

The good, the not so good and the ugly: gender equality, equal pay and austerity in English local government

Abstract

Drawing on theories of responsive and reflexive legislation and gender mainstreaming this article examines the implementation of the gender equality duty and the Single Status Agreement in five English local authorities between 2008 and 2010. Both of these initiatives coincided with the global financial crisis and the data highlights how organisational restructuring following budget cuts resulted in the separation of these two important initiatives between equality and human resource management teams, prevented the duty from reaching the high expectations of the Equal Opportunities Commission and the Women and Work Commission. The reliance on equal pay legislation and failure to use the gender equality duty missed an opportunity to move away from adversarial forms of legislation and towards more responsive forms of regulation of pay equality.

Key Words: gender equality duty; equal pay; local government

Introduction

The period since 2007 has thrown up a curious set of contradictions in relation to gender equality and public services in the UK. The gender equality duty (GED), introduced in April 2007, placed a legal requirement on all GB public authorities, when carrying out their functions, to have due regard to the need to eliminate unlawful discrimination and harassment on grounds of sex and to promote equality of opportunity between men and women.ⁱ When it came into effect

the GED was hailed as 'The biggest change in sex equality legislation in thirty years, since the introduction of the Sex Discrimination Act itself.' (EOC, 2006:2) and was the last major initiative of the Equal Opportunities Commission (EOC) before it was subsumed into the Equalities and Human Rights Commission (EHRC). At the same time there was a major initiative in local government to introduce equality proofed pay structures as part of the Single Status Agreement (SSA), on-going since 1997 (Rowbottom, 2007; Author A, 2014; McLaughlin, 2014; Oliver et al. 2014).

In what has become perhaps the worst case of bad timing for gender equality in the UK, the introduction of the GED and the loss of the EOC collided almost head on with the global financial crisis. The political response to the crisis in most economies has been typified by what have become collectively known as austerity measures, the central plank of which rests on significant cuts to public spending. There is now overwhelming evidence of the disproportionately negative impact austerity measures have on women's equality (see Annesley, 2014 for a summary). In addition to this unhappy coincidence the SSA, unfunded by central government, resulted in human resource management teams and trade unions in local government being locked into complex, costly pay negotiations and tens of thousands of equal pay cases being taken to Employment Tribunals (McLaughlin, 2014). Although there is now an extensive body of research on the impact of austerity on gender equality and a growing body of research on the implementation of the SSA in local government, there is little research on the implementation of the public sector equality duties and none that we are aware that brings together primary research data on these crucial issues for women's equality in the UK.

This paper reports on research which examined the implementation of the GED and the subsequent public sector equality duty (PSED) in English local authorities during this turbulent time for gender equality. We examine how this sat alongside SSA negotiations and pay equality in five case study local authorities. Our empirical focus is on England because Northern Ireland has specific equality legislation for public authorities and the Equality Act 2010 introduced significant differences between England, Scotland and Wales in relation to the public sector equality duty, which are explained in greater detail below. Both pieces of legislation introduced substantial changes in public service managers' responsibility for mainstreaming gender equality within service plans and employment, including pay. However, once merged in to the Equality Act 2010, the distinctive qualities of the GED were largely lost including a specific duty on equal pay in Englandⁱⁱ. The paper begins by outlining the historical context of gender equality policies in local government and how the implementation of the GED and the public sector equality duties were intended to improve upon reactive and adversarial anti-discrimination legislation. The paper continues by examining how, by comparison, the anti-discrimination legislation in relation to equal pay caused massive turmoil for HRM teams and trade unions in their attempts to introduce equality proofed pay structures in local government. The difference between these two approaches is important, given the time, effort and cost of litigation for both trade unions and local government employers (Hepple et al. 2000; McLaughlin, 2014). Added to this, during the period of our research the extent of the global economic crisis was becoming apparent and local authorities were beginning to anticipate the impact of austerity policies already being threatened by central government and were restructuring accordingly (Bach and Stroleny, 2014). The paper draws on research data that illustrates how this confluence of events impacted on the implementation of the GED and the SSA in English local government and

prevented the former from reaching the high expectations for gender equality envisaged by the EOC in 2006. The paper concludes by arguing that the empirical split we encountered between the implementation of the GED and SSA was counter-productive for both and particularly damaging for future gender equality in local government.

