

Defending terms and conditions of employment: the equalities perspective

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Blue skies thinking?

“Steve thinks that they [maternity rights] are the biggest obstacle to women finding work, because companies know they are required by law to offer maternity leave”

Whitehall insider

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Beecroft – venture capitalist

“the terrible impact of the current unfair dismissal rules on efficiency and hence competitiveness of our businesses and on the effectiveness and cost of our public services”

“To resolve the problem of the unfair dismissal process one could simply say that if discrimination was not involved **an employer could dismiss an employee at any time without giving a reason and paying the employee only for his or her contracted notice period...**the downside of the proposal is that some people would be dismissed simply because their employer did not like them. **Whilst this is sad** I believe it is a price worth paying for all the benefits that would result from the change.”

Cuts

Public sector employment has already fallen by 143,00 and thanks to George Osborne's latest announcement there will be a further 710,00 public sector job losses in the next six years.

Women are hardest hit by public sector job cuts – they do 65% of public sector jobs and 40% of women in paid work are in the public sector compared to 11% of men.

Nearly half of all black Caribbean women, and 37% of Pakistani and Bangladeshi women are employed in the public sector.

More rhetoric

The attacks on “gold plated” public sector pensions are just one aspect of these cuts [the average pension of a low paid woman council worker is just £2,800 pa just enough to keep off means tested benefit]

Maternity rights

OML increased in 2002 to 18 weeks and then in 2005 to 26 weeks.

AML went from 29 in 2002 to 52 weeks in 2005

In 2002, **67%** of mothers received maternity pay for four months or longer. One third (32%) took less than their statutory right to 18 weeks

By 2005 the proportion who received maternity pay rose to **90%** and only one fifth (22%) of mothers took up less than their full statutory right to 26 weeks of maternity pay

Council Directive 92/83/EEC

“Whereas the vulnerability of pregnant workers, workers who have recently given birth or who are breastfeeding makes it necessary for them to be granted the right to maternity leave of at least **14 continuous weeks** allocated before and/or after confinement...

Whereas measures for the organisation of work concerning the protection of the health of pregnant workers would serve no purpose unless accompanied by the maintenance of rights linked to the employment contract, including maintenance of payment and/or entitlement to an **adequate allowance**”

Gillespie and others v Northern Health and Social Services Boards, Department of Health and Social Services, Eastern Health and Social Services Board and Southern Health and Social Services Board.

The principle of equal pay laid down in Article 119 of the Treaty and set out in detail in Directive 75/117 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women **neither requires that women should continue to receive full pay during maternity leave**, nor lays down **specific criteria for determining the amount of benefit payable to them during that period**, provided that the amount **is not set so low as to jeopardize the purpose of maternity leave**, which is the protection of women before and after giving birth. In order to assess the adequacy of that amount, the national court must take account, not only of the length of maternity leave, but also of the other forms of social protection afforded by national law in the case of justified absence from work.

Judgment of the Court of 13 February 1996.

Conclusions

Very real danger that Government policy will see return to contract only rights

Vital to be prepared to protect most vulnerable workers including women and other minorities who most dependent on contractual rights which are better than statutory minimum.

Only since 1971 that there have been statutory rights, what Parliament has given it can take away.

European underpinning fairly minimal

Vital for trade unions and their members to hang on to their better than statutory contractual rights.