

DEVELOPMENT OF EQUAL OPPORTUNITIES IN 1995 AND BEYOND

Kamlesh Bahl

In this article, my focus is on Equal Opportunities in 1995 and beyond. Why is the subject of equal opportunities important? I believe there are three key reasons why equality of opportunity is important to us all. First, equal opportunities are important because it is right and fair and just that men and women should have equal opportunity. It is a fundamental aspect of human rights. Second, only by maximising our human resources, women as well as men, will businesses and organisations and the economy in general maximise their potential. Third, the law, in Britain and throughout the European Union, demands that we treat men and women as individuals, and that they are entitled to equal opportunities in employment.

The article is from the perspective of the Equal Opportunities Commission as a key player in working towards the achievement of equal opportunities, in Europe as well as Britain. I will look first at the European context and at key developments there. Then I will look at the impact of European law on equal opportunities in Great Britain. I will consider prospects for the Fourth Action Programme. Finally, I will take a look ahead at prospects up to the end of the century.

WHY DOES EUROPEAN LAW MATTER FOR EQUAL OPPORTUNITIES IN THE UK?

'Each member state shall...ensure...the application of the principle that men and women should receive equal pay for equal work.'

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These are the opening words of Article 119 of the founding Treaty of the European Union, the Treaty of Rome. Article 119 makes the principle of equality one of the building blocks of European employment legislation. It secures the right to equal pay between the men and women of all countries of the European Union.

Subsequent European legal measures, including Directives on Equal Pay and Equal Treatment, have extended this principle of equality to many employment conditions and rights. The Equal Pay Directive ensures the right to equal pay for work of equal value, as well as the same work. The Equal Treatment Directive calls for equal treatment for women and men as regards access to employment including promotion, and to vocational training and as regards working conditions. It is strongly worded: '...the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference to marital or family status'.

In addition to these equality laws, women have also been given special rights to protect them during pregnancy and maternity by the Directive on the Health and Safety of Pregnant Workers.

In the UK, the European legislation is translated into domestic law through the Equal Pay Act 1970, the Sex Discrimination Act 1975 (both of which came into force before the European Directives on pay and treatment) and the pregnancy and maternity provisions of the Employment Protection (Consolidation) Act 1978.

The European Union has recognised that implementation of the law, however, cannot alone secure equality of opportunity. After the Social Action Programme in 1975, the European Union adopted three Action Programmes for Equal Opportunities which have helped significant progress towards the achievement of equality between men and women.

The European Commission has long recognised that it is women in particular who are disadvantaged in the labour market. While women now constitute 51.2% of the population of the European Union, they comprise 41% of the labour force. This under-representation of women in the labour market is linked, above all, to the difficulties of reconciling family and work-related responsibilities. Apart from this, women are concentrated in the lower paid sectors of the economy. At least four million women are low paid, over one third of all female workers.

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The European Commission, during the course of the first two action programmes, thus strove to promote specific action aimed at improving the situation of women in practice, particularly in the field of employment. The establishment of networks for the purpose of facilitating contacts and exchanging information across the member states, the development of awareness-raising initiatives, the dissemination of information and the provision of financial support for positive action projects, have all contributed to focusing attention on the common obstacles and problems faced by women across the European Union.

In order to respond to the challenges of the 1990s, the overall objective of the Third Action Programme running from 1991 to 1995 was to promote women's full participation in, and to revalue their contribution to, economic and social life. The measures proposed by the Third Action Programme have been articulated around three key issues:

- implementation and development of the law;
- the integration of women into the labour market;
- improving the status of women in society.

The European Advisory Committee on Equal Opportunities for Men and Women has recently produced a mid-term evaluation of the Third Action Programme. This Advisory Committee was set up by the European Commission in 1982. Its purpose is to advise the European Commission on the formulation and implementation of its policy to promote women's employment and equal treatment, and to ensure the continuous exchange of information between the European Commission and the state equality bodies (such as the EOC) and between member states, on experience gained and measures undertaken.

The Committee, which meets three to four times each year, is composed of two representatives from each Member State's equality body or committee. I am one of the representatives for the UK, and I attend the meetings with the Chairwoman of the Northern Ireland EOC.

