

WOMEN'S

PAY:

CLAIMING

EQUAL

VALUE

Labour Research Department

95p

About the Labour Research Department

The Labour Research Department is an independent, trade union based research organisation which exists to supply trade unionists and the labour movement with the information they need. Through its publications and through its enquiry service it provides details on:

- wages and conditions
- the profits of individual companies
- major industries
- health and safety at work
- the economy
- the law at work
- social services
- and many topics in the economy, political and industrial fields.

The new equal value law — a summary

The *Equal Pay Act 1970* gave women the right to claim equal pay with men doing the same, or broadly similar work or whose work had been rated as equal under a job evaluation scheme.

Changes to the Act were brought in following a decision of the European Court which said the UK equal pay law failed to meet European standards because it did not allow a woman to claim equal pay for work of equal value to a man's. The *Equal Pay (Amendment) Regulations 1983* give women this new right.

The term '**equal value**' is nowhere clearly defined in the regulations which say that 'value' can be determined by examining the work done in terms of 'factors' like effort, skill and decision making. 'Effort' includes mental and physical effort; 'skill' looks at the qualifications necessary for the job and length of time taken to acquire them; and 'decision making' covers areas like responsibility for people, cash and so on.

In effect what the law provides is for an evaluation to be made of women's jobs and those of comparable men. This evaluation is carried out by '**independent experts**' specially appointed by industrial tribunals to draw up a report based on the comparisons that a woman might be making. That report then goes to an industrial tribunal which determines whether the work is of 'equal value'.

The regulations additionally provide that a woman can pursue a claim where she can show that an existing job evaluation scheme is discriminatory.

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Introduction

Since January 1984 women workers have had new legal rights to claim equal pay. They arise where work is rated as of 'equal value' when compared with a male worker. These rights exist because regulations enforced by the European Community — the *Equal Pay (Amendment) Regulations 1983* — allow women to claim that their work, in terms of effort or skill, for example, is equal to that of a 'comparable' man, in other words a man working for the same employer, under the same terms and conditions of employment, not necessarily doing the same job.

This booklet has been produced to encourage trade unionists to make use of the opportunities provided by the new legislation to try to reduce existing pay discrimination.

Section one of the booklet explains the current differences between men's and women's earnings and shows how **job segregation** — or the concentration of women and men in different kinds of work, — has frustrated all previous moves towards equal pay.

Section two contains basic guidelines on how to **identify likely areas of unequal pay** and explains the techniques which can be used to compare jobs.

Section three deals with **job evaluation schemes** demonstrating the important role they can play in equal value claims.

Section four explains what the **new law** means and shows the impact that it has had to date.

Section five looks at the situation in **other countries** where greater advances have been made on the question of equal pay for women.

A final section deals with **collective bargaining** for equal pay, giving examples of successful claims and how the union went about negotiating them. Special attention is paid to claims which have a positive impact on women's pay, such as flat rate increases, claims which include higher increases for the lower paid, and abolition of the lowest grade.

Women's pay today

Nearly five million women work full time, and one in every three full time workers is a woman. Yet among full time workers women are far more likely to be low paid. In April 1985 one in every ten women working full time earned less than £75.70 a week. In some occupations earnings were even lower. One in ten hairdressers, for example, earned less than £49.70 a week — the lowest recorded level of pay in the government's statistics, published in the *New Earnings Survey 1985*. (NES)

In the past some people have tried to argue that there were reasons for these low wages. They argued that women were less committed to the workforce than men and that women were less able to do particular jobs because they did not have the physical strength or the necessary skills. These and other claims used to defend continuing inequalities have never been wholly true and certainly have no basis or justification today. New technology, for example, has removed many previous physical barriers to women's equal participation in the workplace. Yet women are still paid well below men.

Despite having shown some real improvements in the early 1970s due to the impact of the *Equal Pay Act*, in 1985 women's gross weekly earnings were only 65.6% of men's.

Many women today still work in what have traditionally been defined as low paying jobs although evidence suggests that these are low paid precisely because they are mainly filled by women. These jobs traditionally filled by women have been devalued to make the work, by definition, low paid — teaching, nursing, caring and cleaning are examples.

Job segregation

One of the main reasons why women's earnings have been allowed to remain so low is because they are often concentrated in particular industries or jobs. This job segregation helps to keep women's earnings low. The absence of men in particular jobs or grades previously meant no direct comparisons could be drawn with women seeking to claim equal pay. Unfortunately the impact of the *Equal Pay Act 1970* had been to encourage job segregation as employers reorganised their workforces to avoid equal pay. Because of this the government was forced by the European Court to introduce amending legislation which made the *Equal Pay Act 1970* more effective. Pages 18-26 show that this new legislation may be beginning to have some impact on existing wage discrimination although progress up until now has been slow.

The *New Earnings Survey (NES)* publishes government statistics on average earnings based on samples of workers in individual occupations or industries. Of the 46 occupations where there is a significant number (that is at least 10,000) of women workers, 18 could not be compared on the basis of male and female earnings because the sample size of men in these occupations was too small. There were simply too few men in these jobs for a direct comparison to be made. All 18 of these jobs had more than 30% of women workers on less than £110 a week — the TUC definition of low pay.

Table 1 Distribution of weekly income — more than 30% of the workforce (female jobs only) on less than £110 a week.

Secretaries, shorthand typists	32.4	% on low pay (female jobs only)
Key punch operators	42.2	
Telephonists	50.0	
Other machine operators	56.9	
Other typists	57.8	
Calculating machine operators	60.3	
Catering supervisors	63.7	
Hospital ward orderlies	65.4	
Nursing auxiliaries and assistants	68.0	
Receptionists	78.6	
Home helps and domestics	81.8	
Sewing machinists (textiles)	82.4	
Counterhands	82.7	
Kitchenhands	88.1	
Saleswomen	88.8	
Waitresses	90.4	
Hairdressers	92.3	
Retail shop check out etc operators	93.5	

Source NES Table 93

In 32 of the 46 jobs women make up the majority of workers. Nearly three out of every four women are in this position but it has not served to improve their pay status. In every instance they earn less than men in the same occupation.

There are 2,730,101 women, 59% of all full time working women, who work in industries where they are the majority of the workforce. Average earnings in these industries range from £74.20 a week in hairdressing to £145.10 a week in banking and finance. The average for all industries where more than half the workforce is female is £104.40 a week. Average earnings for manual and non-manual women workers are:

	Industries employing mainly women	All industries
Manual women	£90.02	£101.30
Non-manual women	£118.85	£133.80

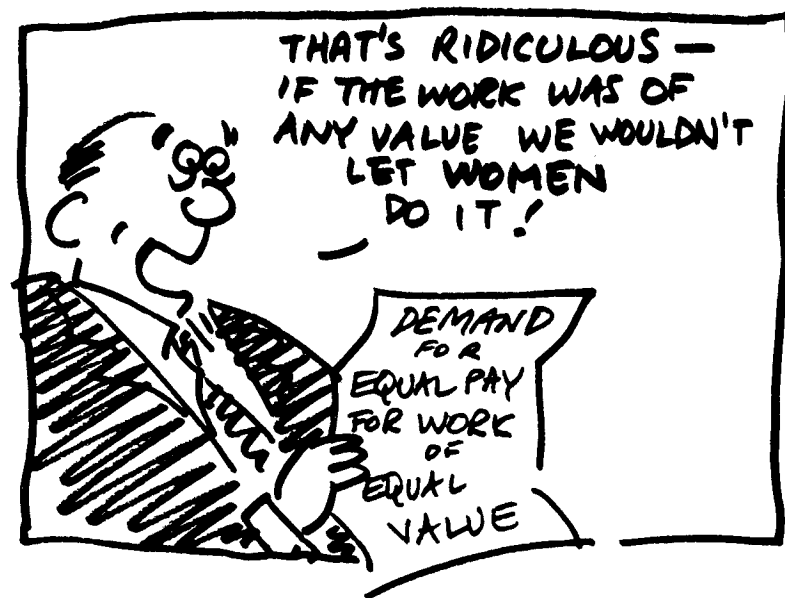
These figures show that job segregation of women in specific industries has a substantial impact on their earnings.

However even when men and women work in the same job in the same industry pay differentials still exist. A male clerk in the metal industry earned an average of £161.20 a week in 1985. The average for women clerks in the same industry was only £118.80. Similar differences in earnings arise wherever it is possible to make direct comparisons (see figures on page 5).

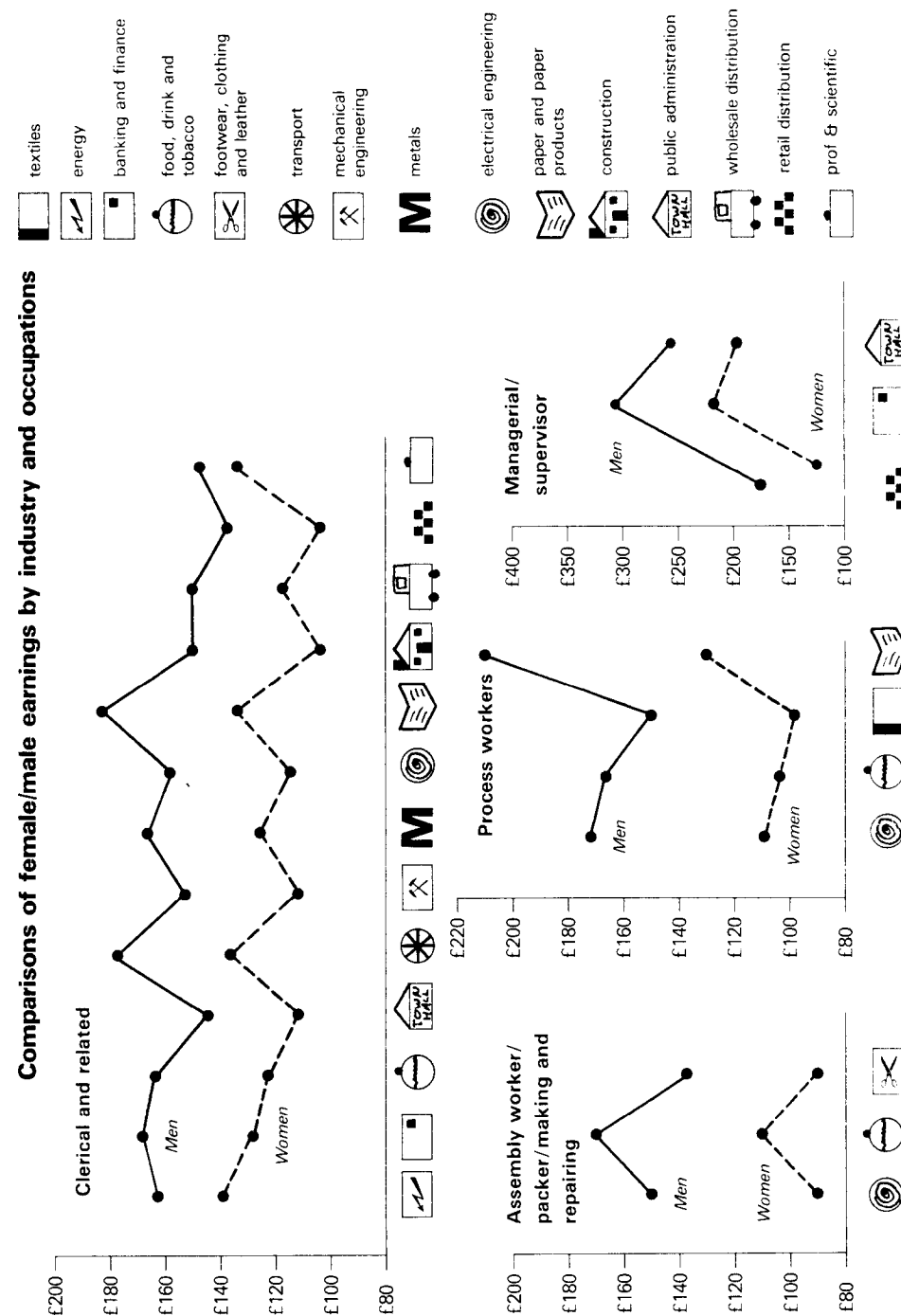
These pay differences arise because jobs are often described by characteristics which suggest they are only suited to men. Physical strength is a common example. Cynthia Cockburn, who carried out a survey of jobs and the ways segregation can arise, wrote in a bulletin of the Equal Opportunities Commission:

