



**Cynulliad Cenedlaethol Cymru  
The National Assembly for Wales**

**Y Pwyllgor Cyfle Cyfartal  
The Committee on Equality of Opportunity**

**Dydd Mawrth, 24 Mawrth 2009  
Tuesday, 24 March 2009**

**Cynnwys**  
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Cofnodir y trafodion hyn yn yr iaith y llefardwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg. Mae hon yn fersiwn ddrafft o'r cofnod.

These proceedings are reported in the language in which they were spoken in the committee. In addition, an English translation of Welsh speeches is included. This is a draft version of the record.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Nick Ramsay	Ceidwadwyr Cymreig (yn dirprwyo ar ran Jonathan Morgan) Welsh Conservatives (substitute for Jonathan Morgan)
Janet Ryder	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour

**Eraill yn bresennol**  
**Others in attendance**

Sue Dye	Comisiwn Cydraddoldeb a Hawliau Dynol Equality and Human Rights Commission
Derek Walker	Cyngres Undebau Llafur Cymru Wales Trade Union Congress

**Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol**  
**Assembly Parliamentary Service officials in attendance**

Rita Phillips	Dirprwy Glerc Deputy Clerk
Helen Roberts	Cynghorydd Cyfreithiol Legal Adviser
Denise Rogers	Uwch-swyddog Ymchwil Senior Research Officer
Bethan Webber	Clerc Clerk

*Dechreuodd y cyfarfod am 9.30 a.m.*  
*The meeting began at 9.30 a.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introduction, Apologies and Substitutions**

[1] **Ann Jones:** Good morning, everybody. Welcome to the Committee on Equality of Opportunity. I will start the meeting as usual and remind Members around the table and anybody in the public gallery to switch off mobile phones, pagers, BlackBerrys and any other electronic devices. You are all right if you have a pacemaker, but other than that please switch everything off. Do not put them on 'silent' because they affect the broadcasting and the translation system.

[2] As Members are aware, people may speak in either English or Welsh. The translation is available on channel 1 of your headsets, and the verbatim proceedings are on channel 0 if you find that the acoustics in this committee room make it difficult to hear our presentations.

[3] We are not expecting a fire drill so, if the alarm sounds, we will await instructions from the ushers. The assembly point is in the front of the building by the car park. You can follow me as I will be the first out of the door anyway. [*Laughter.*]

[4] It is a pleasure to welcome Nick Ramsay back. Nick is acting again as a substitute for Jonathan Morgan, so it is nice to have you back with us for today's meeting, Nick.

[5] Do Members have any interests that they wish to declare at this point, before we start? I see that there are none.

9.31 a.m.

### **Y Wybodaeth Ddiweddaraf am yr Ymgyrch Cyflog Cyfartal Update on the Equal Pay Campaign**

[6] **Ann Jones:** We move on to item 2 on our agenda, which is the update on the equal pay campaign. It is a pleasure to welcome Derek Walker from the Wales Trades Union Congress, and Sue Dye from the Equality and Human Rights Commission. It is really nice to have you with us and we are looking forward to hearing your evidence. We have had a paper from you, but I believe that you want to make a quick opening statement and then we will move to questions. Is that right?

[7] **Mr Walker:** That is right. I will kick off, then Sue will do a bit, and then we will kick off with the questions.

[8] **Ann Jones:** Fine, okay.

[9] **Mr Walker:** Thank you for inviting us back. As usual, we have been very pleased to come back and talk to the committee about the Close the Pay Gap campaign. The committee's cross-party support for the campaign has been crucial to its success, I think, so thank you for that.

[10] To remind you about the Close the Pay Gap campaign, as you will know, it involves three organisations: the Wales TUC, the Equality and Human Rights Commission, and the Assembly Government. We have been focusing in this phase of the campaign on the public sector and particularly on local authorities. I will start the presentation by giving you the backdrop of the equal pay landscape at the moment and by talking about a couple of the interventions that we have taken forward during this phase of the campaign, and then Sue will talk about some of the other interventions.

[11] We want to kick off by making really clear our view that we think that equal pay remains as important as ever during the economic downturn. It is tempting to see equality as an add-on or as something that can be dropped during the recession, but we think that it should be integral to our response. As the number of redundancies mount, more women than ever will be the sole breadwinners and income earners in their families and so it is more important than ever that they be paid properly for what they do. By local authorities addressing their equal pay liabilities, we know that that money can be reinvested in the local economy, and women are more likely to be spending that to help the community and to boost the local economy.

[12] The last time we addressed the committee was in the autumn, I think. There have been some changes to the equal pay landscape since then, and some things have remained the same. The landscape has certainly not got any easier, unfortunately. One positive thing so far is that the no-win, no-fees lawyers have still not come to Wales in any great number and we hope that that continues. There has been progress in some of the case law, which has not made the situation any easier.

[13] Three of the cases that you may well have heard of are the Allen v. GMB judgment,

and the other cases that were joined together were Redcar and Cleveland Borough Council v. Bainbridge, and Surtees v. Middlesbrough Borough Council. These cases have come to their end, really. In one case, they are waiting for the remedies hearing. In the Allen v GMB judgment, the GMB union was found to have indirectly discriminated against women. The GMB union's and the TUC's position has been very clear, namely that we do not believe that there was indirect discrimination in that case, and it is unfair for the unions to be cited when it is an issue for employers to decide how they pay and reward their staff. That has certainly made the collective agreements more difficult. The Bainbridge and Surtees cases have done the same. They were about pay protection. To summarise, they have looked at how pay protection for male workers predominantly can be seen as unfair and not allowed under the law. That has also made the situation much more difficult.