The European Advisory Committee was involved in the development, implementation and monitoring of the First and Second Action Programmes, and, with the Third Action Programme drawing to a close, we have been evaluating the achievements made during that period.

Several significant legislative measures were introduced. Perhaps one of the most significant is the Pregnant Workers Directive which member states were

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required to implement by October 1994. This Directive, implemented into UK law by amendments to the Employment Protection (Consolidation) Act 1978, grants a right to fourteen weeks maternity leave, irrespective of length of service, and gives a right not to be dismissed on grounds of pregnancy or childbirth, again irrespective of length of service. This represents significant improvements in the employment rights of pregnant workers in the UK, especially those with fewer than two years service.

While recommendations of the European Commission have not, so far, proved to be of any great importance in employment law matters, there are two which are of interest to us, the Recommendation on Childcare, and the Recommendation on the Protection of the Dignity of Men and Women at Work, which deals with sexual harassment.

Although recommendations are not legally binding in the same way as directives, they provide the framework for voluntary action. However the remarks of the European Court of Justice in a commercial law case, called *Grimaldi*, to the effect that recommendations should be taken into account by national courts, are worth noting. The Employment Appeal Tribunal in England recently commented that the European Commission's Recommendation and Code of Practice on the Protection of the Dignity of Men and Women at Work might well provide useful guidance for a tribunal hearing a complaint of sexual discrimination based on sexual harassment.

As we at the Equal Opportunities Commission are receiving an increasing number of complaints about sexual harassment, guidance for employers and employees on how to deal with it is particularly welcome. In Scotland, last year we produced a guide for individuals, containing advice about how to deal with the problem of sexual harassment in the workplace.

The Recommendation on Childcare has recently been reviewed, and Member States have been required to report on action taken. This Recommendation provides a framework for voluntary action which, if followed through at state level, could help transform work and family life in the UK. In Scotland, the Equal Opportunities Commission, working jointly with the Convention of Scottish Local Authorities, convened a working party to assess progress towards reconciling working life and family life.

Indeed, families in Scotland get a very raw deal in childcare. There are fewer publicly funded places for under-threes than in any other Member State of the European Union, and three-to-five year olds are also among the worst served in the whole of the European Union: see table 1.

Table 1
EC publicly funded childcare services
as a percentage of all children in age group
(pre-1995 member states only)

	under 3	3 to school age
Belgium	20	95
Denmark	48	85
France	20	95
Germany	3	65-70
Greece	4	65-70
Ireland	2	55
Italy	5	85
Luxembourg	2	55-60
Netherlands	2	50-55
Portugal	6	35
Spain	not available	65-70
UK	2	35-40

Source: CEC Childcare in the European Community, 1985-1990, and EC Childcare Network.

In a study of women's access to education, training, and employment opportunities, carried out for Scottish Enterprise and Highlands and Islands Enterprise by TRAINING 2000 and Strathclyde University, lack of childcare was identified by women in work, education and training, and by women seeking work, education and training, as the biggest single barrier they faced.

So a Recommendation on Childcare is very welcome, although unfortunately its impact in the UK has been very limited. There is very little awareness of the Recommendation, and the government has so far lacked much enthusiasm in promoting it.

While the Working Time Directive, which sets out a maximum working week of 48 hours and compulsory rest periods, has been approved, the UK has negotiated a seven-year opt out, beyond the normal three-year

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implementation period. This effectively means that this Directive would not become enforceable in the UK for ten years. Employees in the UK work the longest hours in Europe: see table 2. Thus men have fewer opportunities to be with their children, and their wives and partners have to take on more responsibilities for housework and childcare. Fathers will therefore unfortunately require to wait until the next century before they can spend more time with their children.

Table 2
EC employees' average total working hours per week
(pre-1995 member states only)

Belgium	38
Denmark	39
France	39.6
Germany	39
Greece	40.1
Ireland	38
Italy	40.4
Luxembourg	38.6
Netherlands	39.9
Portugal	41.9
Spain	40.7
UK	49.7
European Union	40.4
Japan	39.8

Source: Eurostat 1990 and Japanese Embassy.