Gender Equality in Local Government

Public authorities are large employers of women. In 2015 68% (3.64 million) of public sector workers were women (ONS, 2015). This percentage is higher in certain areas of the public sector including local government where the figure stands at 76% (1.3million) (LGA, 2015). Significant numbers of women workers in the public sector work part-time. In local government 48% of the workforce consists of part-time female employees. Local government is often the largest single local employer of women and has historically pioneered gender equality policies (Jewson and Mason, 1986; Cockburn, 1991; Webb, 1997; Newman 2002). In addition to providing jobs, social care services that are delivered or funded by the local state release women from some unpaid care in the home allowing them greater opportunities to seek paid employment in both the public and private sectors. Gender equality policies in relation to the way in which public services are provided are therefore crucial to women's equality (Rubery, 2015; Author A and Author B, 2015). However, since the 1980s requirements to contract out services have significantly eroded the terms and conditions of low paid and part-time women public service workers (Escott and Whitfield, 1992; Thornley, 2006). Recent research highlights that adult social care is increasingly delivered by migrant women working in contracted out public services

(Cangiano and Shutes, 2010) who are often earning close to, and sometimes below, the national minimum wage (Hayes, 2015).

Gender equality practices and discourses were first introduced by local authorities in the UK in the 1980s as a means of fulfilling their obligations for implementing sex discrimination legislation. But the concept of equality has generally proved to be notoriously susceptible to changes in local, national and international political ideology, evolving and changing with the political landscape (Breitenbach et al, 2002; Walby, 2005; Rees, 2005; Squires, 2005). In Great Britain the GED emerged from pressure by the EOC and women's organisations to strengthen existing sex discrimination legislation (Veitch, 2005). The GED and the race and disability equality duties that preceded it took a different approach to equality than that contained in anti-discrimination legislation (Fredman, 2001; O'Conneide, 2005). The anti-discrimination legislation (e.g. Sex Discrimination Act, Race Relations Act, Disability Discrimination Actⁱⁱⁱ and Equal Pay Act, now also contained in the Equality Act 2010) are reactive legislation in that they could only be enforced after discrimination had taken place. They are also based on individual rights meaning that enforcement requires individual workers, often from the most vulnerable social groups, to brave the adversarial UK judicial system. Rowbottom (2007) and McLaughlin (2014) and have argued that the SSA is an attempt to collectivise the equal pay legislation because large groups of claims have been brought together, most often organised and supported by trade unions. Deakin et al. (2015) view collective bargaining and litigation strategies as complementary when the threat of the latter acts as a spur to the former.

By comparison the GED and the subsequent public sector equality duty are proactive requiring

public service organisations to take action to redress patterns of disadvantage, to promote equality and eliminate discrimination in their employment and recruitment practices, as well as their policies and services to pre-empt the occurrence of individual cases of discrimination. This type of legislation is often described as responsive or reflexive (e.g. O’Cinneide, 2004; McCrudden, 2007; Hepple et al 2000; Fredman, 2001, 2011) because it should take on board the views of the people it affects and change the behaviour of the organisation in response. The law then becomes a vehicle for greater negotiation and joint working rather than a replacement for it when it fails. In order to achieve this, the first three duties had incremental emphases on engagement with civil society groups who had an interest in equality in public service delivery. The GED had a specific requirement for local government employers to consult the trade unions and local communities, therefore offering an intrinsically collective approach to improving equality outcomes (Author A, 2014).