[14] The result has been that thousands of employment tribunal cases on equal pay have been lodged. I think that there are well over 10,000 in Wales, with 80,000 across the UK, and many women have been waiting years for redress and for the court to make a decision, which is denying them access to justice.

[15] Having said that, when we look at local authorities in Wales, we think that there has been good progress. We think that we played an important role in helping that progress to happen as part of the campaign. When the unions and the Minister gave evidence to the Health, Wellbeing and Local Government Committee on equal pay, it was made clear that eight local authorities in Wales had made offers of backpay and three were hoping to make offers over the next 12 months. Four, according to the Minister, do not believe that they have any liability. In addressing the forward pay system, three local authorities have now introduced new equality-proofed pay systems.

[16] So, there has been some progress, albeit more slowly than we would have liked. It is important also to make clear what impact this can have. There are three main causes of the pay gap, and we have focused on discrimination in pay systems. However, at a conference that we held a couple of weeks ago, Caerphilly local authority estimated that, by addressing discrimination in its pay systems, it would close the pay gap by 8 per cent, which is substantial. Other local authorities have said that it is less than that, but it can be up to 8 per cent. We have also been very pleased that the Welsh Assembly Government has allowed capitalisation for local authorities and continues to allow capitalisation, as we understand it, to fund equal pay.

[17] So, the situation is not perfect by any means, and, at the Wales TUC and at the TUC as a whole, we would like to see significant changes in the law at a UK level to make the situation easier. We do not think that there will be a huge number of changes in the forthcoming equality Bill, but we will have to wait and see. We believe there to be a case for reducing the complexity of the law to help with equal pay. We also believe there to be a case for representative actions, so, rather than having lots of individual equal pay cases, unions can take representative actions on behalf of a number of women to speed up the process. We continue to push the case for mandatory equal pay audits.

[18] Very quickly, to go to the campaign, the two bits that I wanted to focus on are that we hold seminars as well as fringe events at each of the party conferences. We held practical seminars for employers and trade union representatives to come together to improve their understanding of where their organisation stood in relation to equal pay and to give them up-to-date information about good practice and the latest legal information. Those seminars have been very successful for recruiting. We have held one in north Wales, and the one in south Wales will take place on 1 April. So, we think that that has been an important intervention on a practical level.

9.40 a.m.

[19] We are also going to each of the political party conferences over the next six weeks or so to speak to local authority leaders and councillors about how they can tackle the equal pay issues within their organisation and how they can make progress, really focusing on strengthening the cross-party approach and assisting them with solutions

[20] To conclude, we think that the campaign is having an impact and remains to have an impact, and we are really interested in talking to the committee about where they see the campaign going in the future.

[21] **Ms Dye:** I will just give you a flavour of the business benefits research and the conference that we held last week.

[22] First, on the business benefits research, the Close the Pay Gap campaign has tried to identify which other levers there might be, other than the law, to encourage local authorities and other public sector bodies to take action to narrow the pay gap. We identified that business benefits could be a powerful lever, and Neath Port Talbot County Borough Council was one of the first local authorities in Wales to address its equal pay backpay liabilities. It agreed to be a part of the research project. We set out to try to capture the benefits to the authority as an employer, the women, their families, the local community and the economy. In retrospect, I think that that was very ambitious, actually, particularly given that its settlement took place only in March 2007, so there has not been a long time since it sorted out its backpay. Nevertheless, some clear benefits did emerge.

[23] The first benefit was the community feel-good factor: low-paid, part-time women living locally are residents, council tax payers, and voters. Many of them received the settlement, and elected councillors and council staff mentioned as part of the research that there was very much a feel-good factor in the community about having made the settlement.

[24] The second benefit was for the women themselves. The ones who received the backpay were obviously very pleased with it. They put the money to use locally, which we were interested in. They renovated their houses, they repaired their cars and, most importantly I suppose, they settled debts, because some of the women were paying up to a third of their monthly salary in debt repayments.

[25] The third benefit is that Neath Port Talbot council avoided litigation and costs spiralling out of control. It has confidence now that it has settled backpay, so it is in control of that, and it is now introducing a fair pay system for the future. In the process, it feels, and has identified as a benefit, that it has strengthened industrial relations and built expertise on pay systems generally, and not just on equal pay but on how you can make your pay system work for Neath Port Talbot.

[26] I suppose that the final benefit that the research identified was reputational in nature. Outside the stakeholders—and that is a horrible word of jargon—everyone who was interviewed from outside Neath Port Talbot felt that there was a virtuous circle. They identified the council as having addressed equal pay, having taken a lead, and as having good governance, good employment practice and good service delivery. So, reputationally speaking, addressing the issue was very good for Neath Port Talbot.

[27] In future, we could commission longer-term research to look at the data sets that we were not able to look at, such as staff sickness absence, retention rates, and all those sorts of issues, which could measure the impact of having settled equal pay on workforce engagement. So, that is something for the future. We also want to look at child poverty, and the research team is looking at its possible impact on child poverty rates.