"Many jobs are described as having a component within them ('cleaning out the boiler', 'lifting the equipment', 'travelling alone at night') that it was felt inappropriate to ask or expect women to do."

Technology as a factor in occupational segregation EOC Research Bulletin No. 9 Spring 1985

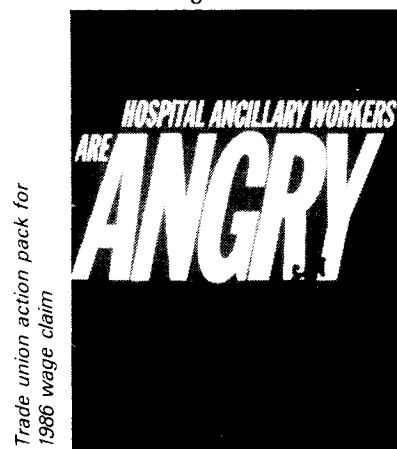


Comparisons of female/male earnings by industry and occupations



Another way pay differences between men and women can arise is through existing grading structures which concentrate women workers in the lowest grades or define the work that women do as low grade. There are a number of examples which illustrate this.

A recent study at the **Wellcome Foundation** jointly carried out by the employers and the union, ASTMS, looked at two workplace locations. At Deptford 45% of the manual workers were women but only 10% of women were in skilled jobs in comparison to 38% of men. At the second site in Beckenham 36% of the laboratory staff were women but 60% were on grade 6 or below as against 39% of men. Only 12% of women were on grade 10 or above as against 31% of men. On average women earned less than men on the same grade.



In **local government** a similar trend was revealed. Among manual jobs it is the male jobs like refuse collector which are on the higher grade (E) while female cleaners were on lower grades (A or B). The 1985 pay claim (see page 32) was successful in securing abolition of grades A and B. Among **NHS ancillary workers** 75% of women full time workers are on the bottom three grades, as are 90% of part time workers.

Within the **National Bus Company** four out of every five women covered by the non-manual agreement are on grade 4 or below as opposed to only one in four men. While more than 70% of males are on higher grades 8 – 25 only 10% of females are. There are no women at all on grades 24 and 25. Of the 4,000 workers who are on a basic rate of less than the TUC recommended minimum 75% are women. (NALGO *Public Service* Feb 1985)

There are hundreds of similar examples of such inequalities. Other studies, like those of **BBC workers** (the Sims Report) and workers in **New Towns** (see page 9) all confirm that the grading pattern serves to discriminate and this is why job evaluation has an important role to play in winning equal pay (see pages 14-17).

The hours that women work

Although in general women work fewer hours than men, this fact alone does not account for the differences in pay.

Part time workers

Nine out of every ten part time workers are women; in all nearly four million women work part time. An analysis of hourly rates shows that part time work is poorly paid:

	Average hourly rate
part time worker (female)	£2.43
woman full time worker	£3.32
male full time worker	£4.49

Almost three quarters of all part time workers earned less than the TUC recommended minimum of £2.60 an hour. Many of these were women with children and on average they worked 19.6 hours a week.

A major government survey, *Women in Employment — a life time perspective*, found that the main reason why women worked part time was the presence of dependent children and particularly the age of the youngest child.

Having children forces many women, not only to work part time, but to work unsociable hours. The survey found that 38% of mothers of children under five worked in the evenings and 6% at night.

Part time women workers are concentrated within fewer occupations than are their full time equivalents. The *NES* lists just 22 occupations for part time women workers compared to 46 full time female occupations. Just five of these occupations account for 41% of the part time workers covered by the *NES*. These are:

	Part-time average hourly earnings (full time)
Registered and enrolled nurses, midwives	£3.93 (£3.43)
General clerks	£2.64 (£2.98)
Saleswomen, shop assistants, shelf fillers	£2.15 (£2.88)
Home and domestic helpers, maids	£2.21 (£2.48)
Other cleaners	£2.13 (£2.35)

Average gross hourly earnings for these women are low. Except for registered and enrolled nurses, midwives, the hourly rate is, on the other jobs listed, lower for part time women than for full time women workers. (The full time rate is shown in brackets). Part time workers therefore experience even greater levels of pay discrimination.

A study for the Department of Employment — *Part Time Employment and Sex Discrimination Legislation in Great Britain* — found that the main explanation for the lower rate of earnings for part timers was their greater concentration in the lowest paid jobs.

LRD is not aware of any equal value claims which have involved part time employees but there should be nothing to prevent an equal value claim being pursued.

It should be possible to use the same methods of comparison, looking at skill, responsibility, decision making to compare a part time job with a full time male equivalent. Anyone seeking to pursue such a claim would need to argue that the jobs should be compared on the basis of the hourly rate paid and ignoring the mere difference in the hours worked.

Part time workers of course experience other forms of discrimination — in holiday entitlement, job security and in matters like maternity leave and other statutory employment rights which are based on service and hours worked. LRD's booklet on *Part Time Workers* deals with all of these issues in greater detail.

Even where women work full time on the same basic hours and in the same job as men they still experience pay discrimination, usually because their jobs are lower graded.

Of those occupations where both women and men form significant parts of the workforce, there are 10 where women work the same basic hours as men yet all receive a lower hourly/weekly rate of pay. These are shown on the table below.

Table 2 Occupations with same basic hours yet showing pay differentials

occupation	earnings		
	female	male	
Teachers in establishments of further education	£213.4	£251.60	(weekly)
Secondary teachers	181.50	209.50	"
Primary teachers	178.30	203.60	"
Other teachers	170.20	211.60	"
Nursing administrators	171.00	201.60	"
Managers dept stores	185.60	196.60	"
Finance & ins clerks	3.53	4.63	(hourly)
Sales supervisors	3.85	4.63	"
Police	5.41	5.92	"
Storekeepers	2.58	3.07	"

Source: Tables 8,9 NES 1985

In the case of one other occupation, inspectors and testers, women actually work a longer basic week than men — 38.9 hours as compared to 38.7 hours but they still have a lower hourly rate, £2.96 compared with £4.00 for their male counterparts.

In all occupations women's basic hours were 36.5 a week compared with 38.2 for men. Taking overtime into account women worked 89% of the hours of men for 66% of their pay.

Has the picture changed?

The past ten years has seen little progress in ending pay discrimination against women. In 1975 women made up 29% of the full time workforce, today they represent 31%, largely as a result of the growth in non-manual work.

In 1975 women's average gross hourly earnings were 72.1% of men's including overtime. Today they stand at 74%, an insignificant change particularly when it is realised that by 1977 they had reached 75.5%. Gross weekly earnings for women were 61.5% of men's in 1975 and today they stand at just 64.6%. In 1975 55% of women workers earned less than the then TUC recommended minimum wage, Ten years later the figure stands at 45%. While this shows some improvement it is still the case that nearly one in two women works full time for less than a minimum wage.

Identifying unequal pay

The *Equal Pay Act 1970* was introduced to eliminate differences between women's and men's earnings. Mainly through the success of collective bargaining which was encouraged by the Act some real improvements did take place between 1970 and 1975, the year when the Act actually came into force. Women's gross hourly earnings, which had been only 63.1% of men's in 1970, reached 72.1% by 1975. Since that time, however, there has been little further improvement and women's average gross hourly earnings now stand at 74%, down from their peak of 75.5% in 1977.

The *Equal Pay (Amendment) Regulations 1983* were introduced in an attempt to remedy the clear defects in the existing legislation. They allow women, for the first time, to use the law to compare their jobs with those of men doing different work. Their introduction gives new opportunities to take up the question of equal pay and in particular to equate different jobs which demand different skills but are of equal value. To do this it is necessary first to identify areas of inequality within the workplace.

Profiling the workplace

In many workplaces women and men are employed in different jobs, or sometimes on different grades. Women may often, as in the examples listed on pages 4-6, occupy the lowest grading or be employed only within particular departments where the opportunity to earn the same as men is limited because of the way that shift, bonus or other payments apply.

For this reason it is useful to begin by drawing up a profile of your workplace. The profile should show all the female and male workers, their numbers and their grades. It will probably look something like the example given below.

National New Towns

	Women	Men
Chief officers	1	81
Upper salary range	11	509
Grade 9	31	475
Grades 5-8	395	1,778
Grade 2 (lowest grade)	591	103

Source — Public Service August 1985



If your survey shows that women workers are:

- grouped within a few grades;
- not represented throughout all grades;
- work only in some departments;

then it is likely that there is pay discrimination.

The other comparison to be made is on the basis of earnings. There may still be pay discrimination in your workplace even if women appear to be represented throughout the grading structure. Many additional payments affect gross hourly earnings in a way which can discriminate against women. These include:

- bonus payments attached to particular jobs;
- shift payments;
- allowances for heavy/dirty jobs;
- overtime payments.

