



Briefing for Scottish Government Debate: Fair work in a wellbeing economy

November 2023

Close the Gap is Scotland's policy advocacy organisation working on women's labour market participation. We have been working with policymakers, employers and unions for more than 20 years to influence and enable action that will address the causes of women's labour market inequality.

1. Introduction

Close the Gap welcomes Scottish Government's focus on fair work in Scotland, particularly in the current economic context which has seen **women disproportionately and severely affected by both Covid-19 and the cost of living crisis**. However, fair work must also mean fair work for women. Women are the majority of low-paid workers; are more likely to experience poverty, including in-work poverty; and face a wide range of inter-related inequalities that prevent them from participating in the labour market on an equal basis with men. Women's labour market engagement continues to be characterised by low pay, discrimination and harassment, insufficient working hours, underemployment, and precarious work. This is particularly true for racially minoritised women, disabled women, younger and older women, and women who are single parents, who face multiple compounding inequalities to being able to work, and progress in their role.

Current employment law contributes to the persistence of women's labour market inequality, and the UK Government's approach to employment has brought increased risks for women. Brexit, in particular, presents threats to women's equality and rights at work, as much of the legislation protecting equality and workplace rights that women benefit from originated in, or were strengthened through, EU membership¹ including equal pay, sex discrimination, pregnancy and maternity rights, rights for part-time and temporary workers, and working time rights.

¹ Civil Society Brexit Project (2019) *Brexit and Women's Rights*, available at: <https://www.civilsocietybrexit.scot/wp-content/uploads/sites/49/2019/05/csbp-briefing-may-2019-womens-rights.pdf>

However, it is also **important to note that many of the causes of women’s labour market inequality are not unlawful, and can, and should, be tackled by gendering policy for which Scottish Government has responsibility.**

2. The gender pay gap

The gender pay gap, a key indicator of women’s labour market equality, represents the divergent experiences women have not only in employment but also in education, training, care and other domestic labour, and men’s violence. Longer-term trends show that Scotland’s pay gap in Scotland has narrowed.² However, it is critical to recognise the limitations of headline pay gap statistics. While headline figures can provide a useful snapshot, **the causes of women’s labour market inequality cannot be neatly captured in a single figure such as the gender pay gap.** The headline pay gap figure varies depending on a range of factors, for example, the data that is used, whether the mean or median measurement is used, which workers are included, how many hours they work, and whether overtime pay is included. Importantly, headline figures also mask inequalities such as occupational segregation which results in women’s concentration in low-paid, undervalued “women’s work”, and drives women’s in-work poverty. It also masks the specific experiences of disabled women and racially minoritised women who face wider pay gaps than women as a whole.

Recent media coverage about Scotland’s gender pay gap being the “lowest on record” at 1.7%³ is somewhat misleading because it does not present the full picture. This figure does not include:

- The almost 40% of women who work part-time in Scotland, generally in low-paid jobs, and often on insecure contracts.
- Young women aged 16 and 17 who are penalised by age restrictions around the UK National Living Wage, and are legally only entitled to £5.28 per hour.⁴
- Women who are self-employed, including those in the gig economy, who often juggle more than one job, and are already denied basic employment rights such as access to sick pay, maternity pay and a right to request flexible working.

² *Scotland’s gender pay gap continues to fluctuate as women’s labour market inequalities remain unchallenged* Close the Gap (2023), available at: <https://www.closesthegap.org.uk/news/blog/scotlands-gender-pay-gap-continues-to-fluctuate-as-womens-labour-market-inequalities-remain-unchallenged/>

³ *Gender pay gap lowest on record* (Scottish Government, 4 November 2023), available at: <https://www.gov.scot/news/gender-pay-gap-lowest-on-record/>

⁴ See UK National Minimum Wage Scottish Government rates <https://www.gov.uk/national-minimum-wage-rates>

3. Fair work must also mean fair work for women

The absence of fair work for women manifests in a range of ways in Scotland:

- Women are the **majority of low-paid workers comprising 60% of workers in Scotland earning below the real living wage.**
- **Women are three-quarters (75%) of the part-time workforce** which sees them further concentrated into low paid and insecure work, as most part-time work is found in the lowest paid jobs and sectors, often leading to women working below their skill level.
- Almost **three-quarters of racially minoritised women have experienced racism, discrimination, racial prejudice and or bias in the workplace** in Scotland.⁵
- **Disabled women are more likely to be unemployed, underemployed, and face higher levels of discrimination and harassment, and wider pay gaps.**⁶
- **Women were 79% of Scotland's key workers during Covid-19 but are undervalued, underpaid and under-protected.** Many of these female-dominated key worker jobs, particularly those in social care, childcare and retail, are characterised by low pay, and poor terms and conditions.
- **Women's employment is increasingly precarious, contributing to women's higher levels of in-work poverty.** For example, women account for 55% of employees on zero-hour contracts.
- Women face **gendered barriers to increasing their working hours and earnings such as a lack of flexible working opportunities, including quality part-time work, and the prohibitive cost of childcare.**
- Men's violence and abuse constrains women's labour market participation and their progression, reducing their financial independence.
- **Three-quarters (75%) of women workers report experiencing or witnessing sexual harassment in the last 12 months, but the vast majority (70%) did not report it to their employer.**⁷

