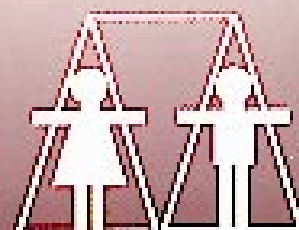


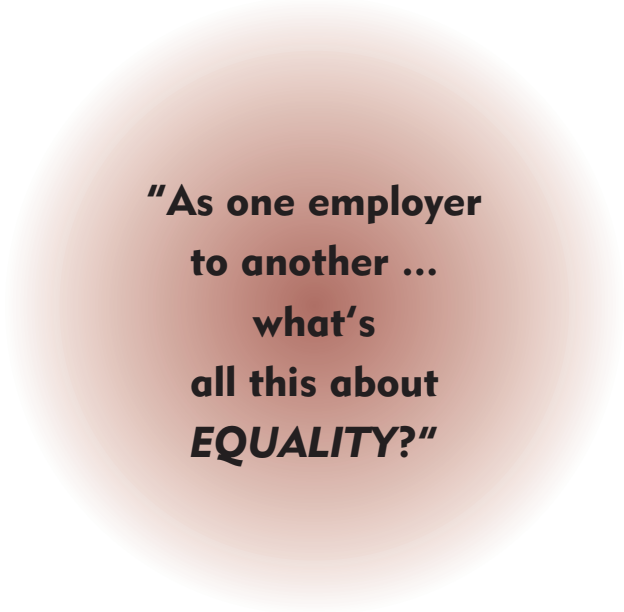
International
Labour
Office

Geneva



**"As one employer to another...
What's all this about *EQUALITY*?"**





**"As one employer
to another ...
what's
all this about
EQUALITY?"**

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FOREWORD

What is all the talk about equality? And why should we, as employers, be concerned? Of course we already know what equality, that is, equality between men and women, means to our businesses. Or do we? These are but a few of several questions we may have and which we may need to explore further.

Major changes are occurring in the world of work as we recognize the capabilities and potential contributions of all groups of society. Equality initiatives will be increasingly prevalent in our thinking since gender issues are becoming more focused and as we acknowledge the reliable contributions of our human resources, irrespective of whether they are male or female, for economic and social development. The guidelines were written in order to enable employers to gain a clear understanding about equality between men and women at work, what it is and what it is not, and to strengthen and contribute to equitable employment by:

- recognizing the problems and the complexity of change which confront employers in the process of implementing gender equality;
- informing staff and members of employers' organizations of the benefits of gender equality as we examine our own attitudes and practices in the workplace;
- helping to alleviate unemployment and poverty by expanding opportunities for competitive and productive positions;
- promoting gender sensitivity and integration by encouraging the design and implementation of relevant guidelines, policies, and programmes.

These guidelines do not seek to provide final solutions to problems requiring more profound examination. They do address issues such as the importance of valuing the contribution made by any specific individual, and the irrelevance of sex when set against competence. They consider the concepts and the problems of quotas and targets and the need to make only those changes which are beneficial to all. They promote better communication, without the confusion of dogma and jargon. Gender equality leads towards greater efficiency, not away from it, and is an objective all employers can share.

The ILO Bureau for Employers' Activities (ILO ACT/EMP) endorses these guidelines for use as reference and training material in "rewriting the rules" for equality in our own work environments. Thanks go to the collaborative efforts of the employer consultant, to the gender focal points and staff in ACT/EMP, EGALITE, and ETUDES, to FEMMES, and to the Media Design and Production section of the International Training Centre of the ILO for the drafting, editing, layout, and printing of text and graphic material to present a most informative and entertaining finished product. Finally, thanks in advance to all those who will further collaborate by exploring the material and taking the appropriate action to foster equitable promotion of human resources and private sector development.

Göran Hultin

Director,

Bureau for Employers' Activities

International Labour Organization

Geneva, February 1996

Guidelines for Employers on Equality at Work

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Part 1

INTRODUCTION

These Guidelines have been written by employers, for employers. They don't assume that everything can be changed in a day, nor indeed that **everything** needs to be changed. The purpose is:

- to clarify the issues concerning equality between men and women, from an employer's point of view;
- to set out some realistic business arguments for developing company action in this area; and
- to provide an outline of steps towards the introduction and management of a company equal opportunity policy.

These guidelines do not attempt to provide information about international standards concerning equality, nor detailed examples of what national legislation may include, but up-to-date information and advice is available from the International Labour Organization (ILO), or from national employers' associations. One major issue which is not dealt with here is equal pay. This is not often introduced at company level, but usually by legislation which can determine appropriate requirements and standards for all types of employment on a national basis. It is closely linked to equal treatment at work, and the implementation of a company equal opportunity policy will support and complement the introduction of equal pay, whichever comes first.

The demand for equal treatment of men and women in employment has been around for many years. Employers have been at the receiving end of social pressure, feminist criticism, and legal requirements: they are still sometimes seen as wilfully obstructive, anti-women, protective of a male ethos and working environment. That is not, of course, true - or at least, not universally! It is an image that damages the employers to whom it is applied, and stiffens the resistance of many who would otherwise be cooperative.

**Management
is all about
taking decisions,
not making assumptions**

Employers: the villains of the piece?

Some employers have actively campaigned for greater equality at work. Many find it entirely natural and right: they are sympathetic, and some may fall into the trap of believing that sympathy is enough. Others see it as fine in theory, but hardly applicable to "their sort of business", or to work which they regard as normally, and appropriately, done by men. A very few consciously resist any idea of equality. A great many, possibly the majority, believe that they are already doing all that they should to treat men and women equally. For some of this group, what they interpret as ultra-feminist accusations, ludicrous jargon, and unrealistic demands only create resentment and suspicion.

Campaigns which have that effect, or which seem to lack understanding of business life and priorities, stifle much potential goodwill at source. Indeed, lack of knowledge, misunderstanding and misinterpretation, both of purpose and motives, have proved to be serious problems on the path to equality - as in many other areas of life.

Many employers have not given adequate priority to equality issues. That does not necessarily mean that they oppose the concept. Certain obvious policy and organizational changes may be made, without being aware of the need to do more. It is important to recognize that this limited response which might be called the "half-way stage", is likely to achieve almost nothing positive, either for equality or for the employer concerned.



Cristina Fino

Part 2

EQUALITY ISSUES

Equality issues at work concern matters which are complex and deep-rooted. Patterns of behaviour and assumptions have become established over time, for a wide variety of reasons. The social priorities requiring men to work and provide for their families, while women cared for home and children, naturally tended to limit employment opportunities for women, even those without family responsibilities.

In these circumstances, it is not surprising if men found it difficult to admit that their wives were working: the implication was that their husbands could not adequately support them.

For many years, women were limited to low status, low-paid jobs, unskilled "women's work". The assumption was either that this was all that they were capable of - or, with better educated women, that they were not seriously interested in careers but only wanted to earn "pin money" to spend on clothes.

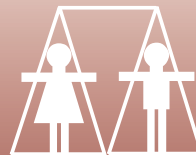
Wage rates for men were negotiated, in many industries, on the basis that they had to be enough for a man to support a wife and at least one child. Against that background, it is perhaps understandable that a woman wanting to apply for a "man's job" was challenging more than the belief that a woman couldn't do the work: she would have been trying to get for herself a job which should have supported a small family.

Those days are past, but they have left strong customs and beliefs behind. Women still face doubts about their competence, and assumptions that they do not take work obligations seriously. In an increasing number of countries, where social change needed a helping hand, laws have now been passed against discrimina-

tion on grounds of sex. Although such laws have an impact wider than the world of work, much of the responsibility for taking action falls directly upon employers. In such situations, real changes are needed in procedures and decisions.

Addressing prejudice is never easy, and change often provokes deeply personal disquiet among employees, women as well as men. However, even apart from social and moral arguments, there is potentially a clear benefit for an employer who recognizes the need to deal with equality issues seriously and competently.

