refugee and asylum seeking women, transgender women, women carers), cross-sectoral analytical and policy focus (mitigating welfare reform, child poverty, refugee/asylum, disability and carers), and collaborative working relationships with organisations such as Close the Gap and Women onto Work. As an intermediary organisation, working on systemic issues, we do not produce data or quantitative evidence on barriers to women's employment. However, in addition to targeted practical interventions, positive labour market outcomes for women must be anchored within a framework of long-term, overarching gender equality goals; it is from this perspective that we respond.

We would also like to highlight that Engender does not equate 'work' with employment. In our view, an inquiry into women and work implies broader parameters which would include women's unpaid care work and informal social reproductive economies. By way of a final introductory remark, this paper does not aim to be comprehensive, rather will highlight an indicative range of potential action in line with areas of our recent work with marginalised groups of women in Scotland.

**Workforce issues**

The lack of flexible working, including extremely narrow scope for job-sharing in Scotland is a key area this inquiry should seek to address. Prejudices and discrimination linked to flexible working restrict prospects for equality of access to employment enormously. Meanwhile conventional working patterns and expectations, especially in the context of public sector cuts and recession, are impacting on health and wellbeing in gendered ways.

Cuts to services and the recession also put organisations like Women onto Work and Women's Enterprise Scotland at risk of reduced capacity. Such targeted support for women's employability is both rare and extremely valuable, including with regard to skills, esteem and awareness of employment rights. These organisations also play an indispensable role in challenging normative, gender-blind and discriminatory models which perpetuate women's marginalisation in the labour market.

*We believe this inquiry should therefore recommend:*

- *the business case for flexible working, including job-sharing in Scotland is developed through the lens of gender, and subsequently widely disseminated and promoted*
- *exploring scope for incentivising uptake of flexible working requests*



- *targeted support for gendered employability services in Scotland.*

## **Childcare**

The need for improved childcare, in terms of affordability, accessibility and quality, is recognised in numerous existing Scottish Government (SG) strategy and policy documents, yet childcare in Scotland is the second most expensive in Europe.<sup>1</sup> At Engender, we call for universal access to free childcare at the point of delivery, based on influential role of Nordic models in reducing gender inequality. Though this inquiry calls for practical solutions, it certainly bears emphasising that barriers to progress with childcare is normative and values-based. Any approach which is not underpinned by a vision of transformative shifts in cultural attitudes towards caring professions will result in flawed analysis and severely limited prospects from the outset.

Childcare policymaking processes should question conventional wisdom that maintains: free or heavily subsidised education begins at 5 years old (not normatively so in Scandinavia, France, Belgium); childcare is not understood as infrastructure and budgeted for accordingly (if 25% of household income was earmarked to shore up deficit in the transport budget this would not be tolerated by society); childcare is not understood as capital investment (our current economic models indicate that maintenance of boilers is five times more valuable than Early Years development, and care of children is not accounted as an investment in the future but as consumption). Indeed, the Cabinet Secretary for Infrastructure, Investment and Cities explicitly made this point about 'childcare as infrastructure' at the Women's Employment Summit in September 2012. Engender is calling for more ambition across childcare advocacy agendas over the coming months.

*We believe this inquiry should therefore recommend:*

- *increased investment childcare as a key pillar of the Scottish Government's action plan on women's employment*
- *a shift in public expenditure categorisation of childcare to capital spend*
- *cross-party and cross-departmental support (champions) for integrated gender budgeting analysis throughout scrutiny of the budget processes*
- *development of educational tools which address gendered value-systems around social reproductive economies.*

## **Occupational segregation**

Scottish Government also recognises the need to tackle horizontal and vertical segregation and has paid plentiful lip service to the need for faster progress on the pay gap across a range of policy areas.<sup>2</sup> On the contrary, however, the SG approach to women's employment is framed in terms of GDP-growth and productivity and is overly-focussed on aggregate unemployment rates to an extent which masks gendered drivers of the pay gap. Achieving meaningful change to deeply embedded structures of occupational segregation will require much wider policy approaches that tackle normative, cultural assumptions around what women want and are able to do, both in formal and informal economies and with regard to choices around family. Over the shorter term, the Scotland-specific public sector equalities duty (PSED) provides a useful set of levers, which stand to be utilised more effectively by government and third sector stakeholders alike.

*We believe this inquiry should therefore recommend:*

- *equal investment across Modern Apprenticeships*
- *investigation into high drop-out rates of women from male-dominated MAs including qualitative research with young people, Skills Development Scotland and employers*
- *development of educational tools for young people which challenge normative discriminatory attitudes*
- *funding for gendered training programmes which challenge normative discriminatory attitudes*
- *analysis and publicity of progress reports due under the PSED in April 2013, with a view to highlighting best practice as well as failures in equal pay auditing.*

## **Data**

The lack of gender-disaggregated data on employment (and more broadly) has been widely recognised as a major barrier to progressive change, including by policymakers. Nonetheless, some stakeholders assert that to some extent this has become a smokescreen in certain areas. From this perspective, the time has come for Scottish Government to make incisive policy interventions with existing data, particularly given statements of political will by the First Minister and a variety of Cabinet Secretaries.<sup>3</sup> This clearly calls for a dual approach.

