

**Equality and  
Human Rights  
Commission**

**equalityhumanrights.com**

## International Women's Day 2015

Backbench Debate

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## **Introduction**

Promoting fairness and equality of opportunity for women has always been a key priority for the Equality and Human Rights Commission. In periods of economic constraint, there is a risk that progress towards improving equality of opportunity can stall and historical inequality and disadvantage can become entrenched.

While there are now more women in employment than ever before, and more women-led businesses than ever, recent anecdotal evidence suggests that women are continuing to suffer discrimination as a result of pregnancy and maternity. There is evidence too that women still lag behind men in the workplace, in promotion and pay at all levels, as well as on the boards of companies. Failing to make use of women's talents is a risk to Britain's economic success.

This briefing highlights some important work the Commission is undertaking to improve gender equality. It also draws attention to some key areas where we believe more needs to be done by government to meet its obligations to tackle the discrimination and disadvantage still faced by women and girls in Britain.

In identifying areas where further action is needed, we have drawn in particular on the UN Committee on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)'s July 2013 examination of the UK Government on its progress towards implementing this Convention. The Committee raised a number of issues in relation to access to justice, and violence against women and girls.

## **Women's economic engagement**

### **Gender pay gap**

Closing the gender pay gap remains an important priority for the Commission. 45 years after the Equal Pay Act came into force there is still a significant gender pay gap. In 2014, women in full-time employment earned 9.4 per cent less than men in full time employment, and women in part-time work earned nearly 40% less than their male counterparts.

While there has been progress on closing this gap, 2013 figures showed a widening for the first time in five years. This may be due to changes in the labour market during the recession and recovery which have had a

particular impact on women. But the persistence and extent of the pay differences between women and men suggest that considerably more needs to be done to reduce the gender pay gap.

Section 78 of the Equality Act 2010 enables government to make regulations requiring companies employing 250 or more people to publish information about differences in the pay of male and female employees. To date the government has not commenced, amended or repealed this section, because it wanted to test its 'Think, Act, Report' voluntary gender pay reporting initiative<sup>1</sup> first, which was developed with business sector organisations.

While voluntary measures can play an important role in closing the gender pay gap, to date only 270 (of around 6,700) companies with over 250 employees in the UK have signed up to the government's voluntary reporting scheme. Of those, only five have signed up to publish their gender pay gaps. A Commission survey in 2009<sup>2</sup> of 900 private and voluntary sector employers revealed that most employers with no current or planned analysis of their pay gap said they would only consider measuring the gap if employees complained, or took action, or if legislation required it. This suggests that a voluntary approach on its own will not deliver a change in companies' behaviour.

The Commission therefore believes that the time is right for implementing section 78 of the Equality Act. That is why we are urging parliamentarians to support an amendment to the Small Business, Enterprise and Employment Bill<sup>3</sup>, which would require the Government to implement Section 78 of the Equality Act 2010 and make gender pay gap reporting mandatory. By having to publish information about their gender pay gaps, companies will be encouraged to address those gaps in order to demonstrate there are complying with equal pay legislation and to attract and retain talented women in their workforces.

We are also currently working to revise our equal pay guidance and toolkit for businesses, and developing a strategy on how best to tackle pay gaps across gender, race and disability.

## **Women on boards**

If the UK's economy is to continue improving, we need to provide opportunities for everyone to contribute and make the best use of all

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<sup>1</sup> <https://www.gov.uk/think-act-report>

<sup>2</sup> <http://www.equalityhumanrights.com/publication/research-report-55-gender-pay-gap-reporting-survey-2009>

<sup>3</sup> <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings/small-business-enterprise-and-employment-bill-house-lords-report-11-march-2015>

available talent. A lack of women's representation at the most senior levels of business has been highlighted consistently over the past few years in the UK. In 2011 Lord Davies published his report 'Women on Boards' which looked at why there has been so little progress in recruiting women on to the boards of corporate companies.

In July 2014, the Commission launched an inquiry into how FTSE 350 companies and their agents make decisions about the appointment of board directors. We are examining whether their practices are transparent, fair and result in selection based on merit. We also plan to identify where improvements are needed to ensure recruitment practices make best use of the scope for positive action in the Equality Act 2010, and the equality requirements in the Financial Reporting Council's Corporate Code of Governance. Our work will ensure that this important group of employers have a good understanding of equality legislation and how to use it effectively to secure improvements in board representation. We plan to publish the report of our inquiry in September 2015.

### **Pregnancy and maternity discrimination**

The Commission is also working to improve women's awareness of their rights in relation to pregnancy and maternity and to improve employers' compliance with their responsibilities.

We are working with the Department for Business, Innovation and Skills to undertake research to determine the scale of pregnancy and maternity discrimination and disadvantage in the workplace, and to develop a better understanding of employers' practices and attitudes.