[28] Meanwhile, we have a helpful little study on gaining control, and we have tried to make a user-friendly document on which we can engage with other authorities. We took it to the conference last week. To give you some key messages from the conference, we had a speaker from the north east, which has been at critical boiling point in addressing equal pay, so some of these messages come from him. One that Derek has alluded to is that some local authorities in Wales are holding back from settling in case helpful legal cases are in the offing, and I am afraid that the message was very pessimistic on that front. The legal cases that are—

[29] **Janet Ryder:** May I just clarify that you are talking about the north-east of England?

[30] **Ms Dye:** Sorry, yes. I meant north-east England. The equal pay cases that are before tribunals at the moment are unlikely to be helpful, so the longer the local authorities leave it before dealing with equal pay, the more expensive it will be for them. Reducing the risk is an issue that authorities in Wales need to address as a matter of urgency.

[31] One thing that became clear in the conference was that, once you have lost one tribunal case, it opens the floodgate. The message was for every local authority to avoid tribunals in Wales at all costs. If you lose one case, hundreds will follow, and that is when your costs start to spiral out of control. It also sucks in a huge amount of resources, because you have to get your human resources staff to prepare for tribunals and you have to pay lawyers. Actually, another issue was that of spending public money on public services rather than on lawyers. One local authority in the north east already had a legal bill in excess of £1 million for external lawyers. So, there are some lessons for us there.

[32] I will finish with a point on current law. There was consensus at the conference that equal pay legislation is in a mess. We need a new law, but there is no indication that will be the equality Bill. The conference was very enthusiastic about the potential for us to have a specific duty to ensure equal pay in Wales arising out of the equality Bill. The Equality and Human Rights Commission has been consulted by the Assembly Government on that, as has the Wales TUC. We are equally as enthusiastic as the conference delegates were about doing something different and more effective in Wales, so we are looking for a specific duty that will narrow the pay gap, and not just by looking at whether there is a pay gap, but by including some kind of action to close the pay gap, by reviewing it regularly, publishing the results, and having a specific duty that is transparent.

[33] I will just finish by saying that it would be really helpful for us in the campaign if this committee could scrutinise the Minister as the specific duty emerges and is consulted on, so that we get something that really is effective and is more in line with the policy that the Government—and this committee, actually—has been driving in the last few years.

[34] **Ann Jones:** Okay, thank you both for that. As you demonstrated, there is a lot going on, and there is still a lot more work to do, which I think we all recognise. How can you measure the success of the current phase of the Close the Pay Gap campaign? Has there been any success, or are we still miles behind so that we will never catch up?

[35] **Ms Dye:** Measuring that is difficult. For example, if you ask Neath Port Talbot council why it stepped forward and took control of the equal pay issue like that, I am sure that it would give half a dozen reasons in response. 'I heard the employers from the north-east talking about the mess that they are in in the north-east of England.' 'I went to a conference.' Actually, Neath Port Talbot talks about the last equal pay conference as a trigger for cracking on with it. So, I think that there may be a range of drivers and it is an individual thing, is it not?

9.50 a.m.

[36] I think that it is difficult to measure what has the most impact. I think that we just have to push on a number of fronts. There is the encouraging through the business case. There is the moral argument; it is the right thing to do. It is the law; there are the legal levers as well. I think that it is difficult.

[37] **Mr Walker:** In the last phase of the campaign we commissioned an organisation to do an evaluation. That demonstrated, in the ways that we could demonstrate it, that we had had an impact, by asking those that we had had contact with during the campaign. For this phase of the campaign, we do not have a dedicated budget for an evaluation of that sort, but we are collecting data from those who attend events and who have contact with the research, and the feedback so far has been that this is useful and is making progress.

[38] **Eleanor Burnham:** Before I ask my question, with your permission, Chair, which Minister do you think we should be targeting? We have a whole array of wonderful Ministers with wonderful portfolios and whatever.

[39] **Ann Jones:** Brian Gibbons has the responsibility for social justice and—

[40] **Eleanor Burnham:** But local government?

[41] **Ann Jones:** Well, it is Brian Gibbons.

[42] **Eleanor Burnham:** Okay. Thank you. I thought that it was Andrew Davies, because he would be finance.

[43] **Ann Jones:** No, Andrew Davies is managing public services, but it is Brian Gibbons who has the social justice responsibility.

[44] **Eleanor Burnham:** Thank you for that clarification.

[45] **Ann Jones:** So if he is listening, find a date in the diary. *[Laughter.]*

[46] **Eleanor Burnham:** Derek, you touched on the issue of the current economic climate, and my question was about making it more difficult. What particular challenges are presented because of it?

[47] **Mr Walker:** Do you mean the current economic climate?

[48] **Eleanor Burnham:** Yes.

[49] **Mr Walker:** We all know that equal pay costs money and a substantial amount of money. With increasing pressures on public service budgets and the local authority settlements, this makes it more difficult. What we can say, though, is that the impact of addressing equal pay can also be a benefit to the local economy. I touched on it briefly, and it was difficult in the research to be able to do a scientific exercise, because we did not have some of the baseline measures to look at where we were when we started. The evidence is showing that women who are getting these backpay settlements are spending it on their families, or they are spending it doing up their homes, or they are spending it on other things that are largely contributing to the local economy.