*We believe this inquiry should therefore recommend:*

- *the EET committee pushes the Office of National Statistics to provide disaggregated data as per existing agreement with the Scottish Government*
- *strong interventions to ensure PSED regulations regarding data collection are adequately implemented*
- *comprehensive mapping of existing data is undertaken and submitted to the Cabinet Secretary for Finance, Employment and Sustainable Growth for operational use in the SG action plan on women's employment*
- *a review of criteria / indicators for gender-disaggregated data at Scottish level is subsequently undertaken.*

## **Disability**

A particular area of cross-cutting concern for Engender is the pervasive lack of both understanding and consideration of intersectionality; the dynamics between multiple nodes of inequality and discrimination, and women's employment. For instance, through recent work with women with disabilities, access to paid work emerged as a fundamental and broad set of gendered challenges. These included deeply embedded assumptions regarding desire, ability, capacity, fertility and family, homogenising treatment of disability and accessibility issues.

*We believe this inquiry should therefore recommend:*

- *the EO committee engages with stakeholders, like Scottish Disability Equality Forum and Inclusion Scotland, to develop these findings*

- *outcomes are integrated in wider SG processes on women and employment, such as the employability action plan and training initiatives for employers.*

## **Welfare Reform**

Welfare reform is extremely gendered and will disproportionately impact on women (and children) in complex ways.<sup>4</sup> For instance, the single means-tested benefit will undermine women's financial independence, with far-reaching impacts on gendered cycles of violence and abuse. Anecdotal evidence and qualitative research from advocacy organisations and service providers have shown that stress and mental health issues relating to the impending introduction of Universal Credit and other reforms is an escalating problem, with particular reference to women's existing problematic experiences with DWP.<sup>5</sup> In turn, this erosion of gender equality gains will have substantive impacts on parallel policies to promote labour market outcomes for women.

*We believe this inquiry should therefore recommend:*

- *the Welfare Reform committee engage in latter stages of this process, with a view to strengthened consideration of gender in its workplan for 2013-14*
- *the Welfare Reform committee is encouraged to scrutinise the Scottish Government budgetary process, including gender budgeting analysis.*

Jill Wood  
Policy Analyst  
Engender  
12 February 2013

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## **Endnotes**

<sup>1</sup> [http://www.scottish.parliament.uk/S4\\_EconomyEnergyandTourismCommittee/WiSEIs.pdf](http://www.scottish.parliament.uk/S4_EconomyEnergyandTourismCommittee/WiSEIs.pdf)

<sup>2</sup> <http://www.scotland.gov.uk/Resource/Doc/154279/0041448.pdf>;

<http://www.scotland.gov.uk/Resource/Doc/344949/0114783.pdf>

<sup>3</sup> Alex Salmond, Nicola Sturgeon, Angela Constance (Women's Employment Summit: 12/9/12)

Margaret Burgess (Tackling Poverty Stakeholder Forum, EPiC: 13/11/12)

John Swinney (<http://www.scotland.gov.uk/Resource/0040/00402275.pdf>)

<sup>4</sup> [http://www.wbg.org.uk/RRB\\_Briefings.htm](http://www.wbg.org.uk/RRB_Briefings.htm)

<sup>5</sup> [http://povertyalliance.org/userfiles/files/EPIC/Reports/EPIC\\_Research\\_Surviving\\_Poverty2013.pdf](http://povertyalliance.org/userfiles/files/EPIC/Reports/EPIC_Research_Surviving_Poverty2013.pdf)

## SUBMISSION FROM NORTH AYRSHIRE COUNCIL

Thank you for providing me with the opportunity to submit my views on equality issues affecting women and work. North Ayrshire Council, has a workforce where 73% is female and of the top 5% of earners 52% are female. I have detailed below some of the current challenges our organisation faces and also the progress which has been recently made in this area.

### **Occupational segregation**

Occupational segregation is still evident with the majority of females being clustered in traditional caring type roles. Within Educational Services action to address this within the 3-18 year old age group includes using female presenters who currently work in male industries (and vice versa) for early career talks with pupils. However, it has been noted that stereotyping commences from birth (e.g. pink for girls and blue for boys) and is evident in children's books (e.g. boys are not ballet dancers) so by the time that children commence within our Early Years Centres, some gender based influences are already apparent.

### **Corporate Management Team**

The Corporate Management Team (CMT) is currently made up of 4 females and 2 males. The extended CMT consists of a further 7 females and 3 males. While the constitution of our senior management team is unlikely to reflect the majority of businesses within the UK, there is good evidence of female career progression within North Ayrshire Council.