Prior to the incorporation of the GED into the Equality Act 2010 consultation on the new generic duty was widely taken up and debated, by local government administrations, public service organisations, trade unions and independent organisations within each strand (Government Equalities Office, 2009). Whilst there was general support for the introduction of an expanded single equality duty there were also longstanding concerns in civil society equality groups that the specificity of each area of discrimination would not be addressed within a generic duty. Furthermore, research demonstrates that commitment to gender equality has always been uneven dependent on political will (Breitenbach, et al. 2002; Itzin and Newman, 1995) and public concerns about gender equality have diminished and changed over time (Howard and Tibballs, 2003). The reframing of the equality legislation offers some support for these concerns. The

most innovative sections of the Equality Act 2010 relied on secondary legislation, much of which the coalition government decided not to implement. Part of the integrated public sector equality duty, the specific duties, is devolved to regional governments and requires secondary legislation. In England, after a protracted period of 3 separate consultations, the regulations for an integrated Equality Duty were significantly weaker than the GED but stronger in Scotland and Wales (Author A and Author B, 2015). Thus whilst the GED did strengthen and extend requirements from eliminating discrimination to promoting equality the Equality Act 2010 has, in England, weakened earlier gains, adding weight to the arguments that gender equality is not a policy priority.

Equal Pay

One significant difference in the specific duties in the GED and the integrated public sector equality duty is in relation to equal pay. Whilst the GED required public authorities to “consider the need to include objectives to address the causes of any gender pay gap” (EOC, 2006:6) the specific duties for England now have no duty in relation to equal pay or the gender pay gap. The loss of any direct focus on pay is significant for local government because equal pay has preoccupied human resource managers and trade unions in this sector since 1998 following the Single Status Agreement (SSA). The SSA is a national collective agreement between local government employers and the three main public sector trade unions (UNISON, GMB, T&GWU now UNITE). The agreement, contained in what is known as the ‘Green Book’, was intended to harmonise the pay and conditions between manual and clerical grades in local government. The requirement to undertake job evaluation schemes to facilitate harmonisation, however, uncovered extensive and endemic gendered pay inequality (Rowbottom, 2007). Unlike similar agreements in other parts of the public sector, the SSA was not supported by additional funding from central

government and therefore represented an unbudgeted cost of billions of pounds to local government employers, particularly since European legislation had ruled that equal pay claims could be backdated for a period of up to six years in England and Wales.

The massive cost implications have meant that progress on implementing the SSA has been fraught with difficulties and excruciatingly slow (Oliver et al. 2014). Where trade unions have been unable to secure pay equality for their women members via collective bargaining they have resorted to taking tens of thousands of legal cases. In 2004 a second agreement was signed that placed a deadline of April 2007 for completion of the requirements of the SSA in every local authority, which coincided with the date on which the GED came in to operation. Gender equality should have therefore been at the forefront for public service employment and delivery during this period. The Women and Work Commission (2006:92) recommended that the GED should be used as a significant tool for closing the gender pay gap in the public sector without the need for litigation. Instead Oliver et al. (2014:239) note that equal pay cases outstanding at employment tribunal mushroomed from 8,000 in 2004 to 62,000 in 2008. If these events were not problematic enough for public sector managers and trade unions, the global economic crisis and the political response of austerity has since resulted in unprecedented cuts to public spending, particularly in relation to the amount allocated to local government. The following section examines the impact of austerity on state support, public services and gender equality in greater detail.

Gender Equality and Austerity

In the UK austerity measures were introduced in the UK in 2010 in the first emergency budget of a newly elected Conservative-Liberal Democrat coalition government. The budget introduced

average cuts of 25% to the budgets of government departments and a two year public sector pay freeze for workers earning more than £21,000 with a flat rate pay increase of £250 for those earning less than £21,000 in each of the two years. Subsequent budgets limited pay increases in the public sector to 1%. There was a failed attempt by the Fawcett Society to use the GED to challenge the emergency budget on the grounds that it disproportionately affected women and that the government had not conducted an equality impact assessment (Author A, 2012). Following the failure of the Fawcett case, the austerity cuts were implemented and in December 2014, the Office for Budgetary Responsibility (OBR) estimated that by 2020 1.3 million public sector jobs will have been lost (OBR, 2014:82). Karamessini and Rubery (2014) argue that public sector job cuts are increasing work intensity and hours of work in the public sector, with a particular impact on women. Furthermore, although public sector employment is considered to reduce the gender pay gap, recent figures indicate that that, whilst there has been a slight decrease in the gender pay gap overall to 19.1%, it has actually increased in the public sector from 9.5% to 11% (ONS, 2014:15).

