

The Cases

1. Four Grade 7 women have brought cases for Equal Pay against HMRC each using a Grade 7 male comparator:

2. "HMRC has a very long pay scale in my grade and there is no means of progressing to the maximum of the pay range (the rate for the job) within any defined period of time. This means that existing pay differentials based on length of service are never eroded. Accordingly, HMRC's pay scale systemically discriminates against women, and this was confirmed by the 2010 Equal Pay Audit which I have seen on the Intranet. I, as a woman, am being paid less than my male comparator for doing the same job to the same standard. This is not justified because we are both fully competent in our role and have been for a long time. This is demonstrated by our annual performance appraisals and feedback from our manager. The only difference between me and my comparator is our length of service, but our pay is no longer reflective of our capabilities or level of competence, which are the same. I seek like pay for like work, which is my entitlement in law."

3. I interviewed each complainant and three of the comparators. One comparator has since left the Department but this makes little difference to the case as he was employed at the time of the grievance and carrying out a job undertaking the same or similar work to his comparator at the material time.

4. My findings were that the complainants were universally competent and well respected and their box markings were either good or top since achieving Grade 7. The comparators were in the same position and doing work that was similar or the same and of equal value. The comparators had been in the Grade for longer than the complainants but all expressed the view that a Grade 7 was expected to be of a standard where they could take on any role in the work area or any similar role and hit the ground running. They did not believe the additional time in grade warranted different pay or gave them any advantage over the complainants in terms of ability or productivity that could explain the pay differential.

5. Each comparator felt the work of the complainant was so similar they could easily swap roles and that it was of equal or in some cases more value. One set of complainant and comparators shared a job description. When asked how long it took to become competent in post the times cited tended to be 6 to 18 months though it was suggested that it took longer, between 3 and about 5/6 years to become all round competent in grade. These views were based on personal feelings and not evidential.

6. The complainants and the comparators tended to have reached Grade 7 through different routes. Many of the comparators had come in through earlier recruitment programmes and were Fully Trained. This was not the route taken by any of the women who tended to have come through the grades or in

through the newer processes like TPD. One complainant was a qualified accountant who had come in from private industry. I did ask Pay Policy for data on the starting pay and sex of those coming in from the private sector but have not yet been provided with this.

7. The complainants clearly felt upset and cheated by the pay situation. One in particular felt that she had taken on all the extra work and study involved in becoming a tax professional Grade 7, during a busy period in her personal life, because she could see from the pay scales that it would be worth it in the end. She had an expectation to make the maximum and found it disappointing to say the very least to find that after about 8 years she was still nowhere near the max. She knew that some people had been on the max for years and did not produce the performance that she did and yet got paid so much more. She stated that she felt she had "been shafted".

8. One of the complainants, in response to a specific question, felt that her career had been impacted by maternity and special leave but the dates in question were too long ago to enable a specific causal link to be established. All complainants and their comparators were open and honest and absolutely clear that the work they did was the same or similar, they could be required to swap and could do this and that experience in the grade was not reflective of ability or contribution.

The Law

9. The right to equal pay for men and women doing equal work or work of equal value is a fundamental principle of European law. It is enshrined in Article 157 of the Treaty on the Functioning of the European Union (TFEU) (formerly Article 141 of the EC Treaty) and is given legislative force by the recast EU Equal Treatment Directive (No.2006/54), which incorporates the now-repealed Equal Pay Directive (No.75/117). The Directive is given effect in the United Kingdom by the Equality Act 2010.

10. Where a difference in pay between the sexes potentially gives rise to indirect sex discrimination, the employer will have a defence to an equal pay claim if it can establish that the pay differential is 'objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary'. That definition of objective justification is now contained in Article 2(1) of the Equal Treatment Directive. It applies where the pay differential arises in one of two ways.

- The first is where an apparently gender-neutral provision, criterion or practice (PCP) disadvantages people of one sex over another.

- The second is where there is no obvious PCP, yet statistics reveal a discrepancy between the pay of groups of women and men employed on like work or work of equal value.