### **Flexible Working**

Over the last few years there has been a gradual increase in the number of employees who are working flexible hours i.e. part time, compressed, term time hours. The feedback from employees who have moved to such arrangements has been very positive. This has had the added benefit of increased motivation, morale and retention which has been a significant benefit for the organisation. At the same time, it has also allowed the organisation to deliver some savings, which has created an ideal "win win" situation for both the employee and employer. Currently 5% of Managers and 22% of Teachers have moved to flexible working hours arrangements. The primary reason for these changes have been for caring responsibilities or an improved work-life balance, but in most cases a degree of flexibility has been co-operatively built into the arrangements which has been to the mutual benefit of both parties. It is acknowledged however that for employees who work shift patterns, e.g. Care at Home Assistants there is a limited choice of flexible arrangements available. The situation is also further compounded by very limited childcare available within the local area to suit these employee's working hours/shifts, albeit there is adequate provision locally for childcare between the hours of 8am to 6pm. Over time, given the demographic profile and potentially an increase in dependent care responsibilities, this could become a bigger issue for employees who need childcare essentially on a 24/7 type arrangement.

## **Equal Pay Audit**

We have recently completed our first equal pay audit. The analysis was carried out based on the earnings for the financial year 2011/12. It indicated an overall basic pay gap of 0.21% (in favour of males) and the analysis of total pay revealed an overall pay gap of 1.6% (in favour of males). In general the pay gap is no longer seen as a priority issue for our Council, but is an area that we will continue to monitor and improve on where possible.

## **Employee Engagement Survey**

North Ayrshire Council has also recently undertaken an Employee Engagement Survey. Specific analysis looking at gender has been carried out to ascertain what differences were reported by females and males. The findings of this survey generally indicated that females responded more positively than males in relation to the questions pertaining to management style, recognition and feedback, learning and development and work-life balance. The latter is probably reflective of the gradual increase in employees working a non standard week.

## **Parental Leave**

Looking ahead, in March 2013 there will be a legislative change which will expand the unpaid parental leave entitlement (from 13 weeks to 18 weeks) which will potentially further help working parents. It is anticipated that take up will further increase when the legislation is altered in 2015, when parents of children aged up to 18 (currently it is up to 5 years of age) will be entitled to unpaid leave. As this could provide working parents with an unpaid arrangement during the summer holiday period, it is expected that we will observe an increase in the number of employees exercising their entitlement under this legislation. Provided this can be accommodated operationally within the workplace, this entitlement will likely assist a number of our working parents and help retain motivated and key staff.

Elma Murray  
Chief Executive  
North Ayrshire Council  
5 February 2013

## SUBMISSION FROM RCN SCOTLAND

Given the predominance of women in our profession, we are delighted to put forward suggestions for how to overcome some of the difficulties faced by the nursing workforce.

The RCN is both a trade union and professional body, representing nurses, nursing students and health care support workers. We have a UK membership of over 400,000, and more than 39,000 members in Scotland.

**Summary of key points**

*Economics is, above all, about values. Classical economists say that value is determined by supply and demand – and this is certainly a factor. But more important are the underlying cultural values, and these are so taken for granted that they are often unconscious<sup>1</sup>.*

At a time of global financial uncertainty there is **an opportunity for us all to re-assess the fundamental values underpinning national economic decisions**. Too often, caring – for children, for the ill, for our older people, whether in the professional or private sphere – is not valued highly. Before many of the issues we raise in this evidence can be fully addressed, there will need to be a fundamental shift in our appreciation of what matters to our society. We encourage you to read the rest of this evidence in light of this key point.

- Nursing is a caring profession dominated by women. The UK-negotiated terms and conditions agreement for the NHS, Agenda for Change (AfC), has been an important step forward for women in ensuring equality in the workplace. **To maintain a level playing field, AfC, as well as Scottish-specific policies promoting gender equality, must be maintained, however great the financial pressures to re-introduce local variation to nursing pay in the current economic climate.**
- Recent NHS pay freezes, and the need to rely on additional working hours to make ends meet, are placing increased pressure on nursing staff at work and at home. This disproportionately affects women and their families in the female dominated nursing profession. **The erosion of NHS pay for nursing staff must be reversed and the vital contribution of staff providing essential care in our communities recognised.**
- Outside of the NHS, pay is an even greater issue, particularly as procurement of care by the public sector seems too often to be based on budget limitations, not quality. **The introduction of a Living Wage for all public sector contracted health and care services would**

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<sup>1</sup> Eisler, R. "The inadequacy of economics: economics as if caring matters "(2012)  
<http://www.partnershipway.org/12%20Challenge%20eisler-REV.pdf>

**help ensure a basic level of income to the high number of women in caring support roles in the third and independent sector.**

- Reforms in health and social care are quite rightly focusing on an “asset-based” and “co-production” approach, in which individuals will be expected to take an active role alongside professionals in improving their own health, wellbeing and recovery. **However, the Scottish Government should consider how best to assess the possible disproportionate impact on women of health and social care reforms which rely heavily on the unpaid support of family and other community resources.**

### **An overview of the nursing profession**

At September 2012, 89% of NHS Scotland-employed nursing and midwifery staff were women<sup>2</sup>. This headcount includes staff working across all levels, from healthcare support workers through to senior nurses<sup>3</sup>. Almost eight times as many women as men work in nursing in the Scottish NHS. Any decisions affecting nursing staff as a whole will therefore have a disproportionate impact on women.