4. Scotland's approach to the gender pay gap

The 2019 gender pay gap action plan⁸ was the first cohesive strategic approach to tackling the pay gap in Scotland and included a number of bold and wide-ranging actions. In 2022 Scottish Government subsumed the gender pay gap action plan into a

⁵ Close the Gap (2019) *Still Not Visible: Research on BME women's experiences of employment in Scotland* available at https://www.closesthegap.org.uk/content/resources/1557499847_Still-Not-Visible.pdf

⁶ Close the Gap (2018) *Response to the Scottish Government consultation on increasing the employment of disabled people in the public sector*, available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-Response-to-Consultation-on-Increasing-Employment-of-Disabled-People.pdf>

⁷ Survey data gathered through Close the Gap's Equally Safe at Work employer accreditation programme: Close the Gap (2019) *Guidance for line managers on violence against women and work*, available at: <https://www.equallysafeatwork.scot/resources/ESAW-guidance-for-line-managers-on-VAW-and-work.pdf>

⁸ Scottish Government (2019) *A Fairer Scotland for Women: Scotland's gender pay gap action plan*

refreshed fair work action plan⁹, along with the action plan for the disability employment gap and actions from the anti-racist employment strategy, with the aim of mainstreaming equality in fair work policy. The causes of the pay gap are varied and inter-related, extending far beyond the workplace, and the gender pay gap action plan recognised this. It set out action on critical systemic influencers such as employability programme design, social security, economic development, and violence against women. The fair work action plan, by its nature, is more narrowly focused on the workplace. **The subsummation of the gender pay gap action plan into fair work action plan has resulted in diminished attention on the complex, interrelated causes of the pay gap, and a much more limited range of action to address these causes. Close the Gap has highlighted concerns that there is a substantial risk that this will ultimately mean less progress on women’s labour market equality.**

While the narrative in refreshed fair work action plan is more gendered than its first iteration, the current fair work policy framework and supporting tools do not afford sufficient attention to women’s divergent experiences of employment including the wide-ranging causes of the pay gap. The action plan also commits to an intersectional approach in implementation but there is no information on how this will be operationalised. The current policy framework is therefore unlikely to promote transformational change for women, especially women from marginalised communities, or to enable employers to operationalise fair work for women.

5. What needs to happen

In the current political context, there is significant scope to improve employment law so that women are better able to realise their human rights and gender equality is advanced. Changes are particularly needed around equal pay; flexible working; tackling and preventing sexual harassment; insecure work; gender pay gap reporting; and maternity, paternity and parental leave and pay.

However, **there are a vast range of policy levers in Scotland to address the causes of women’s labour market inequality.** This analysis must not be lost within the fair work agenda, which is more narrowly focused on the workplace. **Action Scottish Government can take now to advance women’s labour equality includes:**

- Building capacity on intersectional gender equality in policy and analytical officials to that policymaking takes account of the experiences of disabled women, racially minoritised women, women who are single parents, women on low incomes, and other marginalised women.
- Recast the gender-blind National Strategy for Economic Transformation to centre women’s economic equality, recognise the care economy, and focus targeted

⁹ Scottish Government (2022) *Fair Work action plan: becoming a leading Fair Work nation by 2025.*

action on improving women's access to skills, fair work, and enterprise opportunities; and integrating a gender analysis in investment decision making.

- Addressing the undervaluation of “women’s work” so that women’s skills are recognised and appropriately remunerated, which is a prerequisite to tackling skills shortages.
- Designating childcare and social care as key sectors in Scotland’s economy, and recognising care as essential social infrastructure.
- Expanding the funded early learning and childcare entitlement to 50 hours a week for all children aged six months and above, so that women can work full-time if they need to or want to.
- Developing gender-sensitive upskilling and reskilling programmes to enable women to acquire green skills, and access green jobs, which are currently starkly male-dominated.
- Addressing the chronic and acute occupational segregation that characterises Scotland’s apprenticeship system.
- Including tackling gender stereotyping and occupational segregation in the framework content for the early learning and childcare graduate apprenticeship.
- Deliver on the commitment to review the public sector duty, and include a requirement for public bodies to develop gender pay gap action plans.
- Develop gender-sensitive employability support that addresses occupational segregation as a core aim, and enables women into flexible work paid at least the real living wage.