

Women and Equalities Committee

Oral evidence: Pregnancy and maternity discrimination, HC 891

Tuesday 26 April 2016

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Members present: Mrs Maria Miller (Chair); Ruth Cadbury; Maria Caulfield; Jo Churchill; Mims Davies; Mrs Flick Drummond; Ben Howlett; Mr Gavin Shuker

Questions 35–105

Witness[es]: **Siobhan Endean**, National Officer for Equalities, Unite, **Scarlet Harris**, Women's Equality Officer, TUC, **Samantha Rye**, National Women's Committee Secretary, Fire Brigades Union, **Sarah-Jane Butler**, Director, Parental Choice, **Louise Handley**, Head of Employee Relations, London School of Economics, and **Mark McLane**, Global Head of Diversity and Inclusion, Barclays, gave evidence.

Q35 Chair: Thank you on behalf of the whole Committee for taking the time out to be with us this morning and to be giving evidence as part of our pregnancy and maternity discrimination inquiry around the Equality and Human Rights Commission report and the Government's response to that. We are really grateful; we know you are incredibly busy, and we do not underestimate the amount of preparation that goes into appearing in front of a Select Committee, so thank you very much for your time. You will know the format, which is colleagues will be asking a series of questions to elicit more information for our inquiry. You will also notice people coming and going throughout the morning. It is because colleagues have other responsibilities in the House, so can I apologise in advance for that? Also, ignore any ringing bell at 11.30 because that simply means the House is sitting. It is not a fire alarm. Before we kick off with our questions, which Flick is going to start, could you give me your name and your organisation so that we have that for the record?

Siobhan Endean: Good morning, Maria. Thank you very much for having us. My name is Siobhan Endean. I am national officer for women's equality and the voluntary and not-for-profit sector, so people who work in charities and non-government organisations and the voluntary sector, for Unite, the union.

Scarlet Harris: Good morning. I am Scarlet Harris, the Women's Equality Officer at the TUC.

Samantha Rye: Good morning. Samantha Rye, Fire Brigades Union, National Women's Committee Secretary.

Q36 Mrs Drummond: I am just going to kick off with a general view. I want to have your initial responses to the report. What were the most positive bits and which were the most negative bits? That is quite vague, so try to keep that fairly brief.

Scarlet Harris: The TUC really welcomed the report; it was a long time coming. We had been calling for a follow-up on the EOC 2005 report since 2005, which had very stark findings that we had been quoting endlessly whenever we talked about pregnancy discrimination, which is an issue that trade union members bring to us regularly. We had been saying for a long time that we needed updated research, because we had a sense from the unions that we work with that it was a worsening situation and we wanted some evidence to back that up.

We really welcomed the EHRC research. It is an incredibly robust piece of research in terms of scope: the number of women and employers that they spoke to, and how they then analysed that research and looked at different types of women, different types of employers, the actual picture and attitudes as well.

We really welcome it but we are very dismayed by the findings. We were not pleased to be found right, in that it is a worsening situation. The findings were very shocking. The overall extent of pregnancy discrimination is incredibly high and has nearly doubled since the last report. There were also some very worrying findings about particular groups of women who are being singled out for bad treatment, like younger mothers, single mothers and agency workers and women on casualised contracts.

Siobhan Endean: Adding to what Scarlet said, we would like to support the work that the TUC have done in relation to the report. We found, particularly for Unite, it did reflect the changing nature of the labour market and where the labour market is failing in respect of pregnancy and new mothers. We were pleased there was recognition of the value of union equality reps in the workplace, and recognition of trade unions in supporting women who are pregnant and negotiating collective agreements with employers that support women who are pregnant and new mothers. It also looked at the health and safety aspects of it.

We were pleased that the EHRC recognised that there would be different experiences for women in different industrial sectors of the labour market. We know that in the public sector there have been high levels of negotiated agreements around pregnancy and childbirth, which is key to supporting women and in retaining their employment. There are other sectors of the labour market where there are clear failings and where we need to see some remedial action. We are very concerned at the treatment of women who do not have permanent employment contracts, so temporary and agency workers, and the experience of women within those sectors.

The research could have gone a huge amount further. Had there been resources within the Equality and Human Rights Commission, it would have been possible to look at the impact that pregnancy discrimination has on our economy. The fact is that women are under-employed, employed in jobs where our skillset is not matched, and when we are young we are encouraged into jobs that are concentrated in the lower end of the labour market. There has been other research carried out, such as by the Women and Work Commission, that has looked at that. We are only hitting the top of pregnancy discrimination. We need to have much clearer and stronger action by Government, employers and agencies to tackle pregnancy discrimination at work.

Q37 Mrs Drummond: It is quite interesting that it came out in the report that 84% of employers think they are doing a good job but 77% of women experienced negative or discriminatory treatment. Why do you think there is that mismatch?

Scarlet Harris: The gap between employers' perceptions and women's experiences, or their perceptions of their own experiences, was a really interesting finding. I suspect there are differing reasons behind that; there is not one answer. There are perhaps different reasons for different employers. In some instances it will be a genuine lack of understanding of their obligations and the law, and them genuinely thinking what they are doing is okay and that it is fine for them to ask a woman whether she is pregnant at interview and that is perfectly normal. That is particularly the case with some smaller employers that do not have the same size HR department or access to legal advice.

Some employers will have very good practices in terms of a lovely handbook on their staff policies somewhere, but they are large organisations with lots of different layers of management structures, and the training on what is appropriate and legal and what is not does not necessarily filter down to all levels of management. There may be things happening across a company that do not match up to what the person in the HR department will tell you their understanding of their obligations is. There are different things going on there, but it was a very striking finding about that mismatch between women's experiences and employers' understanding of their own behaviour.

Siobhan Endean: I am aware that Barclays are coming in to give evidence later on this morning. We have a very positive experience of working with Barclays in relation to particularly this. They recognise that what is needed is unconscious-bias training of management at all levels of Barclays, because you can have the best policies and procedures at a senior level, but if that does not filter through to perhaps branch or call-centre level, there will be those unconscious or even conscious biases about the value of women in the workplace.

The finding that employers said it was okay to question women at interview about whether they intended to be pregnant was quite shocking. The fact they did not recognise how discriminatory that was is something we all need to take responsibility for. Action needs to be taken to tackle discrimination, and employers need to engage and put in place really good policies. There is a huge amount of difference in policies. Of course you will have rogue employers who, no matter what the legislation is, will always discriminate. That is a major concern to us as well.

Q38 Mrs Drummond: Do you think the recommendations are strong enough in the report that employers will have to sit up, or do you think there needs to be some more legislation?

Siobhan Endean: There absolutely needs to be some more legislation around the issue of agency and temporary workers. If you look at a company that we are particularly concerned in highlighting at the moment, Sports Direct, they have what is known in their organisation as 'six strikes and you are out'. If, for example, you are sick and are unable to go to work, it does not matter whether you are genuinely sick; if you do that six times, you are out of that organisation. In their warehousing facility in Shirebrook they employ 400 agency workers. We had a particularly disturbing example of a young woman who was seven months pregnant and rang in to say that she was unable to go to work that day. She was told that if she chose not to go to work that day, that would be one of her strikes.

She went into work, she said that she was unwell and asked to leave the facility; she was refused the right to leave and then gave birth in the toilet.

That shows how discriminatory rogue employers can behave, but they actually put that young woman's life and the baby's life in danger. She was charged with neglect because she left that baby in the toilet. She was a very vulnerable young woman. I want to know why Michael Ashley has not been charged in relation to the behaviour that led to that woman's situation. If you want to look at what rogue employers are doing, perhaps you should ask Michael Ashley to come to give evidence to this Select Committee.

Chair: I urge you not to talk about specific cases. Obviously it is not the role of this Committee to intervene in things that might be before the courts.

Siobhan Endean: Okay, but there are a number of examples like that within Sports Direct, and perhaps he should come and give evidence to this Select Committee to show how that works.

We work with many other major employers where they say they are taking on public sector contracts within the private sector. There is an issue here about maintaining maternity protections and policies within the private sector where services are being privatised. We are working particularly with Serco, which I met with last week. They are doing a quality impact assessment of all of their policies in relation to the impact on women and equalities of how they employ people within the private sector.

Chair: We will go back to the question, which is really important.

Q39 Mrs Drummond: Some of the others will ask specific questions about this. I just wanted to get the overall view. Samantha, do you think that recommendations are going to be strong enough and are going to stop that imbalance between good and bad employers?

Samantha Rye: We were discussing this earlier. It is about enforcing those legislations, because a lot of employers or fire services—I am obviously only a single sector so can only really talk about the fire services—behave in different ways. Some will go with the legislation and others will not and will clearly put women in a position where they are being discriminated against. It goes back to what Scarlet said earlier: you can have the best policy in the world, but if they are not making sure that that is implemented and their employees are being well trained and educated in that policy, it can be mismanaged.

I will not mention the specific service, but one had an enhanced maternity policy, which I think has been mentioned among this group. However, it still had its faults and it still meant that some women were being discriminated against. Because it was enhanced against our minimum Grey Book work in terms and conditions, I think they thought that was that and the job was done, but it is far more than that. It needs to make sure that every person in that service is aware of that policy. Because it is predominantly a male-dominated job, the moment a woman declares she is pregnant unfortunately a lot of the men are very ill educated in what to do next. They might have had a partner or someone that has been pregnant, but they do not know how to deal with it in the workplace. Often that is where our problems start, so it is education.

Scarlet Harris: The TUC really welcomes the EHRC's recommendations. There are some where perhaps, if we had written them, they would have gone a bit further and been stronger. One example is the recommendation around access to justice. The TUC's position is to call for an abolition of tribunal fees, which pose a massive barrier to women's access to justice, whereas the wording in the recommendations was more about looking at perhaps whether fees are a barrier rather than calling for abolition. They were very good recommendations, particularly some of the recommendations around health and safety. Our concern is more the Government's response to those recommendations. They outright rejected the recommendation around tribunal fees.

Q40 Chair: We will come on to the Government's response later. Can I just press you a little bit on what Flick's asking? I am hearing that you are welcoming the research by the EHRC, and you are dismayed by the findings, Scarlet, but I am not hearing concrete ways in which you would toughen this up. We are talking about a really significant problem here. I am not hearing from any of you tougher ways of ensuring that employers really take this situation more seriously.

Scarlet Harris: Sorry, I heard the question at this point as our views on the recommendations, so I was just answering that. Are we moving on to what we would like to see?

Q41 Chair: Do you think the EHRC's recommendations are strong enough? Do you think they could have been recommending more?

Scarlet Harris: We welcome those recommendations. They are a really good set of recommendations. There are some where we would have gone further, for example on tribunal fees.

Chair: Is that it?

Scarlet Harris: All of those recommendations need proper resourcing, and that is one of the key things that has not been picked up in the response. We need to work with employers or look at how we change employers' attitudes. There needs to be resourcing for how we do that, whether that is training for employers or a new website with information. There needs to be resourcing for all of that.