In addition to the direct impact of austerity measures on women working in the public sector, child welfare benefits were frozen, sure start maternity grants limited to one child and child tax credits significantly reduced. The Women's Budget Group issued an analysis of the emergency budget highlighting "Low income mothers, who are the managers and shock-absorbers of poverty, will be among the main losers. Women from black and minority ethnic groups will be particularly hard hit, as 40 per cent of them live in poor households" (WBG 2010:2). Each subsequent analysis conducted by the Women's Budget Group has reported further and deeper impact of public sector cuts on the poorest women^{iv}. Therefore, if the social wage in relation to

women's overall income is considered, the income gap is inevitably much higher than the figure reported in national statistics.

There is strong evidence that the strains placed by austerity measures on poorer families is likely to increase violence against already vulnerable women whilst public support for abused women is decreasing (e.g. Towers and Walby, 2012; European Women's Lobby, 2012; Manjoo, 2014). Furthermore, when women face greater poverty and violence, so too do children (WBG, 2005). Ultimately the consequences of this often fall at the door of local authority social services, staffed largely by women working in increasingly precarious, under-valued and intensified jobs.

The Research Problem and Method

The coalescence of the SSA and GED should have given priority to gender equality in both respects and the GED should have provided some protection against gender biased austerity measures. Instead there is now incontrovertible evidence of a serious erosion of women's equality. The empirical question that arises from this analysis is how has the legal requirement to promote gender equality in local government been managed, both in terms of women's employment and in the delivery of public services used by women during the economic crisis.

The research reported on in this paper was carried out in five English case study local authorities. Each case study organisation was unique, in terms of geographical location and history, political administration, development of operational strategy for implementing equality policy, feminist organising, and at a different stage of implementation of the GED and the subsequent integrated

equality duty. The major part of the research took place between 2008 and 2010 when the GED had been in place for one year but change under the Equality Act was anticipated. All of our case study authorities were undergoing restructuring both in relation to the Single Status Agreement and in anticipation of impending public spending cuts. The SSA deadline of April 2007 had passed and two of our case studies had met this deadline but three had not. Equalities advisors and HR officers within the case study organisations viewed the research as a timely opportunity for more in-depth discussion of the likely impact of the GED and the Equality Act and provided access to key personnel and documents to inform the research. Interviews were conducted with lead equality actors in each authority including corporate equality teams, HR managers, trade unions, service user groups, senior officers and elected members with responsibility for equality. Interviews were supplemented with documentary data collection. We conducted interviews with key national policy advisors and trade unionists who were leaders in shaping new equalities legislation, collective agreements and policy drivers for the future. In the initial phase of the research we conducted a total of 60 semi-structured interviews. One of the key themes that emerged from our research was the state of flux in which local government employees were working to implement equality within a rapidly changing context of gender equality. We have therefore attempted to remain in contact, where possible, with our initial contacts in our case study authorities in a series of brief follow up conversations in order to trace the ongoing effects of change.

Local Government Restructuring and the Management of Equality

One of our most consistent findings was that restructuring and change was endemic in local government with a particular impact on equality policy and structures:

We've got the most massive amount of change going on that we have ever, ever had.

(Equality Officer, city council 1)

Local political administrations had introduced organisational restructuring, supported by business transformation agendas, the SSA and cutbacks in budgets that anticipated centrally imposed reductions. We found changes in the location and brief of equalities advisors, uncertainty about whether this would strengthen their strategic role or reduce their influence, and considerable uncertainty about the future, particularly the instability in the resourcing and staffing of the equalities team.

