Written evidence submitted by J R Shackleton to the Gender Pay Gap Inquiry

I have not written recently on the Gender Pay Gap and related issues, though in 2008 the Institute of Economic Affairs published my Should We Mind the Gap? Gender Pay Differentials and Public Policy, which examines the topic in detail. I have some comments which may be of relevance to the Committee, though they may be controversial.

Comments on the general focus on the Gender Pay Gap:

1. *The GPG is a statistical artefact which is difficult to interpret and changes in it need to be analysed with caution.* Different versions of the pay gap (all employees, FT, PT; hourly, weekly, annual earnings; mean, median) can give different answers and trends. It can change for reasons which are obscure: for instance one year the pay gap rose in both the public and private sectors, but the aggregate pay gap fell as the numbers employed in the private sector dropped while those in the public sector rose (the GPG generally being higher in the private than in the public sector).

2. *Comparisons between countries are extremely misleading.* According to Eurostat, the unadjusted GPG for the UK in 2013 was 19.7%, in Italy only 7.3%. Nobody who knows anything about the Italian labour market would suggest that this is the result of more gender-blind behaviour by Italian employers. Only about 46% of Italian women aged 15-64 are employed, as against 67% in the UK; because of the high cost of employing low-skilled workers in Italy only relatively highly-skilled, and better-paid, women are in work. Thus Italy has a lower GPG.

3. *Serious econometric work suggests that only a small element of the GPG can plausibly be attributed to discrimination* after controlling for a range of observable factors which are known to influence pay, for example differences in educational and other qualifications, average age, experience, hours worked, concentration in particular
industries and occupations, and whether in the public or the private sector.

4. **Gender pay differentials between young people are close to zero or negative** (ie young women earn more than young men). The obvious inference is that having children, caring responsibilities and other ‘lifestyle’ factors make for the bigger difference in older age groups. Support for this comes from evidence that older single women seem to do as well as men, while sexual orientation also has an impact (several studies suggest that lesbian women are paid more than straight women).

5. **Concentration on the pay gap ignores ‘compensating differentials’ which offset lower pay.** There is evidence that other non-pay aspects of work done by women are more attractive than those for men. For instance women spend less time spent commuting, are less likely to work unsocial hours, less likely to face physical danger at work (the industrial accident rate for men is far higher than for women) and less likely to work outside or in isolated conditions. Wellbeing surveys suggest that they are on average happier at work.

6. **There are many other ‘pay gaps’, some of which may arguably be more important issues for public policy.** There are known to be large pay gaps associated with (for example) ethnicity, sexual orientation, religion and disability. In some of these examples discrimination may be a more obvious issue than is the case with the gender pay gap. For instance the Prime Minister has recently drawn attention to evidence that people with Asian/Muslim-sounding names are significantly less likely to be interviewed for jobs, evidence which is not found on the same scale for women.

**Comments on the specific issues raised by the Committee**
1. **How adequate are the Government’s proposals for tackling the pay gap faced by women over 40? What additional measures would be most effective in reducing the pay differentials faced by this group?**

The logic of the points made above suggests that the case for specific measures to assist women over 40 is not self-evident: to the extent that women obtain compensating differentials for lower pay, and to a degree choose family responsibilities, it is not clear what the public policy interest is in further measures to reduce gender pay differentials. Measures taken to extend parental leave and to offer flexible working may help women to return to career paths, although there evidence from Germany that it can actually have a perverse effect (with some women less likely to return to full-time employment after a longer break). There is some evidence that women in certain (well-paid) occupations are likely to remain longer on career paths than those in other jobs and it is theoretically possible that offering incentives for women to opt for such careers at a much earlier stage could have some impact, though this would likely breach anti-discrimination legislation.

2. **What actions would be most effective in improving recruitment, retention and re-training for women aged over 40?**

These are matters which are the concern of employers who, in the main, are interested in recruiting and retaining the best workers from whatever background. It is difficult to see what government can do, except possibly for publicity and information campaigns, to significantly affect this. Women are already more likely than men to receive in-work training. It is possible that government grants or mandates could affect firms’ incentives and lead to changes in employer strategies, but the record of this type of intervention is not great. Furthermore the emphasis on women over 40 would be likely to lead to displacement effects, as any gains they made would quite probably be at the expense of other groups such as younger people (who already have higher unemployment rates and face...
difficulties getting into work), men from some ethnic groups, and those with disabilities.