[50] **Eleanor Burnham:** Would you say that not doing it, as you have discussed from the north-east of England perspective, could actually have a similarly detrimental impact, because of the issue of the tribunals, in that it only goes into legal coffers so has no positive impact within the community?



[51] **Mr Walker:** Absolutely. That was the clear message, as Sue has said, from the conference and from the north-east of England. By not doing it, the liability just gets greater, the costs go to solicitors rather than to the women concerned, and you still have not addressed your equal pay problems. This makes it much more difficult for public authorities to plan budgets and services in the future, because they still have this liability hanging over themselves.

[52] **Ms Dye:** Just to pick up the good governance side of it, I think that that is where public sector authorities are at the moment. In a recession good governance is absolutely paramount, and part of good governance is financial control. The lesson of what is happening with equal pay outside of Wales is that any public authority will lose control. It will lose control of its finances. Once cases hit tribunal, the costs just explode. That has meant in practice in Scotland, if you look at Glasgow council, for example, that services have been cut and council land has been sold to pay tribunal costs. So, there are good governance issues there.

[53] For us, from a commission point of view, there has never been a more important time to sort out pay inequality and pay women fairly than in a recession. We know that women spend their money in the family and that it addresses child poverty.

[54] **Eleanor Burnham:** Did you say earlier that there are many more women apparently now becoming the breadwinners?

[55] **Ms Dye:** Derek said that, but it is true. As a commission, we have Swansea University working with us at the moment on why the pay gap in Wales has widened. We are not able to talk about that with authority at the moment, although we are happy to share that with the committee next month when we have the research findings. One thing that seems to be happening is that, as men lose their jobs, female part-time workers are moving up into full-time work and increasing their hours.

[56] **Ann Jones:** I have Joyce and Janet on the same question.

[57] **Joyce Watson:** Good morning. I read your paper with interest. Coming back to the question of the current economic climate making it more difficult, I want to ask a pointed question. Is it not just another excuse, in your opinion, to use the current economic climate not to pay women a fair wage? Is it not just another excuse on top of all the ones that we have had for the last 30 years?

[58] **Ann Jones:** Who is going to do that one? [*Laughter.*]

[59] **Mr Walker:** It is difficult to say, is it not? I think that it can be used as an excuse by some not to address the issue. It is not a good enough excuse in the view of the campaign, and it is not a valid excuse. What we are saying is that this can contribute to not just the pay inequalities and the fairness agenda, but it can contribute to the economy and to addressing some of the economic difficulties. So, I guess that it is being given as an excuse by some, but it is not a valid one.

[60] **Janet Ryder:** We have not, fortunately, seen any huge redundancies in local government staff, as yet. I was very interested in what you said about redundancies and that you seem to be putting forward the idea that it is men who are being made redundant in favour of women. To reaffirm that, are you monitoring how those redundancies are taking place in the private sector? Are they having an untoward impact on either males or females? Does it relate to those in full-time, as opposed to part-time, work who can, perhaps, have their hours extended while not having their pay and terms and conditions extended?

[61] **Ms Dye:** As I said earlier, I think that, at the moment, we are not able to say with authority what is happening within the economy, and even the research that we have commissioned may not fully capture the impact of the recession. The data sets that they are working on are obviously one-year old. We are hoping to be able to paint a picture, which we will be happy to share with the committee, as I say, on what is happening in the economy here.

[62] **Mr Walker:** We have done a report, actually, which we can share, called 'Women and the Recession'. The TUC has produced it, and it is a UK report rather than a Wales report. It was misrepresented when reported in the press, because people were claiming that it was saying that women were doing worse in the recession, and that is not what we found from our statistics. What we found is that it is affecting men and women. In terms of job losses, it seems to be that men are losing jobs in the private sector at a higher rate than women. That is what the statistics seem to be showing; especially early on that seemed to be happening. It is also having a much bigger impact on women this time than it has in previous recessions, because more women are in the workplace, more women are the sole breadwinners and more women are becoming the sole breadwinners.

10.00 a.m.

[63] So, it is having a bigger impact on women than it has ever done before, but in terms of this recession in terms of job losses, I think that the figures still show that men are losing jobs faster than women. That is because of where those jobs have been going, first of all. When you look at what has happened, it has been in manufacturing industries, which typically have employed large numbers of men, but we are also now seeing it in retail where there are large numbers of women. So, we may see that, gradually, as it continues, women are more affected than men. That is what we might see, but at the beginning it was certainly men who were more affected in terms of job losses.

[64] **Ann Jones:** We need to move on, Eleanor.

[65] **Eleanor Burnham:** Okay. What were the principal achievements of the equal pay conference held on 11 March this year?

[66] **Ms Dye:** We brought together 70 people from local government and the rest of the public sector, but our target audience were new cabinet members with responsibility for equality and new council leaders. We brought those people together in a room with equal pay expertise from outside of Wales and the experience of Neath Port Talbot. Neath Port Talbot did a presentation on how it had gone about resolving its equal pay issues.

[67] By the end of the afternoon, the feedback and the evaluation sheets showed that people had moved on in their thinking. I think that it did create a sense of urgency. What that delivers outside, we will know in the next few months. Our sense is that there are a number of, particularly local, authorities that are playing a bit of a waiting game to see whether there are tribunal cases that may reduce their liabilities. That was not evident at the conference; it looks as though the opposite is, in fact, the case.

