



UNIONLINE NEWS

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Legal Services Newsletter
for GMB and CWU Members
and their Families



Glasgow female workers' strike highlights how pay inequality remains rampant, 50 years after the Equality Pay Act became law

Some 8,000 female workers recently went out on a 48-hour strike in Glasgow over equal pay.

The long running dispute between the GMB represented workers and Glasgow City Council (GCC) concerns the women being paid in some cases £3 an hour less than their male counterparts. The strike involved more than 2,000 GMB members who provided round the clock home care for 87,000 service users, as well as cleaning and catering services for schools and amenities across the city.

The council adopted the Workforce Pay and Benefit Review (WPBR), implementing its job evaluation-based pay and grading system in 2006 with the intention of making sure men and women got equal pay for jobs of the same value. It is believed that up to 12,000 workers have longstanding claims going back to that time. The final bill for GCC is likely to cost millions to settle.

In May 2017, the Court of Session ruled the WPBR discriminated against female workers.

The council decided it would not appeal the decision of the court and would commit to settling the outstanding equal pay claims and bringing in a new system. Last January, the council said that it

wanted to settle the dispute by negotiations. But since then there has been little progress, resulting in the GMB and Unison moving to take industrial action.

The Glasgow strike though is but part of a larger picture of pay inequality across the industrial terrain. Female staff at the BBC have complained about being paid substantially less than their male colleagues. Although, there has been some closing of the gender pay gap over the past 12 months, a large differential remains at the Corporation.

The looming question remains why, 50 years after the famous women at Fords Dagenham plant struck for equal pay, does the disparity continue.

Recent statistics from the Office for National Statistics shows the gender pay gap for median earnings at 17.9% for 2018, a reduction of 0.5% on the previous year. The gender pay gap for full time employment is 8.6%. The gap between the two figures is due to over 5 million underpaid part-time women employees, not being included amongst the full-time figures.

The disparity in pay though does seem to vary, according to age, with women earning just 1.3% less than men in the 22 to 29 age group, but the gap grows to 15.5% in the 50 to 59 age group.

The pay gap remains due to a number of factors including blatant discrimination, heavy representation of women in caring and a disproportionate representation in lower paid jobs like cleaning and catering.

Women are being effectively penalised for the greater role they play in bringing up families, which often forces them into low paid, part time work.

There are moves being made to improve the situation such as the duty now placed on companies of 250 plus employees to publish details of gender pay but more is needed. The news of the gender gap being less among younger workers is one encouraging development but there is still a long way to go to reach pay parity across the generations.

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Tribunal decision overturned by EAT who confirm disability causation tests need careful thought



When it comes to discrimination arising from disability in the workplace, the situation can be nuanced. A recent case has highlighted the caution employers need to take when dismissing someone for something caused by their disability. The Scottish EAT confirmed that ‘something arising in consequence of disability’ is not limited to strict causation – it can include a more complex chain of events.

The Equality Act 2010 protects employees from being discriminated against at work due to a disability. The employer must also make all adjustments that are reasonable to ensure workers with disabilities aren't substantially disadvantaged while doing their jobs.

In the case of *Sheikholeslami v University of Edinburgh*, the employment tribunal made errors. The employee in this case was diagnosed with work-related stress and depression and was absent from work. After refusing to return to work in her old laboratory – where she had raised a grievance about sex discrimination – she was dismissed by the university. They put her dismissal down to her work permit expiring, but the university would have extended it if she'd returned on their terms.

The employment tribunal rejected the employees' claims, which included:

- That her dismissal arose from her disability-related absence; and
- That the university hadn't made reasonable adjustments for her

The tribunal found that her unwillingness to work at her existing laboratory was not directly caused by her disability, but rather by her unwillingness to return to work following her grievance. However, the EAT allowed the employee's appeal and found that the tribunal had been too strict in their causation test. The EAT concluded that her refusal arose from a series of linked events – such as the relationship breakdown with her colleagues – which were a 'consequence of' her disability.

In short, the situation was a lot more complicated than the tribunal made out. This case shows that discrimination arising from disability can be a 'looser connection' rather than a one-step cause.

As for the failure to make reasonable adjustments, her employer had an obligation to remove any substantial disadvantage caused by her disability, but she did not need to show that her disability directly placed her at a disadvantage if she returned to her existing role. There should have been a comparison exercise of whether this would disadvantage her more than trivially in comparison with others without a disability.

Employers should take note of this case when reviewing decisions that they take about people with a disability.



New UK National Living and Minimum Wage Rates from 1st April 2019

As part of the Budget announcements, the government has confirmed that it has accepted the Low Pay Commission's recommendations for increases in the rates of the National Living Wage (NLW) from April 2019.

The rate of the compulsory NLW for adults aged 25 and over will increase from £7.83 to £8.21 per hour on 1st April 2019 are:

- Workers aged 21-24 to increase from £7.38 to £7.70 per hour
- Workers aged 18-20 to increase from £5.90 to £6.15
- Workers aged 16-17 to increase from £4.20 to £4.35
- Apprentices aged under 19 or in the first year of their apprenticeship to increase from £3.70 to £3.90

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