

07/03/2012

PRESS RELEASE

Challenge of childcare and employment

“Childcare is still seen as a problem for women rather than a challenge for society as a whole,” Anne McKernan, Director of Casework at the Equality Commission, said in a statement issued to mark International Women’s Day (Thursday 8 March 2012).

“Within the last six months,” Anne McKernan said, “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 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.

Anne McKernan said, “The lesson of both these cases is that employers have to exercise great care in implementing policies which might, even unintentionally, disadvantage people working reduced hours 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 the full equality for women in the workplace which was one of the objectives of the founders of International Women’s Day, 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

Notes for editors

In the year 1.3.2011 – 1.3.2012, there were 899 calls about sex discrimination to the Commission’s legal advice line. (27% of all legal advice line calls). Of these, around 67% were workplace-related.