The whole organisation has basically been swamped under change and people have got change fatigue...., if you don't get us out of it soon, everybody's either going to be outsourced, down the road or wherever.

(Equality Officer, city council 1).

In the midst of this organisational uncertainty was a prevailing concern that gender equality had lost any immediacy. There was a sense internally that "gender has been done" replaced by equality as equivalence between men and women, losing a previously hard fought battle for recognition that women's needs are different and specific.

Well I think there was a view by the organisation that because there were quite a number of women in senior positions within the city and the local authority, that gender was no

longer a priority really. (Equality Officer, city council 1).

Change in relation to women's equality was sometimes seen by equality teams as indeterminate, regressive and incoherent:

We've changed ourselves so much and we haven't actually written it down.

It's intangible almost. It would be hard to sort of say in any definite...you couldn't write a manual about it. But it is, sometimes it's like slogging through treacle, because it is, it's just going back, back and back. (Senior lead for equality, city council 3).

Part of the changes that had taken place since the formation of equality units was to move the focus of equalities teams from HR/employment to service delivery:

Traditionally, this team focused purely on employment. Yes, I would say purely on employment, didn't focus on service delivery at all. Again, going back five years or so, there was a recognition that actually that wasn't sufficient...The recognition was that we needed to focus much more on service delivery...

...in a lot of councils, the equality officer post is often HR based. That's where it often starts and then the organisation often realises, actually this isn't an HR issue, this is more of a service delivery and community leadership issue. Then often the post gets put into a more corporate position. (Equality lead, county council)

Where employment was considered in equality teams it was more broadly in relation to citizens rather than employees of the authority:

...and so what we did was we did look much more at service delivery, but what we were very conscious of was that we didn't want to lose that link into employment, because clearly a main factor in equality is around worklessness. (Equality officer, city council 2)

Whilst cost saving and reducing staff and resources were generally part of the aim of the restructuring in most of our case study authorities, the change in focus of equality from employment to service delivery was underpinned by a move from a social justice orientation to equality towards a focus on a 'business case', so that the core work of the equalities team was to be 'outward facing' (Author A and Author B, 2015). Along with this split came a division of duties with responsibility for the implementation of the GED falling to the equalities team and equality for women employees falling largely to the HRM team in all of our case study local authorities.

Despite this split, there was one example where a well informed and proactive service manager specialising in violence against women had managed to use the GED in relation to both service delivery to the public and council employees:

One of the things that we've done with HR is, we've recently launched the XXX city council corporate domestic violence policy. Originally that did sit with the equality team here and again, when we launched the strategy, when we developed an action plan with

the equality team here, one of the actions was to review the existing council domestic violence policy. Then, because the equality team re-focused, so instead of owning and developing policies like that, they said actually this would fit much better with HR... and alongside that, we've trained up a number of council officers to be domestic violence contacts so that if an employee is experiencing domestic violence, they can either contact one of the DV contacts in the council directly who can signpost them to a range of organisations and who've had a one day training course, or managers of employees can contact those people. But it's guidance for managers as well. (Project Manager, city council 2)

However, even here it is clear that there were deliberations about whether the responsibility for this action should lie with the equality team or the HR team. The change in 'ownership' of this initiative followed the restructuring process in this authority, which resulted in the equality team having an advisory role.

Trade union involvement in the GED

We spoke to trade union representatives who were working with equalities teams but because the focus was service delivery rather than HR, the link was often supportive rather than operational.

I think the policies and the stuff that they do in the equalities unit is absolutely brilliant. I think the thing that's worrying for me is the lack of scrutiny as it goes out into the departments and how it's carried through. (Trade union representative, city council 1)

In some of our case study authorities there was little direct contact between the trade unions and equalities teams:

Interviewer: Do trade unions come directly to you, or would they only approach you through HR?

Equalities Officer (city council 2): I've not known them come directly to us, but I guess there's nothing to stop them doing that.