The most effective approach will be based on objective improvements, designed to meet



Do we really believe that ...?

- All women will become mothers;
- The sex of the individual is the best indication of competence;
- All men have natural mechanical aptitude;
- Men will stay, women will go;
- Women prefer NOT to be promoted;
- Nobody will accept a woman boss;
- Young men must be given fast track promotion...



real problems which have been identified in consultation with employees. That cannot be done overnight. It requires time to understand and agree the objectives. A new priority must be given to the selection of the most suitable, best qualified candidates for recruitment, training, and promotion, irrespective of sex. As different stages are achieved, the business will benefit directly. If change is achieved in the context of honest progress towards real equality at work, the process will not be quick, but it will be sustainable, and will ultimately bring even greater benefits.

What is meant by "equality at work"?

(Also see Appendix 1, "Definitions".)

The fundamental requirement for equality at work is equality of opportunity and treatment. The simplest way to think of it is that a decision to recruit, train, promote - or discipline, make redundant or dismiss - a person, should always be based on relevant reasons, such as competence, behaviour, contribution: and never on the sex of the individual. Sex is a bad indicator of competence. It is nonsense to decide first what sex your employee should be, and then choose from candidates of that sex only.

(See Appendix 3: "Diversity and Overlap")

It is sometimes said that as women and men can never be “the same” it goes against common sense to require employers to treat them “equally”. This is a misunderstanding - indeed, the whole idea of equality assumes that the two people, or two things being compared, are clearly different. If they were the same, there would be no point in comparing them. They would automatically be treated the same. **Equality** of treatment, equality of opportunity, equality of valuation - all these start from recognizing that people are obviously not identical, but very different. Their different characteristics are always important, because they make up the whole person. **Equality** at work is all about ensuring that we do not allow ourselves to be influenced by a particular difference, such as a person’s sex, when it is irrelevant,

Discrimination is sometimes defined as “*less favourable treatment on grounds of sex*”. Equal treatment does not mean disregarding our better judgment and ignoring differences other than sex, which can be important, such as relevant skills and abilities. These must be equally assessed on their merits. There are very few genuine and justified exceptions to the requirement of equal treatment. Some may be based upon “*authenticity*”: actors and actresses are not expected to exchange roles. Others may be based on religion, as in the case where a private school, run by a particular religious order, prefers to recruit an adherent of that faith to a position which involves influence over and regular contact with the students, such as a teacher; while this would be acceptable, such a requirement should not be extended generally to all persons employed by the school (such as, for instance, maintenance staff). These matters are complex and sensitive, and employers need to be fully informed about the national requirements.

In many countries there are legal definitions which relate to equality issues in detail, and on which employers must take specific advice. These important definitions are likely to include the distinction between *direct* and *indirect* discrimination, and any exclusions or exceptions which may apply. There may also be legal provisions concerning acceptable *positive action* e.g. to improve candidate visibility, or to encourage applications from a wider group. At an early stage it is wise to seek advice from employer associations, which are a particularly valuable resource for obtaining guidance on national legal requirements concerning employment.

In these Guidelines, “equality at work” is used broadly to refer to the whole subject of equality of opportunity and treatment as between men and women in employment. Significant elements include equal recruitment, training, and promotion systems. Many of the other specific issues which arise, such as sexual harassment, are discussed later in considering important aspects of a company equal opportunity policy.

**In mathematics,
the “equals” sign is used
to indicate that
two expressions are
equivalent in value,
not that
they are the same**



Why should employers take action about equality?

Employers, whatever the size of their business, need to operate profitably if they are to continue to employ people - and their primary job is to run their business. However "right" and even valuable, change is always costly and burdensome to those who have to implement it. Some change arises from the demands of the business: but equality might be seen as social change, something which business should accept, but not initiate.

Such a hypothesis does not stand up to examination. No business can operate in a social and cultural vacuum. For many people, personal identity is closely tied to their position at work. The identity of a business lies not only in the hands of its management, but in how employees, potential employees, past employees, customers and neighbours see that business. Businesses cannot afford to neglect important social change.

Pressure for equality at work, in particular, has grown precisely because so many of the traditional practices and attitudes in industry were, and are, seen as insufferably and insultingly patronizing to women.

There are various reasons why employers decide to address equality at work, and to adopt a company equal opportunity policy. They may do so:

- because it is the law; or
- because of pressure from employees (and possibly also from clients or suppliers); or
- because it is good business.

They may be far-seeing enough to recognize that, if they take the initiative and tackle it well, it is a step towards better and more efficient management. In fact, really sound and competent management practices would automatically eliminate discrimination, because selection would always be based on relevant competence and ability.

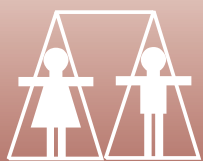
Because it is the law?

Yes, of course. If it is required by law, any employer would be foolish to ignore that. An employer would also be foolish to react by making a few obvious changes (because he or she did not believe in discrimination on grounds of sex anyway) and then carrying on as before.

In those countries where equality of opportunity, equal treatment, equal pay, and other specific rights have become legally enforceable entitlements, there has definitely been change, although the quality and speed of change varies. The detail of the law, and how long it has been in force, makes a difference. If it is dependent on action by aggrieved individuals, and its detailed terms are not well understood, the change may not be obvious: but the least satisfactory way to learn about the law is to find oneself accused of having broken it.

**If two things
are the same,
they are identical,
not "equal"**

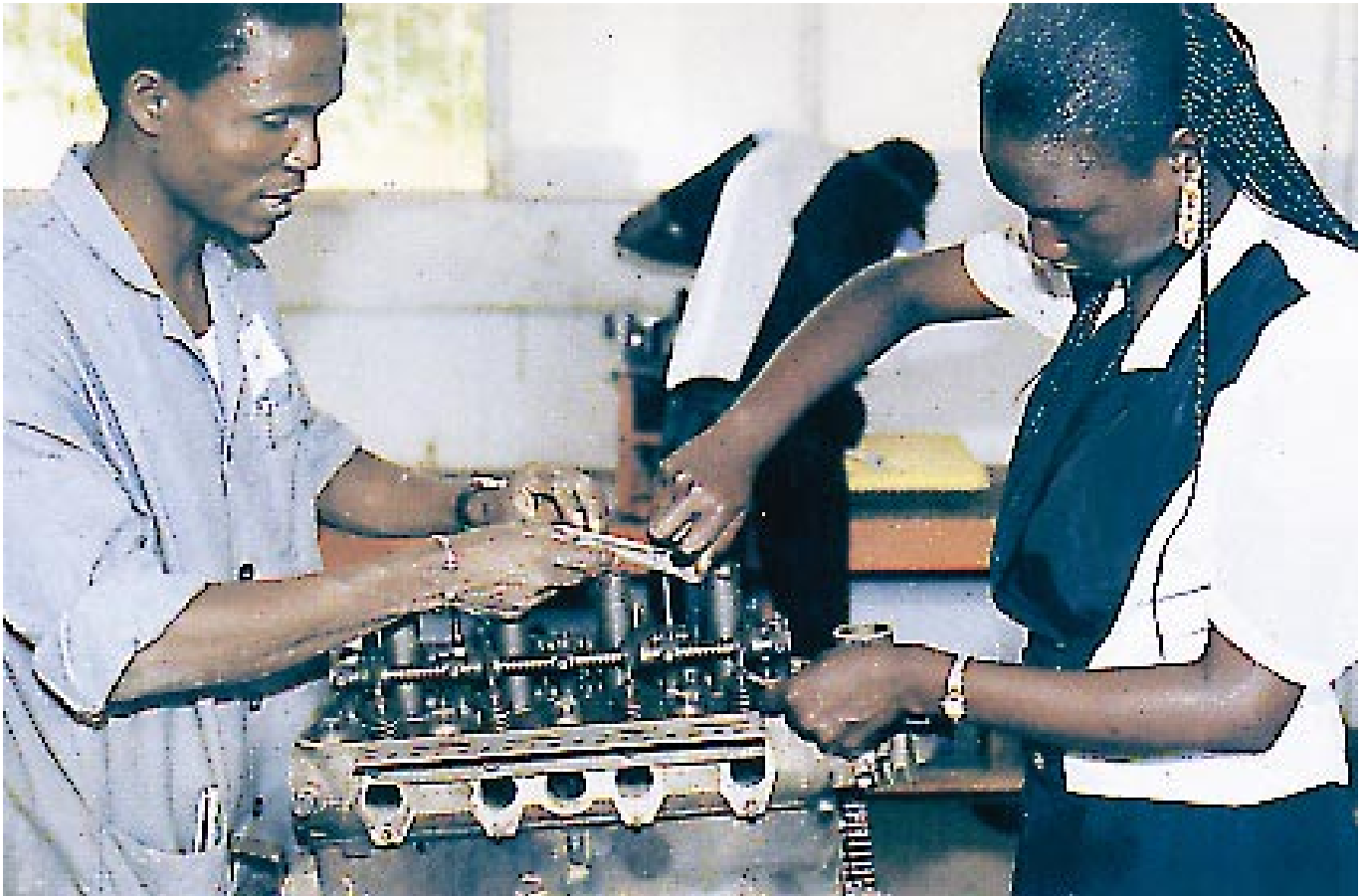
Unfortunately, even those employers who accept equality as an important issue are often unaware of their precise obligations under the law, or the strength of the expectations which society places on them. It will not be the same in every country - but the sort of thing which can happen to the unprepared employer is likely to be costly in both time and money.



