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Contradictions of Transparency:
The changing architecture of gendered
pay inequity in Britain's finance sector

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A thesis submitted in partial fulfilment of the requirements of
the University of Sussex for the degree of Doctor of Philosophy

May 2021

Abstract

This thesis provides a comprehensive assessment of legal and organisational interventions to reduce the gender pay gap within banking in the UK. The moral, legal and financial imperatives for greater diversity are well understood, but despite the need for change, progress in addressing gender pay inequity is slow and requires further investigation (Healy and Ahamed, 2019). The theoretical approach pursued focuses on four contested explanations of the problem: institutional; organisational; economic; and sociological (Rubery and Grimshaw, 2015). The fundamental interrelationship of these thematic perspectives helps construct an architecture of inequality model, via a multi-level analysis that is embedded within the broader employment systems literature (O'Reilly, 1996; O'Reilly, 2006; Rubery and Hebson, 2018; Gallie, 2007b; Rubery, 2003).

An architecture of inequality refers to three levels of analysis. At the macro level, the new and largely untapped gender pay reporting regulatory (GPRR) data is evaluated, alongside an historic analysis of Britain's progressively broadened legal arrangements. At the meso level, the variability in how these requirements are applied, interpreted and built upon in organisations is examined from a combination of published company accounts, trade union and employee interviews. Finally, at the micro level, individual experiences of the laws, policies, economic rational choices and sociological norms were obtained from qualitative interviews with women working for a range of finance organisations operating in the UK.

The increased transparency offered by the GPRR undoubtedly gives greater exposure to pay inequities. However, examination reveals how a broader and embedded lack of transparency, alongside the preference for light-touch governance, continually acts to

countenance change efforts (Conley and Torbus, 2019). The foundational architectural element of sociologically constructed norms and values inform and impede the legal and organisational approaches pursued, inhibiting change. This thesis argues that the existing approach to transparency is merely a perfunctory legal process, around which the invisibility of the systemic elements of the architecture of inequality persist.

Statement of originality

I, Rachel Verdin, hereby declare that this thesis has not been, and will not be, submitted in whole or in part to another university for the award of any other degree.

Signature

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Acknowledgements

I am so thankful to be writing this, as while I have enjoyed the journey into doctoral study, I am ready for it to end.

I would like to thank my supervisors Professor Jacqueline O'Reilly and Professor Sue Millns. Jackie, from the very first phone call, when this PhD was merely a tentative idea, you helped me navigate the process. Your enthusiasm, creativity and support along the way have made this journey possible and enjoyable. And to Sue, for helping me get started and providing the insight and feedback needed to strengthen the legal chapters.

I would like to express my sincere appreciation to the University of Sussex Business School for funding the research. Thanks are also due to the other academic support I have received from across the University: to Ben Everly for offering his time to answer my questions about SPSS; for the varied and insightful training I have received; and for my friends and colleagues across the University who took the time to help me recruit research participants, frame my arguments and provide the moral support needed to get to the end.

I would like to express gratitude to my research participants for sharing their stories and insights. Your words helped me understand your experience of a decades old problem and gave depth and meaning to the research. Thanks to friends, neighbours and old colleagues for helping me to find people willing to be interviewed. Thanks to George Byrne for his tips and reassurance along the way.

Huge thanks are also due to my family: my mum, Heather, for her ongoing moral support; my dad, Frank, for his time and patience helping me edit; and my girls for keeping me entertained and showing me anything is possible. Finally, Steve your encouragement and unwavering support helped me take the leap of faith needed to make a change and get to the finishing line.

This thesis was proofread for the purposes of spelling, punctuation and grammar by Proofers.

1

Introduction

Chapter 1: Introduction

1. Introducing the thesis

This thesis examines how and why progress to achieve pay equity has been, and continues to be, glacially slow and stalled. The gender pay gap (GPG) currently sits at 15.5% (Smith, 2020b).¹ This significant and persistent problem has defied legislative attempts to eradicate it. Failing to ensure fair pay can be extremely expensive. Settlements amounting to £1.2 billion in the *Abdulla v Birmingham City Council* [2012] equal pay case (Deakin et al., 2015), and projected liabilities of £8 billion in the ongoing retail equal value claims (*Asda v Brierley* [2021]; Butler, 2021; Croft and Eley, 2019), illustrate the need to get this right, both for organisations and their employees. McKinsey (2016) estimates the wider economic impacts, suggesting that enabling women to fully participate in the workforce could add £150 billion to UK gross domestic product (GDP) in productivity gains, by 2025.

The Gender Pay Reporting Regulations (GPRR), introduced in 2017, have prompted a resurgence of attention and focus on the problem. This has since been accompanied by current and pressing threats to the UK's equality framework, such as the Coronavirus pandemic, Brexit and associated economic impacts (Verdin and O'Reilly, 2020), alongside the changing world of work through the process of digitalisation (Verdin and O'Reilly, 2021).

¹ This calculation is based on the pay period covering 22 April 2020 when around 8.8 million workers were furloughed. The ONS notes that this may have a small impact on the gap. In 2019, the overall pay gap was 17.4%.

The slow progress towards eradicating the GPG is approached in this thesis using a variety of research methods to provide new and combined insights into the problem. The findings help explain the intransigence of GPGs and inform explanatory research approaches directed towards policy and practice to tackle this long-running inequality.

The thesis is presented in four parts: Part I critically reviews existing theoretical explanations, presents the rationale for selecting the case study of the banking sector and identifies the methodological approaches used in this thesis; Part II provides an historical legal review; Part III assesses the GPRR and reporting data; and Part IV examines the qualitative data appraising how women experience legal and organisational approaches in a thematic analysis.

This multi-level analysis is subdivided into 11 chapters as follows.

Part I: Theory, selection of the banking sector and methods

Part I comprises the introductory chapters including this Chapter 1 Introduction.

Chapter 2: A literature review

Chapter 2 outlines the various competing explanations of GPGs in a literature review. This uses Rubery and Grimshaw's (2015) theoretical framework to define institutional, organisational, economic and sociological perspectives on the problem and identify the tensions within and between these approaches. Arising from this framework, the central research questions seek to understand how initiatives, such as the GPRR, have impacted the pay gap and why progress has stalled.

Chapter 3: Situating the research in the Banking sector

Chapter 3 explores the relevance of selecting the banking sector for case study analysis and gives a phased assessment of the transformation within the industry.² The combined impact of workplace policies, cultures and norms, leads to an understanding of a changed and changing sector, alongside equally shifting and yet seemingly immovable gendered inequalities in pay. This extends Rubery and Grimshaw's (2015) argument, developing their metaphor of 'shifting goalposts', to argue that attempts to address the GPG are closer to an evolving architecture of inequality: while reforms are being continuously built upon, added and adapted, the underlying principles reinforcing inequality still 'breathe through the building' as core structures ever present in the re-shaping of gendered inequities. Foundational inequalities, governance trends and a lack of transparency continually legitimise the problem.

Chapter 4: A methodological journey

Chapter 4 introduces the mixed methods needed to answer the research questions. The research design incorporates a multi-level approach. Using macro, meso and micro levels of analysis, it identifies the scope and impact of legal reforms, organisational implementation and their effects on individual employees. A discussion of the mixture of qualitative and quantitative methods utilised outlines their respective value and limitations, identifying how they provide complementary evidence to address the core research questions from different theoretical approaches.

² The terms finance and banking are used interchangeably throughout the thesis to denote organisations that provide a range of financial services.

Part II: The evolution and multi-level contestation of the legal framework

Part II of the thesis provides the macro level of analysis and charts the historical development of the law, related to gender pay inequity. The legal research incorporates an analytic periodisation and evaluation of statute and case law, alongside a socio-legal analysis, adopting a feminist methodological lens.

Chapter 5: The legal framework regulating equal pay in Britain 1970-2010

Chapter 5 describes the changing conceptualisation of legal approaches to equal pay since the passing of the Equal Pay Act 1970 (EqPA70). The gradual construction and extension of legal arrangements are described, with reference to the key actors that have both impeded and encouraged these macro level legal developments. This begins to demonstrate the multifaceted way that resistance to pay equity has operated, highlighting how, despite the growth of legal structures, key actors reflect and reconfigure foundational inequalities, impeding the potential for progress.

Chapter 6: The Equality Act 2010 and beyond: Potential transformations and resurgent limitations

Chapter 6 continues the phased legal analysis, considering the period since the passing of the Equality Act 2010 (EqA2010) to the present day. The transformative potential of legal developments is discussed, alongside the resurgent limitations that impede their effectiveness. Legal arrangements are presented as a component part of an architecture of inequality model, within which inequalities are seemingly insulated from change by other elements in the social subsystem that impact upon them (Franzoni and Sanchez-Ancochea, 2016). This demonstrates why institutional approaches have failed to eradicate the problem and underlines the need for a multi-level analysis.

Part III: The intersection between legal regulation and organisational response

Part III of the thesis explores how the legal framework is applied and understood within the case study of the banking sector, representing another element in the architecture model. This demonstrates the size and shape of gendered inequity within the sector and how the organisational trends, identified in chapter 2, impact at the meso level contributing to the stalling of progress.

Chapter 7: Evaluating the impact of the Gender Pay Reporting Regulations

Chapter 7 provides a broad exploration of the first three years of GPRR data, with a focused analysis on the banking and finance sector, given the particularly high pay gaps therein. This serves as a critique on the effectiveness of the Regulations and the limited potential afforded by increased institutional and organisational focus on the problem. Positioning the requirement within the architecture model highlights how the institutional and organisational frameworks are discreet and yet interact. Notable areas of contestation within this interaction, such as a lack of transparency and preference for voluntarist approaches to governance, combine to keep inequalities hidden in plain sight.

Part IV: The experience of initiatives and inequities within the workplace

Part IV presents a thematic analysis of the qualitative interview data, which in turn assesses the relevance of institutional, organisational, economic and sociological explanations for interviewees. This demonstrates the resistance to addressing the contradictions of both legal institutions and commercial organisations at the micro

level. This stream of analysis contributes to building a more comprehensive understanding of the causes of the GPG and how best to tackle it in the future.

Chapter 8: Remuneration practices and unequal pay

Chapter 8 explores interviewees' perceptions of pay and bonus systems. The culture of secrecy that surrounds them is described as limiting women's capacity to appropriately position themselves at the point of job change and to negotiate uplifts. Discussion around equal pay provisions flags how a broad lack of transparency restricts the ability to challenge pay inequities. Pay reporting and voluntarist requirements are also considered, illustrating the practical constraints of both hard and soft law approaches. The analysis demonstrates how rights at work and women's voices are inhibited by pay systems and the lived reality of legislative entitlements.