Siobhan Endean: Unite is very concerned about the resourcing of the EHRC in itself, in that a few years ago it was able to provide a telephone advice service for women who found themselves discriminated against on the grounds of pregnancy. Of course, we have seen a massive reduction in the resources available to the EHRC, so we think they have done a tremendous job with the resources they have. However, we are deeply concerned that there are further cuts of 30% happening to the EHRC over this year and that we, as Unite, have been asked to consult on another round of compulsory redundancies at the EHRC, with a further loss of 29 jobs. We need to recognise that we need agencies that support women who are pregnant in the workplace. The very ability of the EHRC to fulfil its statutory duties around tackling discrimination in the workplace could be called into question.

Q42 Chair: Nobody here has got any legislative things that they would do to try to make the situation better.

Siobhan Endean: We would bring back in the questionnaire procedure. We would extend the ability for women to take employment tribunal cases. I know there was a recommendation that should be extended to six months. There ought to be class actions as well in relation to the ability to take employers to court. As Unite, quite often we have only really been able to tackle and change the situation for women by taking action against employers. We have women who work in cabin crew, for example. While we would work well with the employers in cabin crew, we have had to take them to employment tribunal to make sure that, where women are grounded because they are pregnant, they get the same level of benefits. There are ways in which you could extend the reach of employment tribunals and enable women to get that advice. That should be looked at further. The very resourcing of the EHRC has to be addressed.

Q43 Mims Davies: I want to move on to the health and safety issues relating to pregnancy. I am just thinking back to when I was pregnant with my second baby in predominantly a desk-based job. There was lots of moving and shifting things around, and I do not remember anyone specifically going through what I should and should not be doing. I was just wondering how employers can ensure risks are managed without being discriminatory. I was particularly interested in Samantha's point regarding firefighting and some of those key areas where managing this is particularly more difficult.

Samantha Rye: That is where a lot of our pregnancy discrimination starts and when a lot of our cases come forward. Women predominantly, because they have heard the stories before, will not disclose pregnancy when they should, which is immediately. Because of the risks that a firefighter has when they go out on an operational incident, and the inhalation of toxins due to fires and other incidents that they may attend, they have to come off the run immediately. That does not mean they should come off their shift work or their place of work and be removed from their colleagues, but unfortunately that is what a lot of services do.

As much as they cannot go out on a fire appliance, there is still a lot of proactive training and educational work that they can do following their shift pattern. A lot of women know that they are going to get moved and shifted because employers do not seem to have a grasp of what they should be doing, namely allowing the woman to stay with the shift and the work colleagues they are familiar with. Obviously there will be generic risk assessments but we always do insist on having an individual risk assessment that is regularly updated per trimester.

It is very much down to the individual as well, because they cannot be on a fire appliance but a lot of women will want to stay with their shift work. That might not be the case in every case, and we never say they must stay on shift. If they want to go on to a day job, that is fine. However, for a lot of women, especially with their second pregnancy, if you take them off their shift work—say, two days, two nights and three days off—and then put them on a Monday-to-Friday day-shift job, you are increasing their childcare. So, a lot of women do not disclose their pregnancy at the very important stage, which is in the first three months of development, obviously because of the toxins.

We also have the same issue when a woman returns to work and wants to continue breastfeeding. Again, she is not allowed on the appliance to go out on operational calls because of the toxins being ingested through to the mother's milk. Again, they can follow the shift, but unfortunately there has been a clear indication of a rise in pregnancy

discrimination, because fire services have become very fixated on productive and positive hours. Whereas before there was a developing understanding that a woman could follow her shift, be surrounded by her work colleagues, and continue the training that a firefighter needs to do, now they take them off them because it is all about: “We must get our 48 hours out of you, and I want them to be productive”. The fire service is very different from a business; there is no cost. If a firefighter comes off the run for maternity, they do not backfill that place, so there is no cost to the service.

Q44 Mims Davies: Can I take you back to that point about ingesting the toxins? Are you saying some women choose to continue to be in a potentially dangerous situation for them and their baby because they do not see a suitable alternative in the structure? That to me is quite damning.

Samantha Rye: I have taken phone calls from women who have not disclosed it to their employer—and I obviously encourage them to tell their employer and raise the risk to them and to the unborn child. It is because they have heard of the stories before. They have seen other work colleagues get moved and shifted off their shifts. It has a massive detrimental effect. If you were working Monday to Friday, nine till five, and disclosed you were pregnant, somebody would not turn around and say, “We are putting you on weekend work and you are working 12-hour night shifts”. You would be up in arms.

Q45 Mims Davies: Is there a broader discrimination here that, if you are pregnant, you are put into a desk job? Is that seen as discrimination or protection from the dangerous situation that a woman could find herself in?

Samantha Rye: Some services see it as protecting, but they just do not see the bigger picture that the best thing for a lot of women is staying with their watch. Yes, they cannot ride an appliance because of the toxins, but there is a lot of other work. We do a lot of preventative work and other work in the community that women can still do as part of their shift or watch.

Q46 Mims Davies: Are there any educational opportunities for the whole of the shift or the watches to speak about changes in people’s circumstances? It will not only be women that need to come off shifts; it could be back pain or other reasons that people might need to change their work. Why can this not be an educational issue almost predating this, so that women do not find themselves discriminated against and in a situation that could be foreseen? Then they would not be frightened about the situation in which they find themselves.

Samantha Rye: Definitely. We have a best practice guidance on maternity, paternity and adoption, and in there it talks about how your employer and service should be well educated and well briefed, so that when a woman does turn around and say she is pregnant, it is not, “Oh my God; get her off the shifts; put her into a desk job”. Instead it is very much “Let’s sit down. What do you see your role as? Would you like to stay on your shift? Do you want to move?” Yes, we would do an individual risk assessment to back up the generic risk assessment that we have in place. It is very much about education, and it is about having the atmosphere and the feeling that you can disclose that you are pregnant at the very earliest of stages. Some women will not want to disclose before three months because there is the uncertainty of whether the pregnancy is going to continue past three months, so there is some of that. However, a lot of it is because of past

cases and because they have seen other women being taken off shifts. They are worried, so they keep the pregnancy quiet for as long as possible. We do not advocate that at all, obviously, but unfortunately that does go on.

Q47 Mims Davies: Siobhan, do you have any comments on this in terms of those particular jobs where this could become an issue?

Siobhan Endean: Yes. Particularly Unite represents people who work on airlines in cabin crew, and we have worked really well with employers in relation to how we support women who become pregnant. There are issues about suitable alternative employment. If a suitable alternative employment is attractive for women to go into, there will not necessarily be that reluctance to share the fact that you are pregnant. If there is not a feeling that you are in some way a burden on the business, and there is a positive response from employers around pregnancy and childbirth, that makes a huge amount of difference.

However, we have had to resort to employment tribunal to enforce the terms and conditions of employment to make them as favourable for those women. Often it is about high-risk jobs, but in many cases it is about the smaller areas as well. It is about having relevant personal protective equipment and uniforms for women while they are pregnant. All of those kinds of things should not be difficult reasonable adjustments to make if employers have a positive attitude towards pregnancy and pregnant workers. It should not be seen as a reason to not allow women to carry on with those jobs. There are those other areas that we could work with.

One of the key issues for us as well is to make sure that there are workplace reps and health and safety reps in the workplace who are aware of the legislation around pregnancy. At the moment you need a generic risk assessment for all workplaces that understands and reflects that there might be pregnant workers in the workplace. If you get that right through the generic risk assessment, it does not necessarily matter whether or not women have declared that they are pregnant. Of course many women will not know that they are pregnant in the early stages, which, as Samantha said, is clearly the most important time in many respects. It is important that those generic risk assessments remain in place. On top of that you need to have a situation where employees feel confident and able to talk to their employers about the small adjustments that are sometimes not that difficult but make a big difference.

Q48 Mims Davies: Do women not feel confident about that then? We have longer careers now than we would have anticipated, so it is likely that there will potentially be a pregnancy at some point. Do women not necessarily feel that it gives them an opportunity to show that they are agile and able to move around the workforce? It is not in a way an opportunity for women?

Siobhan Endean: I would hope that employers would see that women who have had children are particularly good negotiators, are able to deal with juggling very high workloads and have really good networking skills, and would value parenthood and particularly motherhood. This is the crux of the issue, which is why it is really important that fathers start sharing some of the burden of parenthood.

Q49 Chair: Sorry, I am just conscious of the fact that we are talking about the recommendations here, and we really do need to get to the bottom of whether you think,

based on everything everybody has just said, asking the Health and Safety Executive to review its guidance, working with stakeholders, is what you want it to do in terms of a recommendation. We have heard a lot of what you are saying in the report. I am finding it difficult to think that you feel that the recommendations are enough, given what you have just said. Yet you have said you agree with the recommendations.

Scarlet Harris: We all agree that the current practice that the Health and Safety Executive sets out is what we want to see. We want to see generic workplace health-and-safety risk assessments that take account of women of child-bearing age and the possibility of pregnancy and breastfeeding in the workplace, and for that to be across the board. The Health and Safety Executive has a really clear procedure that allows for women to be moved to safer jobs where possible or to be put on paid leave if there is no safe alternative for them to work in. That is all there, and that is used to differing degrees in different sectors. It is commonplace in the fire service. It is commonplace on the railways, where women train drivers tend to be put on paid leave if they are pregnant.

As highlighted in the EHRC's recommendation, at no point does the HSE's flowchart of what an employer ought to do say, "Talk to the woman. Have a conversation with the woman". That recommendation does draw that out. We have that generic risk assessment in place. That is what is needed, that is what is required by law and all employers should be doing that, although it is clear from the report that not all are. In addition to that, employers should be having conversations with women who may feel a shift pattern does not work for them or, if they had the right protective clothing, they would be able to do a job for longer or they do not want to work in an office because their doctor said a sedentary job would be bad for their baby, and recognising that pregnancies evolve over the course of the nine months. It may be that at the early stages the generic risk assessment is suitable for the woman. She may develop pre-eclampsia and all sorts of conditions that might mean that needs to be reviewed. Employers need to see it as something where there is an ongoing review. That is drawn out in that recommendation. I am not sure what more we would want to see from that EHRC recommendation, because the HSE guidance is good.

Q50 Mims Davies: Is paid leave an advantage or a disadvantage when it comes to these particularly risky jobs? Is there a "putting women out to pasture" opportunity, perhaps?

Samantha Rye: The women members that I have dealt with certainly want to be valued and want to continue in their line of work. They cannot go out on an operational incident but that does not mean their role becomes obsolete. There are lots of different things that a firefighter does now. As a woman who has had three children in the fire service, I do not want to be at home losing skillsets and still being paid. I want to still be productive. I might be pregnant, but I still want to be part of what I do on a daily basis. That is an absolute last resort to go to paid leave for women in the fire service. They have worked hard to get there; they want to stay being an operational firefighter as long as possible.