11. The burden of proof principles require that:

- The worker needs to establish that there is unequal pay by providing evidence that he or she is paid less than a chosen comparator of the opposite sex who does equal work.
- This establishes a prima facie case of pay discrimination that can be explained only by the difference in sex.
- It is then for the employer to prove that there was no breach of the principle of equal pay.
- It can do this by either establishing that the activities performed by the two workers are not in fact comparable, or justifying the difference in pay by objective factors unrelated to sex

12. To defend an equal pay claim, an employer must show that the disparity in pay is genuinely due to a 'material factor' that is not the difference of sex - S. 69 Equality Act 2010. This, known as the 'material factor defence', essentially replicates the 'genuine material factor' (GMF) defence that existed under the Equal Pay Act 1970 (EqPA).

the 'genuine material factor' defence is now the 'material factor' defence

- there is a clear demarcation between direct and indirect discrimination
- if the employer puts forward an explanation that is not tainted by sex, it is not required to justify the variation in pay further
- where the factor is directly discriminatory because of sex, it cannot be objectively justified (S.69 (1) (a))
- if the material factor operates to the disproportionate disadvantage of one sex over another, then it will expressly require objective justification (S.69 (1) (b) and (2))
- the long-term objective of reducing inequality between men's and women's terms of work is always to be regarded as a legitimate aim, potentially justifying indirect discrimination (S.69 (3))

13. If the tribunal considers that the material factor, and thus the pay differential, is tainted by indirect discrimination, the employer will be required

to show that it is objectively justified, i.e. is a proportionate means of achieving a legitimate aim - S.69 (1) and (2).

14. For equal pay purposes, there are two forms of sex taint requiring objective justification: first, where the employer adopts an apparently gender-neutral 'provision, criterion or practice' (PCP) which adversely affects women; and secondly - following the European Court of Justice's decision in *Enderby v Frenchay Health Authority and anor* (Brief 505) - where there are cogent, relevant and sufficiently compelling statistics demonstrating that women are adversely affected when compared with men (Enderby discrimination).

15. However, if an employer manages to prove, despite statistical evidence of a gender disparity, that a pay differential is attributable to a factor which is not tainted by sex discrimination, he will not need to provide objective justification for the pay practice - *Armstrong and ors v Newcastle upon Tyne NHS Hospital Trust* (Brief 797). This is commonly referred to as the Armstrong defence.

Showing Objective Justification

16. If the employer puts forward a material factor to explain a difference in pay, but that factor indirectly discriminates against women, the employer will only be able to rely on it if, pursuant to S.69(1)(b), he is able to show that the factor 'is a proportionate means of achieving a legitimate aim'.

17. Whether or not the employer's discriminatory pay practice pursues a legitimate aim will depend on the facts of a particular case. However, S.69 (3) EqA does specify – and thus makes explicit something that had previously only been stated by the courts – that 'the long-term objective of reducing inequality between men's and women's terms of work is always to be regarded as a legitimate aim'.

18. Even where the employer can show a legitimate aim, it must still go on to show that the means adopted to achieve it are proportionate. The principle of proportionality essentially requires an objective balance to be struck between the discriminatory effect of the employer's pay practice and the reasonable needs of the employer in applying that practice – see, for instance, *Barry v Midland Bank plc* 1999 ICR 859, HL. In showing objective justification, the employer is not required to demonstrate that there was no route other than the discriminatory practice by which it could have achieved the legitimate aim. However, a tribunal will generally consider whether the aim could reasonably have been achieved by less discriminatory means.

The Cadman/Wilson v HSE cases

19. The litigation in *Cadman/Wilson v HSE* stalled for some time because of uncertainty over the status of an earlier equal pay ruling of the European Court of Justice (ECJ).

20. The *Danfoss* case appeared to suggest that rewarding length of service did not require justification, even if the employee could show that it had a disparate impact on women, who tend to have shorter periods of continuous service than men. This uncertainty over the status led to a reference to the ECJ in the *Cadman* case. In 2006 the ECJ ruled that the *Danfoss* principle was still correct as a general rule, but was subject to an exception if the claimant could produce evidence “capable of raising serious doubts” that “recourse to the criterion of length of service is appropriate to attain the legitimate objective of rewarding experience which enables the worker to perform his duties better”.