Chapter 9: Career paths, care responsibilities and contingent choices

Women working in the banking sector reflected on how their career paths were shaped and the effect of career interruptions. Analysis of the interview data evidences the myriad of factors impacting upon women's capacity to make rational choices and the subsequent translation of these choices into outcomes. This assessment reinforces how foundational obstacles related to gender identities, derived from both the workplace and the home, impede efforts to reduce existing inequalities. The impact of initiatives and the stalling of progress is understood through the value ascribed to typified female characteristics, gendered networking environments and the reproduction of existing power structures (Hochschild, 2003). Economic and sociological explanations are explored highlighting both their limitations and relevance, demonstrating the dynamism in the architecture model.

Chapter 10: The gap between policy and practice and the role of organisational norms, HR and collectivism

The analysis turns to considers the micro level experiences of existing organisational policy efforts and the degrees to which they are implemented. Assessment of promotion and flexibility policies demonstrates areas of both progress and resistance. This illustrates how attitudes in different parts of the sector and the cross-national perspectives of some global firms on British equality requirements contribute to the persistence of GPGs. The role of unions and collective opposition to drive change is noted. This reveals the interface between the macro and meso levels in the architecture of inequality, underlining the need for this research design and the importance of approaching the problem in this way.

Conclusions

Chapter 11: Conclusions: Making the hidden visible

By adopting a socio-legal approach, accompanied by empirical research within organisations, this thesis concludes in Chapter 11 on: how effective legislation and organisational approaches to gender pay inequity are; how the pay gap is experienced; what awareness employees have of the legislative entitlements afforded to them; and the interrelationship of factors impacting on the persistence of this problem.

Throughout the thesis, legal and organisational policy, framed by economic and sociological analysis, is used to visualise and develop an analytical framework designated as an 'architecture of inequality' model. This builds upon the work of Franzoni and Sanchez-Ancochea (2016) by recognising the fundamental

interrelationship of institutional measures with other aspects of the employment system. The resultant multi-level, theoretically informed research design contributes to the literature in two ways. First, in constructing this broader architectural model, the tensions between subsystems and common architectural features are recognised. This indicates common blind spots and the contradictions of transparency that remain central to the persistence of the GPG. Second, the dynamism in the architecture of inequality demonstrates how the impediments to alleviating the gap are in constant flux, exerting continual pressures on any potential progress. Within this model, the slow movement of legislative development suggests eradicating the GPG is an elusive legal ambition; at the same time, the organisational dimension currently offers the most likely potential for traction.

2

A literature review

Chapter 2: A literature review

2. Introduction

The moral, legal and financial stakes around equal pay are high. Understanding the effect and limitations of legislation and organisational approaches to address the pay gap remain extremely relevant, despite over fifty years of legislation to resolve the issue. This thesis examines the multiple causes and consequences of gender pay inequity and seeks to identify the most promising pathways to address it. The wide academic and critical reflection on the gender pay gap (GPG) indicates the embedded and multifaceted nature of resistance to addressing the continuing and evolving problems associated with closing this gap.

This chapter draws on the analytical framework of Rubery and Grimshaw (2015) whose review of the extensive and contested explanations of the phenomenon distinguishes four distinct theoretical approaches to explaining gender pay inequalities: institutional; organisational; economic; and sociological. A systematic analysis of this literature is presented here. These theoretical foundations indicate how the empirical evidence in this thesis is structured, comprising macro, meso, and micro level analysis as follows. Having presented the rationale for selecting the banking sector as the subject of study, macro level institutional measures are then explored. A feminist socio-legal assessment of the progressive broadening of legislative approaches to gender pay inequity is given. The effectiveness of the Gender Pay Reporting Regulations (GPRR), introduced in 2017, and the data they provide, is then assessed. This meso level analysis incorporates the organisational policies pursued through examination of organisation's accompanying

narratives. At the micro level, the experience of women working within finance highlights the relevance of both sociological and economic approaches to the problem. The research design is embedded in the employment systems literature, recognising the fundamental interrelationship between regulation, firms and workers (O'Reilly, 1996; O'Reilly, 2006; Rubery and Hebson, 2018; Gallie, 2007b; Rubery, 2003).

Key research questions arise from the complexities and barriers demonstrated within these theoretical approaches. Assessment of why and how institutional and organisational progress to achieve pay equity is so perpetually slow and stalled exposes a preference for free market governance and a systemic lack of transparency, despite a number of attempts to make this more transparent (Dickens, 2007; Conley and Torbus, 2019; Pfefer, 2020). The originality of this thesis is to extend the proposition of Rubery and Grimshaw (2015) by developing an analysis of an architecture of inequality. Rubery and Grimshaw contend that once a remedy to resolve one of the factors impacting GPGs is pursued, the goalposts shift. This momentum is a feature of the dynamic architecture of inequality model that is constructed within this thesis, to account for the persistence of gaps. The equilibrium of gender pay inequity is continually redrawn as key actors, representing governments, business, the judicial process and various collective approaches, act to impede legislative and organisational development, reconstructing and re-legitimising existing pay gaps.³ The thesis establishes the need to redesign the architecture beyond the perfunctory transparency of the GPRR, to tackle the pervasive cultures of secrecy.

³ The use of 'collective approaches' or 'collectivism' as a key actor is used within the thesis to acknowledge the importance of collective opposition in the process of change. This includes the trade union movement and extends more broadly to cover the role of social movements.

This opening chapter examines the four discreet theoretical explanations: institutional, organisational, economic and sociological theories, upon which the research design and emerging architecture of inequality is constructed and the research questions specified.

2.1 Institutional lens

Institutional perspectives on the GPG encompass elements such as the legislative framework addressing gender pay inequity. The black letter law approach still forms the basis of traditional legal study and contends that the law is uncontested, universal and conclusive (McConville and Chui, 2007). Conventional doctrinal legal analysis presents the law as neutral, naturally occurring and only concerned with itself (Banakar and Travers, 2002: 11). Legal practitioners are encouraged to find the facts of the case, the relevant facts of law and apply them. However, the law does not exist in a vacuum, given the importance of the common law system in Britain alongside the role of parliament in creating and amending laws (Cotterrell, 2017).

The evolving nature of gender equality law since the 1970s has been examined by Dickens (2007). She positions its development within a contextual analysis of the catalysts that have helped drive or hinder legal change. She notes the importance of different interests and key actors impacting on how the law has changed its approach to inequality. Elements such as political will and the seemingly ever-present business case narrative, have underpinned equal pay law since the EqPA70 (Dickens, 2007). This demonstrates the importance of situating legal analysis within a wider socio-political and economic context to highlight the different ways the goalposts to addressing the GPG have moved in the past (Rubery and Grimshaw, 2015). Socio-legal study recognises the importance of perceiving the law horizontally (Davies, 2008). By

acknowledging the interactions that various levels of society have with the law, its perception as the neutral objective other has been challenged. Within this context selecting an appropriate discipline within socio-legal study for the research being proposed is necessary (Bryman, 2016: 36).

The growth in socio-legal scholarship has occurred alongside a growing understanding of equality and diversity in society, underlining the importance of taking a feminist socio-legal perspective for the legal analysis (Barnard and Hepple, 2000). As a sub-discipline of socio-legal study, a feminist perspective is adopted in this thesis to examine how gendered the law and its application in the courts continues to be (Hunter et al., 2010; Bartlett, 1990). Feminist theory, as a site within socio-legal study, challenges the perception that ‘the legal system [has] no sex’ (MacKinnon, 1991: 1286). Law is interpreted and regulated on multiple levels. However, while constantly changing, norms such as the ‘reasonable man’ test reflect ‘laws [ongoing] complicity with masculine culture’ (Davies, 2008: 295). The Feminist Judgement Project usefully highlighted the utility of feminist theory through practically applying feminist jurisprudence to re-judge existing cases (Hunter et al., 2010). Within this thesis it is used to help evaluate and determine the effectiveness of legislation to address the GPG.

The progressive conceptualisation of equality, the themes that emerged through case law analysis and the central role of key actors are now considered, to illustrate the relevance of the gender dimension within these institutional explanations.

2.1.1 Conceptualisation of equality

The development of Britain’s legal equality provisions is marked by the changing conceptualisation of equality. Both the Equal Pay Act 1970 (EqPA70) and the Sex

Discrimination Act 75 (SDA75) embodied the idea of equal treatment and a formal notion of equality (Hepple, 2011). The law, in that sense, was perceived as neutral and impartial, setting a standard of 'sameness' against which equality should be judged. Socio-legal studies contest the pervasive understanding of the laws neutrality (Smart, 1992: 29). The application of a feminist lens to the conceptualisation of equality further reveals how gendered values and identities are a fundamental characteristic of institutional frameworks simultaneously acting as a break, effectively restricting their potential. To illustrate, the impact of inherent bias within this early conceptualisation of equality was clear in the limitations of the EqPA70. As a static gendered legal rule, it failed to resolve many institutional barriers for women. For example, while the Dagenham strike was a trigger for the passing of the EqPA70, its implementation did not resolve the issue they were challenging (Moss, 2019; Rackley, 2018). Recognition of the value in the different work that these women undertook was not afforded until the Equal Value Amendment 1983 (EqVA83) was passed. Critically the EqVA83 recognised that the law needed to go beyond the notion of sameness to acknowledge difference (Fredman, 2011). To fully understand how this change came about in Britain, it is useful to periodise legal developments alongside the evolving wider socio-legal context.

The approach used here demonstrates how institutional structures to address gender equality have been constructed, adapted and extended. This evolution reflects the values held in the period when they first arose and the fundamental limitations of these gendered foundations over time. The overriding preference for a light-touch approach to governance and the various ways that inequities are obscured from view are persistent barriers, systemic to the broad architecture of inequality (see Chapters 5 and 6). Key actors and catalysts, representing governments, business interests, various

forms of organised labour and the judicial process, contest where legal boundaries lie, restricting, testing and developing their scope when implemented in practice.

2.1.2 Case law

The centrality of these key actors in defining the need for change is demonstrated in the necessary contestation of legal discourse. In *Turley v Allders* [1980] the failure of an unfair dismissal claim, given that the pregnant female claimant could not identify a pregnant male comparator, clearly highlighted deficiencies with the SDA75.⁴ A legal construction based around the preference for sameness underlined fundamental differences between men and women and the work they do.

The question of part-time work, central to many women's working lives, was also perceived as 'different' by the courts and so beyond the scope of the early conceptualisation. In *Jenkins v Kingsgate* [1981] reference was made to the stark gender inequality of the part-time workforce at the time, 94% of whom were women. However, a full-time contract was considered the norm, a standard against which others were judged. This has persisted, despite the broadened approach to equality, as illustrated by the choices made around implementation of the Part-Time Workers Regulations in 2000 (PTWR00), discussed in more detail in Chapter 5.⁵ The regulatory requirement for a comparator severely limited their utility, given many of these workers had no full-time counterpart (Busby, 2001). The assumption that full-time work was the normative standard against which all others should be referenced, when 25% of the UK workforce

⁴ An overview of the cases cited and full case referencing is given in Appendix 2.