The International Labour Organization and Equality

The ILO has a constitutional commitment to equality. It has sponsored and published extensive research and guidance on the subject, and the following are some of the relevant Standards or Resolutions which it has adopted:

- Equal Remuneration: **Convention 100** (1951)
- Discrimination (Employment & Occupation): **Convention 111** (1958)
- Workers with Family Responsibilities: **Convention 156** (1981)
- Equality of Opportunity and Treatment for Women Workers: **Declaration** (1975)
- **Equal Opportunities and Equal Treatment for Men and Women in Employment: Resolution** (1985)
- ILO Action for Women Workers: **Resolution** (1991)



Newspaper reports of legal actions to enforce equal rights normally focus, naturally enough, on what they see as "the story", and may not report clearly the legal reason for the decision. Employers may conclude that their situation is different from that of another employer who has just lost such a case. They would be wiser to ensure that they get up-to-date, informed advice, just as they would on their other legal or financial obligations. Again, in the first instance, this may be obtained from employer associations. What may happen is that an employer is challenged under equality law in a court or tribunal. Perhaps there is provision to argue one's own case, and the employer, who never intended to discriminate, decides to do so. Perhaps the employer goes to his or her usual commercial lawyer, who may not have any experience of employment law, or of the specialized equality requirements and procedures.

The employer may not realize until, perhaps, it is too late even to take advice, that the whole subject is infinitely more delicate and

technical than expected. It will require substantial management time to deal with the case. The company may be found liable for compensation payments, and perhaps attract serious adverse publicity. The employer will discover that motives, priorities and intentions are not as important as whether it can be shown that what happened was discrimination, probably defined as "less favourable treatment" on grounds of sex.

Equality is a worldwide issue, and there are important ILO standards which national governments will wish to ratify, if they have not already done so. The country which, this year, has no national law on equality between men and women at work, may have one next year. Existing legal requirements are already a powerful reason for employers to initiate or strengthen their policies in this area: where there are, as yet, no specific national laws, there are still good business reasons for taking this action. Moreover, in such circumstances, there is more time to formulate the appropriate measures.

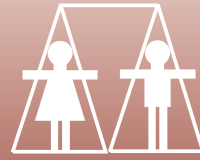
Because of social and employee pressure?

Employee pressure on this topic may be low key. It may take the form of good quality young employees, especially but not only women, leaving for other jobs; or of a declining proportion of women as candidates for employment, and in the current workforce. Some of those who stay may doubt their chances of better jobs elsewhere. Such changes are often signs of lack of confidence in management, and poor two-way communication, and can be prompted by plenty of other problems, such as declining business prospects. However, perceived failure by management to take equality seriously can cause many women to react in this way.

Such a position is not satisfactory for the company, and any indication of this low-key, low morale type of pressure should be treated seriously. The situation may otherwise be recognized only with hindsight, perhaps when an individual does not just leave quietly, but brings a legal claim against the employer for discrimination. Some employers may receive a direct approach from employee representatives or trade unions, seeking the development of a company equal opportunity policy, or equal pay.

This may happen in a country where equality is widely accepted, socially and legally, and where the employer in question is perceived as lagging behind: but it can also be part of a high-profile campaign to establish model agreements with well known employers, as a pattern for others.

Other direct approaches may also be made personally to the chairpersons or directors of significant companies. This is particularly likely when a national committee or similar has been set up to promote equality, and is seeking to establish role models at national or local level.



Advantages of a good equal opportunity policy

- Select the best qualified candidate;
- Strong focus on actual competence;
- Added value from diverse viewpoints;
- Good applicants seek fair opportunities;
- Improved information on recruitment.

In the event, the employer who has delayed taking action towards the promotion of equality at work until any of these approaches is made may find that he or she regrets that delay.

The work needed to set up an **equal opportunity policy** is best done carefully, and the pressure created by high visibility is a mixed blessing.

Because equality is good for business?

The essential difference between a successful business and one which just manages to keep going is often simply the quality and well being of the employees. The process of selecting, training, motivating and working with employees at all levels is one of the most important business functions. Priorities will naturally vary with the size and type of business, but some



inappropriate, even damaging, employment policies and procedures can continue in use for years with little review or assessment, if management focus is withdrawn.

An equal opportunity policy is not merely an addition to existing company practice. It requires change in many current systems, and its introduction will be valuable especially because it will require the review and improvement of some of the most important of those systems.

Beware of following precedents - you may find you are being led by prejudice.

Wherever there is a need to select employees, it must be in the interest of the business to make every effort to choose the very best candidate, on the basis of competence. All the relevant circumstances can and should be taken into account: the principles of equality at work simply require that sex should be recognized as normally irrelevant.

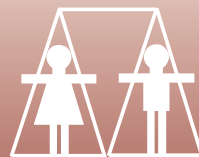
The sex of the individual is a bad, i.e. inefficient, basis for prediction of success. What matters is not whether "most" men would be better at a given job than "most" women - but which of the individual candidates for that job would do it best. Of course employers can, indeed must, always require competence: valid standards which relate properly to the duties and responsibilities of the job. How can it possibly be an advantage to the employer if a less competent candidate is appointed?

For some jobs, the work may require employees of one sex to protect personal privacy or decency, achieve "authenticity", etc. Arguments based on "cultural acceptability" may be advanced to support exclusions or exceptions from

equal treatment. Some such arguments arise from a belief that women should not hold certain positions “because they have never done so”, alongside a real fear of the de-stabilizing effects of social change. The concept of equality does represent a fundamental change, and one which is not acceptable to every individual. However, when it does come to be implemented it must be applied objectively, and this is especially true when exclusions or exceptions are proposed. These issues cannot be decided by the employer: they will normally be included in statutory definitions.

The development and adoption of a really effective equal opportunity policy has the potential ability to achieve a great deal more than just participation in social change, or response to legal requirements. It is worth doing well and thoroughly, for good business reasons. The benefits will, of course, vary with the size and complexity of the business, and the care with which the policy is prepared and implemented, but the following are examples of what might reasonably be expected.

**People everywhere
need to establish and maintain
their own personal identity,
to be aware of who they are
and where they fit in,
even if they do not
always recognize
their own strengths
and weaknesses**



**Equality in
practice
means...**

- not letting unintended discrimination be an obstacle to getting the best candidates for the jobs at hand;
- enhanced competitiveness through developing more productive human resources practices;
- more flexibility for both the enterprise and its workers, especially now that new technology has removed many of the constraints placed on mothers who wish to participate in the labour market.