Of the 20 Directors of Nursing in NHS Scotland Boards, 90% are women, in line with the general gender demographic of the Scottish nursing workforce. This is one welcome indication of the opportunities for women to take on senior appointments within the profession. However, this should be balanced by views expressed in a 2011 RCN member survey which demonstrated that just over 70% of NHS respondents believe it will be very difficult for them to progress from their current grade<sup>4</sup>. Anecdotal evidence also points to a large proportion of men in middle and other senior management nursing positions. As nursing numbers are cut and resources stretched thin, opportunities for women to progress into professional leadership and management roles in nursing may well reduce.

Fifty-one per cent of female nursing and midwifery staff in NHS Scotland are employed on part time contracts, compared to just thirteen per cent of male staff. Twenty-six per cent of the total nursing and midwifery staff employed in NHS Scotland are unregistered healthcare support workers earning a maximum £21,798 per annum, full time in 2012-13. Almost forty-one per cent of all NHS Scotland nursing staff are on the first pay band for registered nurses earning basic pay between £21,176 and £27,625 per annum, full time in 2012-13. This compares poorly to a median gross annual earnings for full time staff in 2011 of £26,200 (£22,900 for women; £28,400 for men)<sup>5</sup>. Scottish

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<sup>2</sup> See: <http://www.isdscotland.org/Health-Topics/Workforce/Nursing-and-Midwifery/> All NHS-employed nursing and midwifery figures used are based on headcount and taken from the September 2012 data provided by ISD.

<sup>3</sup> This figure excludes senior nurse managers who are not included in Agenda for Change bandings

<sup>4</sup> See:

[http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0020/408206/Members\\_employment\\_survey\\_Sept\\_11\\_FIN\\_AL.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0020/408206/Members_employment_survey_Sept_11_FIN_AL.pdf)

<sup>5</sup> See: [http://www.ons.gov.uk/ons/dcp171778\\_241497.pdf](http://www.ons.gov.uk/ons/dcp171778_241497.pdf) (latest available figures)

Government figures do not provide detail on the gender balance or contracted hours of nursing staff by pay grade<sup>6</sup>.

This total headcount of 58,434 female nurses, midwives and healthcare assistants, however, accounts only for those employed directly by NHS Scotland. The figure does not take account of nursing staff employed by GP practices, the armed forces, the third sector, independent providers such as care homes or those employed by nursing agencies, for which we do not have national statistics. As such the number of women in Scotland employed to provide essential nursing services to the population will be much higher.

### **The impact of approaches to pay, terms and conditions on nursing staff**

The UK-negotiated Agenda for Change (AfC) terms and conditions package for NHS staff has, now that it is fully implemented, helped to ensure a more level playing field in terms of pay scales and benefits. It is the case that the NHS in Scotland is still facing a large number of historical equal pay claims. The most recent reports<sup>7</sup> are that NHS Boards across Scotland have more than 10,000 live equal pay claims against them. The vast majority of these claims are equal value claims (where women in predominantly female occupations are comparing themselves to higher paid men in predominantly male occupations) and relate to the period *prior* to the introduction of AfC on 1 October 2004.

A much smaller number of claims have been made against some NHS Boards since the introduction of AfC by individuals who feel that their AfC pay banding has resulted in them being paid less than male comparators. These claims now represent a very small percentage of the total number of equal pay claims against the NHS in Scotland.

Additionally to the improvements brought in at a UK level through AfC, in Scotland a set of Partnership Information Network (PIN) policies, negotiated between the Scottish Government, NHS employers and trades unions have set out clear best practice around significant areas of employment practice, such as 'Gender-Based Violence' and 'Supporting the Work-Life Balance'. The Scottish Government has also committed to introduce the Living Wage to all NHS employed staff. And the UK Government's programme of auto-enrolment in employer pensions will result in more women planning for their retirement<sup>8</sup>. All of these initiatives are welcome.

However, any UK decisions on AfC pay and conditions for nursing will disproportionately affect women earners by the simple fact of the very high proportion of women in the nursing workforce. This includes the impact of the two year pay freeze (2011-2013) imposed on NHS staff earning above £21,000, which has taken a damaging toll, with a majority of staff experiencing a 9% cut in living standards over those two years. At least 30% of the nursing

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<sup>6</sup> See: <http://www.isdscotland.org/Health-Topics/Workforce/Nursing-and-Midwifery/>

<sup>7</sup> See: <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-20900775>

<sup>8</sup> However, we would note that NHS employers in Scotland have recently attempted to defer auto-enrolment from April 2013 to April 2016. The RCN, with our trade union partners, rejected this request.



workforce are at the top of their pay band and therefore have not seen any incremental pay increase on top of the freeze on annual inflationary rises<sup>9</sup>.