One of our interviewees felt that there was greater resistance by employers to equality reps in comparison to learning reps:

Now the employers were very keen to get on with the learning support representatives, at least very easy to draw up a joint recognition agreement about them working. But I can foresee it being very different when the union comes to develop equality reps.
(Independent Gender Advisor, county council)

Where we did meet trade unionists involved with the GED, they were equality representatives and were not usually directly involved in collective bargaining (Moore and Wright, 2012; Bacon and Hoque, 2012). We also noted, like Moore and Wright (2012) and Bacon and Hoque (2012), that the lack of facility time for trade union equality representatives had also hampered their engagement with the GED:

I think again it's about time...well it's not about commitment, because the trade union is committed very strongly to equality. (Trade union representative, city council 1)

But there was also some feeling in this local authority that not all of the trade union branch officers were sympathetic to the GED:

you can't lump all men in the same group, but you do have some...not everybody is on message, shall we say, in the trade union. (Trade union representative, city council 1).

Whilst there was involvement of the trade unions in relation to the GED the separation between service delivery and employment, the limited input to collective bargaining and scarce time resources for equality representatives meant union input was reduced. The majority of the trade union activity and involvement was in response to the SSA and equal pay or the impact of regrading and pay protection, which we examine in more detail below.

Equal Pay and the SSA

Equal pay was one issue where the split between equality teams and HR was distinct. Equal pay was dealt with entirely under the SSA and not the GED, and was exclusively handled by specialist HR managers in each authority. We did not find any examples of where the GED was being actively used to close the gender pay gap outside of the SSA in our case study authorities. Nor was there an example of where equality teams were directly involved in the SSA

negotiations. The view at local authority level was that the SSA and not the GED was sole driver for equal pay:

I think definitely the push was single status and I can't pretend it was anything else, but then, you're right, that's like ten years ago now, so that's where it started. I think the gender duty has assisted understanding along the way, is how I would see it, but the focus was single status, again our liability in terms of settling compensation claims was a really big push for us to resolve a lot of the issues. But the gender duty has certainly helped along the way in terms of encouraging the organisation to think outside of resolving pay issues. (HR Manager, city council 1)

Our findings were confirmed in subsequent interviews with a national trade union officer and a leading officer representing local government employers with responsibility for the national agreement of the SSA, who both felt that the GED had no significant impact on equal pay in local government.

There was some transference of good practice in that a requirement to conduct equality impact assessments on decisions made in relation to the SSA was inserted into the implementation agreement. In one case study, however, there was a feeling that if the equality impact assessment focussed narrowly on the results of the SSA, the bigger issue of equal pay for women could be lost. It was explained that this could happen if the impact assessment simply recorded the negative impact on men of the removal of bonuses that had not been historically paid to

women of the same grade. This supports the concerns in other authorities that a simple focus on gender meant that women's equality could be lost.

In another case study authority there was a feeling by a senior equalities manager that the trade union could have a more important role in equality impact assessments and that their voice would add weight:

It might be worth going back to them and talking to them [trade unions] about their active participation in women's equality. They should have an active role in terms of equalities impact assessments, shouldn't they? If there's something going through that's not adequate, and we might have shouted from the rooftops, but nobody's responded to us. They might respond to the trade unions. (Senior lead for equality, city council 3)

Consulting unions on aspects of gender equality outside of equal pay has not always been a widespread practice even in local government (Cockburn, 1991; Lawrence, 1994). Since many of the contributory factors of unequal pay between men and women stem from wider gender equality issues such as unequal care arrangements leading to part-time work and vertical and horizontal job segregation, a greater input from trade unions might also indirectly improve pay equality.

It was difficult to get HR officers to talk in any detail about the progress of the SSA in the three authorities where the agreement had not been settled. This was largely because the negotiations with the trade unions were at a sensitive juncture and, as the national agreement on the deadline

for completion had already passed, there was a great deal of pressure to reach an agreement (cf. McLaughlin, 2014 p.7).