**Equality in practice
means... better business
performance.**



Direct benefits of adopting an equality at work approach:

- Widest possible pool of talent from which to select;
- Some exceptional candidates may be seeking non-discriminatory employment;
- Greater credibility from selection for clear, open and recorded reasons;
- Benefits to the business from diversity of approach, background, and priorities;
- Non-discriminatory selection also improves training and promotion processes;
- Good company position in context of current or future legal obligations.

Benefits arising from the process of developing and implementing a policy:

- Better management information from recorded selection processes;
- Existing policies and procedures come under useful review;
- Employee communication and consultation procedures likely to be strengthened.
- Confidence and company loyalty encouraged, especially among “high-flyers”.

There are also potential public relations benefits, once the policy is established and some experience has been gained. A well-developed equal opportunity policy positions the company among the leaders on important social issues. Information about company experience can be of considerable benefit to employer organizations, and through them to other companies, and it also strengthens relevant representations to government. (e.g. on the preparation or amendment of legislation).

Part 3

INTRODUCING AN EQUAL OPPORTUNITY POLICY

Creating a company equal opportunity policy (EOP) is not a public relations exercise. It is not something to leave to a junior personnel officer, who happens to be a woman. It is not something for the personnel director to introduce under "Any other business" on the Board agenda, having chosen a day when the man most likely to object has sent his apologies for absence. It will take time, energy, and determination to do properly - but if it is not done properly it will take even more time, energy and determination to put matters right.

Senior management responsibility

Just as with the introduction of other major company policies, the proposals, objectives, benefits and methods of implementing an equal opportunity policy must be carefully researched, and agreed by the company Board. However, equal opportunities cannot be left to the personnel function. Directors and senior managers will find themselves under scrutiny, by their own staff, once the policy begins to be developed and the consultation stage is implemented.

It is essential that, for such a policy, training and understanding really does begin at the top. Many employees will have doubts, and wonder whether the company means to make the necessary changes: a genuine policy will have organizational and quality benefits for the busi-

ness, but a superficial, imitation attempt, as though following the latest fashion, will be correspondingly damaging.

Legislation

A company equal opportunity policy may be introduced in the absence of national legislation dealing with equality at work, but if such legislation exists then such a policy must of course reflect the legal requirements where appropriate. Company practice may need to be reviewed regularly to ensure continued compliance with the law.

Communication

The importance of communication, both internal and external, and consultation throughout the process of introduction of a company EOP cannot be overemphasized. Hasty or arbitrary management action may give rise to suspicions of hypocrisy, and invalidate much hard work. The basis should be one of openness. The issues are intensely personal, and the business objectives will only be fully achieved if employees accept that the intention is to introduce a genuinely effective policy.

There should be discussion and consensus where possible, especially on the objectives of the policy. Consultation of employees and their representatives about this at an early stage will

be the first opportunity to demonstrate the genuine value of involving all employee groups in the introduction of the policy.

It could well be the first item on the agenda of whatever group is set up to work on policy development and implementation.

Procedure

Policy introduction

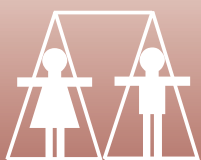
A decision in principle should be taken by the main board, whose commitment is vital. At this stage, consideration should be given to the desired coverage of the policy: in some local or national circumstances, the company may wish to declare an intention to avoid discrimination not only between men and women, but on other grounds. Such grounds might include, e.g. race or national origin; disability; sexual orientation or age. It may be found helpful to prepare a short

statement of intent which can be used as a reference point during the early stages, and thereafter as a target commitment.

A senior manager should be identified and given responsibility for the process. Arrangements will be needed for employee consultation; preparation of a draft policy; draft amendments to disciplinary and grievance procedures; clarification of individual responsibilities (statutory or contractual); elimination of any overtly discriminatory current policies; consideration of possible exemptions or exceptions; preparation of public statements, and many more. It is worth recognizing that this will take time.

Planning for change

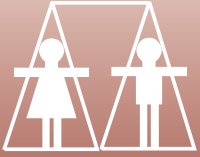
Current systems and procedures requiring amendment must be methodically identified (e.g. recruitment and selection procedures, appraisal, training opportunities, promotion, allowances, bonuses, benefits, 'perks', travel rules etc.). Procedures which may lead to dismissal,



Equal opportunity policy

An equal opportunity policy is a commitment to engage in **employment practices and procedures** which do not discriminate and **which provide equality between individuals** of different sex. The design of the policy should include:

- Revaluation of women's work;
- Working times and patterns adapted to take account of family responsibility;
- Enforcement of legislation to eliminate discrimination;
- Positive action;
- Vocational counselling;
- Information campaign; and
- Support measures to integrate and maintain women in non-traditional sectors.



Pitfalls to watch out for

- The selection board for appointing/selecting new employees are all of the same sex;
- Failing to review job specifications regularly;
- Acting on the basis of a "personal acceptability" or "fitting in" argument;
- Appointing a woman to make an "equality" point;
- Seeking to fill a vacancy by matching the previous job-holder;
- Promoting on the basis of "nuisance value" rather than competence.

such as disciplinary rules, absence criteria, and selection for redundancy, are obviously important and often contain discriminatory aspects. The method of application of procedures needs to be understood and reviewed, as well as the literal provisions. Consideration should be given to the company position on problems which may

arise (see Part 4, Specific Issues and Problems). Consequential changes required must be identified, e.g. possible health and safety aspects; information for any external recruitment contacts; additional workplace facilities required, if any; and so forth.



Consultation

All employees should be informed of the company commitment and the decision in principle to introduce a company EOP, after full consultation. Relevant issues for consultation include the identification of changes which will be needed, and acceptance of individual and collective responsibility: equality must not be seen as a management exercise.

Consultation structures already in existence may not be ideal, and care must be taken to ensure that management and administrative staff are fully involved. One or more working parties or committees could be set up to ensure the widest possible representative participation. This procedure may also help to keep the consultation process separate from matters concerning actual conditions of employment, which should continue to be dealt with through normal negotiation channels.

Training

Management training should be planned and introduced, and methods of training all the workforce determined; early training modules will be needed for "front line" staff (e.g. gatekeepers, telephonists, receptionists, personnel staff, secretaries) who may previously have informally turned away "unsuitable" applicants, i.e., those perceived as being of the "wrong" sex. Personal responsibilities and contractual obligations must be identified and accepted, including the possibility of disciplinary penalties for seriously discriminatory behaviour. It is often helpful to discuss and work through particular issues and problems, (e.g. segregation, harassment) in the context of training.

Assessment and maintenance

Normal business procedures are appropriate in relation to a company EOP, and systems will be needed for reporting, assessing, and adjusting the policy on the basis of experience. There should be an agreed consultative route for issues arising.

The suitability of the current grievance and appeals system should be considered: there may be a need for a supplementary system, perhaps involving confidential counselling. Methods of monitoring and maintenance of the policy should be set up from the beginning, including baseline information and a regular management reporting process. An analysis of applicants compared with appointments, whether on recruitment or promotion, may prove valuable. The reason for selection decisions, particularly rejection, should be on record. Any new or modified records which will be required should be prepared.

External publicity

A company EOP cannot function properly, nor will its potential benefits develop, unless it is declared and publicized. Such publicity is, of course, risky unless genuine progress is intended and being made. Public statements such as "This company is an equal opportunity employer" might be seen as hypocritical and might not be believed. Timing is important: such claims should not be made too early in the process of change. Try not to invite immediate contradiction, perhaps by ex-employees or unsuccessful applicants. It may be useful to consult and agree with employees on a programme to be carried out stage by stage, and to delay external publicity until an appropriate stage.

