Discrimination Law Association

Briefings 141-151

Volume 8 (2nd edition)

October/November 1999

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 141 REMEDIES IN DISCRIMINATION CASES: A Review

Compensation awarded by employment tribunals to victims of disability discrimination averaged £11,500 last year – three times the average in 1997, according to *Equal Opportunities Review's* annual survey of compensation awards. Sex discrimination awards were also up – by 50% – but at £6,873, the average award was just under half that paid out in disability cases. Average race discrimination awards, however, fell by around a quarter – to £6,038.

So, for every £1 awarded to victims of unlawful disability discrimination in the employment field, victims of sex bias received 60p and victims of unlawful race discrimination received 52p.

The Equal Opportunities Review survey covered awards made by employment tribunals in Britain between 1 January 1998 and 31 December 1998. Tribunals awarded compensation in 284 discrimination cases – 192 cases of sex discrimination, 68 cases of race discrimination, 22 cases of disability discrimination and two cases of race and sex discrimination combined.

Analysing these awards, the survey's key findings are:

DISABILITY DISCRIMINATION

- total compensation awarded was £253,030
- compensation awards averaged £11,501, compared with £3,743 in 1997; the median award was £3,250, ranging from £350 to £102,717
- over two-fifths of the awards were for £10,000 or more
- injury to feelings awards averaged £2,543, compared with £1,822 in 1997; the median was £2,250

RACE DISCRIMINATION

- total compensation awarded was £422,633
- compensation awards averaged £6,038, compared with £8,220 in 1997; the median award was £3,303, ranging from £50 to £45,000
- 16% of awards were for £10,000 or more
- injury to feelings awards averaged £3,730, compared with £4,632 in 1997; the median was £2,500

SEX DISCRIMINATION

- total compensation awarded was £,1,333,621
- compensation awards averaged £6,783, compared with £4,556 in 1997; the median award was £3,000, ranging from £50 to £222,755
- 12% of awards were for £10,000 or more
- injury to feelings awards averaged £2,907, compared with £2,441 in 1997; the median award was £2,000

Commenting on the survey's findings, the author of the report, Gary Bowker, said:

> *"Awards in discrimination cases are not about windfall, they are about compensating an individual for the loss caused by the discriminatory behaviour of an employer. Average awards in disability cases are likely to continue being much higher than those for other kinds of discrimination, because of the particular obstacles disabled people face in finding employment."*

It should also be notes that "injury to feeling" awards for racial discrimination fell in 1998, compared with the same period in 1997, whereas awards for disability and sex discrimination rose during the same period. Could this be an example of "institutional racism" by Employment Tribunals, as defined by the Macpherson Report into the death of Stephen Lawrence? Are there other possible explanations?

"Compensation awards '98 – a record year" – *Equal Opportunities Review* No. 86, July/August 1999. Available from Industrial Relations Services, 18-20 Highbury Place, London N5 1QP (0171 354 5858).

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 142 MOD POLICY ON HOMOSEXUALITY CONTRARY TO HUMAN RIGHTS: Lustig-Prean & Beckett v UK and Smitl & Grady v UK ECHR, judgment given 27.9.99

THE FACTS

All the Applicants were homosexual members of the UK armed forces. Each of them was subjected to an investigation by the service police about their homosexuality, each admitted their sexuality and were administratively discharged from the armed forces on the sole ground of their sexuality according to standard Ministry of Defense policy. Their applications for a judicial review of this policy had been rejected by the Court of Appeal.

THEIR COMPLAINTS

Mr Lustig-Preen and Mr Beckett complained that the investigations into their sexual orientation and subsequent discharges violated their right to respect for their private lives, contrary to Article 8, and that they had been discriminated against contrary to Article 14.

Ms Smith and Mr Grady made the same complaints. Additionally, they complained that the MOD policy and subsequent investigations amounted to inhuman or degrading treatment, contrary to Article 3, that the policy limited their right to express their sexual identity contrary to Article 10 (the right to freedom of expression) and that they did not have an effective domestic remedy for their complaints contrary to Article 13.

DECISION OF THE EUROPEAN COURT OF HUMAN RIGHTS

The ECHR concluded that the investigations had been exceptionally intrusive and that these together with their discharge from the Armed Forces amounted to grave interference with their private lives contrary to Article 8.