This research covers a number of topics: the types of pregnancy and maternity discrimination that female employees have experienced, their awareness of their rights, and the availability and effectiveness of advice and support; the practices of employers, awareness of legal responsibilities and availability of advice and support for business; and research into attitudes, practices and policies in relation to breastfeeding and expressing milk in the workplace.

Later this year, the Commission will be publishing good practice guidance for employers focusing on the key issues commonly encountered when managing employees who are pregnant or on maternity leave. The guidance will include examples of good practice by employers in managing pregnancy, maternity and return to work, and demonstrate the benefits to businesses. Because of the particular

difficulties small and medium size enterprises (SMEs) face, primarily because they have no access to HR expertise, we are also developing a toolkit for SMEs which will guide them clearly and simply through the ways in which pregnancy and maternity issues should be managed.

## **Violence and sexual exploitation**

Violence against women and girls, particularly those from black and ethnic minority groups, continues to be a pressing problem in Britain.

The heart-breaking stories of the abuse suffered by young women in Rotherham, Oxford and Rochdale demonstrate that there is a real need for better legislative protection for women and girls at risk of sexual exploitation. The Commission is working to ensure that the groundbreaking Modern Slavery Bill<sup>4</sup> provides strong, clear protection for victims of trafficking and slavery, particularly children, who are often unaware that they are being exploited.

In our oral<sup>5</sup> and written<sup>6</sup> evidence to the Joint Committee on Human Rights' Inquiry into Violence against Women and Girls, we have pressed for the UK government to ratify the Istanbul Convention on preventing and combating violence against women; to criminalise forced marriage (being addressed in the Anti-Social Behaviour, Crime and Policing Bill); to prohibit simulated rape pornography (being dealt with in the Criminal Justice and Courts Bill); and to introduce more robust requirements in relation to the display of highly-sexualised images of women in 'lads magazines' in shops.

## **Female Genital Mutilation**

The Commission provided written evidence to the Home Affairs Select Committee Inquiry on Female Genital Mutilation<sup>7</sup> and responded to the government's consultation on the introduction of mandatory reporting for FGM. The Istanbul Convention sets out clear obligations relating to data collection and research, training of professionals, education and other matters, in respect of violence against women generally and FGM specifically.

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<sup>4</sup> <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings>

<sup>5</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/violence-against-women-and-girls/oral/9576.html>

<sup>6</sup> <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings/response-equality-and-human-rights-commission-joint-committee-human-rights-inquiry-violence-against>

<sup>7</sup> <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings/submission-home-affairs-select-committee-inquiry-female-genital-mutilation>

Our position is unambiguous and robust: FGM amounts to torture and risks the health and lives of girls and women. The continued practice of FGM in Britain is therefore a clear violation of the rights of girls and women, and the lack of effective protection against this violation breaches the State's international legal obligations. The fact that domestic law prohibits FGM does not fully discharge the State's obligations; the State is under a positive duty to ensure those at risk have effective protection.

### **Access to justice**

The CEDAW Committee has expressed concern that the change to the scope of civil legal aid in England and Wales made by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) 'unduly restricts women's access to legal aid because it removes access to legal aid for litigation concerning, among others, divorce, property disputes, housing and immigration matters'. The Committee was also concerned about the introduction of court fees under the Employment Appeal Tribunal Fees Order 2013. It noted that while legal aid 'remains available for some private family law issues, the Committee is concerned that the Act conditions legal aid upon proof of, among others, abuse suffered by victims of violence'. The claimants in the recent High Court case<sup>8</sup> which found that the regulations mandating this evidence lawful are seeking leave to appeal.

The Committee recommended that the UK Government ensure effective access by women, in particular women victims of violence, to courts and tribunals and continuously assess the impact of the reforms of legal aid on the protection of women's rights. The Government is required to report back to the CEDAW Committee on these issues in November 2015.

In order to inform our future work on this issue, we are currently gathering evidence about recent changes to civil justice (such as changes to legal aid, employment tribunal fees and proposals changes to judicial review) and to understand whether they have, or will have an impact on peoples' human rights or on people with particular protected characteristics under the Equality Act 2010, including women.

As part of our role in supporting the UN treaty monitoring process and promoting understanding of human rights in Britain, the Commission has developed a publication for advocates of women's rights, including parliamentarians and civil society organisations, outlining what the CEDAW Committee expects the UK Government and devolved

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<sup>8</sup> *R (oao Rights of Women) v Lord Chancellor* [2015] EWHC 35 (Admin)

administrations to do over the next few years to progress women's equality in Great Britain.

<http://www.equalityhumanrights.com/publication/concluding-observations-committee-elimination-discrimination-against-women>

## **About the Equality and Human Rights Commission**

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. It is an independent body responsible for promoting and enforcing the laws that protect fairness, dignity and respect. It contributes to making and keeping Britain a fair society in which everyone, regardless of background, has an equal opportunity to fulfil their potential. The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It encourages compliance with the Human Rights Act 1998 and is accredited by the UN as an 'A status' National Human Rights Institution.

Find out more about the Commission's work at:

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)