Part 4

SPECIFIC ISSUES AND PROBLEMS

Quotas and targets

Enthusiasm for equality sometimes leads to proposals for the setting of quotas or targets. There are important differences between them, but essentially both involve a requirement, or a commitment, to change the proportions of men and women employed in a particular category. For example, if at present all the sales staff are men, a company might decide that they want to change so that 25% are women. If they set a *quota* of 25% women, then no men will be recruited until that quota is achieved. A *target* is capable of being more flexible, because suitable

men will continue to be recruited, although efforts will be made to employ suitable women as well, until the target is reached.

This sounds fine until we examine the effects more closely and realize that both quotas and targets can result in precisely the discrimination against individuals which they are supposed to fight. Discrimination occurs when the best qualified candidate is NOT appointed, because of his or her sex. Every time a quota is applied to stop a man being appointed, because he is a man, that is discrimination. Of course, if the woman would have been appointed anyway because she was the best qualified candidate (not because of the quota), then the man does not



Jacques Maillard, ILO

suffer discrimination: but in that case, what good has the quota done, for anybody?

A target is less likely to distort appointments, particularly if it is carefully introduced and explained as something which is promotional, and which should never stop the appointment of the best qualified candidate, man or woman. However, targets and quotas share one serious fault: they both define a specific, desirable proportion of men and women within a group. Even as a transitional concept, this is dangerous. If it leads to complacency when the proportion is achieved, the whole approach must be wrong.

There can never be an objectively "right" proportion: people are individuals, people apply for jobs, people are well qualified or less well qualified for those jobs. If forty people apply for twenty jobs, it is in everybody's interest that the twenty best qualified persons should be appointed. If twenty men and twenty women apply for twenty jobs, it is intellectually dishonest and discriminatory; hopelessly impractical for the employer; and damaging to both the successful and unsuccessful candidates, if somebody has determined in advance that ten of the jobs must and will go to women. This places an enormous responsibility upon employers: we have to base our selection rigorously on "the best qualified candidate". If we do, and can demonstrate that we do it accurately and fairly, then quotas and targets become irrelevant.

Job specifications

Generalizations are always lazy intellectual short-cuts, but they are worse than that when applied to individual cases. "Women can't manage" - can most men? What matters is the present job, the present candidate. An objective standard of the competence actually required should be carefully established. Past requirements and job specifications should be re-

examined, and any changes in function and workload taken into account. It is never wise to try and repeat the "previous model" of employee, however successful. That observed success might have been in spite of, rather than because of, the characteristics you have decided to look for! Focus on the job itself, as it is now and as you see it potentially developing. Be willing to discuss, demonstrate, and test. Use the possibilities of probationary or temporary employment if appropriate. Recognize that it is the particular characteristic or competence that you should identify, and that some candidates may have previously shown it in non-business circumstances - the armed forces, a voluntary organization, clubs or societies, or the home.

"Fitting in"

Consciously or not, the idea of "fitting in" has in the past quite normally formed part of selection decisions, and been seen to have some validity, especially in a small working group. However, it is not now acceptable as a determinant between candidates of different sex, because it is seen as a disguise for discrimination. Somebody is not given the job, although she has all the necessary qualities: it is too easy to say that "she would not fit into the existing team as well as one of the other candidates". Probationary employment periods may be of value to solve or clarify real doubts, and perhaps the identification of any specific personal problems which were not evident at interview. Probation is more often used for the assessment of competence, and it is just as important to avoid discrimination, and the appearance of discrimination, in the use of probationary employment as at the initial selection stage. In other words, probation/temporary employment, and the way it is used in practice, should be the same for men and women.



Segregation

Working groups or teams consisting entirely of one sex often operate well for years. They may originally have been based on common skills (e.g. in engineering or machine maintenance departments). Some groups reflect long-held perceptions about “women’s work”. In some cases the group may be quite small and informal, but any of these groups can be very resistant to change. Today, the existence of such groups may lead to accusations that the employer is operating a deliberate “segregation policy”, although it is difficult to see what purpose that would serve, or why employers should want it if employees do not.

Reluctance to change is not in itself an argument for refusing to fill a vacancy in such a group with a validly competent member of the opposite sex. The employer may be in a “no win” situation if the team refuses to accept such a candidate. This is just one example of the value

of full prior consultation. The issue should be raised at an early stage of consultation when an equal opportunity policy is first proposed. It will have to be worked through patiently and progressively with the group and their representatives. Genuine work on this in advance would prepare the ground for future change, and assist the employer, even if no complete agreement is reached.

Positive action

Equality at work must apply both ways to be positive: even if the objective is the advancement of women to full equality, it cannot be achieved by treating men badly in an attempt to restore the balance. That would be “reverse discrimination” and it is generally unlawful.

Where equality at work is legally established, it is important to know what is legally permitted in terms of positive action. The best

intentions do not provide a defence if the limits are exceeded.

However, women and girls can be encouraged to consider work traditionally done by men, and they can be given education and training which will widen their choices. Employers can also try to make sure that applications from at least some women are received for all jobs. This may mean considering junior employees for promotion from grades previously considered unsuitable, or sideways moves from administrative to executive roles. Don't forget that many women "secretaries" or "assistants" have effectively trained a series of bright young men, who left them behind on the way to the top. Some did not even stay long enough on that particular rung of the ladder to understand the department that their secretary quietly continued to manage! The problem may not be the lack of suitable women candidates, but unwillingness to put a proper value on those who are already available, but invisible.

In the context of a company EOP, it will be well worth considering the possible relevance of any legally permissible positive action. It will normally be required that the actual decision on appointment cannot be based on sex, even to help more women to achieve promotion. This is fundamental good sense, and goes back to the point that no employer wants to appoint a less than competent candidate. It is likely to be a disaster for any individual to be put into a job she cannot do: and it can set back the progress of true equal treatment for many years. However, if all candidates know what the target is, are helped to qualify themselves, and know that they will be fairly considered, there may well be more successes.

New employees

A new employee, the first woman in that job, may not wish to take on the role of pioneering heroine, however competent she is. If there is opposition, even tacit, the stress could be extreme. If she is appointed in a wish to demonstrate equality, and is competent but her confidence is undermined, she may fail. An exactly similar man might also fail: but in such circumstances a woman's failure may be held to "prove" that it is an unsuitable job for any woman. For all these reasons, it is desirable to be careful in making such pioneering appointments, and perhaps to discuss this aspect with short-listed candidates: but be alert to the danger of appearing to wish to deter an otherwise suitable applicant!

Availability for work

Many employers have strong views about the ability of women in general to be available for work when required. The issues tend to focus on sickness absence, unwillingness to do overtime, and unreliability caused by domestic pressures (children's sickness, school holidays, pregnancy and maternity etc.).

There can be no doubt that irregular attendance is costly and disruptive to the employer, whether the absence is paid or not. However, the introduction of a company EOP is completely compatible with appropriate steps to control or reduce absence, subject to two main provisos.

First, there should be no discrimination against particular applicants for employment on the grounds that women generally are believed to have unacceptably high absence rates as this is not necessarily the case. Second, the rules about notification of absence, medical certification, acceptable duration and frequency, if and

when absence is paid, etc. must be equal, and have equal effect, as between men and women, In the context of indirect discrimination, this may mean that treatment is held to be unequal if it differentiates in favour either of those in full-time work, or those with longer employment records, both of which may typically be men.

On a more positive note, it is often true that absence rates are most strongly linked to low-status, low-responsibility jobs: women higher up in the business are likely to show availability for work comparable to that of their male colleagues. Remember that parents who have to choose which of them should be away from work to care for a sick child have traditionally been influenced by several very practical aspects: the perceived incompetence of most men as carers; the likelihood that the husband's career was more important to the family; if pay was to be lost, logically the lower-paid partner should be the one to lose it. None of these can be assumed to apply today, but in the past they reinforced each other in creating the view that all women were likely to be unpredictably absent more than all men.