Outside of the NHS, terms and conditions for nursing staff, and other professional colleagues in the care sector, are simply not protected in the same way. The RCN is particularly concerned by how cost-driven public sector procurement contracts may impact negatively on the ability of third and independent sector providers to pay fair and equitable salaries to the high number of women employed in care settings. Following a recent FOI request, The Coalition of Community Care Providers Scotland stated that:

*According to the returns submitted, at least 50 care services throughout Scotland are being funded by councils at a rate of less than £10 per hour, which CCPS contends is inadequate to cover all the costs necessary to deliver complex care successfully: these costs include staff salaries and related employer costs; training, qualifications and workforce development; regulatory and compliance fees; and organisational overheads<sup>10</sup>.*

We agree wholeheartedly with CCPS' conclusions. Good care costs and requires well trained and valued staff. Contracts must realistically reflect the true costs of delivering high quality, compassionate care, including the costs of wages appropriate to such important work. We contend that the costs to the shared public purse of delivering poor care will, over time, far outweigh the perceived burden of paying a decent basic wage to a largely female workforce in contracted third parties – although we appreciate that public sector budget processes are currently not designed to account for long-term public benefit in such a way.

The impact of these pressures on the female-dominated nursing profession is real. The 2011 RCN report *Views from the Frontline*<sup>11</sup> found that “over half (58%) of survey respondents [were] the main or sole breadwinner in their households”. If this were reflected in the demographic of Scottish NHS nursing staff alone, over 33,900 women would be contributing 50% or more to their household's income. Over 67% of respondents to our survey noted working more than two additional hours in their job on average each week, with 11% clocking more than eight hours of additional work. Half of these hours were usually unpaid. In addition, a fifth of respondents undertook paid work on top of their main job, with two-thirds of these doing so to bring in extra income.

Bearing all of this in mind, it is not surprising that 23% of RCN members who responded to our survey said that additional hours worked conflicted with their domestic arrangements frequently or always, and over half experienced such conflict occasionally. It is also worth noting at this point that many nursing staff work shift patterns, which excludes the use of traditional nursery provision and often requires reliance on the goodwill of family and friends to make work possible.

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<sup>9</sup> See: [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0003/483402/RCN\\_2013\\_PRB.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0003/483402/RCN_2013_PRB.pdf)

<sup>10</sup> See: <http://www.ccpscotland.org/policy/tendering-and-procurement>

<sup>11</sup> A survey of nearly 8,000 RCN members from across workplaces. See: [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0020/408206/Members\\_employment\\_survey\\_Sept\\_11\\_FIN\\_AL.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0020/408206/Members_employment_survey_Sept_11_FIN_AL.pdf)

The squeeze on take home pay and the need to increase hours at work to sustain family income will result in a large number of women employed in nursing becoming increasingly cash and time poor. Costs in terms of the impacts on childcare responsibilities, commitments as unpaid carers to other adults, and their own health are not adequately included in pay equations.

### **Recognising the impact of care reforms on unpaid carers and employability**

The Equality and Human Rights Commission's first Triennial Review of Gender Inequality (2010) found that women have a 50:50 chance of being a carer by the age of 59 (men reach this position only by the age of 75) and that in Scotland 62% of unpaid carers are women (compared to 58% in England). Only 26% of female carers who provide more than 50 hours of unpaid care also work full time, compared to 37% of men; 25% of female carers work part-time, compared with 15% of male carers<sup>12</sup>. Many of our nursing members will be carers themselves, juggling the pressures of professional and personal commitments.

Beyond the impact on nursing professionals who are also unpaid carers, we note that health and social care reforms in Scotland are, quite rightly, encouraging a significant culture shift in the delivery of public services. A far greater emphasis is being placed on sharing the responsibility for enjoying good health between users of services, carers and professionals, drawing on the strengths and resources available within local and family networks. The RCN supports the ethos of empowerment and resilience behind this approach, but is concerned that in times of financial austerity the spirit of this change may be lost in a drive to save money through an increased reliance on unpaid carers. It is essential that assumptions made about the availability of family and community supports to co-produce health and wellbeing are openly tested to ensure they do not inadvertently disadvantage or impoverish women as carers. The Scottish Government could usefully support local partners in such analysis and take a role in challenging plans which may impact negatively on women's ability to participate in paid work or wider community life.

Theresa Fyffe  
Director  
RCN Scotland  
6 February 2013

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<sup>12</sup> <http://www.equalityhumanrights.com/human-rights/human-rights-celebrations/international-womens-day-2011/how-fair-is-britain-for-women/autonomy-voice-and-power/>

## SUBMISSION FROM UNISON SCOTLAND

### **Introduction:**

UNISON Scotland has over 160,000 members in Scotland, Our members are people working in the public services, for private contractors providing public services and in the essential utilities. They include staff and managers, working full or part time in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport and the voluntary sector. Over 70% of our members are women; many are low paid or work part time.