Siobhan Endean: It is really important to look at the individual situations. Just to back up what Scarlet was saying, it is really important that the employer has a conversation with the pregnant woman. That would be really helpful. One of the concerns that we have had is that, if you are on sick leave, after a certain length of time your maternity leave kicks in rather than sickness absence. That is one thing that women really seek to avoid happening.

Also, it is really important that we reflect what the individual woman wants to see happen. It could be that it is the only option, and therefore it should be available and should be possible, but of course there needs to be much more done in the workplace to make the workplace safer for women to work in.

Q51 Mims Davies: What about other employees? Do you not feel that, if paid leave is too easy, there is a danger it could end up meaning that more women are feeling less valued and wanted in the workplace while they are pregnant? It becomes the easy option.

Siobhan Endean: That is not our experience.

Scarlet Harris: It is the exception. It is not common practice for there to be no alternative job to be found and women go on unpaid leave. It does happen. If you think about the wide variety of workplaces in the country, there will be chemical plants where there is no safe place for the woman to work and the only alternative would be for her to be at home. With lots of jobs, though, even where the actual job she usually does is quite dangerous, like in the fire service, there might be other jobs she could do that would be safer. It is fairly unusual for there to be no safe alternative for her.

Q52 Mims Davies: Finally, on the recommendation on working with stakeholders to improve practice, has there been enough in specific sectors to address the research on the health and safety concerns? If not, what more can be done for specific sectors? Obviously we have heard that the fire service is doing better. Are there particular areas that are standing out as areas that are really struggling to get best practice here?

Samantha Rye: Picking up on you what you said, the fire service is doing better. It is very ad hoc. Some fire services are great and others just do not know how to deal with it.

Q53 Mims Davies: Are they sharing that good practice?

Samantha Rye: Only within the trade union movement, as I say. A lot of the time when a woman declares she is pregnant in the fire service, they turn to their trade union rep. Often when they do not have a women's rep I get involved more, because I am the secretary. Certainly that is when we find women turn to a trade union rep, because the employer just has this mindset of taking them off the run completely and does not really understand that there is still a lot of value to her work within that watch system.

I do not know about other industries, but I imagine it could be similar. It is a male-dominated job, so it goes back to your point about education. It goes back to the point made by both Siobhan and Scarlet about having an atmosphere within the workplace where you can disclose you are pregnant at the very early stages and it is not going to be met with this horror—"Oh my God, she is pregnant"—when it is the natural process for the majority of women.

Q54 Mims Davies: Do any sectors spring to mind for you, Siobhan?

Siobhan Endean: We really struggle where there is not a recognised trade union. If you have a union equality rep and a health and safety rep working with management in the workplace, they have the ability to raise the issues around pregnancy discrimination. Where people have got security of employment, you find that pregnancy discrimination either does not exist or is dealt with at the early stages, which is why it is really important.

I understand that some sectors perform better than others on a generic level but the marked difference is whether you have a trade union organised in the workplace.

Q55 Maria Caulfield: I just wanted to turn more specifically to women's legal rights when they are pregnant. We obviously saw from the report that 77% of women feel they have some form of discrimination. Do you think the fact that women's legal rights are not always protected is down to employer's lack of knowledge and understanding around legal rights rather than their attitude towards pregnant women?

Scarlet Harris: I touched on this at the beginning. There is probably a wide range of different reasons depending on the employer. There are probably more generous and less generous interpretations of what is going on. As I said earlier, some employers will have a good understanding of legal rights and they will have a huge HR department that is completely on top of every development in legislation, and it is all written down in a book and they have clear policies in place, which may be excellent policies, with enhanced maternity pay and maternity leave and all of that. However, that training is not happening at all levels of management. A lot of the discrimination that goes on is at line manager level, or it can be other colleagues as well. A lot of the things that were picked out in the report were bullying and harassment by maybe other colleagues, not necessarily at line manager level. There is that aspect to it.

We have touched on employment tribunal fees already, and I am going to go back to it, because the question earlier was about whether we need to see more legislative change. My view is that there is little legislative change we need. We have really strong legislation around pregnancy discrimination and we have done for a very long time. We are seeing that flouting of that legislation appears to be getting worse. The question is whether legislation has any teeth if employers know there is no recourse to justice and there is very little that women are likely to do in that situation. I have seen this in my job; I have seen it on a personal level from friends telling me about their experiences and in my own experience in pregnancy.

Employers can be quite candid, saying, "Yes, we know that is your legal right but what are you going to do about it?", knowing that it is not just about the cost barrier of tribunal fees that now exists, which is a really important point, but a wider issue than that. 3% of women were going to tribunal. That points to a wider issue about women being in a very vulnerable position. They are about to take time out of the workplace. They are about to be on a reduced salary and having to pay for all the costs that come with starting a new family. They are worried about whether they are going to have a job to return to and whether they are going to be discriminated against when they return. It is not a good time for women to start rocking the boat and saying, "You are infringing my rights. I am taking you to a tribunal".

There is a question there about how we enforce these rights, and how we send a clear message to employers about the importance of that legislation and what it is there for: it is a social good and we are doing this for the protection of women and babies, and we need women and babies in society. This is not a burden on business. We need to get those messages across clearly. Rather than changes in legislation, it is about how we enforce it and how we change that culture that clearly exists in some workplaces and among some employers.

Q56 Maria Caulfield: Are you saying that it is not necessarily that employers do not have knowledge about legal rights; it is their attitude towards women taking them to tribunals and seeking help if their rights are being breached?

Scarlet Harris: It is a combination. Some employers do know and may have very enlightened practices at a senior level but that is not filtering down. In some larger employers you will see good practices happening among professional women at the top, but they might be large organisations with women agency workers working lower down who are not afforded the same rights at all and are treated very differently. There is also an issue about very public and prominent businessmen who have been in the media saying, “I would not employ a woman of childbearing age. I do not think women should have strong maternity rights”. Those things are out there. Everyone can think of examples of politicians and businesspeople who have said those kinds of things. That does lead to a culture where it is seen as okay to discriminate against women either because they are pregnant or are of childbearing age and could become pregnant.

Siobhan Endean: I very much agree with what Scarlet said. We find it is very rare that people say, “I am sacking you because you are pregnant”, because obviously people know that is unlawful. What will happen is that you will be made redundant while you are pregnant or on maternity leave. If you strengthened the framework of legislation around redundancies, fewer women would fall through that net. If you strengthened the legislation around temporary and agency workers, fewer women would have such employment abuses. A stronger framework of employment rights can only benefit women who find themselves pregnant and who fall through the net.

There have been weakenings of the Equality Act, as there used to be a questionnaires procedure, so if you felt that you had been discriminated against, you had the right to issue the questionnaire to your employer to find out what procedures they went through and how it came about that you lost your job. Also, in the public sector there is a requirement for there to be equality auditing and for equality impact assessments to be carried out. That would be strengthened if it was extended to the private sector. We are working with more and more employers who do that at the moment, and it is a really good way of making sure that your employment procedures do not unconsciously discriminate against women or make it difficult for women to stay in the workplace or return to work after pregnancy. That aspect of legislation needs to be strengthened and looked at. It is not specifically about the legislation around pregnancy discrimination; that clearly exists.

Of course, employers are confident that they are not going to be tackled, because women cannot afford to take them to employment tribunal. They cannot afford the £1,200 to go to employment tribunal, and everything associated with taking your employer to court, without any real prospect of feeling that you will get justice through that structure. It is really important that the employment tribunals are strengthened and that women can get reinstated. I know that right to reinstatement is there, but it is very rarely enforced. The right to reinstatement is really important if what you want is your job back after you have had a baby.

Q57 Maria Caulfield: I am just going to ask Samantha this, because Siobhan said women who have access to a union are often better informed and are able to appeal decisions that their employers have made. Catherine Rayner from the Discrimination Law Association has said that wider access to good legal advice is needed for employees. Do you agree with that

and, if so, what difference does a union make in terms of providing women with legal advice that women who do not have access to a union may not have?

Samantha Rye: The Fire Brigades Union's National Women's Committee produced a best practice Q&A-type document. It was very much about why we need to have a strongly supportive maternity policy and why it is in the best interest of the fire service to make sure it is supporting its women. That is the work we have done, and we have sent that out to all the fire services within the UK Fire and Rescue Service. Those fire services that took that guidance and worked with us tend not to have the problems. It tends to be the services that have the minimum and just go with our Grey Book work in terms and conditions. They just see that a woman becomes pregnant and she cannot be on the run, and they take that individual and that is where all the problems start. We are involved from a very early stage. Mims, you mentioned education, and that is what it really is about. It is about education. The problem with a lot of fire services is, because they are so male-dominated, they do not think about maternity until somebody says, "I am pregnant", whereas it should be at the very inception.

Chair: We are straying into the next line of questioning in terms of access to information. Is it alright for us to move on? Is there anything else you wanted to raise?

Q58 Maria Caulfield: Not really, no. It was just how women could access better legal advice to find out about the tribunals in the first place.

Siobhan Endean: The Equality and Human Rights Commission has in the past provided an excellent service at a local level to women who needed support, as did Citizens Advice for those women who are not necessarily in trade unions and could not find that access to support. It is really important that our voluntary sector is resourced by both local government and central government to provide that information and advice. We are finding the austerity measures we face at the moment are having a major impact on the availability of advice and information, particularly as highlighted by the funding cuts to the Equality and Human Rights Commission at the moment.

Q59 Ben Howlett: There is an underlying conversation that has been apparent all the way through the line of questioning we have had thus far, which is that access to information and advice and communication is absolutely critical. The EHRC report said that unions do play a very positive role in being able to provide that link in terms of communications and advice. How effective do you think the Equality and Human Rights Commission's recommendations are in improving access to information and advice?

Scarlet Harris: One of the things we were really pleased with was the recommendation we should look at other ways of getting information to women via healthcare professionals. That is quite an obvious route in terms of how we reach out to women who may not be in a trade union, who may not have a clue which phone number to call for a helpline service, for example, or who may not be able to access Citizens Advice. We have had conversations with one of our affiliates, the Royal College of Midwives, who think that it would make perfect sense for midwives at the booking appointment, which is early on in the pregnancy, to give a simple sheet of paper to women that would have on one side information on your rights and where you can go for more information, which would probably be a government website, possibly signposting to NGO helplines as well, and a tear-off sheet that they could give to employers. In the Government response this has

turned into talking about the MAT B1 form, but we felt that was too late, as that is after 20 weeks and women need to know about simple things like when they need to tell their employer and when the employer needs to do a health and safety risk assessment. They need to know that when they first meet their midwife. All women are hopefully going to see the midwife for a booking appointment quite early on in the pregnancy, and that seems like a good time to get information to them.

Q60 Ben Howlett: Forgive me, that is a really good example, but it did not answer my question, which was on the effectiveness of the EHRC's report on improving advice and information. Siobhan, how would you evaluate it?

