

Pay Equity in Scotland and the Close the Gap initiative

August 2009

1.0 Close the Gap

Close the Gap is a partnership project that works across Scotland to encourage and enable action to address the gender pay gap. Partners include the Scottish Government, Scottish Enterprise, Scottish Trades Union Congress (STUC), Highlands and Islands Enterprise, and the Equality and Human Rights Commission.

The project works across a number of sectors and its current private sector priority areas are the finance sector, energy (with a specific focus on renewable), and bioscience. Higher and further education is the project's public sector focus, although staff have worked on a demand-led basis with individual local authorities and health boards on specific pieces of work.

The project also works with STUC-affiliated trades unions, and with a number of gender-focused organisations, as well as engaging with the UK and Scottish governments around emerging pieces of policy and legislation.

2.0 Scotland and Equality

The Scottish Government is responsible in Scotland for all issues that are not explicitly reserved to the United Kingdom Parliament at Westminster by the Scotland Act; including the National Health Service in Scotland, education, justice, rural affairs, and transport.

Employment law is reserved to the UK Parliament.

The Scotland Act (1998), which devolved responsibilities to the Scottish Government, specifically identifies an equalities remit of the Scottish Parliament and the Equal Opportunities Committee is one of eight mandatory standing committees of the Parliament.

3.0 Pay equality legislation

Employment legislation is reserved to the UK Government at Westminster.

The Equal Pay Act (1970) was passed into law in 1970, but came into force in 1975. This lead time was intended to allow businesses and organisations a period of grace to resolve outstanding pay inequalities.

The Equal Pay Act (as amended) provides for legal remedy where men and women are doing like work, work rated as equivalent by an analytical job evaluation scheme,

or work of equal value, and their difference in pay cannot be explained by reasons that are not attributable to, or tainted by, their difference in sex.

The law requires individual women or men to take cases. There is no clear provision for mass litigation, although in some tribunals case management is, in practice, processing cases in bulk. There are currently approximately 50,000 outstanding equal pay cases in the Scottish tribunal system. The vast majority of these are equal value cases that have arisen from public sector pay modernisation programmes.

4.0 Gender Equality Duty

The Equality Act (2006) placed an obligation on public sector bodies in the UK to eliminate unlawful discrimination and take steps actively promote equality between men and women through their work.

In Scotland listed public bodies were required to publish a gender equality scheme (GES) by April 2007, to demonstrate how they intended to fulfil the general and specific gender duties. The scheme was required to include an objective to address any gender pay gaps, or to objectively justify why such an objective did not require to be included within the GES.

Listed public bodies with more than 150 full time equivalent staff, in Scotland, were also required to publish an equal pay statement, by September 2007, which was expected to provide a detailed description of how the equal pay aspirations of the public body would be delivered. The statement was recommended to include activity to address each of the causes of the gender pay gap, including occupational segregation, inflexibility of working arrangements and discrimination within pay system.

Close the Gap wrote guidance, in partnership with the Equal Opportunities Commission, on the Scottish specific duty on equal pay in 2007.

5.0 Single Equality Bill

The Equality Bill is currently with the UK Parliament. This will replace nine major pieces of discrimination legislation and around 100 statutory instruments.

The Equal Pay Act will be replaced by the new Equality Act.

Emma Ritch
Close the Gap

August 2009