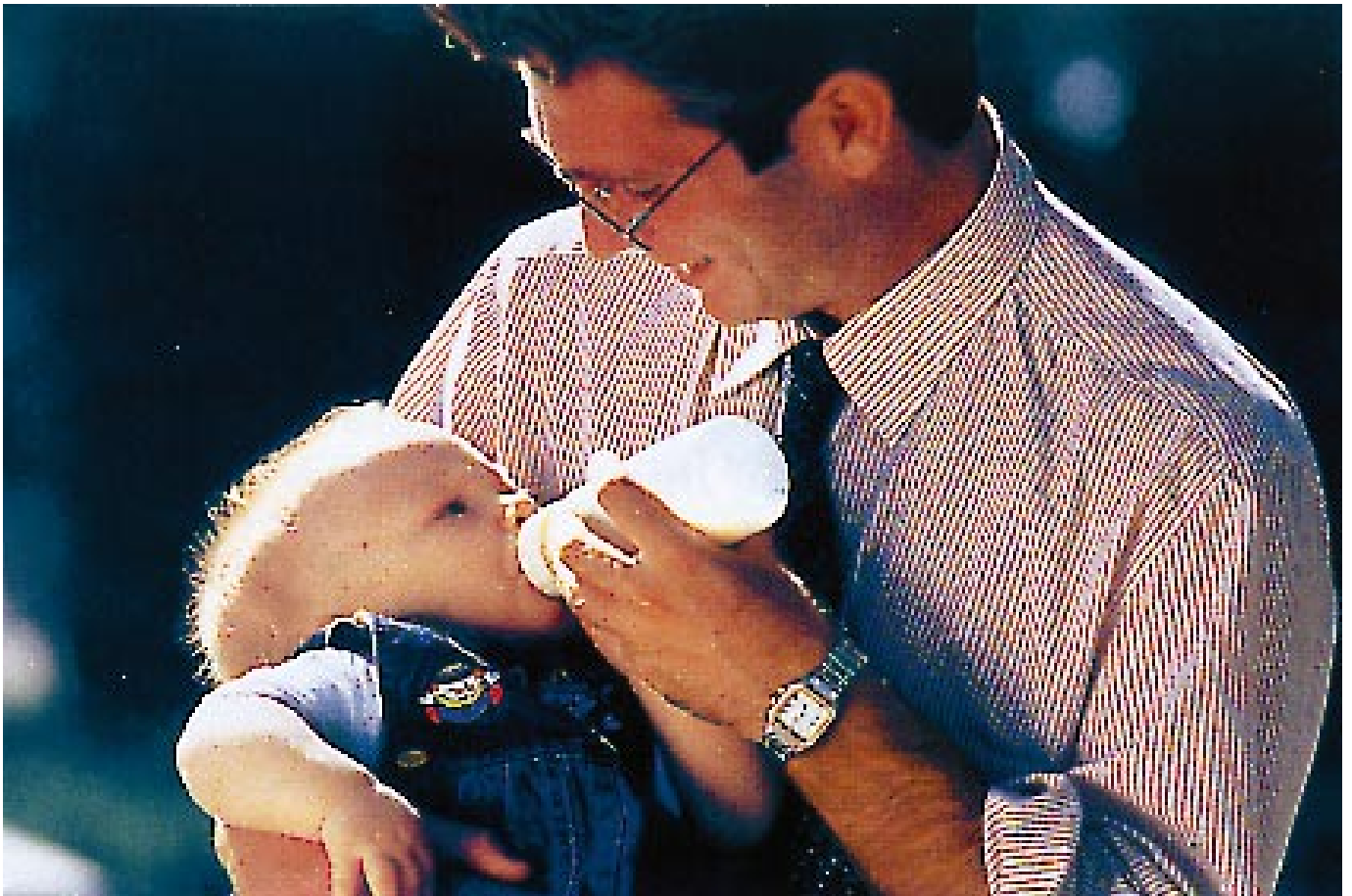
Pregnancy and maternity

The extent to which women are entitled to expect employers to treat them as though the possibility of pregnancy was irrelevant, and maternity absence did not exist, has been the subject of an increasing number of legal decisions in recent years. It is essential for employers to inform themselves about the legal position which currently applies to them and to their employees. National employer organizations can be relied upon to respond to requests from their members for help and information.

In managing a company EOP, the principle of equality of opportunity and treatment requires that a specific individual candidate, whether for employment, training, or promotion, should not be assumed to fit a generalized stereotype. Not all women become mothers.

Legal protection exists, in an increasing number of countries, to prevent dismissal on grounds of pregnancy, and to provide a right for a mother to return to her employment within a designated period following the birth of her child. There is no doubt that this can cause inconvenience and costs to the employer, even if it does not require the individual employer to make any payments to the mother.

However, these problems can be minimized, and even without this legislation employers would be wise to consider how best to manage them in the interests of their business. As women are appointed to more senior positions, their value to the business increases, and a flexible and cooperative approach can bring benefits to the employer. Women who know that they will not be dismissed because of their pregnancy will not try to conceal it: the employer will have time to ensure a provision of cover for their work. Similarly, there may be advantages for both parties in exploring the possibilities of part-time or home-based work while the child is very young.



Special leave for men

There may be requests from men for paternity leave, either at the time of birth or later. Although some countries provide for this as a legal entitlement, it does not seem to be widespread as a voluntary benefit.

Alternatively, if company policy provides maternity leave, or the right to return to work after an absence of some months, there may be requests from men for equivalent leave for other reasons: to complete a course of study and take examinations; to spend time with members of the family, perhaps in a case of terminal illness; to travel, again possibly for family reasons; or to experience a period of religious or philosophical withdrawal. Such leave might not be paid, but the right to return would be a valuable benefit.

Some company policies have explicitly accepted this concept: others indicate a willingness to consider individual applications. It is most likely to be practicable in relatively large businesses, where there may be trainees available to fill such temporary vacancies.

**A senior male manager
may learn his first lesson
about equality
when his intelligent daughter
does not get a promotion**

Sexual harassment

The concept of sexual harassment has developed independently of statutory definition, but has now been accepted in several countries as part of sexual discrimination, for which the employer may be legally held to be indirectly responsible even if the acts complained of are done by other employees. This underlines the need for a company EOP, including consultation, training and clear disciplinary rules which can be applied in such circumstances.

It should not be forgotten that harassment is not always or necessarily sexual: some "traditional" employee peer group challenges or "passing-out" customs can be physically or mentally dangerous. Management may be unaware, or too often turn a blind eye. Attention may first be focused on such behaviour when women start to do previously masculine jobs: perhaps this change will provide an opportunity to deal with practices which are excessive and which should be unacceptable in any workplace.

Both men and women can be sexually harassed, and it must not be forgotten that this can involve members of the same, as well as the opposite sex. There can be no doubt that genuine harm and distress can be caused, sometimes involving physical assault. However, it is very subjective: most offenders claim "it was only a joke", and an incident classed as sexual harassment by one individual may be quite acceptable to another. This means that the employer should seek to avoid identifying particular actions as "harassment", and instead try to develop a wide understanding in the workforce of what is ac-

ceptable behaviour, and the importance of each individual's right to a feeling of personal security against unwelcome sexual approaches at work. Junior employees may find it extremely difficult to protest against offensive behaviour by their supervisors or managers. Seriously damaging, but wholly unfounded allegations can be made maliciously. Genuinely lighthearted behaviour may, in a single case, cause deep distress.

Complaints about such matters in the past, if not ridiculed or disbelieved, have too often resulted in the arbitrary dismissal or transfer of the more junior employee, as being less valuable to the company. Such decisions are obviously damaging, and may even provoke legal action if such is available. The problems of irresponsible use of authority should not be regarded as unimportant to the business.

The employers' responsibility cannot extend to total protection, but it is advisable:

- to include a section on sexual harassment in the company EOP, making it clear that it is potentially a serious disciplinary offence;
- to promote discussions on the subject in all training sessions on equality;
- to expect supervisors and managers at all levels to be aware of the problem and alert to possible incidents;
- to provide opportunities for private counselling; and
- to ensure that a procedure exists for independent investigation of allegations should that be necessary.

