

## **ASSOCIATION OF UNIVERSITY TEACHERS**

### **Advancing equality for men and women – the AUT response to government proposals to introduce a public sector duty to promote gender equality**

#### **Introduction**

The AUT is the largest Higher education trade union and professional association in the UK. We represent over 48,700 Higher education lecturers, researchers, library, computer and administrative staff in universities and colleges across the UK, the majority of whom are in pre-1992 institutions. We are affiliated to the Trades Union Congress. We are not affiliated to any political party.

The AUT welcomes the introduction of the public sector duty on gender equality. It is clear that the current legislative framework of the Sex Discrimination Act and the Equal Pay Act has not successfully eradicated pay discrimination and other forms of gender discrimination in the labour market. The profile of female employment within the higher education sector starkly demonstrates the need for a change in emphasis which will require employers to take a more proactive and anticipatory approach to promoting and achieving equality of opportunity between women and men.

In the Higher education sector the gender pay gap is 14% in men's favour. 40% of the UK's 150,000 academics are women and although the number of female academics employed in UK Higher education has increased significantly in recent years, women are still over-represented on the lower grades and under-represented on the higher grades. In pre-1992 universities nearly half the staff on the most junior lecturer grade are women, but only 14% of professors are women. There is evidence that the proportion of women on senior grades is increasing, but there is still a long way to go to parity. Female academic related staff are also under-represented on senior grades and amongst managers there is a 16% pay gap in men's favour. More than a quarter of women academics work part time, compared with 16% of men and female academics are more likely than male colleagues to be on a fixed term contract. There is a large number of subject areas – particularly science, engineering and technology – in which women constitute less than one quarter of the academic staff <sup>1</sup>.

AUT particularly welcomes the fact that the government has now agreed to extend the specific duties to education institutions in England and Wales. Given the significant gender pay gap and under-representation of women in senior positions within the academic and academic-related professions, it is essential that the specific duties are designed in such a way as make a real difference to universities.

It is said in the consultation that the DFES will be setting up a group of stakeholders looking at this and we would like to be involved in that group as soon as possible.

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<sup>1</sup> From the report "The Diverse Academy", produced by the AUT in October 2005. The report uses data from the Higher education Statistics Agency Staff Record. The full report is available at [http://www.aut.org.uk/media/pdf/5/r/diverseacademy\\_oct05.pdf](http://www.aut.org.uk/media/pdf/5/r/diverseacademy_oct05.pdf)

**Q1 The government would welcome your comments on the above proposals for specific duties. We would welcome suggestions on how the duty can best be framed to achieve the aims set out at 2.10.**

Over the past decade, there has been considerable attention given to the subject of equal opportunities for employees in UK Higher education. AUT and the other campus trade unions have consistently objected to the current situation and urged meaningful action to be taken by the university employers and the funding councils. While some action has been taken the sector has in general been slow to respond to the recommendations of government and public inquiries into Higher education. Any action that has been taken has been largely ineffective and overly reliant on advice and paper-based policies. The AUT submission to the Women and Work Commission 2005 highlighted the widespread and endemic barriers to progression in the workplace faced by academic and academic-related staff. Anecdotal evidence from our women members suggest that they are still suffering from gender discrimination: when promoted posts become available they find themselves being passed over in favour of male colleagues and given far less support and fewer training opportunities, in addition to lower salaries and lesser pay rises. We also have examples of women returning from maternity leave feeling pressured to continue to work full time, with management admitting to them that doing so will “help” if they wish to secure their own upgrading. Female researchers have told us of applying for posts where they were told they didn’t fit the age profile and the jobs in question subsequently going to younger candidates who were less experienced and who could be paid a lesser salary <sup>2</sup>.