The government could not demonstrate “particularly convincing and weighty reasons” so as to justify such interference with their private lives. The government had argued that the presence of homosexuals in the armed forces would have a substantial and negative effect on morale and, consequently, on the fighting power and operational effectiveness of the armed forces. The government relied on the report of the Homosexual Policy Assessment Team published in February 1996. The ECJ concluded that the views expressed in this document were based on the negative attitudes of heterosexual personnel towards homosexuals and that there was a lack of concrete evidence to support the anticipated damage to morale and operational effectiveness. Any difficulties encountered could be dealt with by a strict code of conduct and disciplinary rules.

The ECHR declined to carry out a separate consideration of the cases from the point of view of Article 14 (discriminatory treatment in the application of a convention right).

The Court held that there had not been any breach of Article 3 (inhuman or degrading treatment) or Article10 (right to freedom of expression).

Both Ms Smith and Mr Grady argued that the judicial review proceedings that they had taken to challenge the MOD policy as irrational had not provided an effective judicial remedy. The ECJ concluded that the threshold at which the courts would find the MOD policy irrational had been set so high that it effectively prevented the domestic courts from considering whether the interference with their private lives had answered a pressing social need or was proportionate to the national security and public order needs pursued by the MOD. Consequently the ECJ concluded that these two applicants did not have an effective domestic remedy and the UK government were in breach of Article 13.

COMMENT

The decision of the ECHR is welcome, however, it is a shame that the Court has only approached the issue from the point of view of Article 8 rather than Article 14. This frequently happens when the Court finds a breach of a substantive Article and it reflects the weak and subsidiary nature of Article 14. The urgent need for a free-standing anti-discrimination Article is emphasized by this. Perhaps the most important point to come out of the case for the future is the contrast between the standards of domestic judicial review and those of the Strasbourg Court.

Gay Moon
Solicitor

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 143 DISCRIMINATION BY VICTIMISATION: CONSCIOUS MOTIVATION NOT NECESSARY Swiggs and Others v Nagarajan [1999] IRLR 572, House of Lords.

SUMMARY

A majority of the House of Lords (Lord Browne-Wilkinson dissenting) found it was *not* necessary for there to be conscious motivation by the discriminator for victimisation under Section 2(1) Race Relations Act 1976 (RRA). All that is required is that the claimant is treated less well by the discriminator because of the latter's knowledge of an act that is protected by Section 2(1) RRA.

FACTS

The appellant was of Indian Origin. He had worked in the United Kingdom since 1969 except for a period between 1975 and 1978. He had worked as a Station Foreman for London Underground Limited, a Travel Information Assistant for London Regional Transport and as a Duty Train Manager for London Underground Limited. He pursued various complaints against London Regional Transport and London Underground. In 1992 he applied to London Regional Transport for the job of Travel Information Assistant. He was short listed for interview and interviewed by people who were aware at the time of the interview that he had brought proceedings against London Regional Transport and Mr Swiggs (the Central Personnel Manager). He was not offered a position.

EMPLOYMENT TRIBUNAL DECISION

In a decision on June 23rd 1994 an ET decided that London Regional Transport had victimised the appellant contrary to Sections 2(1) and 4(1)(a) RRA. It found that the people who interviewed him were aware that he had previously made claims against London Regional Transport under the Act and that this had influenced them in a conscious or sub-conscious way.

London Regional Transport appealed to the Employment Appeal Tribunal which allowed the appeal. The appellant then appealed to the Court of Appeal who dismissed the appeal. It held that Section 2(1) of the Act required conscious motivation by individual(s) and that as a consequence the requirements of Section 4(1)(a) were not fulfilled.

The issues against London Regional Transport on appeal to the House of Lords were:

i) must the motivation for victimisation be conscious ? : The interpretation of Section 2(1)
ii) must the person who discriminates also be the person who makes the arrangements for determining who should be offered employment ? : The interpretation of Section 4(1)(a), and
iii) was the Industrial Tribunal's Decision perverse?

i. MUST THE MOTIVATION FOR VICTIMISATION BE CONSCIOUSLY MOTIVATED OR IS IT SUFFICIENT FOR IT TO BE AN IMPORTANT CAUSE OF THE LESS FAVOURABLE TREATMENT? (S2(1)).