Women workers can be affected by these because their working patterns may differ from men's. Often, for example, it is more difficult for women to work overtime because domestic commitments limit the amount of time they can spend at work. If low wages have traditionally been supplemented by large amounts of overtime then women, unable to benefit from this are being forced to survive on levels of pay which are unacceptable to men. Reducing the amount of overtime worked and ensuring that the basic rate is set at an acceptable level is one way of moving towards equal pay.

Trade unionists have often negotiated compensation for difficult or unpleasant work. Dirty work payments and allowances for bad weather for example are a regular feature in many collective agreements. While it is right that workers should be compensated through these payments the type of work that women members tend to do may also justify additional payments. For example many women are employed on repetitive assembly line work or work which requires dexterity — allowances could be claimed for both these factors. Shift payments often apply for unsocial hours worked. It could be argued that one of the most unsocial shift patterns is the twilight shift, almost exclusively worked by women. Women typists need special qualifications to do their job and some workplaces do offer proficiency allowances for those who have particular speeds. Workplaces where these have been negotiated include:

Employer	Allowance
Thompson holidays (secretarial supplement)	Grade C no supplement Grade D up to £261pa (clerk/typist) Grade E up to £996pa (sec) Grade F up to £1,921pa (sen. sec)
Post Office (typists)	Min scale £111.15 a week Max for standard typing or word processor op. £125.41 a week Max for one of typing/word processing/audio/ shorthand £134.33 Max for typing or word processing plus shorthand or audio £148.90
Co-operative insurance Civil Service	Word processor operator £3.00 a week Typing proficiency £372 class B £558 class A Specialist typing allowance £372-£1116 Dual key board allowance rises to £186pa

Training is also crucial. Women are often in the lowest grades within a workplace because they have had no access to the skills needed to obtain a higher graded job. Looking at the apprenticeship entry scheme is therefore a good way to begin to examine workplace training facilities.

In 1984 69,100 men began apprenticeships in industry while only 4,100 women had the same opportunity. While 1.8% of all young male workers got apprenticeships, the figure for young women workers was only 0.3%. In fact there are only two industries — motor vehicles (1.1%) and other transport equipment (1.8%) — where more than 1% of young women workers have access to apprenticeships.

At **Thorn Ericsson** Senior Shop Steward Heather Thompson, successfully submitted a claim for electronics training for semi skilled workers as part of the annual pay claim. As a result a number of women semi-skilled workers have now completed the necessary training leading to higher paid jobs.

The value employers place on the training of women employees is illustrated by the fact that the greatest area of employer expenditure on training is on management staff training. Almost all employers provide it (97% according to a survey undertaken by the Industrial Society) and in 62% of cases it accounts for more than one fifth of total training expenditure. Training for manual workers and for lower graded clerical staff rarely amounts to a fifth of the training budget. Women are clearly affected by a policy which favours managerial, and therefore almost inevitably, male jobs.

Since the *Equal Pay Act 1970* allows for some positive discrimination in training this is an area which should be explored when looking at ways to promote equality.

Comparing jobs

Women can only pursue claims for equal pay for work of equal value if it can be shown that their jobs are of equal value to those of comparable males. New rules allow, for the first time, the opportunity to compare jobs that traditionally have been seen as being too dissimilar to not merit comparison.

By taking job descriptions and breaking down the components of a woman's job still further it may be possible to make comparisons with male jobs which are different but, in the eyes of women workers, of equal value. Julie Hayward, assistant cook at **Cammell Laird**, did this. The comparison between her job and that of a joiner was as follows:

Comparing jobs

Assistant cook

Responsibility for cash/assets

No normal responsibility for cash and assets. Very occasionally deputises for Canteen Assistant and takes cash from customers for sale of items.

Discretion/initiative

Menu posted up every six weeks. The job requires several days' planning ahead, choosing ingredients etc. Supervisor orders food, joint discussion in case of shortages. Once ingredients are in canteen it is left to Julie Hayward to decide on method of cooking. Uses no recipe book. Uses skill and training in cooking. Presentation left to her. New ways of doing things up to her.

Joiner

No responsibility for cash

Works under Chargehand no forward planning. Given tasks on day and carried them out immediately. He says he has very little discretion.

Numeracy

Needs to be able to weigh, measure, calculate quantities required.

Heavy lifting

Has to lift 50lb bags of flour. The cooking pans are 30-40lbs when empty and considerably more when full. Not only are they heavy but full of boiling material and need particular care.

Physical hazards

Cooking in the kitchen requires dealing with boiling materials, heat, dust, congestion, sharp tools. The working conditions are such that employees have to take salt tablets and water tablets to stop fainting.

Safety of others

To take care of the quality of food to avoid food poisoning. Trained by the Institute of Health and Hygiene. Responsibility for trainees for their safety.

Hazards

Use of oven cleaning spray. Has to be careful of heat, spills, etc; a qualification to take first aid course.

Some numeracy skills needed for work

Bench work is relatively light and Joiner is assisted by a Labourer and wood machinist. If Joiner is on rig there is a mixture of heavy and light work.

Main hazard arises from proximity to other workers such as welders. Also use of sharp tools. Previous use of fibre glass panels and asbestos on occasions. Workshop not dangerous.

Good housekeeping everyone's responsibilities. No special responsibility for safety of others.

Hazards of work vary. Some hazards e.g. off cut of metal panels.

This breakdown of comparable factors shows that it is possible to take two seemingly very different jobs which traditionally have had a very different value in terms of pay and to show that they are of equal worth. In many workplaces it will be possible to show a similar breakdown of jobs. Carrying out such a comparison will help you identify the jobs where claims for equal pay for work of equal value can be taken up.

At the **Trustee Bank** the union committee has agreed to conduct a thorough comparison of a range of jobs to be used initially to negotiate increases, if necessary, backed up by tribunal cases.

Using the examples of cases that have already been successful either through the tribunals or in negotiation (see pages 38-41 tables 5,6) it is possible to see the kind of comparisons that can be made and the pay gains which can be achieved. The table below, using average earnings from the 1985 *NES*, shows what the current difference in pay is between jobs that have now been rated as of equal value.

Table 3 Jobs already successfully compared

Comparison		Pay difference	
female		male	
Cook (£96.40)	v	Joiner (£153.30)	£56.90
Packer (£105.90)	v	Gen. labourer (£134.00)	£28.10
Data processing clerk (£121.00)	v	Machine operator (£171.00)	£50.00
General clerk (£111.80)	v	Warehouse porter (£142.00)	£30.20

Job evaluation and equal pay

Why job evaluation is important

Job evaluation is a method used by management to determine pay levels. By comparing jobs or 'job factors' (that is the elements of a particular job) a scoring is recorded to determine the job's position within the overall pay structure. Job evaluation is neither scientific nor objective. It very often preserves the status quo by seeming to give value to tasks or jobs based on already accepted standards and levels of remuneration.

However, job evaluation can be a component of the new equal value law and there is evidence that employers are keen to introduce job evaluation to avoid the law. For this reason trade unionists need to be carefully informed to enable them to take best advantage of those opportunities which it does present.

Historically fewer women than men have had their jobs evaluated according to established job evaluation principles. The survey, *Workplace Industrial Relations in Britain*, which looked at workplaces employing more than 1,000 people, found that where less than 30% of the workforce was female, there was a job evaluation scheme in two thirds of the cases. Where more than 70% was female, on the other hand, the proportion fell to a quarter. This is changing, however, and it is likely that in the future a much larger proportion of women workers will find that their grading has been defined according to a job evaluation scheme (JES).

The 1984 report of the Advisory, Conciliation and Arbitration Services (ACAS) recognised that the 1983 equal value regulations had led to a growing employer interest in JES. In other words because, under the regulations, employers can show, as a defence to an equal value claim, that a JES exists (see page 24) they are more keen to introduce JES to try to block equal value claims. Because of this trade unionists must be aware of some of the dangers of JES to avoid major pitfalls.

In particular the very existence of a JES can debar a woman from taking her claim for equal pay for work of equal value to a tribunal. The sewing machinists at **Ford** discovered this in 1984. There was a JES in operation (the Urwick scheme) and the fact that the women could not show that it was discriminatory meant that they had no grounds for an equal pay for work of equal value claim through the industrial tribunal. A later enquiry set up by ACAS did show

that the women had been incorrectly graded and since this was accepted by management their grievance was resolved.

A more important point to note is that the equal value regulations allow new ways of ranking jobs as a method of assessing the value of both women's jobs and their male comparators. At the same time the regulations force employers to re-examine differentials and to justify pay differences. In this way they allow women to pose radical questions about the value of the work that they do like caring, using patience, dealing with angry/drunk customers, and so on. Job evaluation therefore becomes central to any claim for equal pay for work of equal value. In fact it is the only method a woman can successfully use to claim equal pay with a man doing a different job.



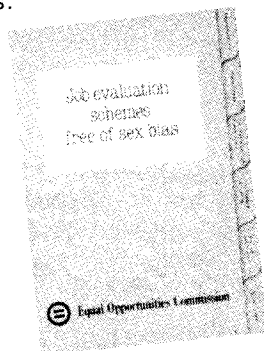
Drawbacks of job evaluation

Firstly it must again be stressed that job evaluation is not in any way scientific. But more than this, in questions of pay discrimination, job evaluation can actually contribute to inequalities in pay. Robert M Madigan writing in the journal *Equal Opportunities International* shows how this can happen:

"Results of two investigations indicate that even under carefully controlled conditions job evaluation results are highly susceptible to random and systematic errors on the part of evaluators, and are apt to vary significantly from the concept of worth underlying the evaluation plan. Moreover the choice of evaluation instruments or the choice of scoring procedure for a particular instrument can have a major impact on results. Consequently the feasibility of using job evaluation results as the governing criterion of the relative worth of jobs is highly questionable." (*Comparable worth measurement: are job evaluation measures adequate* Vol 4 No 4 1985)

In other words there will always be a tendency to evaluate women's jobs at a lower level than men's because that is how their value is generally perceived. A good example of how this occurs is shown in the way jobs are described. The same job done by a woman may have a different title when done by a man and this alone may be enough to support misconceptions about the nature and value of the job being done. The Equal Opportunities Commission in its booklet *Job Evaluation Schemes Free of Sex Bias* gives some good examples of how this can occur, quoting the following job titles:

Men are:	Women are:
salesmen	shop assistants
assistant managers	manager's assistants
technicians	operators
office managers	typing supervisors
tailors	seamstresses
personal assistants	secretaries
administrators	cooks
chefs	



A discussion with your colleagues will quickly show that most accept that, for example, chefs should be paid more than cooks or the assistant manager more than the manager's assistant. The job title is therefore important, and the first test in any workplace should be to make sure that job titles do not reflect a sex bias which in turn will lead to unequal pay.