UNISON Scotland welcomes the opportunity to respond to this inquiry.

Our response is based on evidence we have gathered to date, based on feedback from members; Freedom of Information requests; long term campaigns such as equal pay; collective bargaining and data gathered on a day to day basis.

### **Workforce Issues:**

#### **Flexible Working:**

The introduction of the Flexible Working Regulations in 2002 was designed to allow new parents and existing parents the legal right to request more flexibility in their working hours.

The business case for flexible working arrangements enabled employers to retain skilled staff and reduce recruitment costs, to decrease absenteeism, and to be more effective at reacting to changing market conditions. At the same time it has helped workers achieve a better work-life balance.

It is important to remember that there is only a **right** to apply for flexible working, and not a right to flexible working, so getting it implemented relies on negotiation and the employer accepting the benefits it will bring to their organisation.

The biggest problem with the current Flexible Working Regulations is that they currently give employers the right to refuse on the following grounds:

- a) burden of additional costs
- b) detrimental effect on ability to meet customer demand
- c) inability to re-organise work around existing staff
- d) inability to recruit additional staff
- e) detrimental impact on quality
- f) detrimental impact on performance
- g) insufficiency of work during the periods the employee proposes to work

#### h) planned structural changes

Many of our members reported that they were having requests to work flexibly refused. Consequently, UNISON undertook a Freedom of Information request to try and establish a clearer picture of what was happening.

.Whilst we are still assessing the information submitted, the initial findings suggest that the picture is patchy. There appears to be no consistent pattern of recording requests and refusals. Disappointingly, no health authority was able to provide any data on the grounds that requests are dealt with at local level and therefore only recorded locally and also due to the number of variable working arrangements which makes recording difficult.

Whilst UNISON has some sympathy with the challenges of recording such information, we, nevertheless, believe that establishing robust recording systems can only contribute positively to the requirement of public authorities in relation to their duty to publish equality outcomes and report on progress as required under the The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 No. 162.

The UK Regulations promote equality of opportunity in the work place by allowing predominantly women to maintain employment while meeting their caring responsibilities. Therefore the Scottish Parliament should look for evidence of public sector employers accommodating flexible working as a way of meeting their equality duty. They can only do that by demonstrating their response to requests, either under the regulations or otherwise.

In preparing this response, UNISON would refer the Committee to a comparative review prepared by the Institute for Women's Policy Research for the Equality and Human Rights Commission (EHRC) in 2008.

[http://www.equalityhumanrights.com/uploaded\\_files/research/16\\_flexibleworking.pdf](http://www.equalityhumanrights.com/uploaded_files/research/16_flexibleworking.pdf)

The Institute was asked to examine the impact of the UK 'Right to Request, and Duty to Consider, Flexible Working' on gender equality and the access to quality flexible working for both men and women. It was asked specifically to compare this with the impact of flexible working statutes in other countries. Of particular interest are the experiences of countries such as Belgium, France, Germany and the Netherlands where flexible working rights are open to all employees and are not, as in the UK, targeted at employees with childcare or care-giving responsibilities.

In her conclusions, the author makes reference to the fact that her comprehensive study was hampered by the lack of research in relation to the consequences of refused requests, a more detailed analysis of reasons for rejections by gender, the seniority and pay consequences of accepted requests, and requests for increased working hours, unlike in Germany and the Netherlands where such data is available.

There is no data on the consequences of refused requests for flexible working, either for men or women. A Dutch survey found that following a refusal, three-quarters of employees left their job, and a fifth of those who stayed, performed worse. Likewise, there is little data on the consequences of a successful request (or indeed an

unsuccessful one) in terms of level of seniority, career advancement, job content or pay.

### **Shift Working:**

1. Many public authorities could not function without the need for shift working. People working in the “personal services” employee group are the most likely to work shifts. Over a third of employees in this group are shiftworkers. Many of them work as care assistants, homecarers or nursing auxiliaries and assistants.

Almost a quarter of women (24%) working in the “associate professional and technical services” employee group work shifts, almost two thirds of whom are nurses. Manual workers are far more likely to work shifts than non-manual employees.

For many women, shift work represents an opportunity to work and organise caring responsibilities. Whilst for many this is an option for work life balance, it should not be seen as a substitute for other acceptable alternatives such as comprehensive childcare and other flexible work arrangements.

Single status terms and conditions have eroded the right to shift premia and have lengthened the standard working day, thereby cutting unsocial hours allowances. These measures have led to a double wage cut for some women. In addition, we have experienced the situation where the employer compensates men for changes in shift patterns, but expects women to be 'flexible.'(Renfrewshire Council changing from 5 in 7 to 4 on 4 off working pattern. We need to call for employers to equality impact assess proposed changes to terms and conditions and avoid further discriminating against low paid women.