[68] So, I think that we need to follow up on the conference. You cannot do one hit and expect things to move on. We need face-to-face meetings with council leaders and cabinet members, and I think that we will see in the next six months how much the conference has moved things on.

[69] **Eleanor Burnham:** What about discussing it with the senior echelons of local authority civil service? There might be legal people there who are reticent, for the reasons that

you have just discussed. Are you trying to re-educate them as well?

[70] **Ms Dye:** I think that we had started off thinking that this was a human resource issue. Three or four years ago, we were talking to heads of human resources, but now we are talking to chief executives, directors of finance and the legal teams, because they all have a bearing on that decision in terms of moving on and making progress.

[71] **Eleanor Burnham:** Are you hoping to hold any more conferences?

[72] **Mr Walker:** We are coming now to the end of this phase of the campaign, and perhaps this is the opportunity to talk about the fringe events. The next bit, really, is to try to target local authority politicians, councillors, at the fringe events of each party conference, to do the same sort of job about letting them know what the solutions are, that they can take control, and what will happen if they do not take control. I have information about each of the fringe events here in my folders for each of the party conferences to pass around, Chair.

[73] **Ann Jones:** Can you hand it to the committee secretariat, who will distribute it later on? It distracts from the meeting when people start to read.

[74] **Mr Walker:** Absolutely.

[75] **Eleanor Burnham:** I have one quick point of clarification. In case anybody who is listening or watching is interested, where exactly is the pay gap? What kind of jobs are we talking about in local authorities where women are paid less than men?

[76] **Ms Dye:** There are three causes of the pay gap. If we look at pay structures, particularly in local authorities, a number of jobs done mainly by men attracted bonuses—we are talking about gardeners, jobs in waste disposal and so on—whereas the female jobs at the equivalent grade, which may have been kitchen assistants and cleaners, did not attract bonuses. So, a lot of effort both by the unions and by the employers in local government has gone to address the impact of those bonus schemes, which were implemented during the 1970s and 1980s. We need to be clear that the fact that the pay system evolved as it did is not the responsibility of the current leadership. Their current responsibility is sorting it out. So, in terms of pay systems in local government, it is those sorts of jobs. There are also issues in the wider public sector around performance-related pay and long pay bands where men are clustered at the top and women might be at the bottom.

[77] The other element of the pay gap, contributing towards the percentage pay gap, might be that women are clustered in the lower-graded jobs and men are clustered further up. Also, the impact of domestic responsibilities means that women are more likely to have part-time jobs, and those are much lower paid.

[78] **Ann Jones:** Thank you. We need to move on; time is pressing.

[79] **Joyce Watson:** You put a lot of emphasis, quite rightly, on the success of your conferences. However, I note that the event planned for west Wales—which would incorporate, I am assuming, Carmarthenshire, Ceredigion, Pembrokeshire and Powys, none of which have settled—was cancelled. Do you know why it was cancelled? What can be done in the future to ensure that events are more successful?

[80] **Mr Walker:** This was the employer/trade union event that I talked about, which was very much looking at heads of HR, trade union officers and representatives at a more practical level. We committed to organising three events, one in north Wales, one in west Wales and one in south-east Wales. Unfortunately, the west Wales event did not recruit. We used all our best endeavours to get people to come to the event, but only six or seven people said that they

would come along and that was no more than the number of speakers at the event. What we decided to do was to contact those people to see whether they could come along to the south-east Wales event, and, in large part, they could do that. So, we have a very good attendance for the south-east Wales event and a number of those people are from west Wales. In terms of how we learn from this, we gave all of them the same amount of notice and we used all our networks to try to get people along to those. There was no difference in terms of the days, so it is difficult to see why that did not recruit, but that will not stop us doing it again. We are committed to having these events across Wales and for us to reach as many local authorities, in particular, as we can. On this occasion we just did not manage to recruit, but we were glad that those people can come to the south-east Wales event to be held on 1 April.

[81] **Joyce Watson:** Following on from that, you mentioned Neath Port Talbot being used as a case study. Under the current phase of your campaign, why do you think that Neath Port Talbot's equal pay settlement is the model that others could follow?

[82] **Ms Dye:** I am not sure that I would say that the actual settlement is a model. There is a compensation settlement grid there, but I think that it is for each local authority to establish what is appropriate for them. The model that we were looking at is what was it about Neath Port Talbot that made it take the reins and do something?

10.10 a.m.

[83] I think that, for me, it was leadership. It was political will. It was good industrial relations, a willingness to share even legal advice between the unions and the employer there. I think that there was a sense of community benefit. I think that they had recognised that the women that would be paid would be living in the community, and voting and paying council taxes. So, there were a range of issues there that are a model for other authorities on the willingness to move forward and, I suppose, the courage to say, 'Okay, we know it is going to be expensive, but it is the right thing to do and we are here for the long haul, so let us plan it'. I think that it was that leadership and political will that was central to that.

[84] **Ann Jones:** Joyce, do you want to ask your next question in this group? Then I will come back to Eleanor. I think that your question probably follows on.