⁵ Arising from Directive 1997/81/EC concerning the framework agreement on part-time work.

was part-time, highlights the inherent values that shaped the legislation's application (Bell, 2011; Kilpatrick, 2003: 143).

Developing precedent in pregnancy and part-time work case law highlights elements that have proved to be effective, or otherwise, in statute and secondary legislation. The need to accommodate difference in the drive for equality was demonstrated by these instructive pressure points (Barnard and Hepple, 2000). The changing parameters and conceptualisation of equality, evident through case law analysis, reflects the role of key actors as catalysts who shift and alter the boundaries of the architecture of inequality over time.

2.1.3 Key actors, collectivism and change

Legal change is a slow-moving incremental process, an inescapable outcome of the institutional mechanisms involved and relations between key actors. These actors include: members of the legal system and claimants bringing case law; governments, both in Britain and the EU; business interests and employers; and unions and various forms of collective opposition (Verdin and O'Reilly, 2020). The role of governments and deference to the needs of business have had a limiting effect since the early conceptualisation of equality, to the present day (Chapters 5-7). While economic considerations contributed to the initial inclusion of the equal pay provision by the EEC, concerns relating to the implications for business, in terms of efficiency and competitiveness, have remained limiting within Britain (Burri and Prechal, 2013: 2; Dickens, 2007). These issues have been presented by government as necessary accompaniments to the social rationale, the burdensome nature and cost of increased

stringency and change often results in the preference for light-touch responses (Bell, 2011: 14).

Within this context, the law has been further limited by the individual claimant centred requirement of the legal process and changes such as the introduction of tribunal fees (Conley and Page, 2018; Pyper et al., 2017). Dickens (2007) also highlights the combined impact of the removal of collective bodies, such as the Central Arbitration Committee (CAC), reduced trade union density, and the changing conditional fee arrangements in Britain, effectively restricting access to the law. However, through litigation, equality law still has great potential to effect social change. Deakin et al. (2015) summarised the high level of litigation around no-win-no-fee cases in Britain's public sector since 2000. The shifting landscape of employees, employers and trade unions highlights how individual and group claimants have pursued the right to equal pay, alongside reduced levels of collective bargaining (BEIS, 2018).

Despite limitations to the individuals' capacity to pursue legal rights, there is still potential for collectivism. The equal pay furore within the BBC and ongoing equal pay cases for private sector retail organisations, demonstrate the continued impact of collective institutional redress.⁶ While the stream of public sector no-win-no-fee cases was limited, and retail cases are yet to come to fruition, the costs of failure to comply with legal requirements are potentially huge (*Abdulla v Birmingham City Council* [2012]; Butler, 2021). This demonstrates how unions and lawyers acting in multi-party cases continue to affect the scope of legal obligations (Conley, 2012). As Rubery and

⁶ *Ahmed v BBC* [2018]; *Brierley v Asda Stores Ltd* [2021].

Grimshaw (2015) contend, this shows how goalposts have moved in relation to the EqVA83 and subsequently the Equality Act 2010 (EqA2010).

Institutional arrangements extend beyond the scope of the statutory equal pay provisions and associated cases. As such, this research assesses a range of legislative protection relevant to gender pay inequity, including the new GPRR, within the specific context of the finance sector.

2.1.4 The Gender Pay Reporting Regulations

Britain's Gender Pay Reporting Data is a key piece of the legal framework on which this research is focused (UK Government, 2018). As a new legislative requirement, operating within the framework of equal pay provisions, this monitoring tool presents a research gap which this thesis exploits (Chapter 7).

Employers who have submitted a report can be accessed through the pay reporting website (<https://gender-pay-gap.service.gov.uk/>). Reports provide a comprehensive snapshot of the individual employer and their pay and bonus gaps. Specific sectors can be isolated for comparison. The data may also provide a company narrative that seeks to explain what the figures show. This embodies the current British approach to inequality, combining both statutory compliance and voluntarist approaches (Hepple, 2011; Deakin et al., 2015; Deakin et al., 2011; Verdin and O'Reilly, 2020).

While the GPRR is a legislative requirement, it is also an opportunity to situate and assess the priorities given within particular organisations to the gender pay problem. Pay gaps have historically been larger both at the top of the earnings distribution and in the finance sector (TUC, 2015a; Arulampalam et al., 2007). A recent critique of the

sector by Healy and Ahamed (2019) reiterated that the most successful women at the top of the earnings spectrum suffer increased income inequality than those lower down the income distribution. This highlights the relevance of selecting the finance case study (see Chapter 3) and the necessity of incorporating organisational analysis within the research. This refocuses attention from the macro institutional level, associated with statute and the legal system, to a meso level perspective, focused on organisations and the policies they have implemented to address the problem. It will be argued here that combining both of these distinct theoretical approaches allows us to identify barriers that add stability to the architecture of gender pay inequity and help account for the continually stalled efforts at progress.

2.2 Organisational lens

The organisational dimension incorporates analysis of how hard and soft law requirements are interpreted, applied, and developed, and the factors that may impact upon them in the workplace. The organisation is a critical site to assess progress and the methods chosen to achieve it. Just as legislative requirements are interpreted to varying degrees through existing structures and deference to case law within the courts and tribunals, there is no formulaic and rigorous approach to the application of new workplace policies and initiatives. Organisations have a key role in determining broad requirements and initiating them in a workable way. Organisational perspectives recognise the growth of Human Resource Management (HRM), the impact of norms and values within the workplace, and the role of key actors incentivising and impeding change efforts.

2.2.1 The growth of HRM and best practice

Organisations interpret and create policies, processes and norms that filter institutional regulations. In so doing they contribute to the design of the wider architecture of inequality within which gender pay inequities remain so resilient. Organisations can both drive and enhance legislative initiatives at the workplace, demonstrating how they are not solely reactive to the institutional framework. Dobbin's compelling analyses highlighted the central role of human resource experts in the USA, where they drove the agenda and developed solutions to inequality (Dobbin et al., 1993; Dobbin, 2009). He traces the interaction between policy and law, and how to achieve change, citing a shift from the language of moral imperative to that of financial necessity for organisations, which is central to this research. While the business benefits of greater diversity have been noted for some time, there has been increasing evidence of the potential financial gain to be secured from it (Oswick and Noon, 2014; Healy et al., 2011).

Defining policies as good for business and effective at delivering efficiencies creates organisational pressure to conform to statutory requirements. Dobbin (2009: 224) illustrates this assertion by noting how discrimination at work was defined as resulting from 'antiquated management systems', and therefore bad for business. Having devised diversity management programmes to address the problem, the HRM profession grew and became self-perpetuating (see Chapter 3). This highlights how the application of law can and is impacted by environmental factors, such as the evolution of professional bodies, in this case HR professionals, according to Dobbin.

Research from within Britain has considered the proliferation of equal opportunity policies but found large variance in their usage (Hoque and Noon, 2004; Dickens, 2005; Healy et al., 2011). While the financial services sector was second most likely to have adopted such equality and diversity policies (after manufacturing), these were often found to be ‘empty shells’ (Hoque and Noon, 2004: 496). Numerous factors affect the appliance and substance of these policies, such as increased usage in the public sector and where trade unions were involved. However, it seems that while having them is good for business, applying them is not as relevant. The proliferation of organisational approaches, such as unconscious bias training, also illustrates how the adoption of certain policies may become the norm (see Chapter 7), but their varying degrees of success is far from standard (GEO, 2018b; Dobbin and Kalev, 2016; Mackay et al., 2009).

The importance of embedding these best practice approaches was considered by Dobbin and Kalev (2016). Their extended proposition suggests that organisations need to create accountability for change that goes beyond the mere application of typical workplace diversity programmes. This provides an alternative view on the importance of best practice in the pursuance of equality and diversity. Britain’s Gender Mainstreaming policy has this soft law ideal at its heart, yet there are divergent views on how effective it is and whether it has been truly embraced (Hankivsky and Christoffersen, 2011; Rubery, 2005).

The growth in prominence of the business imperative for change is also striking to consider, with reference to the GPRR. There is social and corporate accountability to be gained, potentially adding value to organisations should they find a positive impact in their efforts to address a negative gender pay differential. Corporate governance,

industry-wide standards and the risk of reputational damage provides organisational incentive to drive forward change (Klarsfeld et al., 2012; Browne, 2004). However, the stubborn persistence of the GPG demonstrates that diversity management approaches to change are not a panacea for this intractable problem. This highlights the need to analyse other factors, such as normative values and behaviours within the workplace, which may limit the effectiveness of policies and contextualise the way this occurs.

2.2.2 Gender values within the workplace and the key actors that shape them

In accordance with the feminist lens applied to the socio-legal perspective, a feminist conceptualisation of inequality and gender in organisations is also useful. This is used to explore how alongside the law, the workplace is not a gender-neutral arena. There is a gendered interplay between how policies are constructed, their accessibility and ultimately their impact. Applying a feminist approach to the institutional theory of organisations is therefore relevant and illustrative of the deeper foundations of gender inequality that policies to close the GPG need to address (Mackay et al., 2009).

Acker's work is central to this analysis, beginning with the ongoing relevance of her early work which described how workplace hierarchies were constructed and maintained, with reference to comparable worth in the US context (Acker, 1989: 213). Subsequently she explored the relationship between the increasing GPG in Swedish banks and the introduction of discretionary wage setting (Acker, 1991). This provided a useful case study of how pay systems can affect inequality, which is particularly relevant given the prominence of Performance Related Pay systems in the UK banking context.

Acker's later conception of 'inequality regimes' described how organisations produce and reproduce inequalities (2006, 2009). These are critical insights into the gendering of organisations and the processes by which inequalities survive. The daily activities that take place, such as pay practices, recruitment, promotion and task assignment are central to the construction and maintenance of inequalities. She describes the regimes that enable this to happen, such as organisational class hierarchies, which position white men as the natural leaders at the top, and the role of the unencumbered good worker, that embodies typically male characteristics and abilities. Efforts to address gaps clash against these pervasive structures and assumptions, central and foundational to the architecture of inequality, constructed in this thesis. By researching efforts at change, and the resultant oppositions that occur, Acker contends that much social and economic inequality is created within organisations. Her work therefore provides a useful starting point to consider the potential for change, resulting from the introduction of the GPRR.

Acker recognises that change is difficult and can be resisted in number of ways, but states,

'successful efforts appear to have combined social movement and legislative support outside the organisation with active support from insiders. In addition, successful efforts often involve coercion or threat of loss' (Acker 2006: 455).

Her work therefore recognises the need for research to explore inequalities at the macro, meso and micro level. The analysis given in this thesis builds on her work in its multi-level exploration of change, in relation to the new GPRR requirement.