Another factor that affects women shift workers is the rise of a move to annualised hours and zero hours contracts amongst home carers.

In addition many homecare workers are only paid for client contact time, they are not paid for travel time between clients. This arrangement is more and more common place and puts a great strain on service delivery.

A number of reports from client organisations, consumer groups, and homecare providers have recently been produced which have been highly critical of the state of homecare services in the UK. Little consideration however has been given to the views of homecare workers themselves as to why there are so many problems in this sector.

UNISON conducted a national (UK) survey of homecare workers entitled “Time to Care” to help address this imbalance and to illustrate the reality of homecare work. The online survey which was open to homecare workers who were either UNISON members or non-members attracted 431 responses between June and July of 2012.

The responses showed a committed but poorly paid and treated workforce which is doing its best to maintain good levels of quality care in a system that is in crisis. The report highlights how poor terms and conditions for workers can help

contribute towards lower standards of care for people in receipt of homecare services.

In light of UNISON's findings, we are calling for councils to commit to becoming Ethical Care Councils by commissioning homecare services which adhere our Ethical Care Charter. <http://www.unison.org.uk/acrobat/21049.pdf>

We would strongly urge the Committee to call on the Scottish Government to ensure all Scottish Local Authorities sign up to the Charter.

2. The Scottish Government also needs to take into account the growing number of reports outlining potential health risks associated with shift work. According to a report in Personnel Today, produced in 2011, the Government is being urged to limit the length of night shifts to eight hours, after a study warned that a growing number of people working through the night face increased health risks.

Working at night potentially exposed staff to greater risk of cancer, pregnancy problems and poor mental health, which links to social and family life being disrupted, according to the "social innovation" think tank the [Young Foundation](#).

### **Childcare:**

UNISON believes that we need a mixture of high quality care and education for all children from birth to school age, childcare provided by trained and valued staff; in a way that suits the working lives and pockets of parents.

Free childcare could boost the economy and support families to lift themselves out of poverty according to a report by the IPPR *Making the Case for Universal Childcare*. This long-standing UNISON policy could pay for itself through the increased tax income from more mothers working.

Making childcare free at the point of use would make sense for families. What the IPPR research shows is that it also makes sense for the public finances. They calculate that universal childcare would bring a net return to the government of £20,050 over four years for every woman who returned to work after one year of maternity leave.

UNISON Scotland agrees that the earliest years of life are crucial to a child's development and that universal public services are the key to supporting children's development and supporting those children most at risk of not achieving their true potential. It is the delivery of the framework, the funding available and the development of the skills of staff and their terms and conditions that will be the key to achieving these laudable aims.

### **Equal Pay and Occupational Segregation:**

UNISON has been pursuing mass litigation for local government workers for the last eight years and reports regularly to Parliament on the progress of these claims. While some responsible authorities have paid compensation, a significant proportion are seeking to evade liability by arguing that women can only compare pay rates with colleagues actually employed at their workplace, or with male colleagues who would retain their preferential benefits in the hypothetical event of them being re-located to

the claimant's workplace. Many claimants are employed at gender segregated workplaces where few, if any, men are employed.

In practical terms this requires our legal team to engage in bizarre and surreal debates where appeal court judges assess whether, for example, a refuse collector would still receive his bonus if he were relocated from a depot to a nursery. This charade has continued for eight years and will finally be resolved in the UK Supreme Court in May 2013 when the court hears the UNISON appeal in *North v Dumfries and Galloway*.

It is clear from numerous decisions of the European Court of Justice, the Court of Session and the Employment Appeal Tribunal in Edinburgh that women employed by local authorities can pursue claims based on comparison with any male colleague, regardless of their work location. In fact, the nature of occupational segregation is such that equal pay law would be rendered useless if women in female dominated workplaces could only seek equality within workplaces where no men are actually employed. Only social attitudes to work will reduce the physical segregation of women and men, but equal pay law will only tackle the pay inequality linked to segregation if pay comparisons are permitted to transcend the physical boundaries of workplace segregation.

Members of the Scottish Parliament might recall that Holyrood's Local Government Committee (2006 and 2009) and the Equal Opportunities Committee (2009 and 2010) have addressed this issue directly and repeatedly instructed local authorities to expedite the settlement of these claims. The trade unions remain open to negotiation to promote early settlement of claims but comprehensive settlement remains elusive.

The refusal of some employers to respond to settlement offers recently drew stinging criticism from the Court of Appeal in England. This begs one important question, why do Scottish Councils pursue this strategy in the face of heavy judicial criticism and in defiance of the Scottish Parliament? The answer appears to be a deliberate intention to discriminate. The employer's position before the Supreme Court is founded directly on the extreme gender segregation of certain public sector jobs.

Furthermore, the council's defence seeks to fossilise the pay inequality linked to segregation by restricting the claims of women to locations where men don't work.