Drawing up a bias-free scheme

If your employer is about to introduce JES, or if an existing scheme is in the process of renegotiation then there are a number of points which it is important to establish in order to create the best possible framework for equal pay. The main rules to follow are:

- Use an **in-house scheme**. An in-house scheme always offers more scope for manoeuvre than an outside pre-packaged scheme. Many outside schemes, particularly those marketed by management consultants like Inbucon, Urwick Orr and PA, are open to bias, especially if based on whole job comparisons. The EOC says these schemes are "particularly prone to sex discrimination because where whole jobs are being compared judgements made by the evaluators can have little standard basis other than the traditional value of the job." Under whole job comparisons the job is not looked at on the basis of different 'factors' like skill, responsibility and so on, but is compared as a whole one job with another.
- **Involve women workers** in the evaluation panel. In too many instances these panels consist solely of men and therefore cannot reflect the complexities of the work performed by women workers. It is not enough, however, just to invite women on to the evaluation panel. The panel itself needs to be organised in such a way that women can play their full part in it. This means that meetings should

be in working hours only; where part time workers are employed meetings within their working hours are essential; there should be time, within working hours, to prepare or consult on all the necessary paper work. These basic requirements, of course are essential for all workers, male as well as female, but too often male workers, particularly if they are involved in union activities, are more ready to accept that meetings should take place, or continue, after working hours. Free from major domestic responsibilities this may be feasible for them but in practice it inevitably means that most women are excluded from participation.

- **Choose bench mark jobs** very carefully. These are the jobs upon which comparisons are based. They must always include a proportionate spread of women's jobs. Without this the criteria for evaluation will always be based on the existing and accepted valuation of the jobs.
- **Involve workers** in writing their own **job descriptions**. It is important that, when evaluating jobs, the descriptions should be the employee's own. Before this, information needs to be produced and distributed explaining how job descriptions should be drawn up. Many workers, especially low paid women workers, will tend to devalue their own jobs. Talking to each job holder and explaining the importance of detailing all aspects of the job may help to avoid this.
- If the **JES is analytical** — that is if it analyses jobs on the basis of skill, responsibility etc — check that it includes factors which also favour women's jobs. Many schemes give points, for example, for factors such as heavy lifting, poor conditions and so on. These factors give added value to the kind of jobs filled by men. Women too do heavy/dirty work but possibly in a different way. It has been estimated, for example, that women cashiers lift two tons in a day, and jobs like fish and chicken gutting (usually done by women) can hardly be regarded as clean jobs. Factors which could be used to reflect women's job worth include: manual dexterity, caring functions, effect of absence on the job, accuracy and sustained concentration.
- Recognise **equivalent factors** for female/male jobs. For example responsibility for cash is often a factor used — check whether it can be equated with responsibility for people (eg company nurse). Is one as equal as the other? Poor working conditions is another example. For male workers this usually means working in cold, wet or dirty conditions. What about women working in confined spaces, with restricted body movement, using magnifying equipment and enduring noise from office machinery — these too could equally be described as poor working conditions.

Job evaluation, when carried out adopting the above criteria, can however, be successful as workers at **Welch Margetson** discovered. In 1985 a job evaluation exercise led to changes in the clerical grading structure. As a result the women clericals were given an additional award of 7.1% to 9.0% over and above the annual pay settlement of 6%. They also won improvements in conditions — an improved sick pay scheme, an additional day's holiday, a reduction in service holiday qualifying periods and improved overtime rates.

Using the law to claim equal pay

The *Equal Pay Act 1970* gave women the right to claim equal pay if the work being done was:

- the same or broadly similar; or
- work rated as being equal to a man's under a job evaluation scheme.

The comparison had to be with a man working for the same employer.

When the Act first came into force it was thought it would help to end the pay differences between women and men. In the first few years women were enthusiastic in bringing cases to tribunals as the table shows.

Table 4 Tribunal cases 1976 — 1984

1976	1742	1981	54
1977	751	1982	39
1978	343	1983	35
1979	263	1984	70
1980	91		

Source: Department of Employment Gazette

Women won some important victories. Tribunals ruled that:

- in looking at a claim that work is 'broadly similar', tribunals can take account not just of the strict interpretation of what the contract of employment says a woman is to do, but what she does in practice;
- the mere fact that a woman works at a **different time** of the day to a man is not in itself a justification for a difference in pay;
- women can claim equal pay with **male predecessors** in a job, where the men were paid more; equally a woman can claim equal pay if a male appointed to her job after she has left is paid at a higher rate;
- workplace **pension schemes** which are open only to men are contrary to the Act, since payments by an employer into a pension fund are part of pay;
- a requirement that women should **retire at an earlier age** to men is also discriminatory; a recent ruling of the European Court says that this would be contrary to community law guaranteeing equal treatment in employment;
- **travel concessions** on retirement available only to male employees are discriminatory.

In general however the Act had less impact than had been hoped,

mainly because of the difficulties job segregation caused to women trying to find men doing "the same or broadly similar" work (see pages 2-6).

As a result the number of cases taken to tribunals went down from 1,742 applications (709 cases heard) in 1976 to 39 applications in 1982 (13 cases heard) with the number of successful cases dropping from 213 in 1976 to 2 in 1982.

The pay differences between women and men highlighted by equal value claims are very large. Women at **Shorts Brothers** in Northern Ireland are earning approximately £40 a week less, and women in the **Northern Ireland Electricity Board** (where the union is pursuing an equal value claim) earn £60 a week less. (Tables 5 and 6 pages 38-41 give information where available on current pay differences).

Under the *Equal Pay Act* increases obtained tended to be lower than these new sums now being claimed. Latest figures from the Department of Employment suggest that the tribunals have been awarding increases in the range of £10-£12 a week. As more 'equal value' cases are decided upon in the tribunals the likelihood is that the sums awarded will be much larger.



Women at **Shorts**, Northern Ireland, who are claiming equal pay. Belfast Telegraph

The change to the *Equal Pay Act* brought in by government regulations which have applied since 1 January 1984 gives women additional rights to claim where:

- the work is rated by a tribunal as being of 'equal value'; or
- where a job evaluation scheme (JES) is in force which has not rated the jobs equally but where the woman can show that the JES was discriminatory.

Jobs can be rated as of equal value where the demands made on the woman — for example the effort needed for the job, the skill requirements, or decision making — are equal to those of the man. The law allows for a job evaluation exercise to compare the woman's job with the job of the man she claims as a comparison. An independent expert appointed by the tribunal (see below) will assess the job on the basis of a number of factors — such as responsibility, skill, initiative/independent action, mental effort, physical effort/dexterity, and working conditions — scoring the women and any male comparators on a scale of low/moderate/equal/high.

However even if the tribunal finds that the two jobs are of equal value, this does not mean that they must be paid the same. The employer is able to use the defence that the difference between the pay of a man and a woman is "genuinely due to a **material factor**". If employers can prove this they are not obliged to pay the same to the woman as to the man.

The "material factor" defence, which the employer can also try to use before the expert's report is commissioned, is a major weakness in the new legislation. The wording of the regulations does not make

Taking a case to a tribunal

To take a tribunal case you need to fill in form IT1 available from offices of the Department of Employment. When completed this is sent to the office of the industrial tribunals and a tribunal will first decide if there is a case to be made. This is called a preliminary hearing. The claim must be submitted while still working at the job or within six months of leaving.

If the tribunal finds that there is absolutely no basis for the claim it will rule it out of order. However, if there are grounds on which there appears to be a claim then the tribunal will, in equal value cases, commission a report from an **independent expert**. These experts are drawn from a panel of 15 nominated by ACAS, a government advisory service. They have the power to call for documents from the parties involved, including the employer. But they have no right to enter the workplace if the employer objects. When they have completed their work they must send a summary of it to both parties, and a brief account of the responses they receive must be included in their final report to the industrial tribunal. This must also contain their assessment as to whether the work is of equal value or an explanation as to why they could reach no conclusion.

The tribunal is not obliged to agree with the conclusions of the expert. It can call the expert in for cross-examination and each side can also present one other expert witness to back up its case.

it clear how a "material factor" is to be defined, but the government intends it to have a wider scope than the "material difference" defence possible in other equal pay cases. This allowed employers to avoid paying equal pay if they could prove that there was some "material difference" between the individual man and individual woman such as merit payments, red-circling, (i.e. protecting previous earning potential), longer hours, and so on etc. Despite this deficiency the employer still has to show that the "difference" is genuine and that it accounts for the whole of the pay differences. When these can be as high as £50-60pw it is difficult to see how an employer could justify it using the "material difference" defence. Employers may often try to hide behind the collective agreement to explain pay differences but remember that the law puts the burden on the employer to prove that there is a difference. The government minister who introduced the regulations gave examples of 'skill shortages or other market forces' as "material factors".

Until now (March 1986) this "material factor" defence had hardly been used by employers. Indeed in the Julie Hayward case (see page 22) employers **Cammell Laird** had, at the preliminary hearing, specifically said that this defence would not be raised. But the situation may be changing. In the **Beecham's** case (see page 22) the company has already given the tribunal advance notice that it will seek to use this defence once the independent expert has reported.

The logical extension of the market forces argument is that because market forces mean a woman works for less money than a man an employer should not have to pay them equally. However, if the tribunals accept this sort of "material factor" as a defence it is hard to see how they will ever achieve the equal pay the legislation is supposed to encourage.

The introduction of the new regulations has allowed workers to raise the issue of equal pay in a new way. The table on pages 38-40 shows some of the cases that are being brought forward and shows how the changes have allowed women to make comparisons with jobs that traditionally have been viewed as very different. Assistant cooks have been successfully compared with skilled manual workers; packers with labourers, and clerks with machine operators. This is reflected in the number of claims being taken to the tribunal — 70 in 1984 compared to 35 in 1983 and as table 5 suggests the numbers claiming in 1985 will be significantly higher. In the first three months of 1985 65 applications were submitted to the tribunals. The **Department of Employment Gazette** for February 1986 says the increase "may be attributed partly to the new equal value provisions." In fact there could be as many as 500 claims still in preparation waiting to reach the tribunals.

The new regulations also allow workers to obtain information from management about existing grading structures and the nature of any JES in operation.

Workers can ask to see any documents they believe are relevant to the equal value claim. Although Marion Leverton, a nursery nurse, lost her claim for equal value because a tribunal ruled that the individuals she was comparing herself to were not employed by the same employer (**Clwyd County Council**), she did have the right to go to a court and demand to see any documentation her employer might have on the comparisons she was trying to make. Ms Leverton is now appealing to the Employment Appeals Tribunal (EAT) on the grounds that the tribunal decision that her comparators were not in the same employment was wrong.