21. In *Wilson* the Court of Appeal rejected the employer’s arguments that something truly remarkable is required to engage the exception. What is needed, it said, was some evidence which, if it were established at trial, would show that the adoption or use of the particular length of service criterion was disproportionate: in other words its prejudicial effect on women outweighed the employer’s legitimate aim in rewarding experience. So the test operates as a filter on claims which challenge service-related increments. In *Wilson* the tribunal considered that five years would have been a reasonable time to reward length of experience. This was based on evidence given on behalf of Mrs Wilson by a trade union official who was himself a HSE officer.

22. The Court of Appeal’s decision means that Mrs Wilson won her claim on liability. The employment tribunal had already decided that, if the HSE had been required to justify its pay scale, it would have failed to do so because 10 years was an excessive period to award service-related increments in the circumstances. However, due to *Danfoss*, the tribunal had considered that paying these increments did not require justification.

The crux of the argument

23. The main argument here was about whether the HSE could be made to justify its pay structure which awarded service related increments to its inspectors for 10 years. HMRC similarly awards on the basis of performance up to a maximum point which used to take around 8 years until the pay freeze interrupted the progress. The vast majority of people each year used to get a basic rise with an extra unconsolidated amount for Top box markings. Earlier pay deals provided a basic rise and progression increases for those below the max. When progression pay diminished the resultant stagnation became inevitable and the question is whether HMRC can be called upon to justify the lengthening pay scales.

24. The wider implications of the HSE case for employers suggested that there was nothing special about service-related pay. It would be absurd, it said, to adopt such a strict reading of the serious doubts exception that it created a “legal black hole” in the fundamental EU-wide principle of equal pay for equal work or work of equal value.

25. It follows that in principle there is no aspect of a pay structure which is immune to challenge on equal pay grounds: it is just that other elements may be easier to challenge than service-related increments, because of their obvious link with performance.

26. Thus if we consider HMRC pay scales the big question is whether it is reasonable to have an 10 year (minimum) lead in to the maximum of the scale and whether in particular that is proportionate for the posts in question.

27. The statistics make it pretty clear that the current system has created massive discrepancies between the pay of men and women at G7/6 level.

The Statistics

This is the pay range analysis based on headcount;

	AA		AO		O		HO		SO		Grade 7		Grade 6	
Range Position	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Min - 10%	359	324	5702	4718	1325	1023	871	753	340	355	503	585	118	128
11% - 20%	54	51	81	61	129	89	91	96	19	26	20	22	16	25
21% - 30%	5	4	45	39	159	128	226	184	55	59	102	106	22	36
31% - 40%	72	55	1036	671	130	67	391	355	28	37	50	85	17	30
41% - 50%	79	68	119	52	593	375	99	85	142	141	55	87	26	22
51% - 60%	29	25	75	36	286	197	221	213	59	73	43	66	24	50
61% - 70%	9	8	1357	816	125	87	46	52	32	27	19	40	24	26
71% - 80%	45	22	202	120	1073	688	203	186	17	41	19	37	7	8
81% - 90%	385	210	109	48	210	136	45	43	42	58	21	53	18	46

91% - Max	3665	1714	12494	4748	5451	3830	1988	2855	652	1281	181	426	115	355
Totals	4702	2481	21220	11309	9481	6620	4181	4822	1386	2098	1013	1507	387	726

Grade	AA		AO		O		HO		SO		Grade 7		Grade 6	
Gender	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Count on Max	3,044	1,380	10,977	3,999	5,107	3,579	1,647	2,512	597	1,177	167	386	97	309
% on Max	64.7%	55.6%	51.7%	35.4%	53.9%	54.1%	39.4%	52.1%	43.1%	56.1%	16.5%	25.6%	25.1%	42.6%

28. The crux of the question is why the differentials exist and whether the right to challenge them in law exists.

The HMRC response

29. "Our aim to shorten the ranges was in respect of the Cadman cases but also due to the long length of the ranges inherited from the former depts. upon the merger.

30. However, I must stress that the time it will take for someone to reach the maximum is not just as a result of the range length. The value of the award is a critical factor. As an example, the pay ranges are now an average length of 14%. For someone to reach the max in five years (generally regarded as the maximum time to be fully proficient in the role), all that is required is an award averaging at 2.8% each year. A few years ago, such an aim was realistic and achievable. However, with pay awards now being limited to just an average of 1%, it would take 10years to reach the max if awards continued at that rate. Without additional funds, the only way to pay a higher award that will significantly progress pay towards the max is to not pay any award to the 50% of staff on the maximum.

