

# Equality of Opportunity Committee

## EOC(3)-05-10 : Paper 3 : Paper to Note ""

### Additional information from the Equality and Human Rights Commission and the Wales TUC on the Equal Pay Campaign

Members of the committee requested additional information from witnesses at the meeting on 26 January on the Equal Pay campaign. The information provided by the Equality and Human Rights Commission and the Wales TUC is attached as an annex to this paper.

#### Committee Service

#### Annex

#### Wales TUC follow-up report on Equal Pay

##### Introduction

The Wales TUC is the voice of Wales at work. With around 50 affiliated trade unions the Wales TUC represents nearly half a million workers. The Wales TUC was established in 1974. It is an integral part of the TUC and was set up to ensure that the role of the TUC is effectively undertaken in Wales. The Wales TUC seeks to work with and make representations to other organisations at an all-Wales level. A major role is to co-ordinate the trade union approach to the Welsh Assembly Government and ensure that the interests of Wales' trade unionists are properly represented in the whole range of Assembly decision making.

The Wales TUC is pleased to provide a follow up report to the Committee, to answer queries from the January meeting in more detail. This paper presents responses from Unison, GMB, Unite and PCS addressing the cause of delays in reaching single status agreements and providing examples of 'levelling down' of male workers on grounds of equal pay and efficiency savings.

1. Local Authorities: 1.1 Settlements (Responses from GMB and Unison and Unite) Across the 22 unitary authorities, 9 settlements have been offered:

Merthyr Tydfil, Blaenau Gwent, Cardiff, Swansea, Gwynedd, Torfaen, Caerphilly, Neath Port Talbot and Rhondda Cynon Taf.

With the exception of Torfaen and Merthyr most settlements have been low level, at around 20% or lower and the unions have advised claimants not to settle. Due to the length of time it takes to seek justice through the Tribunal system, and additional pressures arising from individuals' economic situations (especially in deprived areas), and threat of job loss through public sector cuts, many are reluctant to wait.

Employers are persuading individuals to take offers that would only give them a fraction of the money that they should be entitled to. Since the amounts offered seem significant to those who live on a low income, they are prepared to accept, especially since there is no guarantee that claims will be won at Tribunal even though they have strong claims.

Unison currently has 11,000 claims in the tribunal system and jointly with the GMB is seeking to speed up the process of resolving claims and at the same time reduce curtail future costs on legal expenditure by authorities by way of testing out the GMF arguments in the tribunals over the next 12 months.

1.2 Single Status Progress on single status is quite slow with authorities. Agreements have been reached with Torfaen, Caerphilly, Wrexham and imposed in Gwynedd. Unison and GMB have slightly different processes for dealing with negotiations around equal pay. However, once an offer has been presented by the employer, it requires only a few weeks (maximum 6-8) to seek legal advice and return a decision. The "Allen v GMB" case has made unions much more cautious in their negotiations in order to minimise the risk to the unions of being sued by members.

New and fair pay and grading structures should have been implemented by April 2007. Most authorities are far from completion at this point in time. The delays in reaching agreements largely lie with the process of job evaluation. As an example, Cardiff County Council took 4 years before the process of pay modelling could begin. The time taken to do the job evaluation depends on the level of resources put in by the employer. In many cases employers take too long to begin the process, and take a long-winded approach to job evaluation, which further delays reaching the pay modelling stage. Trades Unions have found great difficulty in attempting to negotiate with an employer who has not allocated specific funding or is aiming to implement single status at no cost. 1.3 Backpay One further issue regarding single status agreements concerns the backpay agreements. Equal pay back pay claims can go back up to 6 years from date of a claim being lodged. However, no council has gone back as far as this and so offers do not cover the full entitlement period. When individuals sign a COT3 (legal compromise agreement) they usually waive their rights to put forward any equal pay claims in the future as well as settling all existing claims. There are examples of single status agreements being proposed that still contain some discriminatory elements. There is a risk of losing backpay agreements by not signing up to single status proposals.

In relation to schools and the funding of single status agreements where women's jobs have been historically undervalued, new pay and grading systems have rectified inequality by correcting the basic pay grades. However, money is being clawed back in other ways such as by reducing hours, or taking away free school meals or special needs allowances. There are examples of allowances being removed from

clerical and catering staff in schools and contracts downgraded from 52 weeks per year to term time only contracts, rather than bringing those on term time contracts up to contracts covering 52 weeks per year. All authorities who have agreed single status have done this.

1.4 Removal of male bonuses There are numerous examples of 'levelling down' of male workers by the removal of bonus schemes and other 'add-ons', leaving just the basic salary. Incidentally, authorities are arguing in Tribunals that the bonuses that have contributed to pay inequality were necessary for driving performance and productivity. The position of the Unions is to push for pay packages of women to be levelled up to meet those of the higher paid male workers, but it is common practice for authorities to argue against this on cost grounds.

The underlying issue when reaching agreement has been the lack of specific funding aligned to job evaluation/single status and as such, employers have entered into negotiations from a no cost perspective. This results in practices of levelling down, rather than levelling up of those predominantly male orientated roles so that an employer can bring pay into alignment with equivalent roles being undertaken by women workers. 2. National Government PCS (Public and Commercial Services Union) has lodged equal pay claims in respect of Executive Officers working for the DVLA claiming equal pay with male Driving Examiners and Senior Driving Examiners working for the Driving Standards Agency. Both are Executive Agencies for the Department for Transport. The DVLA employs a very high proportion of female staff.

DVLA women EOs are underpaid in comparison with male DE/SED by up to £5,000 per annum, despite the fact that there is plenty of evidence that they are doing work of equal value, including independent consultant's reports and DfT's own documents. They share a common job evaluation system.

A Tribunal hearing has been completed and the verdict is expected late February/March 2010. The Tribunal focused on whether DVLA and DSA are wholly separate organisations and therefore whether it is possible for PCS to bring claims comparing DVLA to DSA.

It is difficult to have an equal pay settlement when Treasury/Assembly constraints on pay are exceedingly tight. All of the Assembly Government Sponsored Bodies (AGSB's) that PCS negotiate with had equal pay settlements in 2001-3, and up to and including 2009 most were producing equality audits. Differentials identified were in the main due to the position of women within the organisation. With projected public sector pay cuts there will be no money to fund any equal pay differentials identified.

Two AGBS and one civil service area have produced equal pay arguments for removing additional payments such as allowances on equal pay grounds, which PCS states is more to do with the need to identify efficiency savings. Some of the proposals to cut pay on equal pay grounds have been nonsensical to tie into equal pay. However, all presented reasonable buy-out proposals.

### **Equality and Human Rights Commission**

The witness undertook to whether equal pay claims relating to Local Authorities in North Wales are being heard at the Cardiff Employment Tribunal. Our information is that this is the case. The North Wales cases are being dealt with by the Cardiff Tribunal.