Thus there has been some progress on work and family issues but not as much as we would have liked.

A Memorandum defining the scope and concept of equal pay, and providing guidance on job evaluation, has also been produced by the European Commission. This Memorandum has no legally binding status but serves to

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inform all interested parties concerned with equal pay issues. It was published in recognition that, despite the fact that the principle of equal pay in Article 119 of the Treaty of Rome has been transposed by all member states into their legislation, equal pay for women is still not a reality. The overall pay gap between women and men in the European Union is still wide, and, in some cases, widening because of economic difficulties which have tended to affect women more severely than men. Research has suggested that women tend to work in significantly lower paid jobs than men, and it is interesting to look at the comparative figures for the countries of the European Union and beyond (table 3). The UK is quite far behind. It was in recognition of this fact that the EOC has taken up this issue with the European Commission. I will return to that later in the article.

Table 3
Women's earnings as a percentage of men's

Belgium	74.5
Denmark	84.4
France	79.5
Germany	73
Greece	78
Ireland	68.9
Italy	79.3
Luxembourg	58.4
Netherlands	78
Portugal	70.8
Spain	72.2
UK	68
Finland	77.2
Norway	85.5
Sweden	90
Switzerland	67.5

Source: F/M Ratio OECD

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The position in Scotland as far as pay differentials are concerned is perhaps even less encouraging: table 4.

Table 4
The pay gap in Scotland

	men (average £ per month)	women (average £ per month)	women as percentage of men
Britain	353.5	252.6	72
Scotland	333.0	237.4	71
Grampian	380.4	227.4	59.8
Highlands	311.6	224.5	72
Strathclyde	315.0	218.9	69.5
Lothian	327.4	238.0	72.7

Source: EOC

KEY EUROPEAN DECISIONS

A consideration of a few of the landmark decisions of the European Court during the period of the Third Action Programme, and indeed decisions of UK courts applying European law, paints a more optimistic picture.

The UK equality legislation was passed before the most important European directives, and as a result often the UK laws are found not to comply with the relevant European laws. In cases where the UK law is unclear, a UK court can refer the question to the European Court of Justice for consideration.

That is what happened in the case of the Southamptonshire dietician, Helen Marshall. This was the historic EOC-backed case, the central issue of which was whether the upper limit on compensation for claims under the Sex Discrimination Act was in accordance with European law. The House of Lords referred this question to the European Court of Justice, which ruled that the UK statutory limit on compensation was in breach of Article 6 of the Equal Treatment Directive. The Government acted quickly to amend the UK legislation by removing the limits on compensation and providing for the

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payment of interest, to bring it into line with European law. Before the change, the limit on compensation was £11,000. Since then, apart from the somewhat unique circumstances which saw some very high awards being paid to ex-servicewomen dismissed from the army as a result of pregnancy, women in Scotland are benefiting from this change, illustrated for example by a recent award of £35,000.

Another important decision of the European Court of Justice was the case of Dr Pamela Enderby, which she brought against her employers, the Frenchay Health Authority. This case, jointly funded by the EOC and Dr Enderby's union, the MSF, centres on justifying differences in pay. Dr Enderby is a speech therapist, a female-dominated profession. She claimed equal pay with a clinical psychologist and a pharmacist employed by the same health authority - jobs done predominantly by men. The employer's defence that these differentials had arisen as a result of many years of separate collective bargaining was not accepted by the European Court of Justice, and the Court confirmed that in order to constitute a defence, a material factor must objectively justify the difference and not simply explain how the difference has arisen.

In another UK case, Carole Webb claimed that her employers, Emo Air Cargo, had discriminated against her by dismissing her because she was pregnant. The European Court of Justice confirmed that unfavourable treatment of a pregnant employee can amount to direct discrimination in itself, and there was no requirement to compare that treatment with a hypothetical sick male employee, as the UK law had been interpreted. That case has been referred back to the House of Lords, which will require to determine whether or not the UK Sex Discrimination Act can be read in line with European law. If the Lords rule that the Sex Discrimination Act is incompatible with the European approach, then the Government will have to take action to bring UK laws into line with the European position.