31. All staff that have joined since about 2008 whether they are female or male will be affected in the same way. It is probably right to say that for the senior grades which in the past were predominately occupied by men, they have been fortunate to have received reasonable awards in the past years that have progressed them to the maximum. You'll see from the table below that 49% of Grade 6 men are in the top 10% of the range, compared to just 30% of Grade 6 women. However, when looking at the junior bands you'll note that there is a higher proportion of women paid at the top of the range, which will be despite women in these grades typically taking career breaks."

Grade 7

Grade 6

Range	Position	Female	Male	Female	Male
21%	20%	21%	20%	21%	20%
31%	30%	31%	30%	31%	30%
41%	40%	41%	40%	41%	40%
51%	50%	51%	50%	51%	50%
61%	60%	61%	60%	61%	60%
71%	70%	71%	70%	71%	70%
81%	80%	81%	80%	81%	80%
91%	90%	91%	90%	91%	90%
Max	Max	Max	Max	Max	Max

32. Since HMRC was formed in 2005, our aim has been to shorten the pay ranges for all grades. This has been mainly as a result of the ECJ judgment in *Cadman/Wilson v HSE* and the use of length of service criterion in pay systems. On average, we have successfully reduced the length of the pay ranges from 34% to 14%.

33. We currently have 49% of staff on the maximum rate for the grade, and they have the benefit of receiving at least 20 years of moderately good pay awards. For the people below the maximum rate, a significant proportion of them has at least 5 years service in their current grade, but will have to serve a longer period of time to reach the maximum due to the two year pay freeze and the restriction on the value of pay awards for the unforeseeable future.

34. The value of the awards is the same for all staff in the pay range who are awarded the relevant performance mark, and currently, the value of the award is the same for both a Top and Good performer. The value of the award does not discriminate by gender, race, disability, or seniority.

35. There are no set progression/incremental rates within HMRC pay ranges, as staff are not entitled to contractual progression; government departments are being encouraged to cease these arrangements due to the expense.

36. HMRC argues that it complies with HM Treasury guidance which is issued annually. Under Civil Service pay delegation HMRC implements the guidance with due regard to the department's business requirements and affordability."

37. The Department in its response to the equality questionnaires argues that "the value of HMRC pay increases are not based on length of service but on the relative positioning on the associated pay range. Pay settlements prior to the 2011 pay freeze directed higher base pay increases towards those furthest from the pay range maximum. There are a number of factors behind the decision of HMRC to actively shorten pay scales such as,

- Cessation of contractual pay progression
- ECJ judgement in *Cadman/Wilson v HSE* and the use of length of service criterion in pay systems."

38. The document goes on to accept that the Grade 7 pay scales were longer than the EHRC 10% range and that the pay freeze has exacerbated this. The Department also states that :
 "All policies adopted from the Civil Service Employee Service have been EQIA assessed. Not all of the HMRC pay policies have been EQIA assessed however policies are formed with due regard to the aims of the Equality Duty".

39. The Department , in short, relies on length of service, cost, overall fairness and the imposed pay freeze to defend the position.

Union Position

40. ARC has responded to the numbers provided by Pay Policy and have provided the following workings:

41. "Using the current London G7 min and max, I have increased the minimum by 3.5% and the max by 1% for each year for 5 years, because this appears to be what the Department did in the 2009-10 pay award. http://intranet.active.hmrci/about_you/your_reward_and_benefits/reward/pay_award/hr8207.htm

42. This leads to the interesting result that if the Department did this year on year, the pay range would shorten to a reasonable length within 5 years:

G7 London	Min	Max
Year 1	£52,669	£61,590
Year 2	£54,512	£62,206
Year 3	£56,420	£62,828
Year 4	£58,395	£63,456
Year 5	£60,439	£64,090

43. However, applying that to your average G7, I have reviewed how long it would take to move through the pay scale at a rate of 2.5% per year. Even if the pay maximum stayed the same as in year 5 above (which it clearly wouldn't – I am just not sure how to model the increases once the scale is shortened – it would presumably increase something like 2% per year), it would take 9 years to get to the top of the scale:

Year 1	£52,669
Year 2	£53,986
Year 3	£55,336
Year 4	£56,719
Year 5	£58,131
Year 6	£59,584
Year 7	£61,074

Year 8	£62,601
Year 9	£64,166

44. "I think you will agree that these pay awards are not remotely realistic at present. And so with a more modest pay structure and award, it would clearly take longer to shorten the pay scale and to move through it.