Siobhan Endean: They have absolutely hit on a key issue, which is how you get the information out to women. It is very complicated. If you are a pregnant woman, you have a huge amount of information that you are perhaps finding out for the first time. Whether it is related to your pregnancy, your health, your employment or your housing, there are huge issues that face you as a pregnant woman. The EHRC has absolutely focused on the fact that we need to get information out to women about what their employment rights are before they even start enforcing them. That is crucial.

They also made recommendations on getting that information out to employers as well. It is really important that employers understand their responsibilities to women who are pregnant. There is a lack of understanding among employers around redundancy and pregnancy in particular. We have worked recently with Acas on developing advice and guidance to employers in relation to that. Employers trust the Equality and Human Rights Commission as an organisation. It could usefully provide clear guidance to employers about their responsibilities around pregnancy and discrimination. That would be really important.

Working with Acas to build that kind of collective bargaining around the area of maternity and pregnancy discrimination between trade unions and employers would be really helpful. Within Unite, we have a network of around 2,000 union equality reps who work in companies and different organisations, and they are trained on supporting women on pregnancy and maternity discrimination, and they are also trained on raising the issues with their employers. That area could be provided with resource as well.

Q61 Ben Howlett: Samantha, do you think that the Equality and Human Rights Commission's report involved the unions enough?

Samantha Rye: All the unions would have been asked for their information. From our point of view, we do not have huge volumes of women in our service, but a lot of our women do suffer discrimination within their pregnancies because of the way it is handled and because of a lack of understanding, because it is male dominated and a high-risk job. They would have been consulted within that. It has certainly highlighted certain areas. Sometimes it is good to have the hard evidence there to say, "Look, this is what we have been trying to say to you for all these years. Now we have the facts and figures".

Q62 Chair: I think Ben's question was: are you happy about how much the report involves the unions in finding the solutions?

Scarlet Harris: We are very happy. We had good engagement with the EHRC throughout the process, and the recommendations in it around information and guidance have a whole section there on TUC and recognises Welsh TUC and Scottish TUC as well. Clearly it sees us as a route of information and training of reps, which, as Siobhan said, happens already, and we would welcome any further work that we can do specifically targeted at health and safety reps, for example.

Q63 Chair: So, the answer is yes, you are happy.

Scarlet Harris: We are happy with that. Just going back to the point about information and advice, the EHRC recommends working with healthcare professionals, which we do welcome, and the setting up of an online site, which would be great.

Siobhan Endean: I have worked with health visitors as well, and they are activists and work to support women around pregnancy. If it were well resourced, that would be really helpful.

Q64 Ben Howlett: Coming back to the questions that Maria was raising just now in relation to access to legal advice, for example, I have done a bit of research into what is available via your own unions. If I was a pregnant women—which quite clearly I am not—and I was trying to access that sort of information, I would have had to go through three or four hurdles. I typed in, for example, “Unite pregnancy discrimination”. A load of documents and press releases and all the rest came up, but if I was a pregnant woman who is trying to work out whether or not my employer is being discriminatory or not, I would want to click the least number of buttons possible in order to access that. Similarly with the Trades Union Congress, for example, it has a very informative best practice pack, which is available and is excellent. It tells you about all the different policies and all the rest, but at the very end it does not say, “If you have suffered from discrimination, this is how you are able to access the support and services you need in order to challenge that”. That is a very small thing, but is that not part of the wider cultural problem here that women who are facing pregnancy discrimination—or even men who are going to end up facing paternity discrimination as well—are just simply not able, in an easy and effective way, to access the support they need through the union advice that is provided on your website? What are you going to do in order to improve that?

Scarlet Harris: I am not going to speak in defence of the TUC website. We have work to do there. In defence of our publications, I am not sure which publication you are referring to, but nearly all of the ones I can think of—and we have a whole range of publications, aimed at new mothers, adoptive parents, new fathers etc.—have a section at the end about what to do and who to contact. If it is not specific in terms of, “Call Dave on this number”, it is because we are an umbrella organisation. Those leaflets are going out to firefighters, for whom it would be appropriate to call the FBU.

Q65 Ben Howlett: If I may interrupt you for a second, I was referring to *Ending discrimination at work for new mothers*, which is the main documentation, and it is the same for paternity and all the rest. It is an excellent set of recommendations, by the way, and in the first question that you answered you probably did not look at the other four recommendations, which are superb in here as well, which should be taken into consideration. It says, “All TUC publications may be made available for dyslexic or visually impaired readers on request”, and you are able to get it in braille if you call a number. It does

not say specifically, if I am a woman who is facing pregnancy discrimination, where I can get the support. It is that joined-up approach that really needs to help and enable those people to get through the cultural barriers that they are having to struggle with at the moment, and it is just not easy enough to do that.

Scarlet Harris: I do not have the publication in front of me, but my memory of it is that at the back and throughout the text it says, “You should speak to your trade union rep”. There may be trade union reps in a range of different unions, so it is not appropriate for us to advise which union. That is why TUC sometimes steps back from that, because there may be more than one union operating in different workplaces. It is not appropriate for us to direct towards a union, because there may be choices that need to be made there.

I take on board the point that information on websites needs to be clear. I would also say that—and Siobhan and Sam might want to come in—that is not necessarily how most union members access information from their union. It is often about workplace conversations and speaking to a rep who is present. Sam is talking about women calling her up and saying, “This is the issue I am facing”. They are not going on the FBU website to look for guidance on what their rights are; they are calling up their rep in the workplace. That is very much the value of trade unions. That is why we have seen throughout the EHRC report that there is less discrimination in unionised workplaces, because you have Sam there or whoever it might be in the workplace advising the employer and advising members on their rights. It is not necessarily about an online portal, but I absolutely take on board that there is room to improve the websites as well, so there is clear access to information.

Q66 Ben Howlett: Obviously if membership of unions is struggling—we are having the same issues in political parties—this is a great opportunity for you to end up increasing your membership base by having accessible information to say why it is beneficial to join a union. Unions are incredibly beneficial. Sometimes the Government does not necessarily come up with those sorts of views, but that is a view that I hold. This is a great membership incentive for people to know that they are going to get X, Y and Z sort of support as a result. That being made easily accessible online would be very beneficial, if I may just point that one out.

Samantha Rye: The FBU has a very high density of members. Obviously our numbers will drop off as the fire service loses employees because of austerity measures, but I would say that, from the moment you become an FBU member, you are given a raft of information. You are given a membership pack. It will list all the different sections, because obviously we have a very strong women’s section, BME section and LGBT section, which guides you so that when, say, a woman becomes pregnant, if she does not have access to a rep immediately, there are emails and telephone numbers. As Scarlet said, the TUC is an umbrella organisation, but the individual unions are very much giving that information from the moment you join and telling you what you are entitled to. Certainly the FBU will tell you you have access to legal advice should you need it.

Siobhan Endean: Without advertising our union too much, Unite have a maternity benefit for members who become pregnant. We give targeted advice to those women who come forward, and it is about that local contact. Also a lot of our members are in workplaces where we have negotiated through collective bargaining agreements that are better than the legal minimums. We would say to women, “Look, these are your legal minimums, but

your employer may well provide you with better terms and conditions and maternity leave, so please check what is happening in your local organisation”.

Q67 Ruth Cadbury: The questioning has so far has concentrated on women who are unionised and the support that unions give. I am conscious that so many women work in non-unionised workplaces. The initial suggestion, which was excellent, was that women be given their rights at work at the booking appointment, because that captures just about every woman. I just googled “Pregnant my rights at work”, because I might not at that point even think I am being discriminated against; I might just want to know my rights. I have not had a chance to go through all the results, but there is a page on GOV.UK, and I wonder whether you as unions would be up for assisting the Government in populating that better, which might increase union membership but also might provide more real-life experience on where to go. My next question is: apart from unions, do you think there are enough points of contact for advice and information and support, or are those services that are being cut back?

Scarlet Harris: Unions would be happy to feed into that, if the Government are looking to improve the advice given on the GOV.UK website. There is very basic information there, and it is always absolutely correct and up-to-date, so that is an important source of information for women. In terms of getting more detailed information and going through complicated, difficult circumstances around redundancy, I would have thought unions, some NGOs and Citizens Advice offer very detailed information, advice and guidance. I am thinking, for example, of Working Families, who have a helpline, as do Maternity Action. We have worked with Maternity Action in the past on providing some of their guidance in translation, because lots of women for whom English is not their first language would really struggle to understand some of the detailed guidance about your legal rights and employers’ duties to you. As Siobhan mentioned earlier, ensuring a well-resourced NGO sector and Citizens Advice is really important as well for those women who do not have access to a trade union.

Q68 Mr Shuker: We are just coming up on the hour and we have another session, so I will ask very brief questions, and if you could give brief answers, it would be hugely helpful. Thank you. Going back to a point you raised, Siobhan, I have claimed for my paternity grant in the past; does that happen across all trade unions? I do not remember receiving any response about my rights in the workplace related to that. Does it trigger a process in most trade unions to issue guidance at that stage?

Siobhan Endean: It does not in general, but it should do. We struggle particularly in getting the information across to fathers about their rights in terms of paternity and parental leave. If you look at the coverage, there have been particular challenges around the introduction of shared parental leave.

Q69 Mr Shuker: Forgive me, I was using it as an analogy for maternity rather than pushing for paternity rights, but you are saying it would be a helpful mechanism for most trade unions to go through to issue guidance at that stage.

Siobhan Endean: Absolutely.

Q70 Mr Shuker: Thanks. Can I just ask you a couple of questions about the Government’s response? I think all of you would agree with the characterisation that the Government basically accepted all the recommendations that were made, though some in a bit more of a

lukewarm way, with the exception of tribunals. Scarlet, you have said a lot about tribunals so far. Can I ask you a specific question about the quantitative evidence that shows that tribunal fees have reduced access to justice there?

Scarlet Harris: The EHRC report shows that we have gone from 3% of women going to tribunal, which was already shockingly low, to less than 1%. I think it was 17 women in total out of over 3,000 who went to tribunal, which is shockingly low. If you look at the MOD statistics on tribunals, which I do not have in front of me, there has been a massive decline across all discrimination cases, but pregnancy discrimination has fallen massively in the time since tribunal fees were introduced.

Q71 Mr Shuker: There are some who would say that if 97% of women were not taking advantage of it beforehand, the reduction is relatively small. Are there particular issues you see at the moment that could be cleared that might take that number below 97%?

Scarlet Harris: I have already accepted that 3% is low and that there are various reasons why women do not go to tribunal; it is not just the fees. There are all sorts of issues around it being a very difficult time in her life and financial reasons and stress, but fees are an additional barrier that does not need to be there. If we are all in agreement that legislation protecting women from pregnancy discrimination is for the public good and something that we support, having quite stringent barriers such as the three-month qualifying period as opposed to six months seems particularly harsh. There is no logical argument for why we should put that barrier in place. The remission scheme as well is arguably discriminatory towards women and those starting families, because there is a very low threshold of £3,000 for the amount of savings you can have. Lots of women would find themselves automatically unable to claim from the remission scheme simply because they were saving for the baby or for a new home because they need to move.