This research examines the relevance of the organisational mechanisms and inherent values to understand the persistent GPGs in the finance sector and the potential for change. This acknowledges the role of key actors, who impact and effect the normative values within organisations. At the macro level this is: the role of the judiciary, in developing legal narrative and case law; the role of politicians, whose political will can block or support legislative progress; how collective bodies such as social movements and trade unions can also drive change, and how individuals within the change process react (Dickens, 2007; Hunter et al., 2010). At the meso organisational level this incorporates: the role of HRM in devising strategies to pursue; trade unions in negotiating collective changes or assisting individual claimants; or individual managers and employees who may support or impede access to initiatives (Deakin et al., 2015; Dobbin, 2009). This is also achieved in the qualitative phase of the research, which captures the experiences and 'doing of gender' at the micro level (Kenny, 2014: 681-2; West and Zimmerman, 1987).

The necessity to focus on the wide network of actors at different levels illustrates the need for interdisciplinary research to critically analyse the legislation, the workplace, and the key actors that impact developments in both. The analysis of both institutional and organisational approaches provides an enhanced and more nuanced understanding of both the obstacles and potential opportunities for change.

2.2.3 The incentive and potential for change

The role of organisations in reproducing norms and resisting change is multifaceted and evidenced by how they interpret legal requirements, the development of organisational

processes and the power inherent in leadership (Scott, 2008). The impact of varying normative commitments and the different values and moral obligations that key actors hold is a salient point (Streeck and Thelen, 2005). This is illustrated by the apparently conflicting requirements of what is morally necessary to pursue and the preference for a light-touch approach to intervention (Dickens, 2007).

Similarity within organisational fields has been evidenced by the overarching trends displayed in the gender pay reporting data. DiMaggio and Powell (1983) have suggested that various factors impact upon organisations to encourage similarity or isomorphism between them. This can be evidenced by the need to comply with legal requirements, operate within professional standards or keep up with the innovations of others to enhance organisational legitimacy. However, while these factors can operate to encourage continuity and path dependency, these processes can also be the precursor for change. Organisations interact with both the law and societal forces and this may provide the context for action (Scott, 2008). Streeck and Thelen (2005) recognise the emphasis within institutional theory on both continuity and change. They identify that while structural constraints maintain stability, they also show change can occur in various ways. Institutions, for them, are inherently flexible,

continuously created and recreated by a great number of actors with divergent interests, varying normative commitments, different power and limited cognition. This process no single actor fully controls: its outcomes are far from being standardized across different sites of enactment: and its results are contingent [and] often unpredictable (Streeck and Thelen, 2005: 16).

The paradox then seems to be that the same processes that stymie change are those that can ultimately enable it (see Chapter 3 for an elaboration of these ideas within the banking sector). Change, in this way, occurs when it is defined as logically appropriate, widely valued and enhances the organisation's legitimacy (Mackay et al., 2009: 256).

Analysis of the voluntary level of gender pay reporting, after the government suspended the requirement in the wake of the Covid pandemic, is a positive indicator of the value organisations place on the requirement and, as such, the potential for change.

Understanding when and if the tipping point will occur, and what the impediments are, is central to this thesis. The relationship and dialectic within and between the macro and meso levels of analysis demonstrate why efforts to redesign the architecture of inequality remain so challenging. An embedded lack of transparency and preference for light-touch governance are central themes in the construction of both institutional and organisational efforts to address the problem. They are compounded further still by the foundational gendered norms, values and assumptions upon which they are created.

The difficulty of achieving change alongside these architectural constraints is further reinforced by the complexities within both economic and sociological perspectives of the phenomenon. The role of educational attainment, rational choices and reward are traditionally deployed in economic explanations, which are considered next.

2.3 Economic lens

The phenomenon of the GPG is understood by economic theorists in the methodological individualism and rational choices of the third element of the theoretical framework developed here (Becker, 1985; Polachek, 2004). The traditional

human capital approach is first outlined, then the choices and investments women make in education and the workplace are considered, before a final reflection is given on difficulties in applying the theory to the current context.

2.3.1 Traditional rational choice approach

Economic perspectives have sought to explain how pay is distributed, encompassing and developing the foundational work of Becker (1985). His classic work on human capital theory attributed inequalities in pay to women's reduced investments in education and work. To summarise, women were paid less given their less productive skill sets, as a result of reduced educational investment and reduced labour market participation. Labour market investments and expectations were considered to be the result of rational choices and different caring and household labour responsibilities. Polachek (2004) suggested that the declining pay gap confirmed the economic approach, as reductions correlated with work expectations between the sexes becoming more similar.

As women's educational and labour market position has changed, this theory has developed and the conventional explanatory factors have been amended (Blau and Kahn, 2017). For instance, while there have been significant increases in women's labour force participation and experience in the workplace (Harkness, 1996), it has been suggested that only full-time work can prevent human capital 'rusting', and thus can still legitimately explain the pay gap (Rubery and Grimshaw, 2015: 327).

Despite shorter career breaks for women, theorists contend that any interruption represents more limited overall labour market experience across the lifetime (Polachek and Xiang, 2014). Women's lack of full-time labour market experience accumulates,

increasing the GPG over time, particularly for those educated to degree level who cannot progress (Costa Dias et al., 2018). The implications of this can be seen in the subsequent constraining of career prospects for graduate women (Brynin, 2017: 18). However, the goalposts surrounding inequality have shifted. As such, the key explanatory factors of educational and labour market investment have evolved.

2.3.2 Educational investment

Women's educational investment has increased and, accordingly, the theory has developed to account for the persistent GPG. In 2019 women's participation in higher education in the UK was 12.5% higher than men's, and growing at a faster rate (DfE, 2019a). Given women's educational attainment has surpassed that of men (O'Reilly et al., 2015; Costa Dias et al., 2018), economic explanations have refocused on the subject studied (Chevalier, 2007; Machin and Puhani, 2003). The substantially lower proportion of women studying STEM subjects and, correspondingly, their underrepresentation in STEM jobs is now a more relevant explanation (WiD, 2019; Sorgner et al., 2017; Quiros et al., 2018). Given the anticipated impacts of automation and the changing world of work, the consequences of these choices of investment are concerning for the pay gap (Brussevich et al., 2018; European Commission, 2019). These trends may have a strong effect in maintaining pay differentials moving forward, reflecting the foundational limitation of existing inequality.

However, the credibility of this developing approach to the subject studied is dubious. Blau and Kahn (2017: 816) have suggested that despite the limited salience of human capital and particularly educational explanations, industry, occupation and experience do still impact. Research by Schulze (2015) certainly supports this contention. She

considered the impact of the resultant occupational sector within which male and female graduates worked. Her research evaluated early career pay gaps for a cohort of doctoral researchers, considering individual characteristics, such as care, for those with equivalent human capital investments and career aspirations. The significant GPGs some experienced were marked by the sector they subsequently chose to work in, with men in the private sector earning substantially more than women in the same sector.

2.3.3 Investments in the workplace

While the importance of educational investment outside the workplace may have declined, the way that men and women choose to invest in work is clearly still relevant. The need to understand these outcomes has flagged various trends which also challenge the traditional human capital approach. Manning and Swaffield (2008: 996) highlighted the relevance of formal educational attainment as both men with low levels of attainment and highly educated women are more likely to pursue on the job training. Research by Lössbroek and Radl (2019) revealed an age differential, finding that older women are less likely to be given training opportunities than older men. O'Connell and Byrne (2012) found that while men are slightly more likely to undertake training, the patterns they observed suggested existing inequalities are likely to be exacerbated.

The traditional notion of cumulative work experience being a predictor of pay gaps also runs counter to the human capital approach. Women in the finance industry are, in the main, more likely to have a longer length of service than their male colleagues yet experience some of the highest GPGs (Metcalf, 2009: 30-1). More recent adaptations of the theory point to the importance of frequent job change. Men are more likely to go 'job shopping' and in so doing achieve higher rates of pay (Manning and Swaffield,

2008: 985). These themes are explored in Chapters 8 and 9, recognising the relevant constraints, such as limits on the ability to move roles. These examples demonstrate how rational choices surrounding investments of education and time have evolved. The ‘real world complexity’ that informs both choices and outcomes highlights the limited utility of this lens (Marginson, 2019: 298).

2.3.4 Maintaining relevance

The difficulty in establishing the value and choice behind labour market investments and whether all pay differences truly relate to differing skill sets is not clear cut. The persistence of equal pay liabilities shows how challenging this is (BBC, 2018). Harkness (1996) points to the clustering of women at the lower end of income distribution, and Schulze’s (2015) research into pay differentials in the public and private sector certainly reiterates the problematic nature of this assertion. It is also troubling that while discrimination at work is often cited as a credible explanation for the remaining gap, unaccounted for by other human capital factors, this does not adequately explain the complex and overlapping way that discrimination and inequality can operate (Olson, 2013). For example, while on the one hand research has recognised the fatherhood premium (Petersen et al., 2011; Friedman, 2015; Killewald, 2013), the growing narrative of a ‘fatherhood penalty’ (Working Families, 2017) and the 2% take up of shared parental leave suggest that choices are not unencumbered for men or women (Department for Business, 2018).

Fundamental societal shifts have occurred since the traditional economic approach was first conceptualised. Recent contributions have re-focused the perspective and Olson’s (2013) useful measures of softer variables and the inclusion of the impact of social

norms certainly seems a more appropriate approach to evaluating the pay gap, within the economic framework. This will be ever more necessary given that the new emerging types of employment, the gig economy and the changing value of education challenge the traditional human capital explanatory model.

The primary focus for the research conducted here is on the effectiveness of measures designed to offset gender pay inequity. While recognising the extensive and distinctive theoretical approaches to this topic, it becomes increasingly clear that there are a number of complex structures that serve to reinforce gender pay inequalities. While the human capital approach has diminished in relevance, the economic lens retains a utility when considered as part of the wider architectural design. The application of each of the three theoretical lenses discussed thus far demonstrates the value of an interdisciplinary approach. The process of continual reconstruction of the conceptualisation of gender equality and emerging limitations that prevent it from being fully realised become evident. The continual momentum of resistance to achieve positive change within the architecture of inequality is clear, as the ongoing reforms over the past fifty years show. Exploration of these tensions also highlights the existing foundational inequalities that emphasise the sociological norms and values underlying these tensions, which will now be addressed.

2.4 Sociological lens

Sociological themes have implicitly informed and contributed to the institutional, organisational and economic perspectives already discussed. While invariably connected to these explanations, a discreet analysis now broadly outlines how the theory operates. The value attributed to women's roles both in the home and at the

workplace is central. An exploration of how roles are gendered in the private then public sphere is presented before assessment is given of the capacity for change.