3. *Is there any evidence that women aged over 40 face particular barriers to promotion? If so, what could be done to address this problem?* I am not aware that there is evidence that, after controlling for factors such as experience and qualifications, women suffer from any obvious disadvantage. If any such disadvantage can be shown to be down to employer prejudice and unfair treatment it is clearly in breach of existing employment law.

4. *Are there particular difficulties in narrowing the gender pay gap for women working in predominantly female sectors and non-professional roles? Are there any evidence-based measures which could effectively address these issues?* Equal pay claims may be seen as difficult when there is no obvious immediate comparator, as can occur in predominantly female sectors. However UK and European employment law equal pay is applicable to jobs ‘to which equal value is attributed’ and recent tribunal cases such as those against Birmingham City Council (where women predominated in catering, cleaning and similar roles, with men doing more ‘outside’ work on bins and roads) or Asda (where women are concentrated in stores and men in warehouses) show that employment tribunals will accept broad comparability claims. Whether this is an unreservedly good thing or not is more debatable, as big moves to higher pay for lower-skilled women could well lead to job losses, or less jobs being created, in the medium term.

5. *Should the regulations on gender pay reporting be extended to organisations with fewer than 250 employees?* I do not think that the requirement for any organisation to have to report gender pay gaps is a good one, I’m afraid. For reasons suggested above, GPG variations between firms tell you very little. The danger is that a low or negative GPG is seen as a good thing, while a high GPG is seen as bad, and that this will lead to a lot of finger-pointing which could
have very negative consequences. It is quite feasible that an employer with a low GPG is acting in a discriminatory fashion, while one with a high GPG is being very fair. The variation can arise for reasons to do with the type of job, the sector the firm is in, the age structure of the workforce and many other factors. I did some research several years ago which showed that government departments with very similar recruitment policies and HR practices had very different GPGs because of the type of work they were doing and the sort of employees they recruited. There are three real problems which I fear will happen with compulsory reporting. First, firms will ‘game’ the indicator. Low-paid female work can be outsourced, turned into freelancing, or replaced by machines (as is happening in retailing, for instance, as a result of increases in the minimum wage). This will improve the firm’s standing as its GPG falls. Such behaviour is probably more likely among smaller, less-well-known firms than the large organisations (with a consumer brand to protect) which are currently obliged to report. Second, emphasis on the GPG will detract employers from concern for other issues, such as opportunities for young people and the treatment of any genuinely disadvantaged groups such as those with disabilities. Third, and flowing from that, it will be difficult to resist demands for monitoring of other aspects of an organisation’s recruitment, training and promotion policies towards women – but also of ethnic groups. The result could be a bureaucratic nightmare for firms and add to costs for little discernible benefit.

6. Would voluntary measures regarding what employers do with gender pay gap information be sufficient to create change within organisations? What could be done to ensure that information about an organisation’s pay gap is translated into action? Employers are already subject to an increasing range of rules and regulations and any further distractions from the essential task of producing goods
and services for consumers in an increasingly competitive and cost-conscious environment need very strong justification.

7. *Which mechanisms would most effectively ensure that policies designed to narrow the gender pay gap are fully complied with? Is there evidence from other countries or policy areas of what might work best?* We already have strong anti-discrimination and equal pay regulation which is the equal of any of our European partners and more effectively enforced than most. I am unaware of other ‘policy measures’ which have had a clear effect on reducing the GPG, which has fallen over time in many countries largely as a result of factors such as changing educational achievements of women, changes in industrial structure, changes in demography (fewer children, longer lives) and lifestyle changes (more single people, easier divorce, cohabitation, gay liberation).

In conclusion, I hope that the Committee will take an open-minded view on policy in this area and think very carefully about the emphasis it is placing on the gender pay gap rather than a more rounded examination of women’s role in the labour market and in the wider society. There are real dangers in excessive reliance on an indicator which is little understood, and basing policy on it carries the risk of unintended consequences which may be detrimental to some women and to other groups in our diverse society.

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