There are still processes to be...you know, has to be complete and we're not in a position... You will get the same answer from the trade unions. It's not that we want to be unhelpful, but because there are bits that still need to be included. (HR Director, London Borough Council)

There were also some difficult and longstanding legal cases related to equal pay and the job evaluation outcomes in the three authorities that had not settled^v. In most of our authorities it was clear that the SSA was taking up the majority of HRM time in relation to equalities work:

There's only so much we can bite off at the moment because we've got...we as an OD HR service support that work and we've got a huge piece of work to do at the moment around equal pay in the organisation which is very challenging. (HR Manager, city council 1)

There were some difficult decisions to be made in relation to “winners” and “losers” (Wright, 2011; Mclaughlin, 2014:11; cf Guillaume, 2015) in relation to re-grading with the threat that jobs may be out-sourced to avoid equal pay issues:

For the large amount of the workforce, the normal single status processes applied. We re-evaluated the caring professions and we brought them up and manual professions which

are male dominated have gone down. There is a fourth way in which you can address this which we chose not to do, which is you can outsource some of this and then you don't have a gap. (HR Director, London Borough Council)

Deakin et al. (2015:389) note that trade unions had not been prepared for the amount of downgrading that would take place following job evaluations required for the SSA. Not surprisingly, difficult decisions in relation to re-grading as a result of the agreement were impacting on morale in our case study authorities where the agreement had not yet been reached:

I think it's challenging if you've got staff members that are being graded down. I think it's a motivational management issue and I think it's right...I certainly support the rationale, but I think the process is difficult on individuals. I think it's about making sure people are equitably placed. Certainly I think particularly for women. (Service Manager, London Borough Council)

Morale is a big issue for us at the moment, we've got a big pay and grading exercise on, which is tackling historic inequality and trying to bring about a fair grading process. I'm sure if you've been out and about in local authorities, that will be a fairly common theme. Because of the uncertainty that exists with people around that, there is naturally quite a lot of concern and worry for people. Also, there's a lot of organisational change going on. People unsure about their jobs (HR Manager, city council 1)

Our interviews with national trade union and employers' representatives ascertained that there was no intrinsic animosity from local authority employers to implementing equal pay structures. Both the trade union and employer national officers felt that the SSA had not directly resulted in additional outsourcing, but there was a strong feeling that the SSA was not dealt with fairly in comparison to the similar agreement, Agenda for Change, in the NHS, which was also evident in our case study authorities:

I think in single status, those organisations that have taken their role seriously in being able to reduce the gender pay gap have been substantially penalised. But they have felt that we respect some of the types of professions where women predominate, such as the caring professions, because in some other sectors, there have been one of two options. Either the government comes in and pays you a whole lot more to introduce a new scheme, which is what has happened in health, or you outsource and you break the company up. We've chosen not to do it and its cost us. A lot, but we've been happy to do it because we think it's the right thing to do. (HR Director, London Borough Council)

Furthermore, similar to the findings of McLaughlin (2014), there was a feeling that authorities that had not out-sourced their services were unfairly paying the price for implementing equality proofed pay structures. An alternative argument is that those authorities who had delayed the implementation of the SSA had fallen foul of the change in the law that meant that much larger back-dated settlements needed to be paid (Deakin et al. 2015). Since most of our case study authorities were undergoing change, the threat of out-sourcing or dissolution of areas of service provision was a very real possibility as was the case in local government more generally

(McLaughlin, 2014; Bach and Strolney, 2014). Equality teams themselves were under threat and in our first follow-up interviews the equalities teams in two of our case studies had been disbanded and the team members had either left the authority or had been relocated to other departments (Author A and Author B 2015).