Taking a claim

If it is decided that the best way of obtaining equal pay is through the tribunal there are some basic rules that should be followed to give the best chance of success:

- if possible claim both on the grounds of 'like work' (the original equal pay grounds) as well as on 'equal value';
- select the comparator jobs (the male jobs to be compared) using as **many or as few comparators** as you think appropriate;

Women workers at **Beecham's Proprietaries** in Liverpool have taken a claim for equal pay for work of equal value to a tribunal naming three different male comparators. They said that their jobs were equal to the men's in terms of skill and knowledge, planning and decision making, use of tools and equipment, mental and physical effort and supervisory responsibilities. At the preliminary hearing the employers tried to argue that the women could only compare their jobs with one male. The tribunal disagreed. It said that "multiple comparators were properly permissible" provided that they were chosen sensibly and not excessive in number. (*Langley and 14 others v Beecham Proprietaries* EQP 2321/85, 2335/85).

- if there are any **differences between the jobs** selected, in terms of the hours worked or holiday entitlement, for example,
- try to select those comparators with the least differences;

Cammell Laird, employers of Julie Hayward who won her claim for equal value at a tribunal in October 1984, returned to the tribunal to claim that there was no obligation on them to pay the same basic wage and overtime rates as the men whose work was of equal value because, considered as a whole, her terms and conditions were not less favourable. Cammell Laird's action has meant that Ms Hayward has been forced to appeal to the EAT in an attempt to secure her entitlement to payment on the basis of the tribunal's original decision on equal pay. The EAT hearing was on 5 March 1986 when the tribunal decided to reserve its findings and report them at a later stage. (*Hayward v Cammell Laird* 5979/84).

Women fishpackers at **Cawoods** lost their claim for equal pay because the tribunal found that training, working conditions and requirements for judgment were different.

- the law allows you to **change the names of your male comparators** before the preliminary hearing of the industrial tribunal. If you believe a better comparison could be made do not hesitate to do this;

In the **Beechams'** case (see above) the women asked for leave from the tribunal to withdraw one comparator leaving them with two comparators only. The tribunal said they were entitled to do so.

- remember that a woman claiming equal pay for work of equal value does not have to work in a **female only group**, so long as females predominate within the group of workers that is enough to allow the equal pay claim to be advanced;

However, women employed by **Freemans, Peterborough**, lost their claim for equal pay for work of equal value because the employer argued that there were men employed on the same work as the women. The tribunal's view was that an equal value claim could only be proceeded with if the women had already shown that there were no individual employees on like work. This point is to be clarified in a higher court and the TGWU together with the EOC will be appealing to the EAT. (*Pickstone and others v Freemans* 28811/84).

- make sure that the woman's **job descriptions** and those of the male comparators are of **similar length**. Tribunals tend to be influenced by longer descriptions which can imply that the work is of greater value. Working Time Analysts, a consultancy which has advised the Equal Opportunities Commission on equal value cases, in its report on *Management Consultants and Equal Value Cases* gives one example of two job descriptions — the woman's being barely one page long whereas her comparator's was nearly four pages long;
- where possible, a **woman union representative** should be in charge of the case;
- do not allow the employer to **shift the focus of attention** from the named comparator to a wider group of male workers. The law allows the woman to choose whichever male she wishes to make the comparison with and employers should not be able to argue against this comparison by claiming that the male chosen was not representative of other male employees.

If the claim is based on evidence that the JES in operation is discriminatory this may be proved if:

- a significant number of female jobs were **excluded** from the evaluation process;
- the factors were **wrongly weighted**;

- some factors favourable to women were excluded; or
- the scheme was outdated.

But remember that in an equal pay claim based on this the burden of proving that the scheme is discriminatory falls on the woman making the claim, as the **Ford** machinists' case shows. Under a JES they had been rated as lower than male Eastmen Cutters with whom they claimed comparison. For 15 years they had argued that they were wrongly graded but the *Equal Pay Act* did not allow them the grounds to take a claim forward because they were not doing 'like work'. When the new regulations came in they submitted a fresh claim to a tribunal but again they were ruled against because the tribunal said that the existing JES was not shown by them to be discriminatory.

The women went on strike and a new evaluation was undertaken which found in favour of them. Importantly, the evaluator stressed that the Ford JES may have been **outdated** in that it failed to recognise factors more likely to be accepted today:

"... there is a much greater awareness of the ways in which job factors can be interpreted in a sexually discriminatory way, and we have been able to use greater sensitivity in avoiding this problem. ... the technique of profiling has itself been developed since 1966/67, when the Ford system was one of its first applications, and some of its original definitions and examples were capable of alternative interpretations."



Ford machinists at Dagenham went on strike for equal pay and recognition of skills

Format

The employers' counter attack

In the first few months the 'equal value' regulations were in operation the majority of employers effectively ignored them. They believed that the regulations, like the Act that had preceded them, would prove to have no teeth. However, Julie Hayward's success at a tribunal in October 1984 when she claimed equal pay for work of equal value as an assistant cook with male joiners, painters and thermal engineers, alerted employers to the possibility of new rights for women workers. They have since acted to try to block further developments. As the March 1986 issue of *Labour Research* shows, management consultants have moved into the area of equal value claims, advising employers on how to avoid them. Some, as the Working Time Analysts' Report suggests, are merely offering the information employers want to hear:

"The evidence shows that a significant minority of management consultants are giving advice and in some cases providing sworn testimony to an industrial tribunal that cannot by any stretch of the imagination be described as compatible with normal standards of professional conduct."

(WTA Management Consultants and Equal Value Cases (1985))

In December 1985 the **Confederation of British Industry** warned its members to modernise pay structures and where

possible to implement single status systems so that anomalies could be removed. (*Financial Times* 13.12.85).

Drawbacks

As can be seen from pages 31-37 trade unionists will be more anxious to argue equal value claims in negotiation with employers. There are a number of important reasons for this.

- Taking a case to tribunal could mean the **union paying** for its own independent expert on top of the cost of hiring lawyers to represent the case. This may often be necessary to match experts used by the employers.

Beechams (see page 22) have employed their own independent advisor as did **Caerns and Brown** (see table 5) and in all of the cases to date which have passed the first hurdle of the preliminary hearing both sides appear to have employed lawyers.



Women at Rolls Royce who are taking on an equal value claim

- Tribunal cases are **time consuming**. It takes at least six months for a case to be heard by the tribunal. The preliminary hearing alone can last three to seven days merely to decide if the case should be examined by the independent expert.

Julie Hayward's case against **Cammell Laird** is an example of this. The claim was presented in March 1984. The preliminary hearing took place in April 1984 when the case was referred to an independent expert. On receipt of his report the tribunal hearing was reconvened in October 1984. The tribunal found in favour of Ms Hayward and instructed both parties to reach an equal pay settlement. In June 1985 Ms Hayward returned to the tribunal because she still had not been paid. The tribunal then took a further three months to consider the employer's submissions that there was no reason to pay according to the previous tribunal ruling. In September 1985 the tribunal said that the Act had to be interpreted by reference to all the terms and conditions of employment and that there might be justification in the employer's claim that, taking all the facts into account, she was already paid equally. (This had never been argued previously). Six months later, in March 1986, Ms Hayward's case was heard at the EAT which has indicated that it will announce its decision in due course. Thus two years after her original claim Ms Hayward has still to receive equal pay.

To further illustrate how slow the procedure can be, of the 40 cases listed in table 5 only 12 have reached the stage of appointment of an independent expert.

- Tribunals only deal with **individual cases**. There is no obligation on employers to apply a tribunal decision to the rest of the female workforce.
- Picking a **weak case** and taking it to a tribunal effectively undermines any chance of taking a stronger case through the collective bargaining machinery at a later stage.
- Once the independent expert has been appointed there is nothing in the law to oblige **an employer to co-operate** with the expert. An employer could refuse entry to the workplace making it difficult for the expert to assess the jobs. At **Frayling Furniture** access was refused to the women's expert until the company was ordered by the tribunal to give admission. Women domestics employed by the **Eastern Health and Social Service Board (NI)** have experienced their employers' attempts to frustrate their claim. This lack of co-operation has led to the tribunal taking the unusual step of appointing an independent expert without the employer's agreement.

For these reasons most trade unionists will see collective bargaining as the most important way of obtaining equal pay for work of equal value and this is discussed in the final chapter of the booklet.

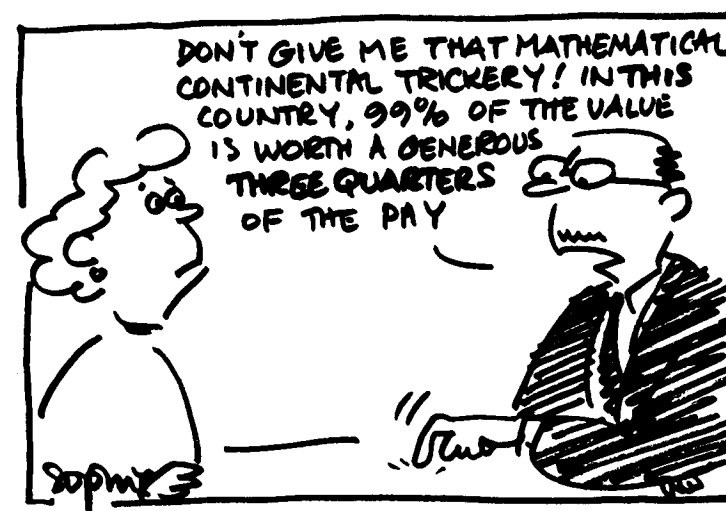
The next section outlines what is happening in a number of other industrialised countries and shows how the UK still has a lot of catching up to do.

How UK women compare

The most recent changes in equal pay legislation were introduced because of pressure from other countries within the European Community, eventually leading to a decision of the European Court that the UK government was in breach of its obligations under an EC Directive. What happens in other countries can therefore have a major impact on employment rights in this country.