Another area in which European law has been crucial is in the pensions field. Here there has been considerable litigation regarding pension ages for men and women. However, whilst this area has now been clarified, some recent decisions of the European Court of Justice seem to have thrown up yet more questions, particularly in regard to part-time workers' access to pensions. Even if the EOC loses cases, all is not lost as we have then clarified the scope of the law and created some legal certainty. Often the law does require clarification, and indeed in one of the pensions cases, the Coloroll case, the Government supported a reference to the European Court of Justice for clarification of the pensions laws.

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In certain circumstances, however, UK courts have recognised that UK laws are not in line with European equality laws. Perhaps the most well-known case of this type is the recent decision of the House of Lords in the Part-timers Judicial Review. This is one of the most significant cases the EOC has ever taken, which not only improved the employment rights of thousands of part-time workers, both male and female, but also confirmed the EOC's independence. In this case, the Commission challenged the fact that part-timers had to work for an employer for five years before they could acquire statutory employment rights such as the right to claim unfair dismissal. Full-timers acquired that right after two years with the same employer. The EOC argued that this discriminated against women who are the majority of part-time workers (87%). We argued that this was contrary to European equal pay and equal treatment laws. This was a claim of indirect discrimination, and therefore potentially the government could justify the difference in treatment. The government argued that to make the rules the same for full-timers and part-timers would result in employers taking on very many fewer part-time workers because of the additional costs. The government's attempt to justify the discrimination was unsuccessful in the House of Lords where the EOC's argument was completely vindicated. The House of Lords found that the legislation did result in indirect discrimination, that is that it affected more women than men, and that the government had failed to justify the difference in treatment. This has potential repercussions for over 750,000 part-time workers (approximately 60,000 of whom are Scottish).

An evaluation of achievements over the past five years is helpful in considering the content of Fourth Action Programme. The European Advisory Committee is now involved in the formation of the Fourth Action Programme which will take us to the end of the century.

But it is not only the European Advisory Committee which is evaluating and making proposals for inclusion in the Fourth Action Programme. In Scotland, the Equal Opportunities Commission staged a very successful conference for voluntary organisations in the Spring of 1995, with support from the European Commission, the STUC and Women's Forum Scotland - the umbrella organisation for the European Women's Lobby. This conference was preceded by a very thorough consultation with all voluntary organisations who are part of Women's Forum Scotland. Many of these organisations sent in position statements and proposals for inclusion in the Fourth Action Programme. These statements, together with the recommendations from the conference itself, will be sent to the European Commission and to MEPs to inform the decision-making process.

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Although the Fourth Action Programme has not yet been finalised, it is likely that it will focus on the following issues:

- desegregation of work;
- the status of women;
- women's participation in the labour market, looking particularly at:
 - areas of employment growth;
 - barriers/progress from new working patterns;
 - the experiences of minority groups;
- reconciliation of work and family;
- women in decision making.

SHAPING THE FUTURE

In the past few years the EOC has undertaken leading-edge research which confirms that a concentration on these areas during the period of the Fourth Action Programme is essential if we are to achieve equality between women and men in Britain. We consider that independent empirical research is essential to the development of policy and the EOC's ability to change attitudes and practices.

In the EOC publication, **Labour Market Structures and Prospects for Women**, which looks at women's employment prospects to the year 2000, it is forecast that the female labour force is expected to grow by 500,000 by the turn of the century, while the male labour force is set to decline by 300,000 - but most of the extra jobs taken by women will be part-time, low paid and low status.

As recognised by another recently produced publication **Targeting Potential Discrimination**, a major reason for the present disadvantaged position of women in the employment market is job segregation. The fact is that women and men tend to do different types of jobs. 71% of women are employed in a very narrow range of industries - in public administration, services, distribution, hotels and catering. These jobs where women are concentrated have traditionally had a low value attached to them, perhaps because they are associated with 'women's work', that is skills related to caring and giving service to others. And society has tended to place a very low value on such skills. EOC research suggests that there are few signs of barriers breaking

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down, but they must be tackled if there are to be equal opportunities for both women and men in the labour market.