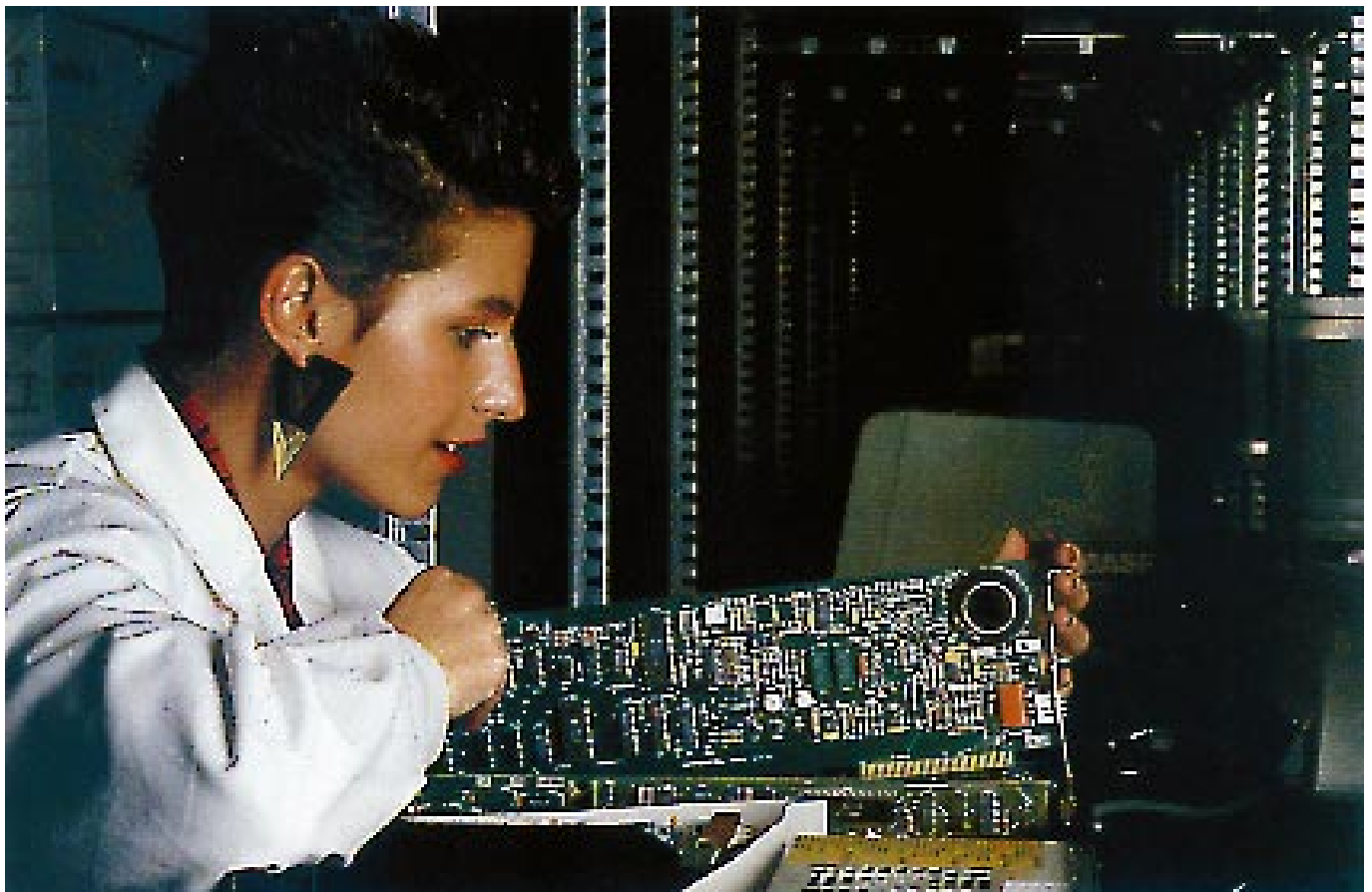
Part 5

CONCLUSIONS

The preparation and development of a company equal opportunity policy is a complex process, and may be undertaken for a number of different reasons. In these Guidelines, the fundamental arguments based on equity and fairness to individuals have, to some extent, been taken for granted. Alongside those arguments the businessman can set additional evidence that such a policy, if thoroughly prepared and wholeheartedly implemented, is good for business.

An important objective of a company EOP is to ensure that each job in the company is being done by the best available person, and in

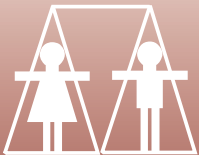
The objective is not that UNSUITABLE candidates should have a right to jobs which they are UNABLE to do - but that SUITABLE candidates should have a right to be considered for jobs which they CAN do



practice, considerable improvements in efficiency can be expected in working towards that end. In addition, equality at work is seen as an important social development, and employers may find themselves expected to move in that direction by their own employees or external groups. In an increasing number of countries there are legal requirements, and work done on an EOP is a practical preparation for the application of such laws. Further information and advice on local circumstances can be most usefully obtained from employer organizations.

There are, therefore, a number of good reasons for starting work on a policy. However, a

genuine policy will require the investment of time and trouble. If such a policy is introduced for cosmetic reasons, without the necessary understanding and preparation, it is likely to create dissatisfaction and lead, where legislation applies, to legal problems. The most important conclusion for employers in today's world is that equality at work is not someone else's problem, but ours; not tomorrow's problem, but today's; and not a peripheral issue, but one which we ignore at our peril.



What can employers' organizations do?

- Advise their members on the legal provisions;
- Inform and influence Government during the preparatory stages of new legislature;
- Promote the idea that equality in practice results in better business performance;
- Spread information on how enterprises with definite equality policies have been efficient and successful;
- Keep the issue alive in employers' circles by participating in the public debate on equality issues.

Appendix 1

Definitions

Discrimination:

any distinction, exclusion or preference based on designated criteria such as race, colour, sex, religion, political opinion, national extraction, social origin or other designated criteria which have the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. In these Guidelines, the focus is upon discrimination on grounds of sex, although many of the points raised are also relevant to discrimination on other grounds.

Direct discrimination:

when someone is, e.g. not recruited, or promoted, and the reason is openly stated to be because "a woman" (or "a man") is not acceptable.

Indirect discrimination:

when specific requirements (like "5 years apprenticeship") are set, but the job does not actually need that qualification. If such a requirement has the effect of excluding most applicants of one sex, race, etc., then it is discriminatory.

Positive action:

the provision of special encouragement, training, or advantages for those who need to catch up or overcome past discrimination. Limited both in nature and duration by the extent to which the objective of "equality" justifies such help, which must in any case not amount to reverse discrimination.

Reverse discrimination:

discriminating in favour of women to the extent of causing real discrimination against men. Unlawful and unacceptable.

Gender:

social differences between men and women that are learned, changeable over time, and have wide variations both within and between cultures. Within any given social context they may be flexible or rigid, similar or different, and complementary or conflicting.

Gender roles:

learned or expected behaviour in a society that conditions which activities, tasks and responsibilities are seen as either "male" or "female". Gender roles and needs are affected by age, race, ethnicity, class, religion and other ideologies.

Segregation:

refers to working groups composed mainly or entirely of one sex, usually seen as difficult for the other sex to join. Frequently alleged to be deliberately arranged or encouraged.

Sex:

biologically determined differences between men and women that are universal. This term should be used whenever reference is made to women and men as belonging to different physical categories (e.g. statistical data analyzed by sex).

Appendix 2

Points for consideration

when developing a company EOP

The following notes are intended only as an aide memoire. Some examples are included, but not all of these will be appropriate. Others will be available from local and national experience:

- ✓ Declaration of the company's commitment to the principles of equality at work.
- ✓ Establishment of a programme of employee consultation.
- ✓ Reminder (if appropriate) that there are relevant national legal requirements, which the company will uphold and expect its employees to uphold.
- ✓ Statement that breach of the law or of identified company requirements in respect of equality at work will be a disciplinary offence.
- ✓ Statements on the company's expectations or procedures on items considered relevant after consultation.