[85] **Joyce Watson:** Okay. Following on from that, as Ann says, some local authorities have not offered to settle because they believe that they can successfully defend equal pay claims. You have already said what your views are on that, but may I link two things, with your discretion, Chair? It is also noted, is it not, that of those authorities that have not offered to settle, large numbers of them are in mid and west Wales? As somebody who has an interest in mid and west Wales because I represent that area and because they have not settled—because some of them are arguing that they can defend them—what is your view on that?

[86] **Mr Walker:** Our view is very clear—they have a liability. We think all local authorities will have a liability and they cannot ignore the problem. The problem is just going to get bigger. That is very much our view and our position during the campaign.

[87] **Eleanor Burnham:** Has the scale of the problem faced by some local authorities, including the local authority in my region, allowed other examples of unequal pay in the public and private sectors to go unchallenged? Do you think that they are holding their breath and hoping for the best?

[88] **Ms Dye:** I think that the onus for addressing equal pay is pinned on the individual woman. That is the structure of the law, unfortunately, as it stands. The Equal Pay Act 1970 means that an individual woman who is discriminated against has to go through a tribunal. The commission—and we in the campaign—is keen to see the employer addressing pay

inequality, taking action on it and sorting out the pay system so that the onus does not rest on the individual woman to take the case. I think that that is our big hope for the specific duty on equal pay in Wales—that it will shift that balance.

[89] **Eleanor Burnham:** The economic forum in north Wales, for instance, is a very strong body of august representatives from local authorities. Do you ever go and discuss this very important issue with that kind of forum? It meets three times a year.

[90] **Mr Walker:** The Minister has decided that this phase of the campaign is to be on the public sector.

[91] **Eleanor Burnham:** Yes, but this is a mixture of public sector, local authority, leaders, chief executive officers and so on, and it is obviously under the auspices of the Welsh Assembly Government.

[92] **Mr Walker:** The interventions that we have focused on have been the ones that we have described, but certainly this could not be higher on the agenda of trade union officials. It might not be an issue that I as a TUC representative am addressing, but it is certainly an issue that the trade unions are taking to all the organisations where they have members in order to get some action.

[93] To go back to your previous question, I guess some of the reasons why some may claim that they have waited is because of the uncertainty with the legal situation and the case law, which I alluded to in my presentation. That has now moved on and the key cases have now come to an end. As I said, one has come to the remedies hearing. So, there is more clarity than there was before about the position, and I think that we would again stress that the more you delay it, the greater the problem gets; do not wait, you need to get on with it.

[94] **Janet Ryder:** You can pursue a claim on a number of different fronts. You could pursue it as a rated as equivalent claim or as an equal value claim. You have pursued some cases against councils who have started to address this issue. In Torfaen I understand you have taken action on an equal value stance against the council. To what extent has the decision of the trade unions to pursue that equal value pay claim through employment tribunals affected the likelihood of an overall settlement? Can you explain why you have decided to fight on those grounds?

[95] **Mr Walker:** I will not comment about the Torfaen situation because I was not actually aware of that situation and the latest information that I have about Torfaen is that that was not the case. That may well have changed since I was last updated.

[96] The situation is that we as the TUC and as trade unions believe that the best solution is to come to a collective agreement. That leads to a speedier, long-term solution, which is not just looking at the past but looking to the future. It looks to a more stable solution that allows the local authorities to plan.

[97] So, that is where we are trying to get to, but because of some of the legal cases that have been pursued where the trade unions have been cited as co-respondents for indirect discrimination, as I mentioned in my presentation, it has meant that trade unions have been put in the position where they need to lodge cases with employment tribunals in order to protect their own position as well as the position of their women members. Otherwise, they could then be taken to tribunals themselves for discriminating against their female members.

[98] **Janet Ryder:** I find this very complex, and I am sure anybody listening to this or watching this will find this very complex. First of all, so we can get it on the record, what is the difference between a rated as equivalent and an equal value claim? What is the difference

between a person pursuing a claim against a council for an equal pay claim and then those instances where unions have had actions taken against them?

[99] **Mr Walker:** Sorry, could you repeat those points?

[100] **Janet Ryder:** Can you explain the difference between the two kinds of claims that can be put forward: rated as equivalent and equal value?

[101] **Mr Walker:** I am going to ask Sue to explain, if that is okay, because I am not an expert in that area. I do not take these cases myself, unfortunately. There are three areas: like work, work rated as equivalent and work of equal value. The work rated as equivalent requires a job evaluation scheme in order to rate the jobs of equal value.

[102] **Ms Dye:** My sense is that there are probably disputes about the job evaluation schemes that are being operated by local authorities, and this is where this arises from.

10.20 a.m.

[103] If you are using a job evaluation scheme and it is scoring on an objective basis, then those are rated as equivalent jobs because everybody's job is being analysed using the same scheme. Eventually, you will get a score for the job based on a number of factors. That score will give you a rating and, as the job evaluation is matched to the pay, people who get an equal score should get equal pay.

[104] **Janet Ryder:** I think that perhaps the Chair knows of this instance. The delay that has happened in some counties in pursuing this relates to the agreement on the job evaluation. Therefore, are the trade unions happy to pursue that equal value claim but still support workers where there are disputes in the job evaluation process that is taking place?

[105] **Mr Walker:** I do not know of the case that you are alluding to, but the trade unions are happy to support all their members to take cases around equal pay and to come to as quick a resolution as possible.