Under Section 2 the protected act must constitute the reason for less favourable treatment for there to be unlawful victimisation. The issue to be determined, when a person claimed to have been victimised and sought to establish that a discriminator had treated him less favourably was:

- whether it was necessary to show that the discriminator was consciously motivated by reason of the protected act, or
- whether it was sufficient to show that the protected act was an important cause of the less favourable treatment.

The phrase 'by reason of' was held by the Court of Appeal to mean that the claimant had to prove that the discriminator was consciously motivated by reason of an act protected by the Act. The appellant argued that all a claimant had to prove was that the less favourable treatment had as a principle or significant cause the protected act done by the victim. If the Court of Appeal were correct then motive would be an element of civil liability under the Act.

between conscious and sub-conscious motivation. This approach is in line with the interpretation of section 1(1) RRA, which does not require proof of a conscious motivation.

II. MUST THE PERSON WHO DISCRIMINATES ALSO BE THE PERSON WHO MAKES THE ARRANGEMENTS FOR DETERMINING WHO SHOULD BE OFFERED EMPLOYMENT? (S4(1)).

Section 4(1) relates to discrimination by an employer against applicants for employment by him, it makes it unlawful for 'a person in relation to employment by him' to discriminate against another:

(a) in the arrangements he makes for determining who should be offered employment, or
(b) in the terms on which he offers him employment, or
(c) by refusing or deliberately omitting to offer him employment.

Section 4(1)(a) includes both setting up the arrangements and the manner in which the arrangements are operated, including the manner in which interviewing arrangements are conducted, (*Brennan v J.H. Dewhurst Ltd*.[1984] I.C.R. 52, EAT).

The Court of Appeal held that unless it could be shown that the person who discriminated by victimisation under Section 2(1) was also the maker of the arrangements under Section 4(1)(a) there could be no liability, however, the House of Lords disagreed. Section 4(1) should be construed with Section 32(1), which as a deeming provision, treats an act done by an employee in the course of his employment as if it had been done by the employer. It does not matter that different employees were involved at different stages. The acts of both are treated as done by the respondent employer.

III. WAS THE INDUSTRIAL TRIBUNAL'S DECISION PERVERSE?

The House of Lords held that the ET was entitled to conclude that Ms Scruton (on the interviewing panel) came to a wholly unrealistic conclusion. The Tribunal was also entitled to

infer that Ms Scruton formed the view that the appellant was anti-management solely on the basis of her prior knowledge of his complaints against London Regional Transport. It was impossible to say the Tribunal's decision was perverse or irrational.

COMMENT

This welcome decision will make it easier for Applicants to establish victimisation. They will not longer ***have*** to prove what was in the Respondents mind. Of course, if a conscious motivation is proved victimisation will be established, but it is not a necessary element of victimisation.

Adrian Berry
Hardwicke Building
Lincoln's Inn

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 144 CONCERN FOR HEALTH & SAFETY RULED OK TO JUSTIFY DISABILITY DISCRIMINATION: Rose v Bouchet, Edinburgh Sheriff Principal

THE FACTS

In 1997 Mr Rose attempted to find accommodation in Edinburgh. He is blind and uses a guide dog. He contacted Mr Bouchet who owns a self-catering flat, but the accommodation was refused. When the case was heard by the Edinburgh Sheriff Court, the Sheriff found as a question of fact that this refusal was due to Mr Bouchet's genuine concern for Mr Rose's safety, because the flat had five steps leading up to it with only a flimsy handrail on one side. As it happens, this would have presented no problems at all to Mr Rose, but he was not able to explain this since Mr Bouchet never raised these concerns with him.

The key issue in the case was whether this concern for health and safety could amount to a justification defence under Section 24 DDA, even though the concern had no foundation in fact.

THE DECISIONS

The Sheriff found against Mr Rose. The case was appealed to the Sheriff Principal on the basis that the Sheriff makes no reference at all to the *Code of Practice*, which specifically warns against service providers pre-judging a disabled person's abilities, and advises service providers to discuss any problems with the disabled person (Paragraph 1.1: “When in doubt ask the disabled person”).

The Sheriff Principal rejected the appeal. This was disappointing in that the DDA thus appears to be endorsing a situation where a service provider can reach a highly subjective conclusion about a disabled person's abilities without even discussing the matter with them.