2.4.1 The private sphere and women's unpaid labour

The duality of requirements on women, in terms of their unpaid labour, was discussed by Hochschild (2003). Her seminal text described the 'Second Shift' women face at home and the impacts that this has. While the improved awareness and understanding of equality and diversity, visible in legal developments and women's increased workforce participation, has been accompanied by an increase in egalitarian attitudes, she contended that the gender revolution has been stalled. More recently, England (2010) concurs, finding the revolution is still stalled and the dual burden persists. In addition, it has been noted that the momentum for shared responsibility and equal gender roles has shifted, with a backlash in recognition of women's nurturing role. With reference to social survey results in the US concerning gender role attitudes, Cotter et al. (2011) suggest this reflects a rising frame of 'egalitarian essentialism'. They contend this is demonstrated by the slowing of liberalisation towards gender equality, as it has met with a resurgence of the importance of traditional motherhood roles. Societal expectations around childcare are still very much persistent for women and men and geared towards typical gender positions (Miller, 2012; Pepin and Cotter, 2018). Within this context, while childcare time for both women and men may have increased, the disparity between them, though reduced, remains (Sullivan et al., 2018).

In terms of housework, again the trend for a more egalitarian sharing of duties has slowed (Altintas and Sullivan, 2016). While the time women spend on household tasks has reduced, this has been met with only a slight increase in the time men spend on

such duties (Sullivan et al., 2018). This may, in part, be explained by the commodification of household labour and the growth of paid cleaning services, largely taken up by low paid women in a precarious labour market (Huws, 2019). This remains highly gendered but also underlines the low value placed on this type of work. That said, the burden of household responsibility still falls, in the main, on women (Sayer, 2005; ONS, 2016). Women's responsibilities may limit the paid work they are able to do, given the need for flexibility and limitations on the hours they are free. This indicates a key point of overlap with economic explanations, as socially and culturally determined roles within the home have significant impacts on the choices women make in the labour market.

2.4.2 The public sphere and the value of women's work

Societal norms and values, related to women's identities in both the public and private sphere, can and do impact career choices and pay outcomes (Bensidoun and Trancart, 2018). Individual ambition and skills, inevitably informed by these identities, operate alongside bias in recruitment practices and the preferences shown by employers. These factors are all central to understanding occupational gaps (Reskin and Bielby, 2005; Reskin and Maroto, 2011). As such, the research here applies a feminist sociological lens to both institutional and organisational elements in the construction and maintenance of gender inequality over time and in changed political and economic circumstances.

The position and valuing of women's work outside the home demonstrate the relationship between capitalism and patriarchy. The normative cultural expectations of gendered characteristics and identities inform the value of labour. The historic imbalance of power in the mechanisms that shape pay can be seen in the lower

financial worth associated with roles typically occupied by women (Perales, 2013).

Rubery recognises that gender pay reporting only identifies the GPG and not factors such as the ways that women's work is valued, and the principles associated with setting pay (Rubery, 2018a). The low value placed on typically female, yet equally demanding, roles has been highlighted by the stream of public sector no-win-no-fee equal pay cases (see Chapter 5) (Deakin et al., 2015). The ongoing cases in the retail sector demonstrate how pervasive and embedded these valuations are, despite equal pay legislation passing its fiftieth anniversary.⁷

Gendered identities can also create a double bind for women in the workplace (Acker, 2012). Stereotypically masculine character traits, such as self-promotion and the capacity to negotiate, may be viewed positively for men but engender negative associations when carried out by women (Pham et al., 2018; Babcock, 2003). The multidimensional way that gender identity is constructed and valued illustrates Rubery and Grimshaw's (2015) shifting goalposts theory, which builds on the work of Acker (1989; Rubery, 2018a). Women's achievements are subject to continually changing targets that legitimise the persistence of gaps, as discussed previously in terms of educational attainment, but also reflected here in typically female character traits and occupations. The construction of an architecture model in this thesis, encompassing each theoretical explanation, provides a useful way of evaluating the change that has occurred, the barriers to it, and the lack of linearity in this progress.

⁷ *Brierley v Asda Stores Ltd* [2021] Asda shopfloor workers are claiming equal pay against comparators who work in warehousing and distribution. Associated claims are pending for Tesco, Sainsburys and others.

2.4.3 Factors frustrating change

Women's increased participation in the labour market has led to them entering spheres of labour previously dominated by men. This again demonstrates shifting goalposts, changing reward and the interrelationship of theoretical approaches within the constantly reconstructed architecture of inequality. England (2010) addressed the impact of this progress, noting how occupations subject to this re-gendering were subsequently revalued and found to be of lesser worth (Avdelidou-Fisher, 2011). This theme is ably demonstrated by the restructuring and subsequent reformulation of inequality within the banking sector, described in Chapter 3. While there is incentive for women to enter roles typically occupied by men, given the financial rewards on offer, there is no corresponding incentive for men (Daly, 2020; Friedman, 2015). The current situation and slow pace of change is inevitable given this one-sided motivation. The attitudes, behaviours and societal norms for men are also highly relevant and act as a further area of resistance toward change (Thébaud and Pedulla, 2016: 593).

Given these embedded attitudes and the heavy weight of cultural context impacting on efforts to address pay gaps, the slow gains towards gender equality in pay are inevitable. However, evidence from Nordic countries shows that further progress can be made. With this in mind, while pay gaps are declining the 'stuttering social change' need not suggest progress has stopped (Sullivan et al., 2018: 275).

That said, the disruption prompted by the pandemic has illustrated the tendency of historic inequalities to become more apparent. As alternative childcare and domestic labour arrangements became untenable during Covid, gendered and unequal outcomes in terms of childcare and household labour have been widely reported (Yildirim, 2020;

Collins, 2020; Craig and Churchill, 2020). This demonstrates that alongside the sporadic and slow progress towards pay equity, the underlying architectural foundations, while subject to some reform, remain implicitly intact.

Having reviewed the four key theoretical perspectives informing previous debates on the causes of the GPG and how this analysis has been revised over time, the key research questions informing this thesis are now specified.

2.5 Research questions and associated rationale

The introduction of the GPRR signalled an improved approach to pay transparency in Britain and created a research gap which this thesis seeks to fill. The ongoing prevalence and cost of gender pay inequity, alongside the distinctiveness and stark inequalities within banking, motivated the selection of the subject and sector for analysis. The sector has been the focus of specific attention, given the now well understood inequities flagged as a result of the financial crisis in 2007/08 (Treasury Committee, 2010; Metcalf, 2009). Recent research has shown how this increased focus has prompted the GPG within the sector to decline faster (Healy and Ahamed, 2019). However, the need to understand the impact of the greater transparency afforded by the GPRR and the ongoing lived experience of persistent inequities, despite combined institutional and organisational initiatives, clearly justify the need for this research.

Therefore, the overarching research questions of the thesis are:

- How have the GPRR and broader legal and organisational initiatives impacted GPGs, and why has progress stalled? (Hochschild, 2003; England, 2010)

The comprehensive literature on the subject has been explored in this chapter according to a theoretical framework. The tensions and interrelationship between these explanations highlight the need for a multidimensional analytical approach. The research is methodologically justified as it employs a novel multi-level perspective, looking beyond the headline statistics in the pay reports to focus on sector and company differences, allowing the examination of employers' accounts and the employees' perspective. Consideration of the improved approach to transparency, within the context of the broad thematic architecture of inequality, ultimately helps to illuminate the pervasive invisibility of inequality.

This multi-level analysis also enables examination of sub questions to help answer the key research questions, flagging the obstacles to equality in both the institutional and organisational contexts.

Macro level:

- How has the development of legislation and case law approached the problem of the GPG and to what effect?

Meso level:

- What do the gender pay reports tell us about the current situation?
- How are organisational processes and policies tackling gender pay inequities and the factors that contribute to them?

Micro level:

- How are policies and processes experienced in the workplace and what impact have they had on female employees?

These questions are first situated within the economic sector of banking in Chapter 3. Chapter 4 then describes the methods used to examine them. Empirical examination to address each aspect of the multi-level analysis then follows.

Firstly, the macro level enquiries are considered in Chapters 5 and 6. The research requires, through evaluation of the institutional framework, consideration of the contested utility of law as a vehicle for change (Deakin et al., 2015; Smart, 1992). In order to do this, the development of Britain's legislative framework is charted alongside the resulting case law, enabling reflection on how and why the approach to equality has changed (Hepple, 2011). The tensions that emerge in case law, through areas of challenge presented to the courts and tribunals, have made visible the difficulties experienced by claimants. Taking a feminist socio-legal approach enables analysis of the law in context (Watkins and Burton, 2013). This shows the gender dimension and multitude of factors that may impact on the law's trajectory, from the courts' application of the law (Hunter et al., 2010) to the wider social and political movements of the time. These assist in helping to suggest why the law has failed to achieve its apparent objectives, with regard to pay equity, and why the GPG so stubbornly persists.

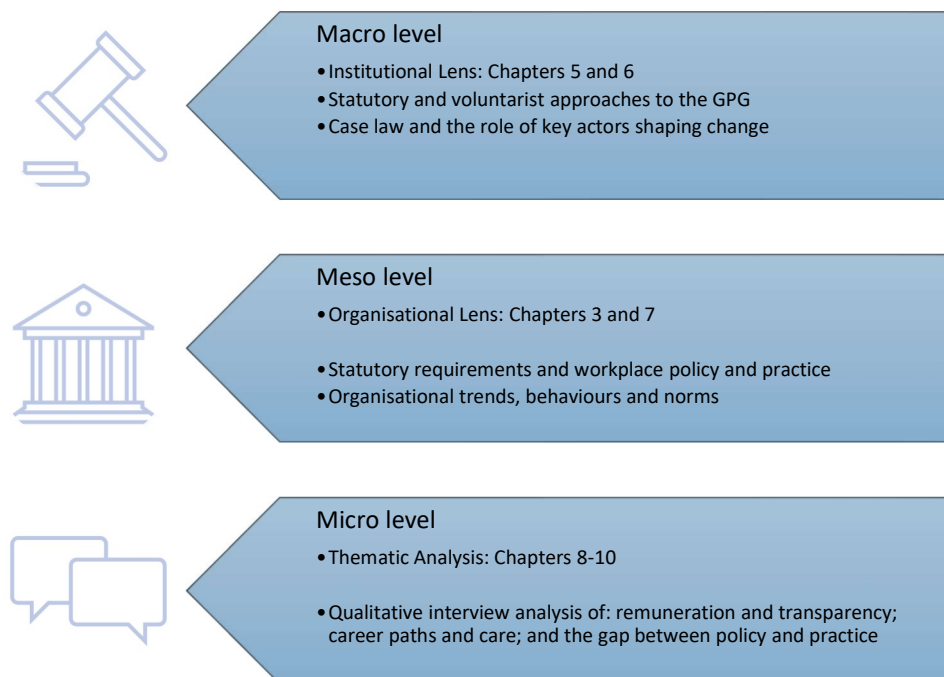
Second, the meso level enquiries are addressed in Chapter 7. Analysis requires consideration of the institutional approach within the organisational setting, given the inevitable interaction between the two spheres. Evaluation of the GPRR and the first three years of reported data is given within the case study of the finance sector.

Assessment of accompanying narratives shows how organisations are addressing the problem, revealing trends in the organisational strategies adopted. This builds on the historic analysis of the banking sector given in Chapter 3, further contextualising the prospects of organisational change (Scott, 2008; Dacin, 2002).