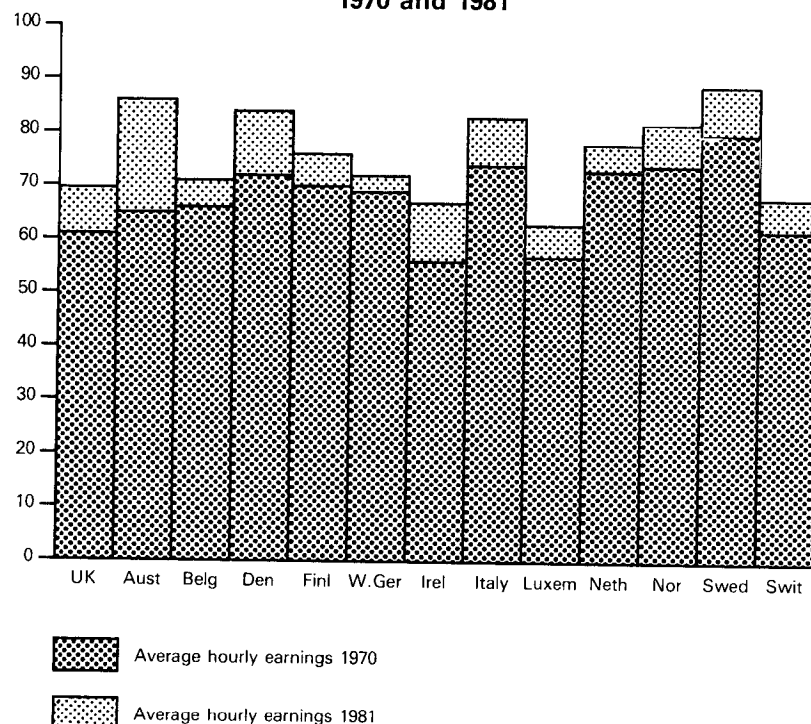
In most industrialised countries, women are still to be found employed in the lowest grades on the poorest rates of pay. However, the pattern has been changing in some countries and their experiences may be useful in looking at ways of improving women's employment opportunities in the UK.

A greater proportion of women in the UK work than is the case in most other industrialised countries. Information contained in the *Integration of Women into the Economy* (Organisation for Economic Co-operation and Development (OECD) 1985) takes information from 24 countries and shows that in 1981 the proportion of women in the workforce in the UK (39.1%) was the seventh highest. Only Finland (47.1%), Sweden (46.2%), Denmark (44.4%), USA (42.8%), Canada (40.9%) and Portugal (40.4%) have higher proportions. But by contrast while they calculated UK women earned just 69.5% of male average hourly earnings in Denmark women earned 84.5%, in Finland they earned 76.3% and in Sweden 89.9%. (The figures used are based on a slightly different method of calculation than those in the NES



quoted on page 8). In other words despite their prominent position within the UK workforce women have lower average hourly earnings than women in most other countries. In 1981 UK women had the fourth lowest proportion of male average hourly earnings in the OECD with only Switzerland, Luxembourg and Ireland coming lower. That position had not changed in ten years. In 1970 out of 13 OECD countries only Ireland and Luxembourg had women workers on a lower proportion of male earnings. The chart below shows the changes which have taken place in those 13 countries over a ten year period.

**Average hourly earnings of women as a percentage of men
1970 and 1981**



In most countries, as in the UK, occupational segregation has had an impact on women's earning potential. The concentration of women in the service industries found in the UK also occurs in other countries. In the UK in 1977 72.3% of women workers worked in services, in the USA it was 80.5%, in Canada 81%, in West Germany 61.6%, in France 67% and somewhat lower in Italy, at 55.6%. Additionally, except for Italy (where only 14.4% of women work in clerical jobs) on average one in three women in those countries are clerical workers.

As women are concentrated in the services sector they are similarly concentrated in low paid jobs. For example in industrialised countries like Italy, Sweden, Finland and France less than one doctor in ten is a woman (with the exception of the USSR, where participation rates for women in medicine are higher).

Some countries have taken steps to remedy this situation and in a number of cases these have gone far beyond anything that has been attempted in the UK. The Dutch *Equal Pay Act of 1975* does not limit women to comparing their jobs only with those of men in the same employment; in New Zealand women can compare jobs with 'hypothetical' males. However progress taken in the USA, Sweden, France and Ireland are of particular interest.

As long ago as 1963 the **USA** adopted its first 'affirmative action programme' legislation (the US version of anti-discrimination law) in an attempt to use the law to force changes in the composition of the workforce. As a result some employers have been forced to pay out tens of millions of dollars in back pay in respect of claims covering entire workforces.

Other employers, concerned that the legislation would affect them, have in turn introduced their own 'affirmative action programmes'. Regrettably, the Reagan administration which, like the UK government, is not supportive of measures to end women's pay discrimination, has put a brake on such actions though hopefully this is temporary. Nevertheless, there are still some victories like the case in Washington State in December 1983 when a Federal district judge found that the state maintained a 20% pay disparity between predominantly male jobs such as lorry driving and predominantly female jobs such as being a secretary. The judge ruled that the jobs had the same 'intrinsic value' since they required roughly the same amount of skill, effort and responsibility. He therefore ordered the state to raise the salaries of 15,000 employees in 'women's' jobs by an average of 31%. As a result at least another 17 states have started to look at the problem of pay discrimination in jobs held mainly by women.

In particular, the development in the USA which now allows women to pursue claims even if their jobs are not equal to men (comparable worth claims) but are less unequal than their earnings suggest, means that women's pay can be raised to reflect its value in relation to men's earnings. So a woman doing a job evaluated at 95% of a man's can claim 95% of his pay. This is unlike the UK situation where claims can only be taken if the jobs are equal. This has meant that, in cases like that of the women employed by **Cearns and Brown** (see page 30) where the job is evaluated as being not quite equal, there are no grounds for pursuing a claim for any additional payment at all. This is the case even where the pay differential is greater than the evaluation differential.

Women warehouse workers at **Cearns and Brown** in the UK claimed that their jobs were equal to those of general warehouse workers. The tribunal appointed an independent expert who evaluated the jobs and determined that they were not equal, although one of the two women scored 89.5% of the male scoring. The tribunal said that because the score was not equal (that is 100%) there were no grounds for an equal value claim. This decision conflicts with an earlier one (**Smales and Sons** — see table 5) where although the women's jobs did not all reach 100% the tribunal agreed to apply a 'broad brush' and said that all the jobs were of equal value.

In **Sweden** new legislation was introduced in 1979. This says that an employer must make sure that working conditions and the environment suit both women and men. When a vacancy occurs the employer must see to it that applications are received from both sexes and must make special efforts to see that applications are received from an under-represented sex. An Equality Commissioner, appointed in 1980, has so far managed to deal with almost 1,000 cases. By 1981 Swedish women's average hourly earnings were already 89.8% of men's having risen from 80% in 1970.

The **Republic of Ireland's Anti Discrimination (Pay) Act 1974** allows a woman to claim equal value pay with a man not only in the same firm but also in the same city, town or locality, even if the work and working arrangements are different. As a result the success rate at tribunals in the Republic of Ireland is 95% compared to a dismal 15% in this country.

Most effective of all are the developments in **France**. In 1983 a new law prohibiting all discrimination in access to employment, pay, training, posting, qualifications, classification and occupational promotion was introduced. Employers are required to submit an annual written report to a works council, the workplace representatives, on the conditions of employment of women and men. In addition employees can propose plans for occupational development. A number of employers like **Moulinex**, **SNIAS** (the state aerospace corporation) and **Credit Industrial of Normandy** have introduced special programmes. One of the most interesting was set up at the **Sofinco Bank**. There a programme was initiated by one of the only three senior women managers. It took steps to bring women's earnings in-line with men's where previously women's pay inequality had meant that they earned between 10% and 38% less than men. Within a year half of the women had had their pay adjusted. The programme also provides for internal promotion and, in addition, lays down an imaginative training programme which accounts for up to a third of working time.

If some of these more positive ideas for moving towards equal pay were to be taken up in workplaces in the UK then it might be possible to achieve real movement in the level of women's earnings.

Winning equality through bargaining

Collective bargaining is the best way of taking up claims for equal pay. Through the bargaining machinery it is possible to negotiate for the benefit of all women workers, not just the individuals whose claims survive the hurdles of the tribunal system. And, as some members of the *Royal Commission on Equal Pay* (the first major body to examine the question of equal pay) said in 1944-46, strong organisation is the key to equal pay:

"If women were strongly organised a situation in which they receive low wage rates relative to their comparative efficiency could not persist...In our view the lack of organisation is an extremely important factor in accounting for the persistence of unequal rates of pay for comparable work." (*Minority Report*)



Format

The table on page 40-41 shows that equal pay bargaining has been taken up in all sectors of employment and that unions have been able to secure major improvements in this way.

Formulating the claim

There are a number of different claims which negotiators can submit which would benefit women members. In particular:

- abolition of the lowest grades;
- flat rate increases;
- minimum earnings level.

Abolition of the lowest grades

LRD has surveyed 21 major unions for information on collective bargaining for equal pay. Many, like the Bakers' Union, for example, stressed that the union's policy was to pursue claims through collective bargaining while reserving the right to take claims to industrial

tribunals if necessary. Through such collective bargaining a major success has been achieved at **Ranks Hovis McDougall** where the 1985 pay claim succeeded in abolishing the bottom grade — the differential between the two lowest grades was immediately reduced by 50% and will be abolished completely by December 1986. At the same time a working party has been set up to review the whole grading structure in the light of 'equal value' principles.

A number of other claims have been settled on the basis of abolition of the bottom grade. Of particular importance, given the large numbers of women workers affected, is the **Local Government Manual Workers** 1985 pay settlement which merged grades A and B with grade C and in addition awarded a flat rate increase of £6.00 a week. This meant that for those on the two lowest grades (nearly ½ million women cleaners and canteen assistants) pay increases were £8.90 for grade A and £7.80 for grade B. Non manual local authority workers made similar progress. Women's earnings increased by 8.7% in the administrative and clerical grades (non-manual APT & C staff England and Wales) compared with an increase of 7.7% for men. For the manual workers the figures were 9.8% for women and 6.5% for men in England and Wales (8.8% and 7.2% in Scotland).

Similar claims are being pursued in the 1986 pay round, most notably: **NHS Ancillary Staff** claim (for abolition of the three bottom grades); **University Manuals and Ancillary Staff** (for merging grades A and B into grade C making it the new minimum rate).