Recruitment:

- ✓ Job descriptions and candidate specifications.
- ✓ Treatment of applicants, arrangements for selection,
- ✓ Records of decision, notification to candidates.

Positive action:

- ✓ Limitations and possibilities

Training:

- ✓ Training in equality at work for all existing employees, and all new employees.
- ✓ Eligibility for skills training or other relevant training during employment.

Promotion or transfer:

- ✓ Availability of self-nomination and counselling.
- ✓ Eligibility for consideration.
- ✓ Consideration of future prospects as part of regular appraisal system.

Single-sex departments: (segregation)

- ☑ Identification and assessment of past reasons
- ☑ Moves towards greater equality of opportunity
- ☑ Agreed qualifications for entry to work group

Pregnancy and maternity:

- ☑ Notification
- ☑ Return to work after birth
- ☑ Paternity or special leave for men

Sexual harassment:

- ☑ Identification of issues
- ☑ Training and requirements
- ☑ Availability of counselling
- ☑ Independent investigation procedures

Disciplinary procedures:

- ☑ Provision dealing with deliberate discrimination against company instructions
- ☑ Provision dealing with sexual harassment.

Appendix 3

How did we get here anyway?

Human reasons for wanting to believe in discrimination

When we fail to do something, it is easier if we can point to a reason outside ourselves, which we could not have controlled or which went wrong. It could be the weather, the traffic, the alarm clock or the cat. If another person makes a decision, and we don't get the job, or the promotion, or the pay rise, it is hard to accept. We look for a reason, a difference between "I" who have been unsuccessful, and "you" who have got the job: but not just any reason.

It is tempting to think that the wrong kind of influence is involved. You're the boss's nephew? Went to the same school? Same religion? Same golf club? You're white? Male? Able-bodied? Minority? Female? And I'm not. Well, that's the answer - I feel better already. It wasn't fair, it was malice, prejudice, discrimination, and there ought to be a law against it.

It takes courage to say "Well, I didn't have the qualifications ... or the experience". It also requires an employer to have a clear reason for rejecting an applicant, and to be prepared to say what that reason is. Otherwise, whether he has actually been treated fairly or not, the unsuccessful applicant can't wholly be blamed if he has a genuine feeling of resentment.

Understanding some ordinary decisions

There are ordinary decisions to be made every day, at home and at work. Most of them are not very important. We may not have much information to go on, we are likely to get things wrong quite often: but if it only affects ourselves, we can learn from it and go on. We find something we like, so we try to find something similar next time. If we have a chance to do something new, and we don't take to it, we might prefer to go back to something more familiar.

Decisions at work are likely to affect other people, and if they go wrong, questions will be asked. If there is a job vacancy, it is not only easier to select somebody similar to the previous person, it is a logical use of experience: and it is accepted as just bad luck if it turns out to have been a mistake. To depart from past practice and, for example, to appoint the first woman manager, even if she was clearly the best candidate, is a bit risky. If it goes wrong, (even for reasons totally unconnected with the fact of being the first woman manager) nobody is going to want to repeat the experiment: and the person who appointed her is seen to have blotted his or her copybook. So ... discuss your decisions and share the risks, but don't ignore or avoid them!

The problem of "jargon"

Every speciality develops its own language. If you are a scientist, or a lawyer, an astronomer or a mathematician, a gardener or a cook, you understand others who share your involvement better because you are both using the same language, and it has a precise meaning for you. "Outsiders" recognize this, and don't object too much to their own difficulty of understanding.

Why then should there be any problem about the special terms which the experts use to help them talk clearly about equality issues? What are the similarities, and differences, in the situation of these professional advisers, compared with, e.g., doctors and lawyers, who use even more jargon?

Perhaps one similarity is that all the situations concern very personal and important matters. **Equality at work** brings forward issues affecting the relationship between men and women. Professionals such as doctors and lawyers, who also often deal with personal, perhaps worrying matters, are expected to translate their professional jargon for the lay person. This is so even though they are in a strong position, with traditional authority: and also perhaps because the lay person concerned is their client, and can as a last resort reject their advice.

Whatever the reason, untranslated jargon ruins communication. It may sound patronizing, or as though it was used to give spurious authority where none exists. It may sound alarming, like the Latin name for a common medical symptom. It may simply be confusing or irritating. Of course, it is crystal clear and helpful to the specialists - but it is a barrier to the lay person, and may be laughed at or resented.

Technical terms which need to be used can readily be explained if the meaning is not clear. Some of these are included in Appendix 1 "Definitions".

Diversity and Overlap

There is one particular misunderstanding which needs to be dealt with. The pressure for "equality" should always be seen as pressure for "equal treatment", "equal opportunity", for the individual irrespective of sex - not a requirement to ignore the differences between individuals. The belief that "equal" must be interpreted as "the same" creates uneasiness, because it flies in the face of common sense. There is no future along a road which interprets equality as meaning that it is in some way wrong to be aware of the different contributions which different individuals can make. The objective is the opposite - that we should be able to value the competence and contribution of each individual, irrespective of a generalized and irrelevant category into which that individual may fall.

This approach is essential for a full acceptance of equality at work, not as a social requirement, an added cost or burden which employers are required to accept, but as opening a door to diversity. What is wrong is the generalized, discriminatory approach which sees, first, a woman or a man, and attaches prejudices and assumptions to that first identification. We accept selection based on experience and training, or a particular educational discipline: we recognize the relevance of personal character, integrity, maturity, experience of personal relationships, and other elements of a life profile. Any of these qualities may be present in a candidate of either sex. The question must be: is the selection based on the qualities of this candidate, or on a generalized assumption?

It would, in today's world, be seen as unacceptably discriminatory to make any attempt to assess whether women have a particular input, an approach or skill for which they might be especially sought out or valued, simply as women. However, something is needed to challenge existing stereotypes, which ascribe aptitudes to

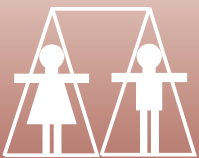
boys and girls almost from birth, and thus make it difficult for those who go against the pattern. It is, of course, a moving target: each recent generation has weakened some of the stereotypes, although many still remain. The most helpful concept for the employer is that of “overlapping ranges”.

Even against the background of traditional expectations and much gender-based training, when specific skills and aptitudes are considered in terms of the question “Are men better at this, or are women?” there is an overlap. In other words, whether you take childcare, nursing, teaching, cooking, car maintenance, computing, dentistry, architecture, engineering, gardening, medicine, science, farming, technology, sailing - any area in which skills and aptitudes may be observed - there are two safe assumptions. First, there will be an observable range of ability. Some people will be good at that skill, while others will be hopeless. (For the moment, never mind the reasons!) Second, if that range is split according to sex, so that there are two parallel ranges, those two ranges will overlap.

There may be a complete overlap: no observable difference. More likely, there will be a general tendency for more of one sex than the other to be happy and competent, “good at”, that skill: so there will be a partial overlap.

The essential, and fascinating, thing is that there is not a complete gap between the ranges, indicating that all men are better than all women at that particular skill, or vice versa. Therefore, even if one sex seems to show a greater aptitude than the other, to be (perhaps temporarily) the “leading” sex, there will be many members of that sex, at the bottom of their range, who are less competent than those of the other sex who are at the top of their range. So sex, or gender, is truly hopelessly inefficient as a basis of selection.

Which is where we came in.



ILO and other documents produced on equality issues

- Briefing kit on gender issues in the world of work.
- ILO policy documents on Women Workers.
- Women Workers’ Rights, modular training package.
- ILO special topics on positive action, equal pay.
- ILO Conventions and Recommendations on Equality, Discrimination.

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