Finally, micro level questions are addressed in Chapters 8-10. Women's experiences and perceptions of pay policy, the shaping of their career paths and initiatives designed to support the drive for equality give further depth to the analysis. This qualitative assessment further evaluates legislative change and workplace policy, highlighting how resistance functions at the firm level.

The structure of this analysis is shown in Figure 2.1.

Figure 2.1: Framework for a multi-level analysis



2.6 Conclusion: The need for and merits of this research

The interminable slow closure of Britain's GPG calls for research to understand how this operates. At both a conceptual and theoretical level, there remains considerable interdisciplinary controversy concerning the causes of and remedies to reduce the GPG. Legal scholars, organisational theorists, economists and sociologists have identified competing explanatory factors, as outlined, to account for the persistence of this gap.

This thesis analyses both legislative and voluntary approaches within the workplace, in order to understand their effectiveness and limitations and how impediments towards pay equity operate. Policy is rationalised by the various elements of the employment system, accounted for in this research by all three levels of analysis and the interactions between them (Franzoni and Sanchez-Ancochea, 2016: 49-50; Gallie, 2007b; Rubery and Hebson, 2018). This multidimensional approach (Figure 2.1) outlines how actors at these different levels contribute to the causes and characteristics associated with the intractability of reducing the GPG.

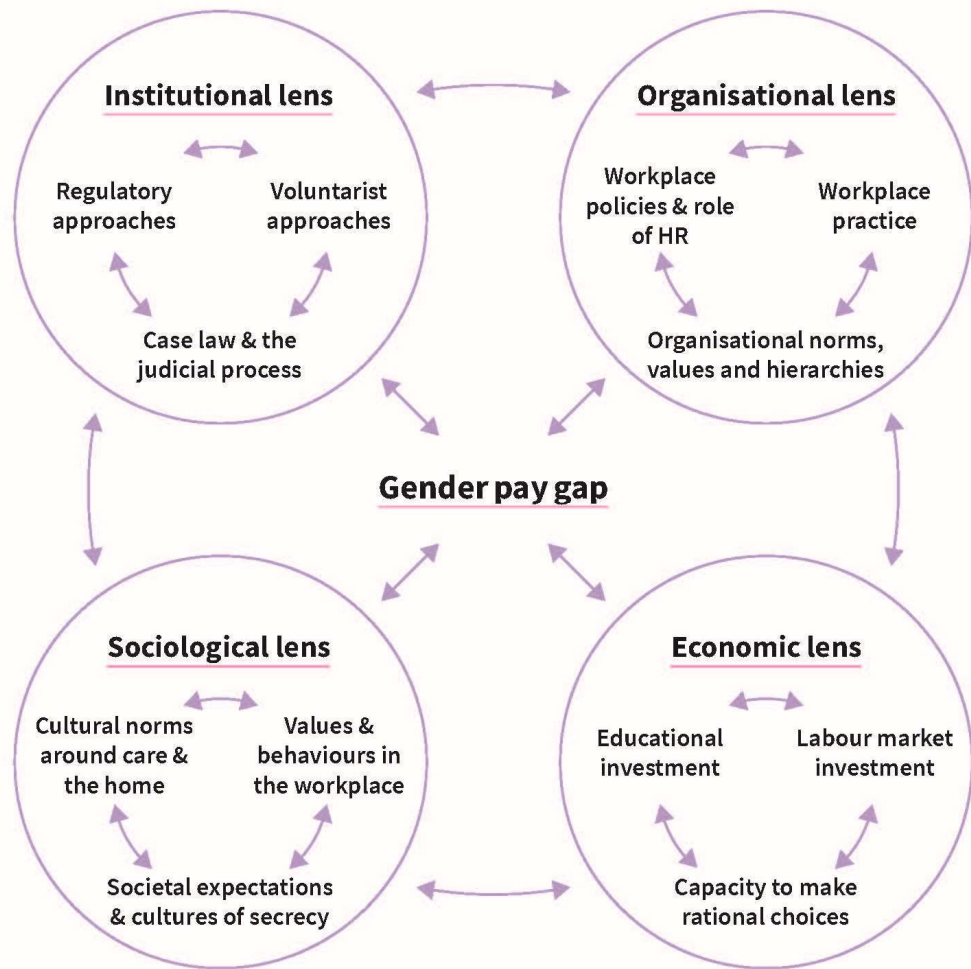
The case study context of the financial sector enables examination of one example of occupational segregation, a key factor in understanding the GPG (UK Government, 2018). While the ONS recognises that occupation, sector, region and tenure are central explanatory features, they find two thirds of the gap unaccounted for by these factors (Tetlow, 2018; Ardanaz-Badia and Rawlings, 2018). It is therefore vital to understand the elements that interact with and effect sectoral and occupational gender pay inequities.

This research explores the different ways that resistance to addressing GPGs operates within different organisational settings. It provides a situated analysis of how the levers and resistance to change occur, and what the lived experience of this is for employees (Ruddin, 2006). It uses the 'force of example' that an individual case study can offer, to assess existing theories on the GPG (Flyvbjerg, 2006: 228). The interactions women have with legislation and policy shed light on the lived impact of the latest organisational data and represent the best opportunity to develop legislative and organisational efforts, having learned from those that have been tried.

The dynamic nature of the problem and the factors impacting upon it are multi-layered. As Rubery and Grimshaw (2015) predicted, the current context is witness to another shift of the goalposts, as destabilising factors such as Covid, Brexit and shifts in the world of work threaten the linearity of progress towards gender pay equity. The pruning back of legislative requirements as the pandemic first unfolded was met with an increase in the intensity of domestic duties for women. The prospect of on-going economic uncertainty will inevitably continue to clash with efforts to address inequities. Eradicating the GPG certainly seems to have been an elusive legal ambition over the past fifty years. However, through building a stratified understanding of the developing approaches to the GPG, this thesis offers an empirically robust and constructively critical analysis of current efforts intended to tackle it.

The theoretical explanations pertaining to the topic are presented as a dynamic architecture of inequality (see figure 2.2).

Figure 2.2 Architecture of inequality model



As already indicated in this chapter, each explanatory approach is discreet, while at the same time interdependent. By considering these theoretical approaches at the macro, meso and micro levels the commonality of barriers to change experienced within and between them is evident. The slow progress towards eradicating GPGs is rooted in the architectural foundations, evident in the governance and transparency trends which become increasingly visible through this multi-level analysis.

The key argument proposed here is that the concept of an architecture of inequality helps address the key research questions of how initiatives have impacted GPGs and why progress keeps stalling. It also adds to the literature on the topic, through the development of the architectural model, as a new way to understand and visualise how change at the macro, meso or micro level is prevented from achieving its desired objective. Inequality is insulated from change by the lack of consistency between them and the combined strength of the barriers evidenced within each explanatory approach. Second, by understanding the constant dynamism in the model and how the theoretical explanations operate alongside one another, the analysis suggests that the meso organisational element currently offers the greatest capacity for impact. The utility of this approach can be fully unlocked if policymakers routinely listen to the hidden voices within organisations, vocalised here, as a means of ensuring policy initiatives are best placed and actively implemented to drive forward change.

The construction of this multi-level analysis is first predicated on the rationale for situating the investigation within the context of the finance sector, which now follows.

3

Banking on equality

Chapter 3: Banking on equality

3. Introduction

The cumulative factors impacting on gender pay inequality operate in varied and overlapping ways and there are competing explanations for this. These competing explanations are central pillars to the architecture of inequality model, introduced in Chapter 2 (Figure 2.2). In order to provide a useful exploration of these contentions, a real-world setting is required to situate the analysis. This chapter explains why the economic sector of finance was selected for this examination and begins to scrutinise how the law, organisations and those working within them reproduce inequalities in practice.

This chapter first outlines why finance stands out as requiring further investigation. The inequalities that are a characteristic of the sector are described. As a central part of the employment market, with equally substantial contributions to UK GDP, its importance is summarised (Clegg, 2018; Edmonds, 2018; Rhodes, 2021).

A periodised historical analysis of the banking sector is then given (Healy and Ahamed, 2019; EHRC, 2009; Treasury Committee, 2010). This describes how the changing conceptualisation of equality (see Chapters 5 and 6) has been applied and interpreted within finance. This identifies the regulatory shifts and technological innovations the sector has been subject to, reshaping the workplace and women's place within it. The 2007/08 financial crisis exposed the inequalities inherent within the sector. Recognition of how the problem was and has since been defined and approached according to key actors, alongside the concurrent reconfiguring of gendered inequities, is given.

Pay practices and the cultural expectations of working within banking are described.

These behaviours act to restrict the strategies that are identified and pursued. As such, vision on the problem and, correspondingly, the pursuit of greater equality and diversity, remains peripheral and partial. This is explored further in Chapter 7 with reference to the Gender Pay Reporting Regulations (GPRR) and narratives that accompany the data.

Subsequent chapters build upon the evidence introduced here to illustrate how the architectural model of inequality in Britain has been constructed, yet is subject to ongoing reformulation and extension over time. While the ever-changing world of work, the pandemic and the effects of Brexit are emerging, their ramifications are likely to bring about another shift of the goalposts around equal pay. The intractable obstacles to reducing the GPG, introduced here and elaborated throughout the thesis, weave together this interdisciplinary analysis. This demonstrates how the architecture of inequality is ever changing, yet the GPG remains intact.