[106] **Janet Ryder:** So, by pursuing the equal value scheme and the lengthy disputes that sometimes can ensue in job evaluation, do you not think that you are prolonging the process?

[107] **Mr Walker:** I do not think so. It is a very complex situation and the trade unions need to do everything that they can—which they are doing—to support their members, but they are having to consult with lawyers all the way along on equal pay to make sure that they do not themselves become liable for any agreements that are reached, and that continues to be the case.

[108] **Janet Ryder:** I think that that might touch on the particular issue; I will not pursue that. Are you concerned that the long delays that we are seeing in certain counties will lead to an impasse where it will become extremely difficult to move ahead?

[109] **Ms Dye:** I think that it is the local authorities who are at the impasse at the moment. You can settle your back equal-pay liabilities by, for example, just looking at the bonus schemes, without job evaluating the whole workforce for the future. What I would say about job evaluation is that it is really an essential tool for getting a fair pay system for the future. There is no doubt that it is resource intensive because you need to analyse a representative range of jobs, but that should not stop local authorities from either settling their backpay liabilities or getting the expertise developed and cracking on with their job evaluations for the future.

[110] **Eleanor Burnham:** So, again for people who are watching or listening, I suppose a lot of this is to do with the fact that you cannot quickly and simply undo historical mistakes around bonuses and the job evaluation process. Let us be frank, what you cannot be seen to be doing is to be taking money away from certain sectors who have enjoyed these bonuses on the back of others—and I am not being too specific—who have obviously been really undervalued for so long. Would you say that is true?

[111] **Ms Dye:** What is absolutely true is the fact that it is a complex and difficult situation which is the responsibility of the current leadership of local authorities in Wales to unpick and resolve. It is difficult, but it is also urgent because the situation is getting worse. The longer it is left the worse it gets.

[112] **Mr Walker:** There is a balance to be struck, is there not? On negotiations, there is a balance to be struck between representing and getting justice for these women workers, and getting a solution that is affordable, that can be achieved in the long term. There is also a need to look at the pay of those men who, through no fault of their own, are being awarded bonuses, and who applied for their jobs on the basis of those bonuses—all parties want to protect those male workers as well. So, it is a difficult balancing act, of course.

[113] **Ann Jones:** Janet, you had another small question.

[114] **Janet Ryder:** You made a note that the Government is allowing the capitalisation directions for this to enable it to be financed. That relies on the county's ability to borrow. Given the present financial circumstances, have you picked anything up about a restriction not perhaps on the county's facility to borrow but on the availability of that loan then being made available to them by the commercial sector?

[115] **Mr Walker:** I have not picked up any information on that.

[116] **Janet Ryder:** Can you see any impact at the moment in that field?

[117] **Ms Dye:** There is no impact that we are aware of, but we are obviously in contact with the local government division at the Assembly over capitalisation. I think that I could pursue that and we could find out whether—

[118] **Janet Ryder:** No, I just wondered if you had—

[119] **Ms Dye:** Nothing has come through to us.

[120] **Ann Jones:** Quick questions, quick answers now. Joyce.

[121] **Joyce Watson:** Recent stats from the '2008 Annual Survey of Hours and Earnings' have shown the pay gap between women and men in Wales has widened. That being the case, how can we address it?

[122] **Mr Walker:** The pay gap has substantially widened and it is very worrying. It is not at all clear why that has happened in Wales, whereas it has not increased as rapidly in England. I think that it was 0.1 per cent. I think that we need to continue with interventions like this to make sure we look at pay discrimination systems, but we also need to start looking at the private sector and also the other causes of the pay gap. As Sue has mentioned, the unequal burden of caring responsibilities is one of the other factors in gender segregation, so the whole picture needs to be addressed but it is a very complex one and we have been focusing particularly on pay discrimination systems.

[123] **Ann Jones:** Thank you. Nick, you do not have to be quick because you have not had

any contributions.

[124] **Nick Ramsay:** Thanks, Chair. We have got to my section. It has been fascinating listening to comments, and it is clearly a very complex situation. I think that you are going to be at my party's conference at the weekend, and I am going to be sitting in on your session. Clearly, a lot needs to be done.

[125] This is more of a general question, really, than what we have had until now. In terms of the effect of the equality Bill on what we have been talking about and its role in making Wales a fairer and more equal place to work, are you hopeful that that will have the desired effect?

[126] **Ms Dye:** From the commission's point of view we think that the equality Bill will move us forward—we are hoping it will move us forward—but it will not be the root and branch review of equal pay legislation that we need. Aside from the equality Bill, the commission is calling for a high-level review of equal pay legislation so that we can, as I mentioned earlier, change the onus from an individual woman who has to make a claim against her employer, to the employer. We are calling for a separate high-level review in order to have stronger, simpler legislation around equal pay.

[127] Within the equality Bill, we are lobbying and campaigning for greater transparency so that there is an end to gagging clauses on individual salaries, and to place an obligation on larger companies to publish their pay data so that there is some transparency about who is earning what in the organisation—not at an individual level, obviously, but for groups of staff.

[128] To ease the backlog in the tribunal system we would like to see the equality Bill delivering the authority for employment tribunal chairs to be able to make a recommendation from one case to the employer, which would cover a lot more cases to help to clear the massive backlogs that we have at the moment so that women get some pay in their pay packets.