Q72 Mr Shuker: There was a specific recommendation from the EHRC around a collective insurance scheme. Would you welcome that? Do you think the Government should adopt that?

Scarlet Harris: For small businesses?

Mr Shuker: Yes.

Scarlet Harris: It seems logical and something that small businesses would, presumably, welcome. It makes sense to try to ease the burden on smaller businesses.

Q73 Ben Howlett: Do you feel the small uplift that, potentially, would provide for small and medium enterprises would make a significant difference?

Scarlet Harris: It is probably for the SMEs to speak for themselves whether it would be useful, but it seems like a logical proposal to me.

Q74 Mr Shuker: Lastly, could you say a word about enforcement? You mentioned on behalf of your colleagues that you felt that legislation, on the whole, was sufficient, but enforcement was the key area where it fell down. Obviously, if you are an employee who experiences discrimination, you could choose to go through a tribunal process, but there is a big space in between around enforcement by Government and other agencies. If we were to ask for one clear recommendation that might improve enforcement, what would you say?

Scarlet Harris: Are we not allowed to talk about tribunal fees now? Have we drawn a line under tribunal fees? Beyond tribunal fees—Siobhan might have mentioned this—tribunals used to have a power to make wider recommendations. I appreciate you are saying women might not want to go to tribunal, but where this is an employer where this is a widespread problem and one woman has the guts to take it to tribunal, we have some very clear, strong examples from before the wider recommendations were scrapped of cases around pregnancy discrimination where the tribunal ruled that the employer must do more. They had the power to make the employer change their practices, to train up staff—to do all of those sensible things we are talking about that an employer should be undertaking. They identified where there was a wider workplace culture; it was not about one individual woman but something that was a problem in that workplace. Bringing back that power of the tribunal to make wider recommendations would be very useful.

Siobhan Endean: There are employers who flout legislation within the UK and operate on the edge, and there does need to be something done to bring them within the realms of legislation and reasonable behaviour.

Q75 Mr Shuker: Samantha, is there any other recommendation you would want us to be reflecting back to Government?

Samantha Rye: No, I would only go back to the tribunal fees. You mentioned the statistics and how a very low percentage of women go to a tribunal. That is because they are encouraged not to. They are encouraged by their employer not to raise their head above the parapet. Certainly my experience is you are already highlighted being a woman within the fire service, because it is very male dominated. You are highlighted even more when you get pregnant, and to then say, “I do not think I am being treated very fairly”, makes it very difficult. The statistic of discrimination certainly within the fire service is probably a lot higher; it just never gets to that stage.

Q76 Mr Shuker: What is the specific fear that a woman might have if they put their head above the parapet?

Samantha Rye: Work becomes untenable, because then you are deemed a troublemaker, and that will stick with you throughout your career if you end up going back to work after a tribunal.

Scarlet Harris: One other thing is that the EHRC has investigative powers and has carried out specific formal investigations before, and some of those have been very far-reaching. In the report, they identify various sectors and industries that are particularly problematic. With resourcing, EHRC investigations into particular areas where pregnancy discrimination seems to be a problem would be very useful.

I would be remiss if I did not say, if you are looking for concrete tweaks to legislation that would be useful, there is currently an anomaly whereby agency workers have a qualifying period before they are entitled to paid time off for antenatal appointments. Again, if we all agree that antenatal appointments are for the benefit of the woman and the unborn child, having a qualifying period and saying, “You are not entitled to that; do it in your own time”, seems incredibly unfair. They have to have been in the same job, not moving around to different assignments, for that qualifying period, which means that lots of women are missing out on vital medical attention.

Q77 Chair: I am going to exercise the Chair's prerogative to ask the final question. I pressed you earlier on whether the EHRC's recommendations were comprehensive or strong enough, and you all said yes; you thought they were. I have to say I was surprised that there was no recommendation in there with regard to strengthening redundancy law. We also have some excellent submissions talking about increasing small employers' rebate on statutory maternity pay or requiring large firms to monitor employees who leave their job during maternity or shared parental leave, or, indeed, drawing on experience from Germany, which talked about prohibiting the dismissal of individuals who were pregnant or on maternity leave. Yet you do not think these things are omissions. You would not think any of those ideas were worthy of consideration.

Siobhan Endean: Those are issues that we have highlighted within the evidence we have given today, particularly concerning redundancy.

Q78 Chair: You raised it once, but you did not raise it as being an omission in the report.

Siobhan Endean: We did not raise it as an omission. I think we would all agree that more work could be done by the EHRC into pregnancy discrimination, absolutely, if we thought that there were more resources for the EHRC to carry out this work. We campaigned quite heavily to get the money for the research in the first place for the EHRC to do that. In fact, the EHRC has to apply to Government for the discretionary element of its funding in order to carry out this research.

Q79 Chair: I am talking about the issues. It is not about the process; it is about the issues. We are very short of time and it might be interesting to hear your thoughts on those different policy areas that could address this issue. I am not particularly talking about the process of the EHRC applying for funding. It is just whether or not these are things that would improve the lives of women.

Siobhan Endean: They would definitely improve the lives of women, and the things that you have highlighted would definitely be helpful. It would be good if it was possible to build on the research that has been carried out by the EHRC and look further into the issues that you have highlighted. That would be very helpful.

Chair: If you have any further thoughts on that, I would be most grateful if you want to give us some information. Thank you very much for your time today.

Examination of Witnesses

Witnesses: **Sarah-Jane Butler**, Director, Parental Choice, **Louise Handley**, Head of Employee Relations, London School of Economics, and **Mark McLane**, Global Head of Diversity and Inclusion, Barclays, gave evidence.

Q80 Chair: We are now going on to our second panel of oral evidence in this inquiry, which is on the Equality and Human Rights Commission report on pregnancy and maternity discrimination and the Government's response to that. I cannot thank you enough for giving up your time to be with us today. We are all very conscious of how much time it takes to prepare for a session like this, so thank you and thank you, in advance, for the evidence you will give. You will have seen that we go around asking a series of questions, but please start

by giving your name and your organisation, and then Ruth is going to kick off this session of questions.

Louise Handley: My name is Louise Handley. I am the Head of the Employee Relations at the London School of Economics.

Mark McLane: Good morning. My name is Mark McLane. I am the head of diversity and inclusion for Barclays.

Sarah-Jane Butler: Good morning. My name is Sarah-Jane Butler. I am the founder of Parental Choice, a small business of 12 people.

Q81 Ruth Cadbury: Thank you very much. We are very conscious that you are all examples of good employers or people who know what good practice should and could be. We are starting from the research that showed that 84% of employers believe that supporting women during pregnancy and maternity was in the interests of their organisation. On the other hand, 77% of mothers said they had had a negative or even discriminatory experience during their pregnancy, so we want to bear down on these issues. We would like from each of you examples of good practice that many, if not most, employers could and should implement.

Louise Handley: At the LSE, we have focused in the last few years on what has been our emerging strategy around these issues: to focus on working families rather than specifically mothers in the workplace. We have made it about parental provision and equalising, where we can, to allow our male members of staff to take advantage of some of those provisions as well, normalising that shared experience in the workplace. We have ensured that things like our shared parental leave policies have pay equity with our maternity policy. We also have paid paternity leave and time off for antenatal appointments.

We have been particularly focusing on the barriers to female progression in academic careers. We have been looking at the various stages of the process, particularly around returning to work and the impact that taking time out has on your research. We have put in place provisions such as “research leave”, which is like sabbatical and enables time off to re-establish your research after a period of parental leave. We have a range of support on balancing work with being a parent for people at different parts of their parental journey, from the very early stage, but we also allow people’s partners to attend, whether or not they are an employee of the LSE, the corresponding one that relates to them. Certainly our perspective on that is you support everyone in that unit to enable the woman to continue her career in the way that she sees fit. That has benefit for us as an organisation and those people as individuals. We do have more, and we are not saying these are things that work for everyone. We are conscious that we are an academic institution and that we certainly have different challenges from other people on the panel.

Q82 Ruth Cadbury: Do those policies apply to all staff at all levels? Obviously, some of those specific examples you mentioned are only relevant to academics, but in general do the policies apply across the board?

Louise Handley: Absolutely. Generally, other than the qualifying period of 26 weeks that you have around some of the maternity provisions, those are for all employees. We do

have certain things that we have been moving forward with on the academic career side, but we are conscious that is a quarter of our workforce, if not less, and that we need to make sure we are levelling that out across the board.

Mark McLane: I will start with the methodology. You have to look at it across three areas: the first is policy and infrastructure, which has to be in place; the next is training at all levels, which was talked about in your earlier session; and the third is communication, because there is no real single entry point.

If I look at what I think is having a positive impact for the greatest number of our colleagues, it would be around the training and communication. As the Unite union said earlier, Barclays has looked holistically around unconscious bias, but we have looked at it from a talent management standpoint, very holistically, about how unconscious bias affects each of us across different life stages and attributes. It is mandatory for all managing directors and directors globally, but then filtered down throughout the entire organisation through different delivery methods, so no one is left out.

The second piece around communication is we have taken a campaign approach. I can think of two global campaigns today that are addressing the needs of colleagues around maternity, paternity, adoption and fostering—all parental needs. One part of the campaign is our partnership with the United Nations and the HeForShe campaign on women's equality and rights, both internally and externally. The other is our Dynamic Working campaign, which is looking at all of the assets that are currently available for our colleagues and whether we, as individual colleagues, are taking the greatest advantage of those assets across life and career stages. When I talk about multiple communication opportunities, that is colleague-driven. It is colleagues' stories and colleagues helping other colleagues. Having a great HR department and the policies in place is the starting point; it is not the endpoint. How do I take the best advantage of those? That is really around dynamic working, and that looks at all of the opportunity and brings in external organisations, such as Working Families. We are looking at it across the entire organisation as not a best practice but what the best practices are and then, as a colleague, where would I most likely go to look for information, and being able to link those pieces together and not saying there is one avenue in.

Those would be two examples: the HeForShe campaign and Dynamic Working. In addition, we have taken an open-door approach and so, with our customers and clients, are having sessions around some of the work we are doing and sharing best practice.

Sarah-Jane Butler: Everybody who works for me automatically works on a flexible working basis. They all have the opportunity either to work part-time or full-time. They have the option from day one. On maternity, they have a staggered return to work, so if they were previously working five days a week, they can take their time, three, four, five, and build it up as they go along. We have regular KIT days with people who have worked for us. I should say everyone who works for me is a woman—not by design, I hasten to add. It is not because we do not want to hire men; it is just because of the opportunities that we offer to mums who have suffered elsewhere. They can work for me and get the flexibility that they want while having the work-life balance that they want.