45. Because I was interested to see how long it may take for the G7 to actually reach the max, if, once the pay scale was shortened sufficiently as above, the max was then increased by 2% per annum. I kept increasing the G7 by 2.5% and the max by 2%:

Year 6	£59,584
Year 7	£61,074
Year 8	£62,601
Year 9	£64,166
Year 10	£65,770
Year 11	£67,414
Year 12	£69,099
Year 13	£70,826
Year 14	£72,597
Year 15	£74,412

Year 6	£65,372
Year 7	£66,679
Year 8	£68,013
Year 9	£69,373
Year 10	£70,760
Year 11	£72,175
Year 12	£73,618
Year 13	£75,090
Year 14	£76,592
Year 15	£78,124

46. You can see that it would still take a very long time for a G7 to reach the max on this projection. Again – this projection is very much more generous than the reality".

Considerations

47. EHCR guidance requires there to be a 5% difference to be statistically significant and it is clear that that is exceeded for both Grade 6 and 7 so there is clearly an issue to be addressed.

48. The next question is whether there is a valid reason for this and this appears to be limited to costs and an argument that when you look at the average across all grades there does not appear to be a problem. I cannot reconcile this with the 23% pay differential and the statistics provided by the Department which indicates a large disparity in the percentages of men and women at different points on the pay scale. There is clearly an issue at Grade 6/7.

49. The Department concedes in the body of the questionnaires that the work undertaken by the complainants and comparators are the same. I have covered this aspect in my interviews and the body of this report for completeness.

50. The Danfoss case originally found that rewarding length of service did not require justification in law even if it had a disproportionate impact on women. If this had remained the leading precedent in law there would be nowhere to go with these grievances.

51. However the Wilson/Cadman v HSE case then suggested that this “get out of jail” defence would not work if it could be shown that there were serious doubts about whether this impact is disproportionate or prejudicial to women. The question it raised was: Is the assumed length of time taken to become proficient in the grade excessive?

52. The Department clearly recognised post the HSE case that it had to address pay progression in the 2008 Pay deal. For various reasons this policy slipped, not least due to austerity measures and the pay freeze of recent years. It follows that the slide back towards unequal pay became inevitable.

53. Women were underrepresented in both feeder Departments at G6/7 but over the years this has improved but combined with the changes in pay policy this has resulted in the pay differentials becoming pronounced. It is interesting to look at the statistics and see how polarised they are. The vast majority of men and women, between 60 and 70% are on either the min or the max showing how little movement there has been up the scale. It is almost as if HMRC developed a pay scale then removed the means to move up that scale.

54. In Crossley v ACAS male conciliators tended to be at the top of a long pay scale as the result of historical assimilation. More recently recruited females conciliators were clustered towards the bottom of the pay scale. They had similar performance assessments. The tribunal found that the pay system indirectly discriminated against the women and could not be objectively justified. As a result shorter pay structures were introduced. The point at which people are deemed competent in grade could differ between job types and indeed each individual post. Any system that attempts to over design a system to tackle this issue could prove costly to introduce and extremely difficult to administer. That is not however something I need to resolve in concluding these cases. I make mention of it because it is such a potentially massive problem.

55. Changes in the way people reach Grade 7 (for revenue staff in particular), new tax professional routes etc have meant that more women have reached the grade tackling in some measure the inequality that had been an issue for preceding years. However the timing of these changes meant that in starting

to resolve one equality issue the Department has inadvertently created another.

56. It is easy to see that once the Department stopped concentrating on pay progression the spans began to extend and that could only lead to the widening of the gap between men who had been in the grade longer and women who tended not to have been. The pay freeze undoubtedly exacerbated the problem even though its reason for being implemented was not intended to create inequality but as an austerity measure according to the Government.

57. The next question is whether the long pay spans can be justified in that it genuinely does take many years to become competent in the grade. If the Department wishes to rely on the point of competency as being the max it would need to justify whether it is reasonable that it takes 10 years or more to become fully functioning in a role. Regardless of whether the rises in salary are incremental or conditional on performance the arguments remain the same.