It is important to note the council is not denying the existence of a pay gap between male and female employees in Dumfries. Nor are they trying to justify that pay difference by reference to business needs that are not tainted with discrimination. Those defences have been tested and failed in other claims. In *North v Dumfries* the employer is relying on the existence of female-dominated work and to use that segregation to block the application of equal pay law.

The EHRC intervened in the case and argued that, given the gender segregated nature of the labour market across public, private and voluntary sectors, the Dumfries and Galloway position risks substantial damage to the equal pay rights of women throughout the UK.

It is hard to see how this legal strategy complies with the Public Sector Duty to promote equality and eliminate discrimination as required by the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, adopted by this committee in May 2012. Enforcement of this duty rests with the Equality and Human Rights Commission and we would encourage the committee to hear evidence from the Commission on this point. A failure to have due regard to the promotion of gender equality is also a potential breach of the Local Government Scotland Act 2003 and might be an issue the committee would wish to receive evidence on from the local authorities pursuing this strategy. If, having heard the council's position, the committee had concerns in relation to the equality duty within the 2003 Act it would be open to the committee to raise the matter with the Accounts Commission via the Controller of Audit.

### **Post Single Status**

The position of council workers following the implementation of Single Status could best be described as unclear. In the absence of collective agreement on Single Status pay systems, revised terms were imposed on workers in the overwhelming majority of Scottish Councils.

The revised pay system in Glasgow is the subject of a long running investigation by the EHRC. The inquiry was triggered by concerns over the impact on Classroom Assistants and it is likely that this investigation will have a bearing on the future pay of many women in gender segregated jobs.

The revised Glasgow pay system is also being challenged at Employment Tribunal by UNISON. The "family" of Arms Length Companies and Trusts that deliver Glasgow services is heavily gender segregated and UNISON believes that this segregation, and the desire to block equal pay claims influenced the decision to adopt this method of service delivery. However, UNISON has succeeded with a legal challenge to the Glasgow "family" and re-established the right of Glasgow workers to compare wages across the segregation within the ALEO system.

UNISON is also pursuing a direct challenge to the revised pay system or Workforce Pay and Benefits Review on the basis that it is "discriminatory or otherwise unsuitable" as defined by equal pay law. A preliminary hearing on this point has been adjourned after 27 days of evidence, with more than 30 days of hearings still to come.

UNISON is also challenging the Single Status arrangements in South Lanarkshire on the basis that the measurement of jobs and the progression through long pay scales is "discriminatory or otherwise unsuitable".

In autumn 2009 the EHRC wrote to local government employers expressing concern over the single status outcomes in councils using the Scottish Job Evaluation Scheme (JES). In response, the employers agreed to conduct a comprehensive review of the Scheme. UNISON has representatives on a working group tasked with reviewing the 2002 scheme. Terms of reference have been jointly agreed and we await the findings of the analysis of the application and impact of the scheme.



Given the age of the Single Status Agreement (1999); the delay in implementation; the volume and cost of litigation and the numerous interventions by committees of the Scottish Parliament it would be safe to say that local government workers are losing faith in the ability or willingness of the entire equality apparatus to deliver the basic entitlement to equal treatment at work.

### **Conclusion:**

UNISON Scotland welcomes the Scottish Government's initiative of launching, in partnership with the STUC, the Women's Employment Summit in September 2012. We also welcome the opportunity to contribute to this enquiry.

As recognised by the Government and many economists, women's participation in the labour market contributes significantly to the Scottish economy. Nevertheless, that participation can only become economically successful if the current obstacles that prevent a real and positive contribution are removed.

Many of the points we have raised in this submission are ones that we have made over the past ten years to the committee. The fact that we are still making them and raising significant concerns tends to reinforce our view that women's inequality is no further forward than when the Parliament opened in 1999. If anything, we have seen retrograde steps that have significantly worsened the position of women in employment.

The committee should also not assume that being an employee in the public services is a guarantee of good pay and conditions.

UNISON appreciates the time and interest devoted to the issue of equal pay over recent years. However, we are keen to discuss how we move from a shared concern to a process where the committee uses its power and influence to effect change and convert the rhetoric of equality into money for underpaid women

We would, therefore, argue that the following steps are required to address the current imbalance that continues to discriminate against women in the workplace and in accessing the labour market:-

- Establish through comprehensive research the current obstacles to flexible working;
- Free and comprehensive childcare;
- Addressing the universal health concerns relating to women and shift working;
- Take steps to ensure that **ALL** public authorities meet their obligations under the Equal Pay provisions of the Equality Act 2010;
- Take steps to ensure that all public authorities have in place robust recording systems in order to fulfil their obligations under the The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 No. 162.

- Call for employers to equality impact assess proposed changes to terms and conditions and avoid further discriminating against low paid women.

Mike J Kirby  
Scottish Secretary  
UNISON Scotland  
7 February 2013