

Establishing work of equal value

Dr Barbara Havelková
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Content

- Intertwined concepts
 - 'Same work or work to which equal value is attributed' (Art 4, Dir 2006/54)
 - Elements of pay
 - Moment of decision
- Gender bias
- Individual criteria

Is there such a thing as 'same work'?

- Name of the position?
- Job classification?
- If the employer doesn't dispute 'same work', our case is much easier
- The problem is that the employer can always say that their actual work performed was different

How do you know this is true?

- Elements of pay
 - Basic salary – often depends on job classification
 - Statutory supplements – overtime, night work
 - 'Motivational' – reward for the quantity and/or quality of work (bonuses) & other material perks
- Moment of decision (work typically done vs work actually done)
 - Ex ante – setting up of job classification
 - Ex ante – classifying the employee
 - Ex post – rewarding work

A spectrum – was it discrimination?

One side:

- The employer can't set up an element of pay which is supposed to reward work actually done (ex post) before that work has been done
- In other words, individual's reward can't be set ex ante (Brunnhofer)

Other side:

- If employer can prove difference in quantity/quality of work and this has influenced bonuses, it might not be discrimination

* Burden of proof (court) vs none (admin bodies)

Work of equal value

- To summarize, unless employer agrees, there is rarely going to be 'same work'
- This means that doctrinally, little has been made of the difference between 'same work' and 'work to which equal value is attributed'

Assessing 'equal work'

Two ways:

1) The 'cost' on the market

- This would just replicate the pre-existing gender inequalities on the market

2) Inherent value

- But here too, there is danger of gender bias

How can gender bias our perception of value? I

What we value as society can be gender biased (unconsciously)

- Our examples
 - Surgery vs paediatrics
 - Human resources vs financial management
- Beyond
 - Physical strength vs concentration
 - Security vs care and teaching
 - Hard skills vs social skills
 - Paid experience vs voluntary experience

Work/characteristics *typically* done by men

We need to check we're not thinking stereotypically

How can gender bias our perception of value? II

We see male work as more valuable, so we see things differently (unconsciously)

- Hours of work vs quantity or quality
- Special qualifications (language skills, quantity vs quality)

Work/characteristics when performed by men – we tend to selectively notice (men) or ignore/disregard (women)

Are there characteristics/requirements even relevant for the job?

Equal pay and equal treatment?

Only conditions which directly impact pay are equal pay, but a disparity of pay can uncover unequal treatment too

- Flexible vs fixed (example sales people working on commission)
- Temporary vs permanent
- Missed promotion

Criteria

Recital 9 of Dir 2006/54: 'a range of factors including the nature of the work and training and working conditions'

Sec 110 Czech Labour Code: 'complexity, responsibility, difficulty; working conditions; performance and output'

ILO: Qualifications; Effort; Responsibility; The conditions under which the work is performed (used on following slides)

It's important not to ignore certain skills just because they're typically female (communication skills) and/or value skills in a gender neutral way

Qualifications - subfactors

Type of sub-factor <i>(Gender neutrality in selecting sub-factors)</i>	Female-dominated job title	Examples of female-dominated jobs <i>(Gender neutrality in illustrating sub-factors)</i>
Interpersonal skills (female)¹⁰	Social worker, nurse, human resources employee	Counselling, interviewing
	Salesperson	Evaluating customer needs, persuading
	Teacher	Motivating, using teaching skills
Communication skills (female)	Telemarketing employee, customer services agent, public relations officer, salesperson	Knowledge of a foreign language
	Secretary	Correcting texts, writing up the minutes of meetings
Physical skills (male)	Secretary	Fine manual dexterity: using a keyboard
	Nurse	Giving injections
	Seamstress	Hemming garments, sewing together complex garment pieces
	Assembler	Assembling small electronic components, colour-coded electrical wires, according to a specific sequence