AUT was extremely concerned when the consultation document was first published to see the possibility introduced at paragraph 4.11 that the specific duties would not apply to schools, colleges and universities, whereas they would to all other public authorities. We therefore very much welcome the statement made by Meg Munn MP to the Standing Committee of the Equality Bill on 8 December, confirming in principle that the specific duties will apply to education. However, we have a specific concern and would like clarification about what was meant by ensuring “that appropriate arrangements for different education bodies are agreed, and that the relevant regulations and supporting guidance on the way in which the specific duties will apply are light touch, flexible and relevant to the realities of life in school and at other levels of education”. Does this mean there will be less resource, or a less robust approach applied in respect of the public sector duty to promote gender equality than the similar duties for race and disability? We would hope this could not be interpreted to mean introducing a watered down version of the specific duties for educational institutions.

The education unions have suggested bringing together a consultation meeting with the relevant unions, the TUC, the Women and Equality Unit and the DfES at the earliest opportunity to discuss the introduction of the specific duties for educational institutions. We hope the Women and Equality Unit will respond to this suggestion.

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<sup>2</sup> For a copy of the submission to the Women and Work Commission, go to [http://www.aut.org.uk/media/pdf/9/8/womenworksub\\_feb05.pdf](http://www.aut.org.uk/media/pdf/9/8/womenworksub_feb05.pdf)

## ***Learning from the race duty***

Whilst we welcome the introduction of the general and specific positive duties (and would like to see them extended to the private sector) we also believe that any discussion about introducing such a measure for gender must take account of the implementation of the public sector duty to promote race equality.

AUT believes that to date the higher education institutions have been very slow to respond to their new duties in the Race Relations Amendment Act. In many institutions this has resulted in little more than a paper exercise where processes rather than outcomes have been focussed on. Impact assessments of key policies and procedures are still not regularly taking place and there has been a lack of engagement with the key stakeholders: Black and minority ethnic staff and trade union representatives. We would urge that any accompanying Code of Practice states clearly that all staff groups and trade unions should be involved and consulted at all stages. AUT is concerned that a failure in the sector to understand and act upon the positive duty within the RR(A)A will be reflected in how institutions implement the forthcoming duties on disability and gender. An urgent and critical assessment is needed of institutional practice in relation to impact assessments under the Race Relations Amendment Act to ensure lessons are learned when determining how the specific duties can best be framed to achieve the aims set out in para 2.10 of the consultation document.

## ***Compliance and penalties***

How the duty will be enforced and how public bodies will be made to comply with them will be crucial to the legislation's effectiveness and the speed of its implementation. We would want the Higher education funding councils to take responsibility for ensuring compliance within the sector and fixing penalties if institutions do not comply. Compliance should be measured on actions and outcomes. There needs to be a strategic approach based on enforceable duties that prompt strategic priorities and coordinated action.

We would expect the CEHR to be well resourced to ensure it can carry out its duties in relation to compliance for all the positive duty legislation. The CEHR should make clear how successful implementation will be monitored, e.g. by the number of published gender equality schemes? Or by outcomes, i.e. a significant closing of the pay gap over the next 5 years?

## ***Implementing these rights in the workplace***

As a trade union we will endeavour to ensure these rights and duties are implemented in the work place. However, given the extent of new legislation in the equality field and the time that is needed for workplaces to get their heads around the new laws, not just for gender, but for disability, sexual orientation, religion/belief and age, we join the TUC in strongly pushing for Union representatives to be given facility time for equalities issues.

### **Q2 The government would welcome views on the proposals at 3.35. It would also welcome suggestions as to what other requirements might be contained in a pay policy.**

The government proposes in 3.35 that all public authorities should develop and publish a policy on developing equal pay arrangements. AUT welcomes this suggestion. In

addition to the proposed requirements of a pay policy, we would suggest it should also contain:

- Details of how staff and trade union representatives have been involved in drawing up a policy
- Methods for assessing the impact of policies and practices
- How relevant information will be gathered and used
- The action plan

**Q3 The government would be interested in public authorities' views on how far their work, already in hand, will cover gender duty requirements on equal pay and if the proposals will result in additional burdens.**

**Q4 The government would welcome views on proposals to require public authorities to conduct GIAs and consideration to undertake initial screening as described above.**

The consultation document proposes that public authorities will be required to carry out an initial screening to determine which policies, procedures or functions will require a formal assessment. This moves away from the requirement within the RR(A)A to impact assess all policies and procedures over a three year period. AUT has real concerns about the proposals which would allow employers only to carry out full impact assessments on a limited number of issues.