However, the Sheriff Principal’s judgment did at least state the legal position in clearer legal terms than the original judgment. It made it clear that the test of justification set out in s.24 DDA was in part objective and in part subjective. The first part of the test involves asking whether in the defender’s opinion one of the conditions was satisfied, and is subjective in the sense that what is at issue is the opinion of the person carrying out the alleged discriminatory act.

> *”His evidence .. must be accepted by the court as truthful and not simply a fabrication concocted after the event. The second part of the test requires the defender to go on to establish that it was reasonable, in all the circumstances of the case, for him to hold the opinion in question...That ….requires an objective assessment of all the relevant circumstances”*

The Sheriff Principal recognised that such an assessment raised the question of whether a service provider is under some sort of obligation to make enquiries of the disabled customer before forming any opinion.

He noted that the Code of Practice suggests that such an enquiry is desirable, but stated:

> *"In my opinion the need for further enquiry will depend very much on the facts and circumstances of a particular case.. On the version of facts accepted by the Sheriff, Mr Rose had not given Mr Bouchet a chance to make any further enquiries but had shouted and put the phone down on him once he had raised the safety concern... it is not unreasonable in a situation such as this for one to expect the disabled person himself to offer some further information."..* *"In my opinion the Code of Practice is simply not of assistance in the circumstances of the present case."*

COMMENT

This decision clearly raises doubts about the effectiveness about of Part III of the DDA in countering even fairly blatant examples of discrimination on the basis of stereotypes. The Sheriff had been impressed by the fact that the landlord did have genuine safety concerns about the flimsy handrail, which he took action to resolve later that year. However, the fact was that Mr Rose would have been less at risk than sighted people, because he would have relied on his guide dog rather than using the rail.

In this particular case the Sheriff who originally heard the case clearly did not approve of Mr Rose who he spoke of as having an "anti-discrimination agenda." Before another judge, another defendant might fare better - the scope for assessing the reasonableness of a landlord or service provider's opinion is very great. The Sheriff Principal in his assessment clearly placed the onus on disabled people to make efforts to correct the mistaken assumptions of landlords or service providers. Another judge might take the view that 'in the particular circumstances' of a different case the onus would be more on the provider to ask the disabled person before leaping to conclusions, or to consult expert opinion. Such an approach is more likely where a large organisation is involved - what is a reasonable opinion for a sole proprietor might not be reasonable for a large service provider.

The drafting of section 24 clearly allows broad scope for judges or Sheriffs to determine a case on the basis of their view of the reasonableness of an opinion. This seems is a key weakness in an anti-discrimination law that should set clear standards in relation to stereotypical assumptions and prejudices. DDA RAP has raised this issue with the Ministerial Taskforce which is reviewing the adequacy of the DDA.

Whilst the law remains in its present form, Disability Equality Training for Judges sitting on DDA cases is imperative.

Neither the original claim to the Edinburgh Sheriff's Court, nor the appeal, could have been pursued without DDA RAP. Mr Rose was refused legal aid because it was not considered a reasonable expenditure of public funds to finance the case. Had it not been for DDA RAP providing free representation and agreeing to underwrite these costs, Mr Rose would not even have been able to bring his claim. The Royal National Institute for Blind People co-operated with us on the case, and assisted in underwriting the costs of losing the case.

Caroline Gooding DDA RAP

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 145 RACE DISCRIMINATION CLAIMS CAN INCLUDE DAMAGES FOR PERSONAL INJURY: Sheriff v Klyne Tugs (Lowestoft) Ltd [1999] IRLR 481

THE FACTS

Mr Sheriff, a Somali Muslim, was employed as a ship's engineer. He claimed that in the course of his employment he suffered racial harassment, abuse, intimidation and bullying at the hands of the ship's master. He brought a claim of race discrimination in the ET. This claim was settled for £4,000 on the following terms:

> "*The Applicant accepts the terms of this agreement in full and final settlement of all claims which he has or may have against the respondent arising out of his employment or the termination thereof being claims in respect of which an industrial tribunal has jurisdiction."*

Two years later he commenced a claim in the County Court for damages for personal injury as a result of the abusive and detrimental treatment that he had received from the ship's master. The particulars of claim were almost identical to the statement of claim in the IT1.