At **Naver Textiles** negotiations over the last two years have led to agreement to abolish the lowest pay grades bringing them into line with general rates of pay. Such moves invariably improve the earning position of women workers. The college lecturers' union NATFHE which secured the right of automatic transfer from the top of the scale 1 lecturers' grade to scale 2 says:

"This move will help a significant number of our women members who tend to be on the lowest salary scales." (*Response to LRD survey*)

Information from LRD's own database of collective agreements which analysed 458 collective agreements in the 1985/86 pay round and 590 in 1984/85 covering 11 million workers, shows that abolition of the bottom grade has also been achieved in:

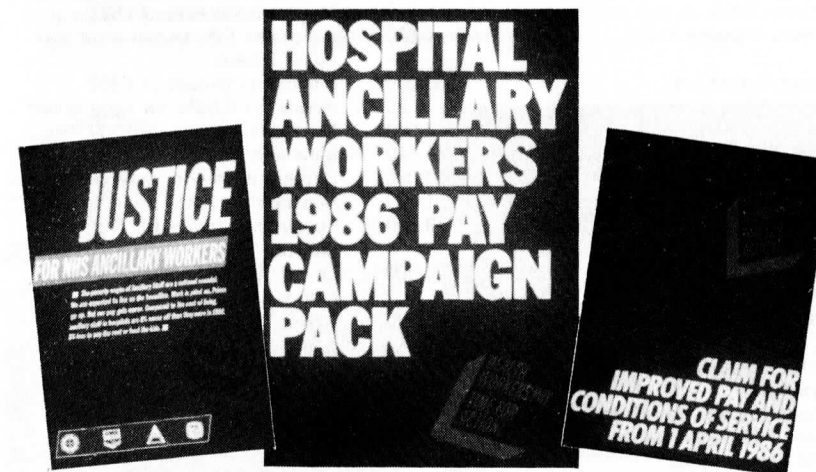
- CWS Tea/Coffee Centre (Crewe) 350 workers — bottom grade probation only;
- CWS Computer Staff 100 workers — bottom grade abolished
- IMI Yorkshire Imperial 2,500 workers — reduction in grades from 11 to 8
- Findus (Humberside) 1,400 workers — lowest grade abolished
- BICC 3,500 workers — bottom increment abolished
- Rolls Royce Derby 5,800 workers — first increment abolished

Flat rate increases

A flat rate increase inevitably benefits those on the lowest pay and therefore benefits women workers. Although many trade unionists have traditionally argued for increases which maintain existing differentials there is a growing awareness of the fact that this inevitably leads to a widening of pay differences with those at the bottom of the pay scale losing out.

Since 1984 a number of unions have included flat rate increases as part of the annual pay claim. LRD's database of agreements shows 101 agreements which settled for flat rate increases, one in ten of all settlements. In 1985 alone more than one and a half million, (one in seven) of all the workers surveyed, benefitted from flat rate increases.

In 1986 unions will again be seeking flat rate increases in pay negotiations. Of particular importance is the **NHS Ancillary Workers'** pay claim where a flat rate increase in being sought for 210,300 female workers and 64,300 males.



Putting the health workers' case

Minimum earnings level

Making sure that women workers achieve at least a minimum level of earnings is another way of progressing a claim for equality in pay. Both the **NHS Ancillary Workers'** claim and the **University Manuals and Ancillary Staff** claims for 1986 call for a target minimum wage of two thirds of the national average wage.

LRD's database of information on collective agreements lists 39 agreements where attempts have been made to weight the earnings in favour of the lowest paid in some way:

Employer	Nos covered	Settlement reached
1985/86		
National Computing Centre	320	Minimum increase of £275
BICC	3,500	Minimum increase of £300
Milk Marketing Board	1,120	Higher rises for secretaries
GLC	20,000	Higher increases on lower grades
Electricity Supply (Managers)	1,680	Lowest managers £409.36
Retail Co-op Societies (Dist & Managers)	79,700	Minimum increase of £4.50pw
Empire Stores Mail Order	800	Minimum increase of £4.50pw
ICL	11,000	Minimum increase £245
Gas Supply (Senior Management)	3,940	Lowest manager £280.29
Civil Service	497,910	Minimum increase of £209
Brush & Broom Manufacture	7,500	Minimum increase of £4.00pw
British Shipbuilders	32,000	0.9% higher increase for canteen workers
Electricity Supply Engineers	26,750	Minimum increase of £137.06
1984/85		
Royal Doulton Tableware	1,000	Minimum increase of £261
Remploy (Technical Supervisors Managers)	1,100	Minimum increase of £366
Renault UK Ltd	90	Minimum increase of £523
James Howden & Co	600	Additional £75 for those on less than £7524pa
Local Authorities	550,000	Minimum increase of £309
Edgar Allen Tools	80	Additional 0.53% for semi skilled
BICC	3,500	Minimum increase of £300
New Towns Staff	5,540	Minimum increase of £5pw
GLC	20,000	Higher increments on lower grades
Electricity Supply (managers)	1,680	Minimum increase of £409.36
Master Bakers (E&W)	13,000	Lower % increase for higher grades
Retail multiple footwear	30,000	Lower % increase for higher grades
Cavendish Woodhouse	100	Lower % increase for highest grade
Retail Co-op Societies (Dist and Managers)	79,700	Minimum increase of £4.50pw
Empire Stores Mail Order	400	Minimum increase of £4.50pw
Road Passenger Transport	14,000	Minimum increase of £4.00pw
Gas Supply (Senior Management)	3,940	Minimum increase of £280.29
Flour milling industry	6,000	Minimum increase of £5.00pw
Retail Co-op (transport and catering)	5,800	Minimum increase of £4.50pw plus additional 0.27% for canteen assistants
Makro	2,800	Lower % increase for highest grade
Road Haulage (South Yorks)	3,000	Minimum increase of £4.95pw
Civil Service	497,910	Minimum increase of £209
Brush & Broom Manufacture	7,500	Minimum increase of £4.00pw
British Shipbuilders	32,000	Higher % increase for canteen staff
BSC (managers)	6,560	Lowest manager £7442
Quinton Hazell Automotive	160	Minimum increase of £2.70pw

Equal value claims

In addition to the above pay claims which represent moves towards equal pay, unions have also been taking equal value claims through the bargaining machinery. Table 6 on pages 40-41 lists 25 negotiated settlements and claims within the negotiating machinery which have been based on equal value principles.

These claims involve the drawing up of comparisons based on very different kinds of jobs like clerks and warehouse workers (**Welch Margetson**); company secretary and company director (**Lapsana**); and semi skilled women workers with male crane drivers (**GEC Machines, Bradford**).

Thelma Payne a dispatch office supervisor at **Fairey Hydraulics** in West London approached her union AUEW/TASS to compare her job with six others including the quality engineer, wages supervisor, gardener/handyman and printer. The EOC backed her claim which the company settled out of court to the tune of 28%. This meant that her pay went up from £5,575 to £7,665 a year.

Jean Lane, an **export shipping clerk**, was earning £20 a week less than her colleague, less even than the unskilled labourers. After the union stepped in her pay was increased additional to the annual wage round so that she received a 14½% increase when the average settlement was 5%.



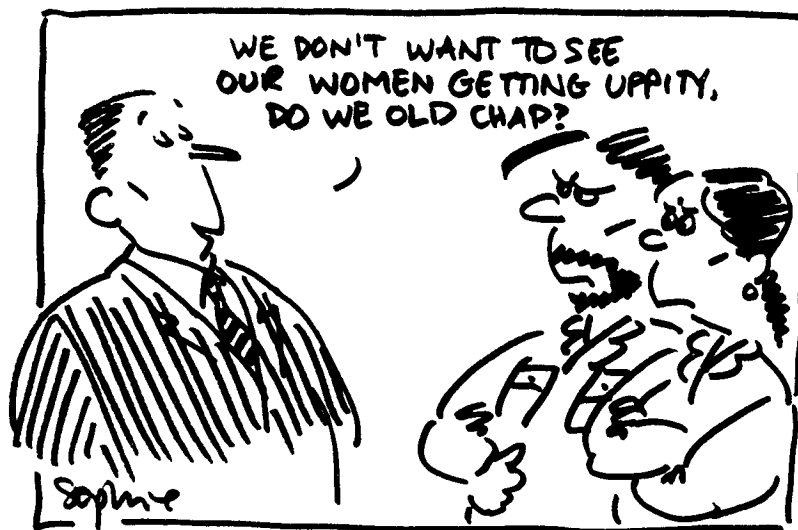
Thelma Payne TASS News & Journal



Jean Lane TASS News & Journal

Slumberland Quilts has two factories one in Hawick and one in Broxburn. At Broxburn there are 40 employees of whom 32 are women. At Hawick, of the 86 employees, 75 are women. In 1984 the company decided to "update" the bonus scheme. This would have meant that women in the sewing departments would have increased output by 12% and had bonus earnings reduced by £20 a week. Following strike action by the 42 women workers ACAS was asked to arbitrate. As a result the women's bonus earnings increased by £8-10 a week from November 1984.

On presenting the 1985 wage claim the union found that there were differences in basic rates of male cleaners at Hawick and female cleaners at Broxburn. The males were paid £2.10 an hour, the women £1.82. These differences in the cleaners rates were found to be true of machinists, and other female workers, in both factories. After long negotiations the company finally settled the women's claim. Interestingly the new bonus system means that the women are earning more than the men who are now arguing that they should receive equal pay!



Uniting the workforce

A number of settlements have been achieved because of the active support of all workers, female and male.

Where male workers are organised in support, the claim will stand a better chance of success as management will be less able to 'divide and rule'. The claim for equal value between female stewards and male canteen workers at **Hepworth Refractories**, where an increase of 9p ph on the female rate was negotiated is one such example. The union negotiator said:

"This was overwhelmingly accepted by the total membership in the factories which included the male section where full backing was given by our membership to obtain this agreement with the company...Membership is now 100% within the company."

Another workplace **Xpelair**, Birmingham where bonus parity was achieved, reported to LRD that:

"after some hesitation the men in the workforce supported the claim which aided in its resolution."

Using two routes

Choosing to negotiate on equal pay for work of equal value does not mean that the tribunal system should be totally ignored. As can be seen from table 6 some agreements have been successfully concluded after threat of a tribunal action and it can often help in negotiations to use this. IT1 forms for industrial tribunal hearings were submitted prior to both the **Hepworth Refractories** and **Clwyd County Council** settlements.

Some settlements have also been reached after submission to an independent investigation outside the tribunal machinery. The advantage of this is that the time taken to resolve the claim is much less than if done through the tribunal. The disadvantage of course lies in the fact (as with tribunal cases themselves) that the union will often be compelled to be bound by the outcome of the investigation which is outside its direct control. However, this was the method used successfully by the **Ford** sewing machinists. At **Takiron (UK)** too, four women inspectors claimed equal pay with male operators where there was an £8.53 a week difference in pay. An independent investigation ordered by the Engineering Employers' Federation and the TGWU awarded a total increase of 21.5% (including a 9% annual wage increase) giving the women equal pay from 1 April 1985.

Publicising equal value rights

Although the number of claims based on equal value has risen in the 18 months since the first successful case, many women workers are still unaware of what the new law means for them. Union negotiators, particularly at workplace level, may well find that the regulations are difficult to follow and may not be sure of the potential for claims.

A good example of how equal pay claims can be formulated is taken from the experience of one union, APEX, in its Midlands area. There the union circulated all workplaces with 'equal value' forms asking women to complete them giving details of their jobs. These completed forms were then sorted into likely winners and losers. As a result the union is giving consideration to nearly 200 claims covering eight different major workplaces.