The consultation document does not propose the introduction of mandatory equal pay reviews, but simply policies. We believe that without pay reviews being mandatory there will be no change. The HE sector provides an instructive example. Four years ago, in March 2002, all institutions and trade unions signed up to a sector wide guidance on equal pay reviews. This JNCHES (Joint Negotiating Committee for Higher Education Staff) guidance was produced in line with good practice recommended by the Equal Opportunities Commission. It sets out a three-step approach which entails: 1) stage one: analysis (equality check), stage two: diagnosis (pay review), stage three: action.

However, there has been a failure to implement the guidance and very few institutions have carried out full equal pay audits since March 2002. Under the Freedom of Information Act the AUT wrote to all HE institutions, which had indicated they had undertaken an equal pay review, in July 2005 requesting disclosure of equal pay review results. Only five had carried out basic or pilot reviews, some of which were prior to March 2002.

The specific duties should require public authorities to carry out regular equal pay reviews in line with the three step process set out above. There should also be a requirement to carry out a rigorous check of equality across all causes of the pay gap over which employers have some influence: occupational segregation, the impact of caring responsibilities and discrimination (including pay discrimination) – and requirement to implement an effective action plan to close the pay gap in the workforce. The plan should be published and a progress report given regularly. Employee representatives should be consulted at all stages.

There should be no watering down of the specific duties which are already in place for race and will be implemented for disability on 5 December 2006; employers already have obligations in this area so expanding this to gender should not add a particularly large burden.

**Q5 The government would welcome views as to what guidance would be required by public authorities to allow them to properly carry out GIAs.**

We would welcome detailed Codes of Practice for the FE/HE sector like the Commission for Racial Equality Codes of Practice that break down into sectors.

The guidance should focus on providing practical advice and case studies; the Disability Rights Commission Disability Equality Duty Codes could also be used as a model.

We would welcome input in drafting the Codes of Practice and working with the Equal Opportunities Commission to produce them.

**Q6 The government would welcome views as to suitable criteria to assist public authorities in deciding what constitutes “major” services or policy development.**

We have already set out above our concerns in relation to the proposal to screen policy developments before determining whether to carry out a full impact assessment. AUT has concerns that this approach will mean that some employment policies which may appear limited in scope and not therefore be defined as ‘major’ or ‘strategic’ will be missed. The proposed screening process, for example, does not require consultation with affected staff groups. A policy change of amendment to a human resources policy, e.g. contribution pay, accelerated increments or promotion would be likely to have a significant effect on gender equality (or inequality), depending on how it was implemented and as such we would argue should be considered to constitute ‘major’ policy development.

**Q7 The government would welcome views on the necessary content of guidance to assist bodies to apply the duty to promote equality when planning the procurement of relevant goods and services.**

As with many other public sector institutions the role of the private sector within the HE sector is increasing with the contracting out of employees for particular services. We would welcome an obligation on public sector institutions to monitor the operation of the companies they contract out to and to be required to take this into account when assessing the impact of procurement policies.

**Q8 The government would welcome views on criteria for determining whether public authorities should be subject to the specific duties.**

**Q9 The government would welcome views on the range of bodies it intends to require to comply with the specific duties.**

We have commented in detail above about the coverage of the specific duties in educational institutions. We are also of the view that the general and specific duties should apply to all public authorities and also be extended to the private sector.

Association of University Teachers  
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