As I said, we offer regular KIT days. We keep in touch with them on a regular basis. We make sure that they are invited to any events that we are holding as a team. We only pay

statutory maternity pay at the moment, but we do give an incentive of one month's extra pay if they come back to work. We try to be as open as possible about what we can offer to them, but at the same time we make it very clear that their families and their lifestyles come first. Therefore, if they need to come in late because they have an antenatal appointment or because they have a child's assembly or school play or whatever it might be, my view is that, as long as the work gets done, I am happy to be flexible about the times that you come into work.

Q83 Ruth Cadbury: Given the nature of what your company does, have you been able to assist any employers in shifting from bad to good in their performance on maternity and pregnancy?

Sarah-Jane Butler: The employers we provide our services to are very proactive already. Many of them are in the top 50 employers for women. They already see the advantages in supporting families and working parents. They would not come to us and ask for our services unless they were already of that mindset. Unfortunately, this does not mean that I have not come across, while pitching to other companies, a vast number of people who do not see the value in supporting working parents, who do not understand that there is a question of talent retention involved here, as Mark mentioned, and who do not see the benefits in supporting their women when they want flexible working or when they are on maternity leave.

Q84 Ruth Cadbury: Do any of you have any data or experiences that demonstrate the benefits to employers, your own or others, of having good anti-discriminatory policies for maternity and pregnancy?

Sarah-Jane Butler: The Working Families charity and the Family and Childcare Trust have both done extensive reports on the benefits of supporting women. In fact, it is not just supporting women; this is a parent issue, but we are discussing women today, I know.

Ruth Cadbury: We are focusing particularly on maternity and pregnancy discrimination.

Sarah-Jane Butler: Working Families have done a lot of research into the benefit of supporting women and the retention levels afterwards, especially in companies like Ernst & Young, for example.

Mark McLane: At Barclays, we have put in an absolute protocol on how we are looking at maternity returners. Three years ago, our data was a bit loose and we did not really have any understanding of what our return rate was. We are happy to say that our maternity return rate is over 90% today. We also monitor that over the next year to see if there are any pinch points around where people have to make a decision that might be related to childcare or family need. Again, that is wrapped under how we continue to address individual needs for colleagues.

I do not have it with me today, but I am more than happy to come back and monetise that for you, because I know we have improved at least five percentage points from 2013 to 2014. We can monetise that from the standpoint of talent retention, and I am happy to come back to the Committee, if there is a value in having that data.

Louise Handley: We are at a stage where we do not have an enormous amount of quantitative data over time to monitor. What we do have are some fantastic case studies

emerging, which we have particularly used through our affiliation with Working Families. They are slightly more on the academic side, but we have real examples where couples at work have both taken advantage of shared parental leave, and have taken advantage of our research leave policy and have managed to keep their research going. Both shared childcare over the course of a year and beyond, and that has enabled them to maintain their position in their departments and with colleagues and so on. We are starting to collate the numbers, but at the minute we are seeing strong feedback.

Mark McLane: If I might add, there is a qualitative data point that is very difficult to capture. We think of retention as keeping folks in work, but I also look at it as brand affiliation and the value of working for an organisation like Barclays, and that is very difficult to qualify. To bring in the qualitative data, we have listening groups twice a year. We have one that is based just on gender, men and women, but we are also now doing them around maternity and paternity care. That gives us the incoming information on how we continue to improve. One might say that, if you have a retention rate of 90%-plus, you could become a little idle and so, as we heard in the earlier evidence, it is about listening to colleagues, whether men or women, based on the need and then being able to action that. That is a great best practice that many employers could learn from.

Q85 Ruth Cadbury: The *Times* last week had a supplement about the best employers for women. Do you think those kinds of league tables incentivise employers to do better? Do they have a value?

Mark McLane: Speaking for us, yes, they have an absolute value on many levels. First, it is building brand awareness as an employer of choice. Secondly, it is a great benchmark, not just within industry but across industry: are we continuing to improve? Having an organisation recognise all the actions we are putting in place to be a best-practice employer across all aspects of diversity drives us to continuous improvement and then recognises us as a destination.

Sarah-Jane Butler: There are supplements like the *Times*' top 50 employers for women, and Working Families has its own awards, under which all three of our organisations have been recognised. The Family and Childcare Trust has an accreditation that basically looks at companies' internal and external policies as to whether they are family friendly, not only with regard to their internal working but how they are externally facing their clients. Gatwick, for instance, is a prime example and a clear candidate of a company that has tried its best to be family friendly, both internally and externally. For example, they have introduced a separate security lane dressed up as a castle for your children to go through. All these little signs make a difference, and people recognise that in the marketplace. Mark is completely right. People who are seeking to return to work will look at companies that have been recognised as being family friendly. They will look at companies that are making an effort to work on behalf of their working parents to support them, to train them, to encourage them to get back into work. Those who do not are obvious by their absence.

Q86 Ben Howlett: You probably will have gathered that I have a bit of a hobby horse in relation to access to information. You are not necessarily in this category, looking at your websites and the information I have seen thus far; you are probably leading the way, which is probably the reason you are here. In your experience, do you feel there is a correlation

between employer attitudes and the extent to which there is a lack of information available? Sarah-Jane, you are nodding.

Sarah-Jane Butler: Yes, I do, and it came up in the previous session talking to the unions and your previous session with Maternity Action and the NCT. The information is out there if you are looking for it. As a small business and all the way up, if you want to know how to deal with your employees who are pregnant or on maternity who want flexible working, there is plenty of information out there. The internet is full of information; the Government's website, for one, is full of information. It is a bit of a cop-out to turn around and say, "I did not know". Lack of knowledge is no excuse to following the law, as we all know, but there probably needs to be more direct, in-your-hand provision of information to both employers and employees.

It used to be the case that, when you were on your first antenatal appointment, you were given information straight away about your rights and obligations and things like that. That should be restarted. When somebody hands in their MAT B1 form, it might be a bit late, to be fair, because a MAT B1 form is quite a long way down the line, but as soon as somebody has announced their pregnancy, the employer should have access immediately to either an online site or a booklet that goes to that particular employee's direct line manager, so there is no excuse. There should not be any excuse for treating somebody poorly as a result of being pregnant or on maternity leave. Whether you are in a small business or in a big business like Barclays, anywhere down the line there should be no excuse, and lack of information is not a good one.

Mark McLane: I would have to agree. The lack of information continues to breed the fear of: "Where do I go? Who should I ask? Where do I start?" I look at each of these life events as being new to the individual, and there is so much fear and trepidation, depending on who you are or where you are in an organisation. Whether you are the individual going on maternity or paternity leave or the line manager or the HR colleague, making certain they have access to the information is vital. Also, having an opportunity to have dialogue across the information peer to peer, for me, seems to be the most effective way, because there is nothing like peer-to-peer learning. Having the information is vital, as is having multiple entry points, and then having ongoing communication as someone goes out on maternity or paternity leave also has to have multiple channels of communication. One of the things we have done, again as a best practice, is started a touchback app. Someone going out has an app on their phone where they are getting push information all the time. It is sort of the virtual version of a touchback day, should you want it, so there are two avenues back into the organisation. The more information that is available, the more at ease you put an organisation and an individual, and the more you take the fear and trepidation out of the system.

Q87 Ben Howlett: Louise, this is an interesting question for you. Do you sometimes feel there is a bit of an information overload? We deluge so many people with so much information that we miss the point of why the information is there in the first place, and we need to be focusing on the quality of the information to provide the right level of access and the right type of support.

Louise Handley: There is some truth in that. In my professional experience, which aside from LSE has all been in large-scale public sector bodies, we have the benefit of having an HR division—I think, working in one—with equality and diversity colleagues who can

filter that information and regurgitate it, for lack of a better word, to our internal audiences. We also have the trade unions, which provide that valuable role of giving information directly to individuals. That does not help those who are at the smaller end of the scale, who do not have access to those kinds of resources. There is no substitute for information being placed directly in the hands of the individual at the earliest possible stage.

Sarah-Jane Butler: At Parental Choice, we also have a payroll and employment contract service for parents who are employing nannies, and so they are themselves also small employers. We often get asked for advice when those nannies get pregnant, because clearly that parent has exactly the same obligations to their pregnant employee as I would or anyone else here has. We spend a lot of time educating parents who, funnily enough, have been through it themselves as employees but have not been through it as employers. We spend a lot of time, and it is on our website as well, educating them as to what each of the steps are, what they have to do, when the right for maternity leave starts and when the right to maternity pay starts. There are a lot of people who ask, “Can I make her redundant now? I do not want her there”. We face their bias and their discrimination as well, and we have to manage that, as a business, by giving them the right information to make sure that they are not acting in contravention of any discrimination Act.

Q88 Ben Howlett: Moving on to my second question on this, you have all read the EHRC report and the Government’s response to it. Do you think that report is going to benefit or help employers to be able to improve the quality of access to information or even to provide an improvement in employment advice?

Mark McLane: The report is a great starting point, but the implementation of the recommendations is what is going to make a difference. We were invited by the EHRC to look at the recommendations and what the execution and implementation could be. We have taken that up and I have responded positively, because that is most important: it is not just having the recommendations but how we are going to implement them. One of the recommendations that has some of the greatest potential is the collaboration of the public and private sector and how we answer some of the questions you have just asked around communication: where is the right entry point? Where does communication most effectively start? Having a synced-up approach will help with the information overload that you so rightly pointed out earlier. Going to a search engine is a starting point, but it is not the endpoint. The report is going to have its greatest impact in the execution.

Sarah-Jane Butler: The recommendations are a good starting point, but it takes a lot more. When I was first asked to join this inquiry, I thought about what further could be done from a legislative point of view, given the strides that have occurred recently—the extension of flexible working and the introduction of shared parental leave and so on. The greater emphasis has to be put back on to employers to bring them to account, because unfortunately it happens and it happens across the board. I am pretty sure it does not happen in my organisation, because there are only 12 of us and I would be slightly concerned if it was happening, but to the best of abilities it is happening everywhere and there is an awful lot of women who do not stand up. I am amazed that it is only 77%, because I myself suffered in exactly the same way. I was forced out of my previous job because I was pregnant and then I was on maternity leave, so I know exactly what it feels like and I can see both sides of this argument.

Q89 Ben Howlett: If I may just follow that up, what specific things would you like to see change?

Sarah-Jane Butler: There needs to be a carrot-and-stick approach towards employers. There has to be an encouragement for them to gender pay report, for example, publish their retention rates and stand up and be counted, and they should be highlighted if they are shown up as being a discriminatory employer. At the same time, there should also be rewards. For example, the recommendation of a collective insurance scheme for small businesses to help them is a very good one. Perhaps increasing the small employers rebate is another good one. You are not necessarily going to change at a legislative level only. It is definitely within employers and showing good employers like LSE and Barclays that they are the way to be—the precedents in the market.