Effort - subfactors

Type of sub-factor <i>(Gender neutrality in selecting sub-factors)</i>	Female-dominated job title	Examples of female-dominated jobs <i>(Gender neutrality in illustrating sub-factors)</i>
Emotional effort (female)	Social worker	Contact with battered children
	Special education teacher	Supporting disabled children
	Nurse	Contact with terminally ill patients
	Customer services agent	Negotiating with customers who are dissatisfied or aggressive
Mental effort (neutral)	Secretary, cashier	Data entry, correcting texts or checking figures
	Secretary	Taking notes in meetings
	Nurse, teacher	Multi-skilling
	Translator, interpreter	Intense concentration over long periods of time
Physical effort (male)	Secretary	Quick, repetitive movements on a keyboard
	Secretary	Lifting and moving piles of files and boxes of documents
	Secretary	Bending over filing cabinets to file or look for documents
	Early childhood educator, nurse	Lifting young children or patients
	Waitress	Continually moving around, carrying fairly heavy objects
	Seamstress	Operating a pedal quickly and repeatedly over long periods of time
	Seamstress	Lifting and moving piles of finished garments
	Nurse	Bending over the work surface for long periods of time
		Lifting and pushing patients in wheelchairs

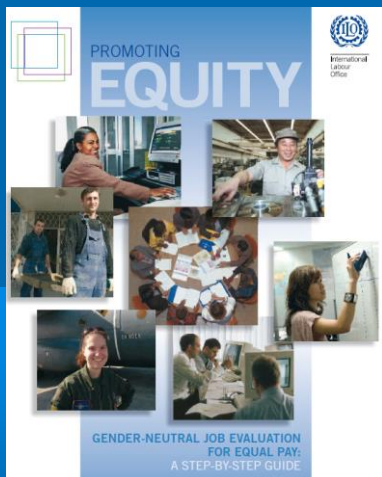
Responsibility - subfactors

Type of sub-factor <i>(Gender neutrality in selecting sub-factors)</i>	Female-dominated job title	Examples of female-dominated jobs <i>(Gender neutrality in illustrating sub-factors)</i>
Responsibility for people (female)	Early childhood educator, teacher, nurse	Offering advice and information to students
	Early childhood educator, teacher	Ensuring the safety of children
Responsibility for human resources (female)	Human resources employee	Guiding new employees
	Secretary	Planning meetings
	Human resources employee	Establishing human resource policies
Responsibility for confidentiality (neutral)	Salesperson, customer services agent	Customer profile
	Payroll department employee	Information regarding the payroll
	Order filler	Vendor profile
Financial responsibility (male)	Accounts payable department employee	Paying bills and writing cheques
	Accounting clerk	Bookkeeping
Responsibility for material resources (male)	Secretary	Using, maintaining and fixing office equipment: photocopier, computer, scanner, printer
	Secretary	Planning needs related to and ordering various supplies

Working conditions - subfactor

Type of sub-factor (Gender neutrality in selecting sub-factors)	Female-dominated job title	Examples of female-dominated jobs (Gender neutrality in illustrating sub-factors)
Physical environment (male)	Secretary/ telephone operator	Constant exposure to cathode rays that may lead to muscular pain and eye strain
	Receptionist	Moderate and constant exposure to noise Exposure to cathode rays from computer monitors
	Early childhood educator	Exposure to very high noise levels made by children, toys and various equipment
	Early childhood educator, nurse	Exposure to contagious diseases
	Cashier	Exposure to the risks related to new technologies such as scanners
	Cashier	Constant exposure to noise: cash register, customers, telephones
	Janitorial staff in commercial buildings	Exposure to cleaning products that pose health risks
	Janitorial staff in commercial buildings	Exposure to dirt, dust and garbage
Psychological conditions (female)	Secretary	Frequent interruptions in person and by telephone
	Secretary	Having to respond to immediate and unexpected requests
	Receptionist/ telephone operator	Lack of privacy in the work area Isolation from co-workers
	Early childhood educator	Interactions with sometimes hostile or demanding parents
	Cashier	Interactions with a varied, sometimes difficult or dissatisfied, public
	Cashier	Variable work schedule
	Janitorial staff in commercial buildings	Working outside regular working hours Increased risk of sexual harassment due to night work and isolation

Source



http://www.ilo.org/wcms/p5/groups/public/@ed_norm/@declaration/documents/publication/wcms_122372.pdf

Exercise

- Identify the information in the cases, which would be relevant for the assessment of the value of the work
- Link it to 'ex ante' and 'ex post' decisions AND parts of pay
- What information is missing for assessing value of work?
- Look for elements in the three cases, which might suggest either gender bias in perception or evaluation of the employees