Even at the end of their working life, women face bleak prospects. The EOC has recently published research entitled **Equalisation of the State Pensions Ages: The Gender Impact** which will serve to inform the debate around the equalisation of the pensions ages at 65. Women continue to shoulder the main responsibility for bringing up children, looking after the home, and caring for elderly relatives. Women's working lives are characterised by spells outside the formal labour market, periods of part-time work, low pay and reduced opportunities for career advancement. The combination of low incomes and interrupted work histories means that women face particular difficulties in securing adequate independent incomes in retirement. Women rely to a greater extent than men on state pensions. And yet, today's state pension is worth only 15% of average earnings. If it continues to be increased in line with prices it will be worth only 7% of average earnings by the year 2030. Only 16% of women now earn a full state pension based on their own contributions. Two thirds of women pensioners aged 60-64 have pensions that are lower than a fifth of average earnings - the analogous proportion for men at age 65-69 is 35%. A third of women pensioners have pensions worth less than 10% of average earnings. Only one in ten male pensioners have a pension lower than 10% of average earnings.

With regard to the experiences of minority groups, last year the EOC conducted research into the experiences of black and ethnic minority women. This research confirms that whilst ethnic minority men participate in the labour market to the same extent as white men, only one quarter of ethnic minority women do so compared with nearly half of all white women. Further, pay levels of black women are lower than white women, although both black and white women earn less than black men.

It will be important too to look at women in decision making, in public life, and in top jobs. This is of particular concern in Scotland where a look at the statistics creates cause for concern: see table 5.

EQUAL OPPORTUNITIES AT WORK

So, with all this inequality, where is the campaign for equal opportunities at work going in 1995, and as we look forward to the twenty-first century?

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On the European front, it appears unlikely that there will be any significant legislative measures introduced in the social field, although of course if there is, the UK government could exercise its opt-out under the social chapter of Maastricht. It is more likely that, during the period of the Fourth Action Programme, attention will be paid to enforcing the legislation which has already been passed.

Table 5
Equal treatment: where are Scottish women?

2 local authority chief executives (out of 65)
(and none of the chief executives of the new councils (out of 32))

No permanent judges in the Court of Session (out of 7)

1 temporary judge in the Court of Session

7 full-time sheriffs (out of 101)

None above the rank of superintendent in the police force

14 headteachers of secondary schools (out of 389)

3 directors on boards of top twenty companies (all non-executive)

7 Members of Parliament (out of 72)

However, in the context of reconciling work and family life, an important initiative of the European Commission is the draft Parental Leave Directive. In September last year, the UK Government vetoed the Parental Leave Directive, which required unanimous approval of all member states. Instead, the European Commission will now bring forward the Directive under the social chapter of the Maastricht Treaty. This will allow it to apply to the other 14 members of the European Union with Britain exercising its opt out. It would have guaranteed the opportunity for three months unpaid parental leave to fathers as well as mothers. However, under what has been described as 'the social protocol by the back door', it is possible that many British multinationals will require to implement the terms of the Directive in any event.

Another important initiative in this area is the Atypical Workers Directive which would have extended statutory rights of full-time workers to part-time

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staff. This would have included the right to sick pay, redundancy pay, proper contracts, access to pension schemes and maternity leave. Once again, this was vetoed by the UK government in December last year. However, two weeks later, the Secretary of State for Employment announced that the government would be amending the law in the UK to implement the House of Lords ruling in the part-timers judicial review in order to bring UK legislation in line with the provisions of existing European laws on equal pay and equal treatment. As a result, part-time workers now enjoy many of the rights proposed by the Directive.

There is also the proposed Burden of Proof Directive which suggests that, once a prima facie case is made out, the burden of proof should shift to the respondents to show the principle of equality has not been violated. Further, member states may provide that the burden of proof is discharged by objective reasons justifying difference in treatment. However, the burden of proof in effect works in UK law at present. Although there is no formal recognition of a shift of the burden of proof, tribunals can draw an inference of discrimination, and then turn to the employer for a non-discriminatory explanation for the treatment. However, the introduction of objective justification for direct discrimination would be a major departure from current UK law. At present, it is not possible to argue that direct discrimination is justifiable, unlike indirect discrimination, which can in certain circumstances be lawful. This is simply a proposal, and we shall have to wait to find out if it will be put forward for approval by the member states.