Louise Handley: I agree with the views about the communications that are proposed as being a starting point. We were quite surprised to see in there that there was a rejection in principle to the idea of a one-stop-shop website and an acceptance that the information had to be disparate for disparate audiences. Certainly, in our experience, it has not been particularly helpful to have scattered information for managers, employers and the individuals themselves. Bringing some of those messages together organisationally that we try to push as a conversation is where things start, and the earlier you talk, the more likely you are to resolve any issues and identify needs along the way. Why can you not have antenatal appointments, advice for the individual and advice for the manager side by side? It seems defeatist at the outset.

Q90 Jo Churchill: Good afternoon. I am only playing devil’s advocate a bit with the insurance scheme and small employers, but you are saying “carrot and stick”. It has been supported by the FSB and, in conception, it is a good idea, but the Government have said that, as it is a commercial decision, it must be for the small business. As you know, small businesses already wear multiple hats. You are within this environment. If you were making widgets, it would be considerably harder to be providing this. If you are talking of this as a commercial decision to take that insurance on, how does the playing field get squared as to small enterprises within a sector not being penalised against a large provider, since they have to take on an additional cost that large employers are not going to have? Large employers can dissipate that cost across a broader workforce.

Sarah-Jane Butler: I agree there is an extra cost to a small employer. From my own perspective, as a business manager/owner, I probably would not use it, because we have never had an issue with it. That does not mean that there are not people out there who have asked for it, and therefore it is something perhaps to be looked into and considered. It is entirely up to an SME as to whether they wish to offer enhanced maternity pay, and most do not. They cannot afford it; that is quite clear. Most of them rely very heavily on the 103% that comes back. It might be a case of increasing that slightly for certain levels under Class 1 NICs, maybe to 105% or something, just to make that slightly easier.

One of the things that I saw in the findings was that people said it was very difficult to manage when women are on maternity leave. There is no financial cost to them if they are an SME, because they do get the money back and it is quite straightforward. The cost is involved in getting somebody in to replace them if that person’s work cannot be disseminated among the remaining employees. The big cost would, therefore, be the recruitment cost to get somebody in to cover the maternity leave. That is where people

might look at having an insurance scheme in place, just to cover that potential cost. I am on the fence about it. Some small businesses that I have spoken to have said it is a good idea. Personally, I would not use it for my business, so I just think it is something that needs to be considered.

Q91 Maria Caulfield: Following on from Jo's question, I wanted to ask each of you whether you think it is easier for larger employers to manage women's statutory rights compared with small businesses. I know, Sarah-Jane, you have touched on that slightly, but is that opinion across the board?

Louise Handley: Yes. In my experience of only large organisations, instinctively that has to be true. That is where the focus is of most of our conversation about where we need to go next in preventing less-than-ideal treatment—because it is not to say that since we have good practice across the board, every individual and every line manager relationship plays out in the way that you would want. We are beyond looking at the statutory requirements. We are pretty confident that, by and large, those are met. It is the cultural experience. It is the way people are reintegrated to work and what happens afterwards that is where we are at. It is probably the luxury of being in a large organisation that our concerns are more about career progression and things like that, rather than whether people are being forced to leave when they are pregnant.

Q92 Maria Caulfield: Do you think that larger organisations are able to manage it better and add more value to that as well?

Louise Handley: I think so. We can take what is statutory provision and we are in a stronger position to say, "And how do we enhance this for things like talent management?" As well as the strong reasons around having a diverse and inclusive environment, this is something we want to do and build brand around. That is an easier position to take if you do not have the day-to-day operational issues that some statutory requirements may present to smaller businesses.

Mark McLane: I would agree. Most organisations should have more resource to be able to address the issues, but I do not think large businesses have it easier or harder. It is different. Addressing the needs of 130,000 colleagues globally brings in societal issues by geography that also have to be addressed. We have the infrastructure in place, but it is not easier or less complicated for a large or small organisation; it is just different.

Q93 Maria Caulfield: Sarah-Jane, you are probably best placed to answer this and you have touched on it in answer to Jo's question. Regarding the insurance scheme, I know you said that you would not use it for your business, but do you think there is a case to be made for making it a mandatory scheme for small businesses?

Sarah-Jane Butler: It comes down to the cost. With small businesses, everything comes down to cost. Cash flow is the problem. It is difficult in terms of management. I am a lawyer. It is my job. I retrained as an employment lawyer when I set up the business. It is my job to know how the statutory rights work. It is my job to understand the process—to know that you have to be employed for 26 weeks in the 15th week before the EWC. It is my job to know that. There are a lot of small businesses out there that just do not know it—that potentially do not know when they can apply at the MAT B1 stage for their small business maternity rebate. The question about an insurance scheme will come down to

money. If you made it available, there are plenty of insurance companies out there that would probably love to jump at the chance to get some more money out of small businesses. It depends on the details of what the scheme offers and what it is meant to cover.

Q94 Mr Shuker: Thank you for all of that. Obviously, we will look to make specific recommendations, but there have been recommendations and responses already: the EHRC report and then the Government's response. Turning to the Government's response, do you think it was appropriate? Are there areas where you think it was weak? Are there areas where you think it should go further? It is an open question that allows you to tell me what you think we should do.

Mark McLane: I started to address that earlier. From a Government standpoint, there has to be greater collaboration. If I look at myself, in my role I work with many different departments within the Government, across multiple aspects around the workplace and inclusive workplace. There is a great opportunity with, for example, the BIS office and Department for Work and Pensions, in making sure that is synced up with the private sector so that they really understand we are working usually in parallel, because sometimes it feels as though resources are being stretched because we are working in parallel and not necessarily as joined up as we could be. When we talk about resource allocation, having a more synced up approach would be a huge first step.

Sarah-Jane Butler: For me, it comes down to education. The ladies from the unions mentioned earlier, and it came out in the report, that there are an awful lot of people who think, for example, that you should ask a woman during the recruitment process if she is going to have a child, or that somebody should announce whether they are pregnant or not: "They will never get a job, so forget it; it is not going to work". There is a huge amount of bias still there and there are large companies you can work on. There are unconscious and conscious bias situations. By the way, the bias is not necessarily men against women. It is women against women as well. It is people thinking, "She is not as committed. She wants to work flexibly". There are lots of men out there who want to work flexibly too. Flexible working is not a childcare issue. It comes down across the board. There are men out there who want to do triathlons or do charity work or whatever it is. You do not see them discriminated against in the same way women are.

It is an education thing. There needs to be a lot more education out there. Unfortunately, and I know the Government have rejected the tribunal fees aspect of it, there are a lot of times when women are simply entering into compromise agreements and the whole thing is being brushed under the carpet. Women say, "Right, I will just leave. I have a new baby; I do not want the aggro. I will go and find somewhere else to work", and they very quietly slip away and do not say anything about it. Although I understand the Government's position on tribunal fees, there was a stick there that somebody could go after, if they needed to. There needs to be a greater penalty so that employers do not feel that they can act that way.

Q95 Mr Shuker: I would like to turn to that point precisely, because obviously it is the key area where the Government disagreed with the findings of the EHRC. Do you have experience of people abusing the tribunal system because it was a relatively cheap way of getting the outcome they wanted?

Sarah-Jane Butler: I do not think anybody voluntarily agrees to put themselves through a tribunal system unless they really have to. I would say most women would not want to have to go through all of that stress and, even if it is relatively cheap, have to pay that kind of money. They just want to be treated fairly within the workplace. They want to be able to come back to work. They are just as committed. Mothers are immensely good at juggling goodness knows how much and they have a huge amount of talents to offer. They are discriminated against simply because they are mothers. Nobody looks at how good they are.

If not tribunal fees, then what? If the Government does not want to go down the tribunal fees route—okay, you have made that clear—what is out there that protects women who want to make a stand? What is there for women who do not want simply to enter into a compromise agreement and slide away but want to make a difference?

Q96 Mr Shuker: Mark, has the tribunal system helped in your work of trying to reinforce a positive culture, or do you view it as something that is an attack on your broader business?

Mark McLane: I do not see it as an attack. I do see it as being helpful, but I do think we have a duty of care to address issues and concerns long before it goes to tribunal, and every organisation the size of Barclays should have that infrastructure in place. I will not put this back on just the HR community. It is also line managers and having things such as our own ethics hotline and our own internal opportunity to be able to raise a concern long before it would go to tribunal.

It is also a duty of care to look at organisational culture and help to shift it where you know it needs to be shifted, because being reactive is the last step. Being proactive really starts to answer all of the questions that were asked earlier about being recognised as an employer of choice. You do not get there by being reactive. That is the last step, and I do think we have a duty of care well within our organisation to address those needs.

Q97 Mr Shuker: Specifically on the issue of tribunal fees, do you think introducing those fees has been a helpful measure?

Mark McLane: I could not say whether it was helpful or not. I would have to go back and ask our employee relations group for specifics on that. They deal with it every day. It is not within my remit.

Q98 Mr Shuker: Okay. Louise, on tribunals and fees.

Louise Handley: It has not changed our thought process at all on how we would handle a particular case. In going through the thought process of what this would look like if it ended up in a tribunal, fees do not come into that equation. That would not make any difference to us, from an employer standpoint. That is not to suggest support for or against them as a concept, but they do not change our practice. All our practice is about early resolution of disputes in the workplace before they even reach our grievance procedure, ideally, let alone the tribunal stage.

Q99 Mr Shuker: Generally and finally from me, are there additional things that Government or other agencies should be doing to provide support and information for employers? If so, can you be as specific as possible in answering that, so that we can make decent recommendations around it?

Sarah-Jane Butler: Providing advice and information was mentioned earlier, whether it is an online site or information that goes directly to an employer upon receipt of the MAT B1 form. Ben mentioned information overload, but the more information someone has at their fingertips, provided the process is as simple and clear as possible, the better it will be for all concerned, so that they understand that women have a right to make antenatal appointments, and men have a right to join them, and that they have a right to ask for flexible working. It is set out quite clearly, so they do not have an excuse to say, “I did not know”. The more information you have, the better. Also, employees should have as much information as possible, possibly through hotlines in big organisations.

Nobody wants it to go to tribunal. Nobody wants it to get that far. If a grievance comes up or somebody feels they are going to be negatively discriminated against or they are feeling negative about the whole thing—your emotions are all over the place when you are pregnant—they should have somewhere to go, whether it is your peer or an understanding line manager or something else. Those things need to be put in place. I am not sure how you do that from a legislative perspective. I know you are asking for concrete examples. I do not know whether there is best practice guidance that the Government can produce alongside the information that goes with it, but, for me, that is probably the key element.

