

March 2012

Part-time working, women and childcare

“Childcare is still seen as a problem for women rather than a challenge for society as a whole,” writes Anne McKernan, Director of Casework at the Equality Commission.

Numbers of women working part-time in Northern Ireland have gradually inched up over recent years – 40% of working women were in part-time jobs last year compared to 7% of working men. In all, 85% of part-time employees are women.

This is an important issue because part-time jobs can be less stable and less well-paid than full-time. The fact is that 73% of part-time employees don't want full-time work because they have family or home commitments.

Part-time work raises a number of problems for both employer and employee, and a key issue is around flexible working to facilitate care of children. Employers can end up unknowingly discriminating against women by applying criteria for jobs or promotion that disproportionately disadvantage women. And that in turn impacts on families and children's life chances.

Anne McKernan says, “Within the last six months, we have supported two successful cases at tribunal where women found themselves at a disadvantage at work because they made use of flexible working arrangements to care for their families. In both cases the Industrial Tribunal held that conditions set by employers discriminated indirectly against women, who are far more likely to work part-time or take career breaks for family reasons.”

The most recent case, in February 2012, was that of **Julie Muldrew**, a teacher at Larne Grammar School, who had to relinquish her post as Year Head because she was working reduced hours to look after her children. The Industrial Tribunal decided unanimously that Ms Muldrew would have been able to discharge effectively the duties of Year Head while working four days per week, and that the requirement of full-time working for this post amounted to indirect sex discrimination. She was awarded £5,000 for injury to feelings and damages for past and future loss of salary and interest.

In its decision, the Tribunal stated *“To exclude part-time workers from such positions, solely on the ground that service provision might sometimes fall short of the gold*

standard, or might sometimes involve flexibility from other workers, would be to reverse any progress in equal opportunities terms back to the 1950s”

Julie Muldrew said she was delighted that the tribunal had unanimously acknowledged the need for employers to give fair consideration to the needs of women working part-time. “Challenging this was a very difficult experience for me,” Ms. Muldrew said, “ but I feel that it has been worthwhile in achieving change, not just for myself, but for other part-time workers.”

In **Nuala Crilly’s** case, she was not shortlisted for a post as Neighbourhood Regeneration Officer with the Ballymagroarty Hazelbank Community because she did not meet an essential criterion which required “2 years’ relevant experience in a community development capacity (paid) gained within the last 5 years’.

Ms Crilly had taken a six-year break from paid work due to her child caring responsibilities, but during that time had extensive, high-level voluntary involvement in community development and neighbourhood regeneration. She was not shortlisted because her relevant paid experience was before the five-year period. This meant that she was denied the chance to outline at interview how her recent voluntary and other community activities made her a suitable candidate for the job.

The Tribunal, while taking into account that the post was at that time a six-month fixed term contract, that it was a one-off event and not a course of discriminatory conduct, and that it was an honest application of flawed criteria, with no motive to discriminate against women or the claimant, awarded her £11,677 in compensation in October 2011.

Nuala Crilly said, “I felt that the criterion with its five-year requirement debarred me, and of course many other women, from applying for the post. I had a lot of involvement at a high-level in relevant areas of the voluntary sector during the period of my break from paid work, and that wasn’t considered. I believe it’s really important that employers don’t follow practices which exclude women from the recruitment process, even unconsciously. I hope that, by taking this case, I can help prevent this happening again to other women applicants.”

Anne McKernan says, “The lesson of both these cases is that employers have to exercise great care in implementing policies which might disadvantage people working reduced hours, even unintentionally, or availing of other flexible working arrangements.

“In Ms Muldrew’s case, the requirement to be full time was judged to be indirectly discriminatory to women. In Northern Ireland 40% of female employees work part time compared to 7% of male employees and 85% of part time employees are women. Any measure which excludes such workers from a particular post is likely to have an adverse impact on women and may amount to indirect sex discrimination, if it cannot be

justified. The more discriminatory the measure is, the more difficult it will be for the employer to show that it was justifiable.

“In Ms Crilly’s case, using Labour Force survey statistics, the Tribunal found a ‘*huge disparity between the sexes*’, from which the panel inferred that a ‘*vastly larger percentage*’ of women than men are away from work to look after family and home. The Tribunal found that there was ‘disproportionate adverse impact on females by the application of the five-year requirement within this criterion’.

“The requirement for two years’ experience within the past five years brought particular disadvantage to women, and the Tribunal considered that the reasons given for introducing it in this case did not justify that disadvantage.”

“It is a fact that the choices people make regarding family life, particularly having and caring for children, still have a major impact on women more than men. If we are to achieve equality for women in the workplace, employers will have to frame their policies to accommodate people who need to balance work and family life – and maybe in time that will include greater numbers of fathers as well as mothers.”

ENDS

Factboxes: additional material

In the year 1.3.2011 – 1.3.2012, there were 899 calls about sex discrimination to the Equality Commission's legal advice line -27% of all legal advice line calls.

Of these, around 67% were workplace-related.

The number of female part-time employees is up 87% since 1984, while the number of female full-time employees has risen by 47%. In GB, increases have been 28% for part-time and 37% for full-time female employees.

83% of part-time employees are women

73% of these women do not want part time work

38% of women work part-time

8% of men work part-time

Women in Northern Ireland, Labour Force Survey, 2011.