I have already mentioned the review of the Recommendation on Childcare, and it may be that, as a result of that review, the legislative provisions are strengthened, for example by introducing a Directive on Childcare. The European Commission has also announced its intention to conduct a review of the impact of the Pregnant Workers Directive in 1996. Once again, the European Commission may at that time revisit the Directive if it consider it needs to be tightened up.

After twenty years of equal pay legislation in the UK, we can see that it is failing to achieve its objective. The equal pay laws are very complicated, and result sometimes in years of litigation. The Enderby case which I have mentioned is a case in point - it has been going on for more than seven years, and yet it has still not yet been established by a court whether Dr. Enderby's job is indeed of equal value to her male colleagues. It was this background of a wide pay gap and laws which in practice fail to give an adequate and speedy remedy that the EOC felt compelled it to make a reference to the European Commission detailing the problem, and requesting that they

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consider infringement proceedings against the UK government for its failure to introduce legislation which secures equal pay. Some consideration is now being given to the delays in the Government's Green Paper **Resolving Employment Rights Disputes: Options for Reform**, but the EOC's main concern is whether this will actually achieve that objective.

There are some interesting issues in the field of equal opportunities which will be considered by the European Court of Justice in the near future. The Equal Opportunities Commission is backing two which should clarify certain aspects of the law.

In a case against Cornwall County Council, the question whether transsexuals are protected by UK sex discrimination law will be considered. In this case, the applicant, while employed as a man, had been offered a renewed contract giving a substantial salary increase and other benefits. After informing his employer of his intention to undergo a change of gender, the contract was never ratified. The applicant alleges that her subsequent treatment and redundancy resulted directly from her gender change from male to female. The applicant argues that the contract of employment made when she was a man was more favourable than the treatment she received when she informed her employers that she was to become female. The tribunal's decision was that a transsexual had no remedy under domestic legislation, but that the Equal Treatment Directive might be wider. This is because the Directive states that there should be no discrimination whatsoever 'on grounds of sex'.

In another case, a Mrs Rudling was refused a reserved-rights payment on redundancy under the terms of the Civil Service Pension scheme because she worked part-time. The tribunal found that there was no indirect discrimination when it applied the domestic law test for establishing whether a greater number of women than men were affected by such a rule. But the tribunal considered that the test for disparate impact in European law was not clear, and referred the question to the European Court of Justice. There is another interesting aspect to this case. The Treasury Solicitor has appealed to the Employment Appeal Tribunal against the decision to refer questions to the European Court of Justice. To our knowledge, this is the first time this has occurred.

The Northern Ireland EOC is also supporting a very interesting case which will be heard in the European Court of Justice in the next few weeks. Joan Gillespie, and her nursing colleagues, are claiming, on the basis of other decisions of the European Court such as the Carole Webb case, that women on maternity leave are entitled under Community law to continue to receive their full previous salary as maternity pay. If that is not the correct

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interpretation of European law, then they claim that it is discrimination not to pay them the equivalent of what others would receive for contractual sick pay. The decision in that case is awaited with great interest, as the outcome may have enormous repercussions.

There are some cases coming up for decision in Scottish courts which could further clarify the inter-relationship between UK law and European law. One of them concerns the position of job-sharers, and the question whether they are entitled to premium rates for week-end working. The European Court of Justice has recently ruled on a similar issue in several German cases, where the court found that part-time workers were not being treated differently from full-time workers in working beyond their contractual hours during the week. This job-sharing case takes the issue one step further and considers the relationship between full-time workers and job sharers who get paid less than the full timers for working on Saturdays. Another interesting issue which the courts will be considering in the near future is the question of compensation for indirect discrimination. As it currently stands, the Sex Discrimination Act provides that no compensation will be payable for indirect discrimination which is considered to be unintentional. Until very recently, the tribunals have tended to find that indirect discrimination was unintentional and paid no compensation. Recently a decision of a Glasgow industrial tribunal found that the failure of Scottish Power to allow one of their employees to job share was unintentional indirect discrimination, and awarded her £35,000 representing her loss of wages until her daughter went to school. This decision illustrates one effect of the Marshall decision which I mentioned earlier which removed the limits on compensation: Ms Given was able to recover the full extent of the losses which she had suffered as a result of being discriminated against. However, another possible effect of the Marshall decision is that European Law is not compatible with the section of the Sex Discrimination Act that does not allow for the payment of compensation where the indirect discrimination is unintentional. In two decisions against public sector employers, industrial tribunals in England have taken that view. In the near future, the Employment Appeal Tribunal in Scotland will be asked to consider whether individuals in the private sector should also be entitled to compensation following the Marshall Principle. That is another decision to look out for.