58. In rejecting the HSE appeal in *Cadman v HSE* Lady Justice Arden stated that “The need to protect the rights arising from the use of a service related criterion is not an academic question, as it is common ground that women are often disadvantaged by the use of such criterion in pay schemes.”

59. The claimants have requested that the differentials should be removed and that their pay should be the same as their comparators. In order to do so, HMRC’s pay structure would require significant restructuring and funding.

Conclusions

60. Thus the first question for me is whether the pay system as it stands has had and is continuing to have a disproportionate impact on women. The statistics suggest that it is. It is difficult to reach any other conclusion based on the statistical evidence.

61. The second question is whether the way pay policy is applied in HMRC constitutes a PCP (provision, criteria or practice) that indirectly discriminates against women. On the face of it the answer is yes.

62. Does the PCP apply to the complainants? Well clearly it does and although the extent to which it impacts may all be slightly different the overall application affects them all.

63. It may be that women are finally breaking into the higher grades in greater numbers than before but the timing is such that it comes during a period of pay freezes and austerity. In any case pay progression fell out of favour as a key aim for pay deals and the statistics now clearly show the Department has a situation that on the face of it is indirect discrimination.

64. I have looked at each of their circumstances individually and acknowledge the frustration and sense of unfairness created by the pay situation. All parties are well respected top and good performers committed to their work and to the Department. Their comparators can be described in equally glowing terms and yet get paid more for doing essentially and sometimes literally, the same job in the same grade. All parties acknowledged that they could be required to change or swap jobs by the employer and would be able to do this. All considered their roles to be of equal value within the grade.

65. The third question I needed to explore with the complainants was whether there was any evidence of direct discrimination in that their pay was affected by matters specifically related to their sex. I did not find any evidence to that effect. Indeed the pay systems did have safeguards in this respect.

66. The fourth question is whether the pay system can be justified.

67. The Department can argue that their hands have been tied by cost restrictions imposed by the Treasury and pay deals informed by the Cabinet Office and whilst this is entirely understandable, it cannot be relied upon in law.

68. HMRC has also argued that the overall percentage across the grades shows no disparity. I believe this is not relevant since the disparity is clear at the specific grade in question (G7) and the grade above (G6). The statistics show that the issue exists for G6/7. Even if cost were an acceptable excuse for doing nothing, the cost would in fact be relatively low to address this issue due to the numbers involved.

69. In my view the evidence, largely undisputed by the employer is that it does not take in excess of 8 to 10 years to become competent in the grade. Grade 7s are expected to be able to perform a range of duties and be able to perform in a range of posts pretty much from day one.

70. The current impasse feels to me like a very uncomfortable situation with limited resources and a real need to remedy an obvious and legal unfairness. It would be unfortunate if the only solution available may be to rob Peter to pay Paula.

71. It is however difficult for me to offer up realistic solutions at this point, though recognition on both sides of the problem and a genuine commitment to tackle it may at least show willing in the undoubted forthcoming legal cases.

72. I understand that other cases brought by unions in smaller Departments have resulted in action being taken to pay off the complainants in the first instance. Whilst I am sure this may be welcomed by the individuals concerned it is highly unlikely that this would be effective or fair in this case. I understand ARC has additional cases in the wings and in any event this action would not address the inequality issue for all those affected.

73. I would **recommend** an urgent joint TUS/ Official Side workshop to explore if there is any scope for agreement on how this position can be rectified. It will be difficult given the pay restraints but if parties can agree some basic principles it would be helpful. This should look at the Grades in question and those below and above to ensure that inequality is not an issue for them too.

74. I would also **recommend** that the Department enter into immediate negotiations with the Treasury with a view to resolving the financial restrictions that currently limit HMRC's ability to rectify this unfair situation.

75. It is worth noting that time is likely to be of the essence in this case. The introduction of fees for lodging and pursuing tribunals could mean that cases will be heard much more quickly than many of us are used to. Hence I would again emphasise the need to consult the Treasury early with a view to settling the matter.

76. If, my conclusion that this is indirect discrimination is right, then it will impact across Grades 7 and 6 according to the statistics I have seen. The impact may not be restricted to those currently employed and it is highly likely that some people who have retired or taken partial retirement will have been affected.