3.1 The banking sector as a unit of analysis

3.1.1 Jobs, GDP and occupational segregation

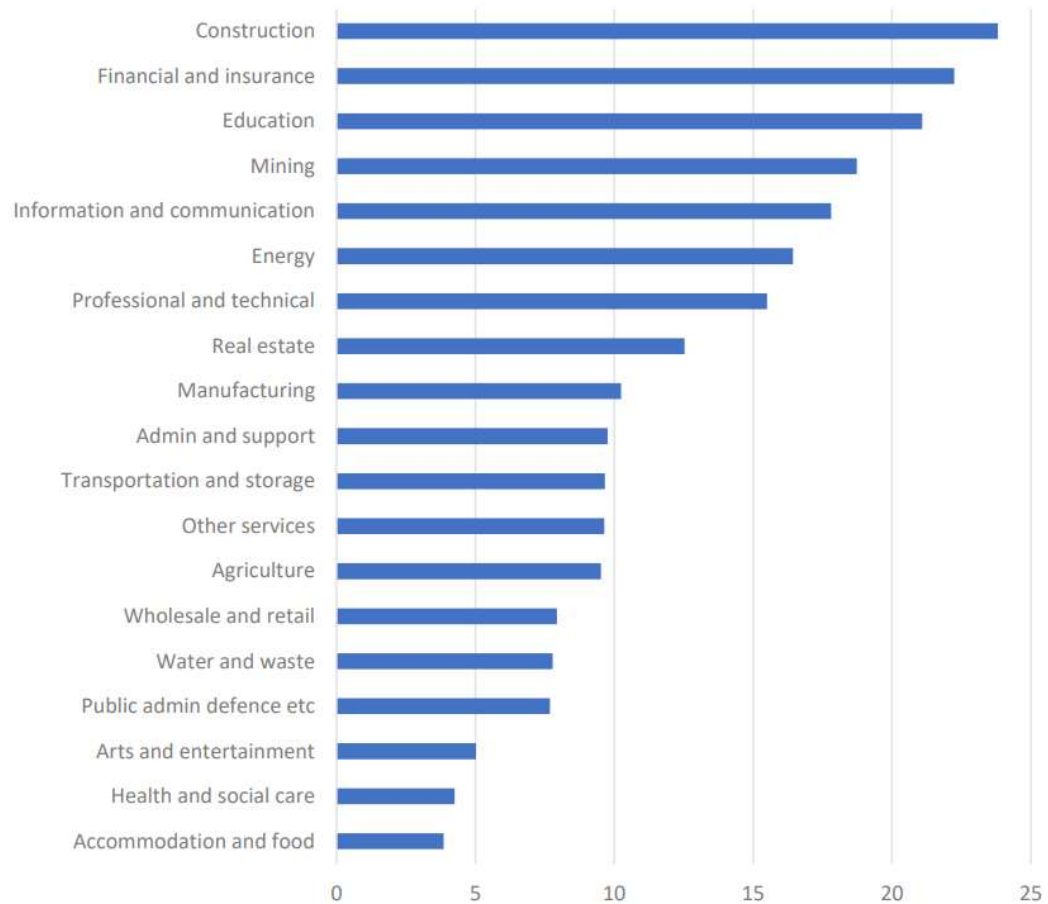
The sector of employment is widely recognised as a key variable in understanding GPGs (Ardanaz-Badia and Rawlings, 2018; Colebrook et al., 2018; Olsen et al., 2018). The banking sector has some of Britain's largest pay gaps. These gaps are combined with overall higher rates of pay than the national average (Metcalf and Rolfe, 2009). In addition, the GPG at the top of the earnings distribution is larger and the proportional rate of closure is slower (TUC, 2015a; Francis-Devine, 2020; Conley et al., 2019: 102).

The selection of banking for case study analysis is necessary for a number of reasons: the level of employment and contribution to gross domestic product (GDP); the marked occupational segregation, despite overall gender balance; and the shape and trends of the historic and persistent inequalities therein.

The finance sector is a central piece of Britain's economy, given both the size of it and the value it represents. This can be expressed in a number of ways, firstly in terms of the jobs it provides. This figure peaked in 2008, when 1.3 million jobs occupied 4% of the entire British workforce (Metcalf and Rolfe, 2009; Gall, 2017: 76). Restructuring and job losses since the financial crisis have seen the sector contract. A more recent post crisis analysis quantified employment within financial services at 1.1 million, some 3.2% of British jobs (Rhodes, 2021). Aside from employment statistics, the revenue it creates for the economy underlines this significance. In 2019, the sector contributed £30.7 billion in tax receipts, a value of £132 billion to the UK economy, providing some 6.9% of our total economic output (Rhodes, 2021: 3 and 13). London is a hub for the industry and a world leading financial centre. Equally, while London is the financial centre, it is not just a London-based sector, with two thirds of jobs in financial and related professional services being based outside the capital (Edmonds, 2018: 4).

The importance of occupational segregation on the GPG is well established (Ardanaz-Badia and Rawlings, 2018; Manning and Petrongolo, 2008; Avdelidou-Fisher, 2011). The public sector tends to have lower pay gaps, while the less regulated private sector typically fares worse (Whitehouse et al., 2001; Dickens, 2007). Comparative industry analysis shows that in terms of gender pay inequalities the construction industry pay gaps are the largest (see Figure 3.1).

Figure 3.1: Average median hourly reported pay gap by sector (%)



Source: BEIS (2018: 17)

However, unlike banking, men dominate at all pay grades in construction (McGuinness, 2018: 6). Banking has a much more even gender ratio of employment in the UK overall: 51% female, 49% male (Metcalf and Rolfe, 2009: 12); and, internationally the workforce is 60% female (Zahidi, 2010). A sectoral evaluation of both the ONS longitudinal analysis of the Annual Survey of Hours and Earnings (ASHE) and the GPRR data, shows that jobs within banking have traditionally been, and remain, some of the most affected by gender inequality in pay. Jobs and career paths have historically been, and remain, highly gendered (Healy et al., 2018).

The ongoing prevalence of occupational segregation encompasses a number of factors: the higher pay practices found within the sector; the increased size of gaps at the top of the pay spectrum; and the slower progress in eradicating gaps higher up the earnings distribution (Costa Dias et al., 2018; Francis-Devine, 2020).

The need for more diverse governance was starkly illustrated by the 2007/08 financial crisis (Sealy et al., 2008: 44; Treasury Committee, 2010: 3). The Equality and Human Rights Commission's (EHRC) inquiry into unequal pay and sex discrimination within financial services, prompted by the crisis, encouraged reform as a means to address the 'marked and persistent sex discrimination that permeates the industry' (EHRC, 2009: 5). The EHRC quantified the overall GPG in the sector in 2009 at 55% for full-time workers, double the national average at the time (EHRC 2009: 5; Atkinson, 2011: 243). However, despite recognition of the need for greater diversity as a result of the crisis, the focus was, and has remained, steadfast on gender diversity. Other intersectional inequities have largely not been recognised for how they may contribute to GPGs.

Sectoral pay statistics give an indication of the breadth and complexity of the problem within banking. A cumulative analysis of the GPRR data in 2018 suggested a 22% mean GPG (see Figure 3.1). However, the accuracy of this indicator needs to take account of the fact that, as shown in Chapter 7, many financial institutions have reported under alternative Standard Industrial Classification (SIC) codes, recorded inaccurately, or failed to input SIC code data altogether (BEIS Committee, 2018). The Financial Conduct Authority suggests that the overall pay gap in the finance sector is 37.4% (FCA, 2017). This is supported by the ONS ASHE data that tends to report higher sectoral gaps, given

their analysis also covers organisations with under 250 employees (Colebrook et al., 2018).⁸

The reasons for the stark inequities in finance are numerous and complex. To illustrate, despite women's involvement and experience in the industry, they typically do not occupy the most senior roles. The GPRR data gives an indication of part of the problem within the sector, by virtue of one of the reported statistics (this analysis is developed in Chapter 7). The lack of women in senior positions and their prominence in lower pay grades is consistent throughout. Table 3.2 shows the percentage of women in each 25% pay banding within Britain's 'big four' banks and their equivalent pay and bonus gaps.

⁸ Both ONS and IPPR note the tendency for wider pay gaps using industry data, given firms with under 250 employees tend to have larger gaps (Colebrook et al., 2018).

Table 3.2: Comparison of GPRR data for Britain's 'big four' banks⁹

	HSBC	Barclays	Lloyds	RBS
Pay Gap	47.1%	41.8%	33.5%	36.8%
Bonus Gap	60.5%	42.8%	41.8%	44%
Women in the top 25%	35%	30%	37%	31%
Women in the top middle 25%	52%	45%	53.8%	48.9%
Women in the lower middle 25%	61%	64%	67%	64.7%
Women in the bottom 25%	64%	67%	71.4%	69.3%

Source: <https://gender-pay-gap.service.gov.uk/>

Analysis of banking sector GPRR data by New Financial also identifies variability according to organisation type (Benson et al., 2018). This demonstrates the need for combined multi-level analysis to understand the impact of organisational norms alongside regulatory approaches within a specific economic sector.

Evaluation of the workplace affords an opportunity to disentangle organisational processes and the various causative aspects of gender pay inequity that occur within them. This highlights how key actors at the organisational level: the role of government

⁹ Table 3.2 shows median figures for 2019/20, except for RBS which did not report following the government's decision to suspend enforcement. RBS figures reflect its 2018/19 report.

and institutional arrangements; management; HR; and employees and collective bodies, help shape the trajectory of change. Sectoral examination shows how seasoned well-versed inequalities impact on the GPG within a sector specific context. Highly gendered workplace hierarchies, the power inherent in leadership, and the practical and ongoing effects of this within the workplace are pertinent (Acker, 2012; Scott, 2008). Entrenched norms and cultures inform how management defines and approaches the need for greater diversity and equality (Acker, 2006).

The changing shape of the sector is now explored. This shows how inequities have been continually re-constructed, inexorably contributing to the slow progress in addressing the problem of reducing the GPG and demonstrating the evolution of the architecture of inequality in Britain.

3.2 A changing sector: Regulatory reform, competition and consolidation

The structure of the finance sector and the jobs and career paths within it have undergone fundamental change and key moments of crisis. This has occurred through regulatory shifts, the expansion of services, increased competition, an increasingly globalised financial marketplace and digital innovations. The organisational characteristic of gendered inequity has remained, apparently resilient to any concurrent positive transformation, despite this restructuring and the growth of human resource management (HRM) (Davies and Richardson, 2010: 321). Exploration of this development provides a useful opportunity to assess how organisations reconfigure themselves within the confines of architectural limitations. In a state of continual flux, emergent work formations and organisational norms perpetually legitimise seemingly

immovable inequities in terms of pay (Acker, 1990; Britton and Logan, 2008; Skuratowicz and Hunter, 2004).

This prompts interrogation of where and how some changes have been defined as good for business, and others not (Rubery and Grimshaw, 2015; Scott, 2010). This periodised approach is continued in Chapters 5 and 6, exposing the constant movement in terms of organisational and legal approaches but also the interrelationship between the macro, meso and micro levels of analysis. This highlights overlapping tensions and common themes in the different explanatory approaches, as foundational inequalities, and governance and transparency structures are central to the architecture, frustrating progress. The architecture model (Figure 2.2) can be applied at any point in time to understand the complexity of factors both prompting and impeding progress.

3.2.1 Phase I, 1970 to mid-1980s: Formal equality and legal compliance

During the 1960s and 1970s, London's role as a financial centre was reinforced (Crompton, 1989; Davies and Richardson, 2010: 322). During this period, the sector was not an area of graduate employment, but one in which school educated men could expect on the job training and a job for life (Crompton and Birkelund, 2000). The volume of women working in banking was considerable and increasing but did not offer the same career path. Pre-automation, the bank branch and cheque clearing functions required manual clerical work (Bird, 1990; O'Reilly, 1992). By 1980, women formed 57% of total bank employees in the UK (Cressey and Scott, 1992: 85), very much confined to low level and often part-time clerical occupations (Adams and Harte, 1998).

The legal framework inevitably effects the policies pursued within organisations. At this time, the focus, in terms of equality, was on legal compliance and equal opportunity

(Oswick and Noon, 2014). Analysis of banks' corporate annual reports flags the differentiated grade structures that were implemented, essentially keeping inequalities from view, given the limitations of the Equal Pay Act 1970 (EqPA70). Criticism from the Bank of Scotland, of the apparently onerous requirements of the Sex Discrimination Act 1975 (SDA75), stressed the diversion of management time required in the face of what they considered to be more pressing wider economic difficulties (Adams and Harte, 1998: 801). This demonstrates a typical organisational response to legal boundaries, a theme that has continued unabated. The marked occupational segregation within the sector was largely not troubled by the narrow approach of sameness embodied in the law.