Taking such claims forward inevitably leads to the creation of a united workforce. Hopefully the experience of many who read this booklet and who start looking at female and male jobs will be similar to Takiron where 100% union membership was the final added bonus.

Table 5: 40 claims at industrial tribunals

<i>Employer</i>	<i>Comparison</i>	<i>Worth</i>	<i>Outcome/stage reached</i>
Cammell Laird	Asst. cook v Joiner	£30pw	Tribunal ruled in favour but company refused to pay on grounds of staff status. EAT appeal.
Smales and Sons	Fishpackers v Labourers	£5.82pw	Independent expert said although all the jobs were not equal the majority were. Equal pay to all the applicants.
Beam College	Housemother v Housefather		Independent expert said the jobs were of equal value. Woman had been dismissed and was awarded compensation.
Ford UK	Machinists v Cutters	£6pw	Tribunal said there was no basis for the claim because the JES was not discriminatory. Following industrial action an independent investigation awarded equal pay.
Clwyd County Council	Nursery nurse v Clerk		Claim failed because comparator not in 'same employment'. Appeal going to EAT.
Cawoods	Fishpacker v Labourer		Claim failed — tribunal said no grounds for equal value because training, working conditions and requirements for judgement different.
Eastern Health & Social Services Board (NI)	Domestic v Porters		Tribunal appointed independent expert without employer agreement after employer's non co-operation. Employer has again referred matter back to tribunal.
Frayling Furniture	Machinists v Upholsterers	20% increase in allowances	Tribunal ruled, following expert's report, that work not of equal value. On 30 January 1986 a negotiated settlement was reached on the basis of the woman's claim after a report by their own expert found that their jobs were of equal value.
Beecham's Pharmaceutical	Lab techs v Craft workers	£30pw	Independent expert's decision awaited. Use of multiple comparators agreed.
Shorts	Clerical staff v Others	£40pw	Independent expert undertaking survey.
Electricity Supply (NI)	Mains asst. v Engineers and other JIC workers	£60pw	Independent expert's final report awaited after both sides have submitted comments to it.

Francis Shaw	Female clerks v Males	£15pw	Independent expert's report under consideration.
Adria	Data processing clerk v Machine operator	£20-40pw	Independent expert said the jobs 'at least equal'. Claims settled out of tribunal with applicant getting promotion and others accepting part settlement. Union believes they are still underpaid by £20pw.
Almetex	Packers v Loaders	£20pw	Independent expert appointed
Cearns & Brown Ltd	Warehouse shop workers v General warehouse		Independent expert said jobs not of equal value. Male job descriptions were found to be defective.
GMBATU	Secretaries v Executive assistants	£20pw	Tribunal said equal value. But material factor defence accepted.
Berry Magicoal	Clerk v Labourer	£15pw	Tribunal hearing awaited. union side has appointed expert
Rolls Royce	Nurse v Skilled manual	£30pw	Union ready to submit case to tribunal.
Coventry Climax	Secretary v Labourer	up to £20pw	Employer has been advised that union may list claim
GEC Telecoms	Clericals v Manuals		"
Alvis	Clericals v Manuals		"
Dunlop	Clericals v Manuals		"
Xpelair	Clericals v Manuals		"
Massey Ferguson	Clericals v Manuals		"
Freemans			Comparison on grounds of equal value could not proceed because there were no men doing like work.
National Coal Board	Canteen workers (1,000) v male grades:		Eight test cases listed for tribunal hearings in June 1986. Claims include claim for holidays, coal concession.
	cook v coal examiner	£31.85pw	Canteen workers lowest paid NCB workers.
	assts cook v washery op	£20.17pw	
	cashier v gen dry cleaner	£19.05pw	
	canteen assts v office cleaner	£20.13pw	
Salts of Saltaire	Sewing machinists v machinist transferred from nights		Tribunal ruled that no basis for claim since job red circled.
Cumbria County Council	Typist v Male Typist		Tribunal said that it was a 'like work' claim but male had more responsibility. A number of other claims remain to be tested.
Rothschild Banks	Telephonist v Sterling Dealer		Tribunal said no case.

Seventh Day Adventists	Teacher v Male teacher with housing allowance	£180pm	Awarded £3,175.24 back pay plus £180pm
Beefeater Restaurant	Female performer v Male	£25-40pw	Tribunal awarded equal pay for equal value (this was prior to regulations being in force.)
Davy McKee Engineering Staff	Industrial nurses v Labourers/packer-s, lorry drivers and semi skilled comparators	£17pw	Tribunal awarded equal pay.
Jaeger	Female supervisors v Males		Tribunal hearing to take place.
William Baird	Female supervisors v Males		Claim not yet listed when employers made offer. Union believes it inadequate and negotiations continue.
Baldwin & Francis	Lathe ops v Male capstan lathe ops		After failure to agree in negotiations the women have decided to pursue their claim to a tribunal. Company is in process of reorganising the jobs which would remove for the future the basis of the women's claim that they set their own machines.
Buoyant Upholstery	Machinists v Upholsterers		EOC expert has examined claims. Decision to be taken on whether to proceed further.
Lloyds Bank	Women print finishers v 'printers'	£11 + £6.50 + bonus	Preliminary hearing March 1986
John C Walker	Female supervisor v Male and HGV drivers		Independent expert appointed but claim dismissed
Forex Neptune	Accounts clerk v Asst accountant		Independent expert appointed
Hemsec Manufacturing	Clerks v Clerks		Claim listed at tribunal

Table 6: 25 equal value claims being taken through negotiations

Employer	Comparison	Worth	Outcome/stage reached
Welch Margetson	Clerks v Warehouse workers		Increase of 7.1%-9.0% plus extra holiday, improved sick and overtime pay.
Taylor Valves	WPO v Milling machine op		15% increase (inc. 7% annual claim) improvement over three years
British Arco	Manageress v Chefs		Regrading agreed

Fairey Hydraulics	Despatch office sup. v Quality control eng.	£2,100pa	28% increase
Fairey Hydraulics	Draughtswoman v Male drawing office staff		28% increase
Mersey Docks & Harbour Board	Admin assts (eng) v Admin Assts (estates)		After ACAS report agreed to settlement.
Avdel	Females clerks v Males	£20pw	14.5% increase (inc. 5% annual pay).
Rank Hovis McDougall Hepworth Refractories Clwyd County Council	Production workers Stewards v Can-teen workers	£4pw	Working party set up to look at grading structure. Increase of 9pph
Lapsana	Woman scale 2 teacher v Male scale 3		Settlement agreed prior to tribunal hearing
	Company secretary v company director/technician		Settlement offered and accepted
Future Technology Systems NHS	Quality insp v Male equiv		Settlement offered and accepted
	Ancillary workers		Claim seeks "A revision of the grading structure on equal value principles."
Local Government Manuals	Manual workers		Job evaluation scheme to be introduced
University manuals and Ancillary staff Xpelair	Manual workers		Grading scheme to be re-evaluated.
Baldwin & Francis	Female workers v Males		Bonus parity achieved
GEC Machines	Pin driller v Male radial arm driller		Claim conceded by employer
	Semi skilled winders v Crane drivers		Claim conceded by employer.
Slumberland Quilts	Female workers v Males		Increase in bonus earnings by £8-10pw (Nov 84) Jan 85 — £11.20 increase for women workers plus £3.60 across the board.
Further Education Colleges	Lecturers		Automatic transfer from Lecturer 1 to lecturer 2
Takiron	Inspectors v Operators	£8.53pw	Equal pay from 1 April 85. Total increase of 21.50% (inc 9% annual) after independent investigation.
Company A	Assembly op v Male electronic wirer/mechanics		Still in negotiation
Company B	Coil winder v Male capstan setter		Going through internal job evaluation committee.
GEC Walsall	10 VDU ops v hourly paid semi skilled manuals		Company has agreed to increase pay of VDU ops but negotiations continue.
Eagle Star Insurance	Typing supervs. v Dept. heads	£626-£681 pa	Claim conceded

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Out of pocket The government has announced that it intends to take away existing legal rights for manual workers to be paid in cash as part of a move to cashless pay. LRD's booklet shows how the new laws will operate and explains the disadvantages and advantages of cashless pay giving examples of workplace agreements reached in the last five years. Price 75p (February 1986)

Social Insecurity — callous plans for pensions and benefits spells out the implications of new legislation designed to undermine pension rights and to cut the benefit entitlement of at least four million households. Price 80p (February 1986)

Black workers, trade unions and the law shows that workers organised in their unions can effectively combat racism and racial discrimination when they take up issues at work relevant to black members. Individual sections deal with workplace agreements, black members in the unions, race discrimination law and immigration controls. Price £1.15 (October 1985)

Bosses' Freedoms, Workers' Burdens explains what the government's latest proposals, contained in three important documents published at the end of March, will mean for unfair dismissal rights, health and safety protections and low paid workers. The booklet effectively refutes the government's argument that it is high wages which cause unemployment. Price 55p. (April 1985).

The Labour Research Department sold nearly half a million of its publications to trade unionists and members of the labour movement last year. To order write to The Secretary, LRD, 78 Blackfriars Road, London, SE1 8HF enclosing cheque for publications requested.

Early Retirement A look at a new issue for trade unionists, with detailed guidelines for negotiating the best arrangements. Price £1.10 (November 1985)

VDUs Health and Jobs As many as 2m VDUs are now in operation in the UK. Concern about health risks and job loss are dealt with in this new booklet. Price £1.25 (September 1985).

Solidarity with the Miners Based on a unique survey of miners' support groups and sponsored by 16 major trade unions. Packed with illustrations, photographs, posters, leaflets, showing the tremendous support for the miners from trade unionists and community organisations everywhere. A donation of 25p for every book sold goes to the Miners' Solidarity Fund for the support of victimised miners. Price £2.10 (including donation) (August 1985)

Union Farm is the first children's story book to be published in this country which explains the benefits of workers joining together to form a union. The book contains nineteen 2-colour illustrations and is accompanied by a full-size 2-colour poster. Price (book) £2.10p, (poster) 65p. (June 1985)

Sick Pay — a negotiator's guide contains the largest and most comprehensive survey ever undertaken in the UK on the operation of company sick pay schemes. The booklet also shows the impact of statutory sick pay on existing schemes and explains the legal basis for both the statutory and workplace schemes. Price £1.65 (March 1985).

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Labour Research:

LRD's monthly publication and Britain's leading trade union magazine. Its regular surveys of the economy and industry, politics and power look at Britain through the eyes of its organised workforce. An annual subscription to Labour Research costs £12.15 to affiliates, £14.00 to non-affiliates — can your branch afford to be without it?

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