10.30 a.m.

[129] **Nick Ramsay:** You have seen that separately from the equality Bill. My final question, which I think is probably appropriate to bring in now as we are speaking on this matter, is on the power of Welsh Ministers. There has been some suggestion about the scope of the power of Welsh Ministers within the equality Bill to be able to direct local authorities to deal with this situation. Do you think that that would be helpful or do you think that, particularly in this economically difficult time, it would be better more to cajole local authorities and give them a push in the right direction rather than putting this on a statutory basis?

[130] **Ms Dye:** We are keen that the Assembly Government be given authority to bring in a specific duty on equal pay for Wales and that that duty should have, as I say, an action content in it that places a duty on public authorities—because it would be wider than local authorities—in Wales to analyse their pay systems, see where the gaps are, take action to close the gaps, and publish and review what they are doing. I do not think that that means that we would not still be encouraging local authorities and other public sector authorities. I do not think that it means that we would say, 'Okay, we do not need a business case for addressing equal pay because now we have a duty'. I think that we would not see it like that. In fact, we would see our role as using the duty to promote and encourage the addressing of equal pay through guidance to public authorities.

[131] **Nick Ramsay:** Just finally, Chair, to go back to a point that was made earlier with



regard to the Minister's comments about that widening gap, while we are here talking about this, the gender pay gap has increased recently. You must find that quite depressing. We are talking about narrowing the gap, but it seems that as we are talking about this—and you are, I am sure, doing a lot of hard work to address it—for whatever reasons overall that gap has in some ways increased. You clearly think that is a problem. Do you think that there is a case for the Assembly Government to do more to look at the overall picture?

[132] **Ms Dye:** I think that it is really depressing that the pay gap has widened in the way that it has, but it is very unusual. If you look back over the last 10 years, the pay gap between men and women has been dropping steadily: by 1 per cent, then it may stay the same for a year, then it drops another per cent. The last set of pay statistics are very unusual and that is why we have commissioned Swansea University to look at the data in more detail to see what is happening and to paint a bit of a picture behind what is quite a bald statistic.

[133] Sometimes a lower pay gap is not necessarily brilliant in terms of what is happening in the labour market. One reason why the pay gap is bigger in England is because there are high-skilled male jobs and low-skilled female jobs. That is a wider pay gap. The lower the skill of the male jobs, the narrower the pay gap.

[134] So, there should be health warnings on looking at that bald statistic and saying, 'This is bad news' or 'This is good news'. Overall, obviously it is very concerning and worrying, but I think that we do need to get underneath exactly what is going on there before we make big statements about the gap.

[135] **Joyce Watson:** My question follows on nicely because I love statistics, and getting underneath them is a sort of hobby of mine. The fact that there is a widening of the gender pay gap in Wales has to be looked at more closely, because it is about the types of work that you are doing and the pay that you are getting for the jobs. We know, I would think, from your previous report, that there are an awful lot of women working in the retail sector and large numbers of women working in the public sector. I would guess that that plays a part in the fact, and this finishes this rather nicely, that we need to address the pay gap in the public sector if we are going to address—and you already alluded to it—things such as child poverty. It will also have to look at, I would suggest, the poverty of people in old age, because it is what you earn today that will sustain you tomorrow. Do you have any comment?

[136] **Ms Dye:** I think that is absolutely right. Our latest statistic shows that the current pay gap is costing women about £300,000 over a lifetime, so there are some very serious issues there. One of the issues that we want to look at a bit more closely that emerged in the research that we have done is the number of women who are on casual contracts. I think that is a huge issue and probably a bit of a hidden issue, actually, because in a recession one of the risks for those women is that casual contracts are the first to go. So, I think that there are a number of issues related to the recession and the contributing factors to the pay gap that we need to unpick.

[137] **Ann Jones:** Derek, do you want to finish off?

[138] **Mr Walker:** I just want to say on a closing point, really, that there are the same points for us as the EHRC in terms of the equality Bill. We would have liked to have seen more, but we are not going to see that. We see the specific duty in the Assembly Government's powers in this area as vital to making a difference in the future. We look forward to the committee's support, if possible, in making sure that that happens and that we get a specific duty that can really make an impact.

[139] **Ann Jones:** Thank you both for coming in. I think that we have run out of time. In fact, we have overrun, so thank you very much for staying. We appreciate it and we know you

will be back, because this is an issue that is going to rumble on and we are going to have some recommendations out of that. I think that we will look at some of those issues that you have raised around the equality Bill and perhaps see whether we can strengthen it or help at all in any way. We will have the Minister in—so that is a heads up, if he is listening again—and will ask him about how progress has been made. Thank you both ever so much for coming this morning.

[140] **Mr Walker:** Thank you.

[141] **Ms Dye:** Thank you.

10.37 a.m.

### **Cynnig Trefniadol Procedural Motion**

[142] **Ann Jones:** With the committee's permission, I now want to move a motion to exclude the public and the press from the meeting to allow the committee to discuss the scope of the next inquiry and also to look at our forward work programme. I move that

*the committee resolves to exclude the public and the press from the remainder of the meeting in accordance with Standing Order No. 10.37(vi).*

[143] I see that the committee is in agreement.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.38 a.m.  
The public part of the meeting ended at 10.38 a.m.*