COUNTY COURT DECISION

The action was struck out in the County Court as an abuse of process. The Recorder ruled that the ET could have awarded damages for injury to feelings, which are "a euphemism for mental suffering, mental injury, personal injuries of a psychiatric nature". As he had settled the ET claim he had settled his rights in regard to the damages that flow from his psychiatric condition. He could not bring another case in respect of these.

COURT OF APPEAL DECISION

Mr. Sherriff's case had been correctly struck out as he had already brought and settled a case of race discrimination on the same facts in the ET. The ET has jurisdiction to award compensation by way of damages for personal injury, to include both physical and psychiatric injury, caused by the statutory tort of unlawful discrimination. The terms of settlement covered "all claims….in respect of which the ET has jurisdiction", hence the personal injury claim had been settled. Mr Sherriff should have brought forward his whole claim for compensation in the ET.

The CA also suggested that where a discrimination claim could give rise to an injury to health claim the claimant may wish to produce a medical report for the ET.

COMMENT

This case appears to open up a further head of damages for victims of discrimination. If the applicant can show that s/he suffered psychiatric illness, not just emotional distress (which is covered by injury to feelings awards), s/he can claim in the ET for damages for injury to health. This could be an easier and more convenient way to proceed with these claims but it would mean that medical reports are likely to be required.

This case also highlights the need for advisers to specifically ***exclude*** damages for personal injury in any settlement agreement unless they are expressly included in the agreed settlement.

Gay Moon
Solicitor

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 146 DEATH OF APPLICANT ENDS DISCRIMINATION CLAIM: Lewisham & Guys Mental Health NHS Trust v Andrews (EAT)[1999] IRLR 407

THE FACTS

Marcia Andrews took a race discrimination claim against her employers on April 6th 1998. She was dismissed on June 16th 1998 and she died on August 23rd 1998. Her personal representatives tried to continue the race discrimination claim and to bring an unfair dismissal claim. The employers applied to the ET for the discrimination action to be dismissed because of the applicant's death.

EMPLOYMENT TRIBUNAL RULING

The ET ruled that both the discrimination claim could be continued and that an unfair dismissal claim could be commenced by her personal representatives. The employers appealed claiming that although the Employment Rights Act 1996 section 206 & 207 specifically allowed for rights under this Act (such as unfair dismissal) to be instituted and/or continued by personal representatives there is no equivalent provision in the discrimination acts.

EMPLOYMENT APPEAL TRIBUNAL RULING

The EAT ruled that as there is no provision in either the SDA or the RRA (or the DDA) for a personal representative to continue a discrimination claim, nor is there any provision in the tribunal rules or the Employment Tribunals Act 1996, such a right cannot be constructed. Causes of action under the discrimination legislation are rights of a largely personal nature that Parliament has not passed on to the applicant's estate. The ET had exceeded its powers.

COMMENT

It is difficult to see why there should be any distinction between an unfair dismissal claim and a discrimination claim when it comes to the death of a claimant, however, in either case the difficulties of establishing sufficient evidence must be considerable.

Gay Moon
Solicitor

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 147 LARGE AWARD FOR DISABILITY DISCRIMINATION: Thomas McLauchlan v Stolt Comex Seaway Ltd. Aberdeen ET Case no S/200809/98.

FACTS

The Applicant had been diagnosed as suffering from oesophageal cancer and consequently had chemotherapy treatment. He informed his employers and continued to work as long as he felt able to do so. After the chemotherapy treatment was completed he returned to work full time and tried to resume his full responsibilities. His employers were not satisfied with his performance and within six months, without having given him any warnings, they dismissed him. The Applicant was awarded a total of £82,018 for Unfair Dismissal and Disability Discrimination.

EMPLOYMENT TRIBUNAL DECISION

It was argued that the Applicant was disabled, as defined by the DDA, in relation to section 1(1), sections 1 (impairment), 2 (long term effects), 4 (normal day to day activities), 5 (substantial adverse effects), 6 (effect of medical treatment), and 8 (progressive conditions) of schedule 1 and also with reference to schedule 2 of the Act (past disabilities). No decision was made by the Tribunal on which particular section or sections were relevant as the Respondent admitted that the Applicant was disabled as defined by the DDA. This was unfortunate in one sense as the medical evidence given was in relation to both physical and mental impairment as a result of Mr McLauchlan's oesophageal cancer, and a decision on which sections were relevant in relation to Mr McLauchlan being disabled as defined by the DDA would have been of assistance in other cases.