Mark McLane: I can give you two best practices, one here in the UK and one in the US. Let me start with the US with the Clinton Global Initiative as an example. They are family-friendly commitments that Barclays has signed up for and is holding itself publicly accountable to achieve. That is a great example of a best practice. Here in the UK, one that comes to mind is the Disability Confident campaign that started a few years ago. We have taken part in that and have been able to bring that information both in-house as part of our work around disability and accessibility, not just in the workplace but to our customers, and to the public at large. In fact, this has now helped us to move to a campaign around mental health and wellness with the Lord Mayor’s Office. The best thing is to have a governmental campaign approach that is multi-year. We are finding as an organisation that a multi-year approach is needed to embed the change we are looking for. I cannot talk to it from a legislative standpoint, but if you did not legislate past where you were today to make certain that the intent of the legislation in place is being delivered, a multi-year campaign type approach around being family-friendly, dynamic working and agile working—all of these aspects—could be a very valuable investment.

Louise Handley: From our point of view, we do not need more information, but sometimes we need better quality information. The shared parental leave legislation is a good piece of legislation, but we were all hanging on until quite a late point to really understand how it works. We spoke to our external lawyers and they were also hanging on. Things like that, where we would have liked to have been able to do more communication ourselves internally to promote it at the time, happened after the fact. There is something about the way those things happen.

Earlier I touched on how some of the ambition around information in the Government’s response could have been stronger. There is an implicit suggestion, particularly around the pregnancy and recruitment discussion, that some of the views expressed by employers are purely on the basis of lack of information. As colleagues have touched on, much of it will be biases; it will not be for lack of information at all. Therefore, the campaign side feels very important, to be more challenging and more provocative in the way these things

are dealt with, and just say, “If we tell you, ‘Don’t ask that question,’ you will just not do it”.

Sarah-Jane Butler: There is a certain element of a cultural shift change. For example, with the introduction of shared parental leave, it is becoming more normal for fathers to take more time off. That will gradually, bit by bit, work its way down. What you need to try to avoid is that men, similarly, do not get discriminated against for taking shared parental leave. I do not think that would happen necessarily in the larger organisations so much, but it definitely would within SMEs, where men feel they cannot ask for parental leave because they feel they are going to be discriminated against or not taken seriously within their jobs. They have seen exactly what has happened to their partners, so they will not necessarily do it.

There is a gradual cultural shift, because more women are in the workforce and they stay longer. More women are breadwinners; more women are at university—all of those aspects are coming through. Gradually it will change. It is just unfortunate we are seeing a rise in discrimination, not a decrease.

Mark McLane: On the shared parental leave, I might take issue with the claim it is different in a larger organisation for men, because it is a societal bias based on generational difference. Regardless, there is a lot of work to be done around gender and shared parental leave. We have seen a good uptick in the ask for shared parental leave versus just paternity leave in the last year since it has been integrated, but nothing near what the need probably is. It goes back to the societal shift and addressing those biases.

Q100 Ben Howlett: That is very interesting and very similar to discussions we have within LGBT as well, particularly with employers. I know the work Barclays are doing on that with global employers. I have a very specific question to you, Mark, because you mentioned your app earlier, and I was really interested in this because I have seen some interesting technologies that have come out for improved communication around discrimination. People can, behind the scenes, without wishing to put their names into lights, go on to apps, click a button and say, “Look, I think I have been discriminated against”. Do you think this is something you want to roll out within your company? Do you have any examples of best practice, or is this something you could end up doing on that platform you have?

Mark McLane: I would have to go back and look specifically at the app, because I am not an app user in that sense. It is a great suggestion. Is there that capability within it today or should we expand it? I will take that on board and take a look. This dialogue we are having today is exactly the dialogue we try to have within the listening groups, where each of our colleagues come up with their view of or around a need. That is where the app came from; it was not our technology or HR group saying, “Here is the newest, latest and greatest that we have dreamed up”. The innovation comes from colleague need. It is a great suggestion. I will take it on board and see.

Q101 Ben Howlett: I use Barclays’ apps quite a lot myself for banking, and I have to say they are very good. If you do have an example, I am a bit of an app geek. I would love to have a look at it at some point.

Mark McLane: I will offer that. I do not have it on my phone. If any of the Committee would like to see the app in practice, I am happy to come back and show you that. If there is a value, I will get it for you.

Ben Howlett: Email over some screenshots or something.

Mark McLane: Okay. I will.

Maria Caulfield: Would it not be an idea to use a similar app with, for example, Acas or Citizens Advice to do something like that?

Mark McLane: Yes.

Q102 Jo Churchill: It could even be through accounts or even the bank being slightly altruistic, if I may dare say. If you have good employment practices, you could share that with your customers, particularly your business customers who, by virtue of the fact they bank with you, you know are businesses that employ. That would strike me as considerably more beneficial for society than a governmental lead that does not necessarily fit all sizes of businesses in all sectors. There is a concern that too much stick and not enough carrot penalises certain groups. I was really heartened by how well small businesses appear to be doing in a lot of these statistics. Big business and the public sector could be doing a lot better; they have resources, as you keep articulating.

Mark McLane: I would absolutely agree. I will go back to the campaign structure that we have put in place around this work and opening that up. We are being very proactive in opening the doors for other organisations to come in and share this information. We have just held roundtables around the This is Me campaign and exactly shared all of the infrastructure around mental health and wellness that we have at Barclays. This was not just for clients or customers; it was in general for any organisation. We are doing similar work around London Pride and the LGBT community. We are taking that same approach along the continuum across diversity in very specific ways. Having a campaign approach is a great way to be able to then hand over that information, instead of it being piecemeal. Today, for example, when one individual on the panel is really interested in the app, we can dive more deeply into that work. Additionally, we have an opportunity at Barclays to continue to get better from a supplier standpoint. Sometimes the supplier base, which is a lot of times SME driven, is an opportunity that we are now exploring much more actively and proactively. It is a part of our collective organisation that has been overlooked in the past.

Q103 Chair: I again exercise the Chair's prerogative to ask a final question. I think it was Sarah-Jane who said the report was a good starting point but there are devils in the detail in terms of the implementation. As the good guys who are making this a priority in your business, you must be somewhat aggrieved that such a high percentage of women are experiencing negative, even discriminatory, experiences, mostly in other organisations but maybe in your own to a certain degree. Do you feel there are more things that this report from the EHRC could have done to encourage employers—small, medium and large—to be on the right track? We have talked a lot about tribunals, but let us remember that comes way down the track and at a time when it is very difficult for women to go through what is quite a gruelling process. Is there more that could be done to create the right incentives up front around requiring large firms to monitor and report to the Government on employees who

leave their jobs during maternity or shared parental leave? Is there more to be done in looking at strengthening redundancy laws to protect pregnant women or prohibiting pregnant women from being dismissed at all? Do you think there is merit in looking at that? I know you are employers so you are going to come back with a certain set of views, but do you share a frustration here that there may be a need for more enforcement? Louise, you look like you are musing.

Louise Handley: In terms of legislative extensions, that is not where we would be thinking. There is something very interesting in the discussions around tribunals, dispute resolutions and that huge disparity between the experiences people are having, what is reported and what is dealt with. There is clearly a huge grey space in between, which is not things that are unlawful but experiences that are unpleasant, damaging, and affect career opportunities and self-esteem. If we focus on tribunal issues we are ignoring probably the vast range of experience, which has degrees of significance but ultimately has a huge impact on the way women feel about their employers and the world of work. I do not know what, but there needs to be something more around it not being just about tribunals. Where is the encouragement for employers to listen, engage and talk with staff on the issues? I do not know what that would be from a Government perspective but, echoing comments that colleagues have made earlier, we engage with our network groups and individual staff members on quite a regular basis. We have just done a research piece: a survey of one-to-one interviews with returners, and we do not see those as one-off things; they happen periodically. We need to be listening and understanding what they are, because clearly the formal mechanisms are not working. If we are not seeking the feedback, we will not get it. I do not know what my concluding point on that is, other than the 77% speaks of a lot more than unlawful behaviour.

Q104 Chair: More communication is what you would say. We are talking a lot about carrots here but, Mark, as a big employer, do you not think there should be a few more sticks for some of your competitors so they are doing the same as you?

Mark McLane: Part of the stick is recognising the best in class in employment. As big organisations, you may not want to be first but you certainly do not want to be last in an industry. I like being first, because I like the effectiveness of being a best-in-class employer, which makes us a more effective organisation in general. It also drives change across an industry.

What dismays me, coming out of the report, is this disparity between—I may get this wrong—84% and 77%: the real perception. That is the hardest gap to close, because that is a culture gap, along with the fact that it is organisations that are not taking the legislation with its intent but just saying, “It already exists”. There is a great value—I will go back to the Disability Confident campaign—in being able to step up and share best practice. Inviting big organisations like Barclays to be able to do that does put pressure within an industry and across industry. The more that we do that and share best practice, it does start to help shift that gap or, as Louise said, that grey area, which is the most difficult. You cannot legislate that change. That is true culture change within an organisation. It goes back to encouraging organisations to be more proactive in their approach and less reliant on the legislative aspect.

Q105 Chair: Sarah-Jane, you cannot legislate for culture change, but in your job you know that sticks are pretty important in terms of making companies take these things seriously.

Sarah-Jane Butler: It is really disappointing that in this day and age, 100 years since women got the vote, we are in this situation. There are 77% of women out there who feel discriminated against, sometimes overtly and sometimes not; sometimes it can be the case they do not get given the work they did before they were pregnant. The fact that continues all the way through is quite disgusting: we live in an environment where everybody, from small businesses all the way up to big businesses, suffers in that way.

It also has a massive economic impact. This is why the Government are going to stand up and take notice. For each woman that decides, “This is too much for me. I have not gone back to work; I have not been given the responsibilities I had; I have been turned down for promotion and I have not been made partner, director”—or whatever it might be—“I have not been given the training or support that I wanted; childcare costs too much; I cannot do this anymore; I am going to stop”, that has an economic impact not only on the family but on the local community and then on the economy as a whole, because women then do not have the money that they used to have to spend. It is a vicious circle that goes round.

Businesses need to be taken to account for this. There need to be campaigns out there that show what best practice is and try to educate those slight Neanderthals out there that still believe it is okay to treat women in this way. There needs to be better communication and better education. Perhaps there needs to be internal chastisements within companies where they know that line managers are treating their staff in this way; perhaps they need to be taken aside and told, “You cannot treat women in this way”. It is obviously not legislative; you cannot criminalise something like that. At the same time, you can make a difference and you can show up best practices so that it does not get to the tribunal stage. It should not have to get to the tribunal stage. It is all very well saying, “We do not agree with tribunal fees”. You need to stop that earlier. You need to change it at the beginning. There are plenty of us out there; there are a lot of small businesses that do recognise the importance of women and see a lot of talent there and, somehow, by liaising with big businesses and good employers, you need to ensure that talent is rewarded and retained.

Chair: On that note, which is a very good note to end on, can I thank you on behalf of all the members of the Committee for your very frank exchanges today? We really value that. Also, thank you for sharing with us the work you are doing in this area. It is incredibly good to hear. Thank you for coming in.