Conclusions

There has undoubtedly been a massive amount of change in local government in response to budget cuts and austerity. Towards the end of our research it was apparent that equality teams were an early casualty in relation to restructuring. However in our case study authorities the path for these changes had already been paved with on-going structural reorganisations to equality teams that framed equality in terms of a business case rather than as one of social justice. Part of this restructuring entailed splitting the responsibility for equality between ‘customer’ facing equality teams and employee facing HRM teams with very little joint working on either the GED or the SSA. Whilst there was clear evidence that the implementation of the GED was taking place, overseen by equality teams in relation to service delivery, there was less evidence that HR team were widely using the GED in relation to gender equality for employees and, despite the hopes of the Women and Work Commission in 2006, no evidence that it was being used to strengthen equal pay initiatives. National employer and trade union representatives confirmed that this was the case in local government more generally. Instead HR and trade union teams were locked into adversarial and litigious negotiations in relation to the SSA and Equal Pay Act. Deakin et al. (2015) argue that HR resources had been diverted from completing the SSA. It is clear from our research that the SSA had, in turn, diverted resources from a wider gender

equality agenda anticipated in the GED even though a broader approach is likely to have addressed some of the underlying causes of pay inequality.

McLaughlin (2014) argues that the collective element of the SSA could be described as reflexive social regulation, but without underpinning reflexive legislation and, coupled with the unwillingness of central government to properly fund the equal pay issues that arose from the SSA, the outcome reverted to protracted, adversarial litigation for many thousands of low paid women at great cost to them and to local authorities and trade unions (Hepple et al. 2000). The GED offered a different, proactive form of statutory duty to work with trade unions on equal pay that was not taken up in our case study authorities or, as our interviews with national officers confirmed, more widely. In our case study authorities this resulted largely because of the way that responsibility for implementing the GED had been split and because of the pressing nature of the SSA deadline of April 2007 that engulfed the workload of HRM and trade union teams in the authorities that had not yet fully implemented the SSA.

Future opportunity to use the public sector equality duty, at least for English local government, was substantially diminished with the passing of the Equality Act 2010 and the failure to include specific duties on equal pay. The situation is different for Scottish and Welsh local authorities and further research is required to examine how far local authority employers and trade unions take up the opportunity to approach equal pay differently by using the proactive duties in those regions. One of our research participants identified that a greater role for trade unions in the formulation of equality impact assessments might be a more proactive way of engaging trade unions on wider gender equality issues that indirectly impact on pay inequality. However, the

weak role of equality representatives in workplaces, who hold a broader equality remit, and the antagonism of the current Prime Minister to equality impact assessment^{vi} leading to encouragement to public authorities to abandon them, means that this option looks less likely.

The SSA may have substantially reduced the gender pay gap in local government. Figures provided by our national employers' representative estimate that women now earn on average 5% less than men in this sector. With such decentralised and localised pay practices, this figure is of course likely to vary widely between authorities and does not correlate with the general rise in the gender pay gap in the public sector to 11% (ONS, 2014), which is surprising since local government is the largest element of the UK public sector. Pay structures and the job evaluation schemes on which they are based are notoriously porous (Gilbert, 2012; Hastings, 2013) and break down rapidly without sustained vigilance. If local government employers do not wish to find themselves facing similar equal pay issues in five or ten years time they will need a system that ensures that all decisions that are made are scrutinised for their gender impact. The gender equality duty was such a system.

ⁱ The GED was the last of the three Equality Duties following the Race Equality Duty (RED) in 2001 and the Disability Equality Duty (DED) in 2006. These three separate duties were combined with five other strands (age, religion and belief, sexual orientation, pregnancy and maternity, gender reassignment) in section 149 of the Equality Act 2010.

ⁱⁱ Specific duties are devolved to the Scottish Parliament and the Welsh Assembly. Both of these regional governments have included specific duties on equal pay.

ⁱⁱⁱ The Disability Discrimination Act does contain some proactive elements in relation to reasonable adjustments but still takes a largely individualistic approach.

^{iv} Available at: <http://wbg.org.uk/2013-a-budget-for-inequality-and-recession/>

^v For confidentiality and anonymity reasons it is not possible to give details of these cases.

^{vi} <https://www.gov.uk/government/speeches/prime-ministers-speech-to-cbi>

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