The Respondent's defence was that at the time of termination of employment they were unaware of the Applicant's illness or the long lasting effect which his chemotherapy treatment may have had on him. They accepted that for just over a year prior to the dismissal they had been aware that Mr McLauchlan was suffering from a terminal illness, and that he was undergoing chemotherapy. At no time did the Respondent instruct a medical report to obtain a diagnosis or prognosis of Mr McLauchlan's condition.

Mr McLauchlan had an extremely positive attitude to his cancer. By January 1999 the cancer was in remission. It was the Respondent's position that at this time, Mr McLauchlan had informed them that he was "cured" and accordingly they did not view the illness as being a reason for the alleged problems with Mr McLauchlan's performance.

The Tribunal found that the Respondent should have obtained a medical report to ascertain the full consequences of the illness and treatment. Notwithstanding this, the Tribunal found that there was no basis for dismissal on grounds of the Applicant's alleged poor performance.

The important point in this case was the Respondent's *knowledge* of the Applicant's disability. The case was distinguished from *O'Neill –v- Symm & Company Limited* [1998] IRLR 233 EAT, as in this case the Respondent was made aware of the underlying condition prior to the dismissal. The Respondent did not argue justification as a defence.

The Respondents had admitted that the dismissal was unfair on procedural grounds. The Tribunal accepted that, following *Samuels –v- Wesleyan Assurance Society* (2100703/97), there was a presumption that the unfair dismissal was linked to the Applicant's disability and accordingly both the Unfair Dismissal and Disability Discrimination claims were successful.

AWARD

The size of the award in this case was largely due to Mr McLauchlan's wage loss. He earned £60,000 a year as a Loss Prevention Manager and, despite much effort had only managed to secure one short-term contract of employment since his dismissal. An award for injury to feelings was fixed at £5,000.

Claire McManus
Harper McLeod, Solicitors

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 148 CRE'S COMPLAINANT AID STRATEGY & WORK PLAN: Invitation to attend meetings at the CRE and to comment on work plans

The Commission for Racial Equality (CRE) is about to commence its planning cycle for the coming year and they are wanting to "open up" the process so that the plans are responsive to what is going on "closer to the ground".

As part of this initiative those interested in being involved in this process are invited to the CRE's offices to discuss their work and to give constructive criticism. Two dates have been fixed as follows:

October 13th 4.00 - 7.00 p.m.
October 20th Midday - 4.00p.m.

The CRE, as part of this consultation process, has produced a report on ***"Advice and Representation for Race Discrimination Complainants"***.

If you are interested in attending either of these meetings and/or would like a copy of the above report, please contact:

Chris Boothman
Director
Legal Services
Commission for Racial Equality
Elliot House
10/12 Allington street
London SW1E 5EH

Tel: 0171-828-7022

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 149 SEX DISCRIMINATION - A resource pack for teachers and trainers EOCNI New Publication

Members of the DLA may be interested in a recent publication "Sex discrimination - A resource pack for teachers and trainers"

It is based around a video which Commission staff use regularly in their own training and illustrates case studies particular to Northern Ireland. It includes notes for facilitators, questions for discussion, and various useful fact-sheets.

The resource pack is aimed primarily at lecturers in further education and schoolteachers teaching a range of GNVQ and other courses. It may also be useful to third level and other institutions for business and management-related training programmes or to employers wishing to introduce basic equal opportunities training in the workplace. It is priced at £40.00. *Further information may be obtained from:*

Lyn Mackender (Information Officer)
Equal Opportunities Commission Northern Ireland (EOCNI)
22 Great Victoria Street, Belfast BT2 7BA

tel: 028 90242752
fax: 028 90331047
http://www.eocni.org.uk
e-mail: info@eocni.org.uk

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 150 GENDER DIFFERENCES: BACKGROUND FACTS AND FIGURES EOC, 1998 New Earnings Survey, OECD & Equal Opportunities Review no 82, Nov/Dec 1998

Women consist of 52% of the population but still lag behind men in the world of work.