But securing equal treatment for women and men in the UK is not just about the law. We need to take a holistic approach if we are to make significant changes, and indeed to change hearts and minds.

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An important strand of the Third Action Programme, and indeed no doubt the Fourth too, is to raise awareness of the rights of women and men to equal pay and equal treatment and to disseminate information about these rights. One of the EOC's priorities is to secure access to justice for individuals. This is more than achieving legislative reforms. In Scotland, we have embarked on an extensive programme of knowledge transfer so that organisations are able to help others with their complaints. We are producing several new publications in the near future to explain individual rights and employers obligations.

We have published a step-by-step guide to taking a case to an Industrial Tribunal, which is directed towards the individual in clear and simple language. This guide includes illustrations from those types of claims which we think individuals can take by themselves. A new edition of the EOC's comprehensive casebook entitled **Towards Equality** will be published soon, which contains most of the important European decisions in this field, as well as the relevant decisions of UK courts and tribunals. The European Commission in Scotland is to publish soon a lay guide to European equality legislation, and the EOC have worked very closely with them in producing it. This is again about how to rely on European law where domestic law does not provide an adequate remedy.

The EOC is consulting on a Code of Practice on Pay. The Code, primarily to inform employers, will serve as a useful tool in tackling discrimination in pay in the workplace. The EOC has published research on Compulsory Competitive Tendering, which serves to inform the debate around pay issues in the recently privatised services.

The EOC will build on the success of its judicial review by publishing guidelines for employers entitled **The Employment of Part-time Workers**, with a view to preventing unlawful treatment of part-time workers by explaining the law and by describing how employers can provide equality of opportunity for part-time employees.

The EOC will be publishing research which has been commissioned on the economics of equal opportunities, which will inform the debate on the economic and business case for equal opportunities and equal treatment. The business case will remain the most effective argument for equality in 1995 and beyond. The Commission has not lost sight of the social justice arguments for equality - we shall always champion the individual and fight to ensure his or her access to justice. We are aware, however, that in the present economic climate and in circumstances where many women are continuing to take primary responsibility for the family whilst working in paid employment outside the home, there is a vital task to be undertaken in demonstrating the

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qualitative and resource-efficient benefits of good equal opportunities policies. In Scotland, we are pressing for the establishment of a Fair Play Initiative. Scotland is behind England and Wales on this - even though support for the EOC's Equality Exchange in Scotland has more than doubled in the past year. These are the kind of practical initiatives that emphasise the value of equal opportunities delivery of good business practice.

The majority of women work for small businesses. Indeed, the majority of the complaints which are dealt with in the Scotland office of the EOC come from the small business sector. Several initiatives in this area have been taken during 1995, with particular emphasis on the position in Scotland. We have very recently published a report of a formal investigation which we conducted into a small business, the Workforce Employment Agency in England. Although a small business, it is responsible for placing a large number of people with employers, and we found evidence of stereotypical assumptions about suitable employment for men and women. The report highlights something we have been aware of for some time - that discrimination in recruitment is becoming a big issue for men, just as it is for women. Job segregation is still at the root of the problem, and it is perpetuated in small businesses. The EOC intends to continue to use its legal powers and its powers of persuasion to tackle this and the other conditions which result in inequality in the workplace.

1994 was a very good year for the Equal Opportunities Commission, as demonstrated by the successes which have been discussed in this article. We certainly intend to build on these successes over the coming years, as we strive towards our aim of equal opportunities for all women and men in working life.

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