Women who work full time currently earn 80% of men's hourly pay on average, and on 72.5% of men's average weekly earnings.

In 1997 82.8% of part time workers are women. Women who work part time now earn 59% of the average hourly earnings of men who work full time.

The average working week for fathers is 20 hours longer than for employed mothers and 4 hours longer than for other employed men.

A third of all working mothers with dependant children work for 20 hours a week or less compared to only 1 % of fathers. In contrast 43% of working mothers are employed for 30 hours a week or more, compared with 97% of fathers. Lone parents have higher unemployment rates than parents in couples. 18% of lone fathers and 17% of lone mothers are unemployed compared with 7% of fathers and 5% of mothers with partners.

OCCUPATIONS

- *Police:* few women police and even fewer at the top where there is one woman chief constable and five deputy or assistant chief constables.

- *Education:* 80% of teachers in nursery and primary schools in England and Wales are women, and 90% in Scotland. Women are more likely than men to be employed on the teacher grade and men are more likely than women to be head teachers.

- *Higher education:* 71% of university lecturers are male and 91% of professors are male.

- *Engineering:* is very male dominated, only 2% of the registered or chartered engineers are women.

- *Law:* More women than men are currently being admitted as solicitors but by 1996 the proportion of female solicitors holding practicing certificates was still only 31%. Women are much more likely than men to be assistant solicitors and men are more likely than women to be partners.

- *Judges:* few female judges, they made up 7% of the High Court judges in England and Wales in 1996, there was one female Lord Justice and no Law Lords. In Scotland there was only one female judge.

- *Medicine:* In 1996 women comprised 31% of the hospital medical staff but only 19% of the consultants. In 1998 women medical practitioners were some of the best paid women being paid an average of £767.60 a week, however, the men still earned 23% more a week earning an average of £945.70 a week.

- *Politics:* Women make up 18% of M.Ps, 18% of M.E.Ps, 27% of local council representatives and 8% of the members of the House of Lords.

Sources: EOC, 1998 New Earnings Survey, OECD & Equal Opportunities Review no 82, Nov/Dec 1998.

DISCRIMINATION LAW ASSOCIATION

October 1999

BRIEFING No 151 USEFUL WEB SITES (LINKS)

Equal Opportunities Commission: http://www.eoc.org.uk

Equal Opportunities Commission for Northern Ireland: http://www.eocni.org.uk

Commission for Racial Equality (includes list of all **Racial Equality Councils** in the UK): http://www.cre.org.uk

The 1990 Trust: http://www.blink.org.uk

Law Society (including list of Solicitors in the UK): http://www.lawsociety.org.uk

National Association of Citizens Advice Bureaux (includes list of all Citizens Advice Bureaux – CAB - in the UK): http://www.nacab.org.uk

Stonewall: http://www.stonewall.org.uk

Lesbian and Gay Employment Rights: http://www.mysite.force9.co.uk/lager/index.htm

Home Office: http://www.homeoffice.gov.uk

European Union -

- Commission Services: http://europa.eu.int/
- Citizen Rights: http://citizens.eu.int/
- All EU Legislation published in CELEX and recent cases of the European Courts: http://europa.eu.int/eur-lex/en/
- European Court of Justice: http://europa.eu.int/cj/en/index.htm ***or*** http://curia.eu.int/

Press for Change ((Transsexual lobby group): http://www.pfc.org.uk

Trades Union Congress (TUC) (including links to affiliated trade unions): http://www.tuc.org.uk/

Discrimination Law Association: http://www.parish.oaktree.co.uk/dla/dla1.htm

Employment Law (UK) Mailing List (Daniel Barnett): http://danielbarnett.co.uk

Smith Bernal Casetrack Service: http://www.smithbernal.com

Discrimination Law Publishing - useful further links to British Government web-Sites etc**:** http://www.emplaw.co.uk

Employment Appeal Tribunal (EAT) Web Site: http://www.employmentappeals.gov.uk/

European Court of Human Rights (ECHR): http://www.dhcour.coe.fr/

House of Lords: http://www.parliament.the-stationery-office.co.uk/pa/ld199697/ldjudgmt/ldjudgmt.htm

Law Net: http://www.law.net/roundnet.html

If *you* know of other interesting web-sites that would be of interest to DLA members, please let us know