3.2.2 Phase II, mid-1980s to mid-1990s: Introduction of diversity management

Fluctuations in the work and fundamental changes to the sector were prompted by the Big Bang in 1986, a phrase coined to describe the sudden deregulation of financial markets that occurred (McDowell and Court, 1994a). Accompanied by the increase in electronic trading and the implementation of the Financial Services Act 1986, there was a subsequent rapid growth of financial services, 7% from 1980-1990, and an overall output increase of 125% for the sector (McDowell and Court, 1994a: 1401; Harkness, 1996).

Retail banking branch closures were accompanied by a shift in the purely clerical roles for those working there, moving away from the clearing of cheques done centrally in London, as home banking and card-based transactions grew (O'Reilly, 1992; Daniel, 1999). As the market was reshaped there was a growing focus on marketing in the face of new competition, to take advantage of the opportunities that electronic

communication afforded. The role of the bank branch was being reimagined as financial products were increasingly brought and sold, and existing inequalities were reconfigured. The resultant requirement for increased interpersonal skills in branch work, including management, represented a skill set associated with women, and one that they were able to exploit (Bird, 1990). Women began entering more senior positions within the branch, requiring greater expertise, but at the same time, those roles were increasingly given less authority, status and pay (Adams and Harte, 1998; Skuratowicz and Hunter, 2004). The role of bank manager, as a high-status job for life, was being eroded as work became more centralised and cost cutting led to a reduction in terms and conditions (Crompton and Birkelund, 2000; McDowell, 2008; O'Reilly, 1992). Alongside these shifts in branch roles, new specialised head office functions were emerging, concentrated in larger central hubs (McDowell and Court, 1994b). Just as the law recognised the ability to compare value and women had entered higher status roles, those roles were devalued.

These changes were accompanied by an increasing interest in gendered inequality in the sector (Crompton, 1989; O'Reilly, 1992; Metcalf and Rolfe, 2009: 4). Diversity management was introduced as an addition to legal compliance. The prominence of organisations with equal opportunity policies grew, as both the moral and commercial benefits to addressing inequities were acknowledged (Oswick and Noon, 2014). All four of the main clearing banks appointed equal opportunity managers in 1986 (Adams and Harte, 1998: 804). This shift was accompanied by wider developments in HRM (Dobbin, 2009), and the strategies pursued created new tensions. The previously paternalistic and hierarchical approaches were replaced by less transparent performance related pay

(PRP) systems and the need for increased flexibility (Cressey and Scott, 1992: 94-5).

These commercially driven responses acted to re-legitimise existing inequalities and reflected the underlying deference to the needs of business and laissez faire approach to governance.

3.2.3 Phase III, mid-1990s to financial crisis: High performance and risk

Further restructuring throughout the 1990s saw the core banking functions being expanded and new players entering the financial services market (McDowell and Court, 1994a). The increasingly global financial marketplace brought greater competition and choice for the consumer, and with it, ironically, more precarious employment.

Technological innovations and automation were in the process of transforming the way that work was done and resulted in job losses across the sector as branches were not required in the same way (Daniel, 1999). There was huge growth in automated teller machines (ATMs), customer databases enabled new forms of marketing, and services were diversified, with banks entering into those markets (Watkins, 2000: 65; O'Reilly, 1994: 71). The impact on women was significant, given their concentration in clerical grades undertaking transactional roles, those being the most affected by new technologies. The emergence of new jobs and subsequent re-gendering illustrates Acker's theory of gendered organisations in practice (Acker, 1990; Skuratowicz and Hunter, 2004). The perpetual reproduction of existing inequality is a result of the complexity of the GPG evident in these different theoretical explanations and the ways they interact. The sociological and regulatory architecture only afford limited opportunity for gradual incremental progress.

The wider sectoral picture incorporated the creation of larger merged organisations, alongside some smaller new banks during the 1990s and 2000s (de Ramon et al., 2017: 20; Walby, 2009). The evolution of more complex financial institutions saw key banking functions being supplemented by services such as insurance activities and investment banking. Interaction across the global financial markets, enabled by increased electronic communication, required specialised head office roles to be at work to deal with these demands at either end of the working day. The economy became more reliant on these bigger highly leveraged organisations within which risk-taking cultures were commonplace, further emphasising the preference for market-driven governance (Annesley and Scheele, 2011). The emergent global financial marketplace, in these ways, enabled existing inequalities to be reconstructed, maintained and legitimised (Davies and Richardson, 2010). This demonstrates a re-manifestation of existing inequalities, or put another way, a shifting of the goalposts in relation to what women could achieve in these new organisational structures and how patterns of gender inequality were reproduced.

Progressive legal developments recognising the need to embed equality were matched within the sector by a widespread prominence of equal opportunity policies, although the practical implementation of them was limited (Özbilgin and Woodward, 2004; Hoque and Noon, 2004; Healy et al., 2011; Dickens, 2005). Metcalf and Rolfe (2009) note that equality issues within finance were under less scrutiny than in Phase II (1980s-1990s). HRM and organisational ideologies were concentrated on the need to gain a competitive edge, with less concern for the equality implications of pursuing these goals. The wider political economy shifts towards deregulation and free markets saw

the broad management discretion within finance override the importance of value added through diversity of thinking (Özbilgin and Tatli, 2011).

3.2.4 Phase IV, 2007 onwards: Voluntarism and regulatory change

The financial crisis of 2007/08 is widely acknowledged to be the culmination of a light-touch approach from government and lack of financial regulation (Jackson, 2018; Diamond, 2013; ICB, 2011). A huge financial bail-out amounting to 80% of GDP was provided as banking organisations were deemed by the government to be too big to fail. The crisis prompted a deep recession in its aftermath and the political response of widespread and significant spending cuts, both within banking and across the economy as a whole (Taylor-Gooby, 2013; Prosser, 2011). Resultant job losses in the sector from 2008-2010 have been estimated to total up to 186,111 (Gall, 2017: 2). For those remaining in post, there was restructuring in an effort to cut costs, which, in turn, led to an increased workload, emphasising a long-hours culture. The regulatory changes within the sector and the organisational repercussions pursued to offset future risk are now explored.

An Independent Commission on Banking (ICB) was established to promote financial stability and avert the risk of financial crises in the future. Recommendations were made for structural separation, in the form of ringfencing requirements between retail, and wholesale and investment banking (Korotana, 2016). Measures were introduced to ensure banks are better capitalised, restricting highly leveraged banking practices (ICB, 2011). The resultant Banking Reform Act 2013 intended to contain the risks that had manifested in the earlier crisis (Parise and Shenai, 2018).

In addition to the ICB's focus on the regulatory framework, recognition was given to the causative impact of the lack of equality and diversity, particularly at senior levels, and the effect this had in enabling the crisis (Metcalf and Rolfe, 2009). Blame for the crash has been attributed to the widely favoured entrepreneurial masculinities and risk-taking culture within the sector (Walby, 2009; Annesley and Scheele, 2011). The lack of group think has been flagged as contributing to ineffective decisions, such as an increased willingness to lend and pursuance of risky returns (Guerrina and Masselot, 2018; Healy and Ahamed, 2019; Wilson, 2014). Interestingly, the EHRC (2009) focus was purely through a gendered lens, in part reflecting their involvement in supporting the legal framework.

The growing prominence of literature, highlighting the importance of intersectional sensibilities to understand how women navigate organisational settings and the barriers they face, was not considered relevant (Acker, 1990; Acker, 2006; Britton and Logan, 2008). The lack of recognition of race, socio-economic status and other protected characteristics in the various post-financial crisis reports concerning inequities is stark (EHRC, 2009; Metcalf and Rolfe, 2009; Treasury Committee, 2010). The one-dimensional approach to the inequities in the sector is at odds with the apparent need for diversity of thinking beyond gender binaries and presents a foundational limitation of the architecture of inequality, as it was evolving in Britain at this time.

In 2011 the UK government commissioned Lord Davies to review the gender balance on UK boards, in part driven by this stark reminder of the inequalities within finance. The resultant report established self-regulatory measures and the Women on Boards target of 25% on FTSE 100 boards by 2015 (BIS, 2015). These wider initiatives were

accompanied by a similar inquiry into the lack of women at senior levels, specifically within finance. As a result, in 2016, HM Treasury launched the Women in Finance Charter (WiFC) (HM Treasury, 2016). The Charter, described by government as an ‘unprecedented success’, reported over 370 signatories in 2019, targeting improved gender balance at senior levels (HM Treasury, 2017; Chinwala et al., 2020).

Pressure from key actors both externally, in establishing wider initiatives (EU and UK government), and internally (at firm level) has combined to both create and limit change. The level of WiFC signatories certainly suggests that there is organisational pressure to conform, as does the commitment to targets visible in the accompanying narratives (Table 7.9). However, the translation of this into successful outcomes remains to be seen. This voluntary measure requires organisations to set self-determined targets for women’s representation in a self-defined management population. The third annual review of progress to date notes the broad remit of organisational ambitions, with only 14% of companies hoping to achieve full parity. The review also shows that 12% of firms have seen no change, with 24% reporting a decline (Chinwala et al., 2020: 5). There is a clear divergence across the industry. To illustrate, global and investment banking reported 25% of women in senior roles and showed the lowest ambition and lowest average target (28%). Gender balance in senior management saw an overall improvement from 31% - 32% between 2018 and 2019 (Chinwala et al., 2020). While the annual reviews show an increased level of compliance with WiFC commitments, over 30% still did not publish the required update, resulting in fourteen signatories being removed by HM Treasury in 2020 (Chinwala et al., 2020: 21; Seddon-Daines et al., 2019).

The trend for policies that do not walk the talk is ongoing (Dickens, 2005) (see Chapter 10). The 2018-2019 review quantified the breadth of organisations which committed to the Charter but did not meet the requirements. Overall, 46% of signatories did not publish an update on their targets with 29% not even meeting the reporting criteria (Seddon-Daines et al., 2019: 6). These ambitions and outcomes demonstrate the impact of the continued preference for voluntarism and the competing mechanisms in operation. While change has been mandated, the lack of it, in terms of unimplemented policies, has, at the same time, been legitimised. This highlights the tension between continuity and change, a central theme in institutional theory (DiMaggio and Powell, 1983; Streeck and Thelen, 2005). It also demonstrates that a combined, collective and sustained movement of key actors is needed to challenge the status quo (O'Reilly et al., 2015). Any targeting of change is inevitably developed and legitimised by existing management structures. It is then framed within the boundaries of policy, within the firm, at the sectoral level, and by the wider institutional framework.

The one-dimensional focus on the lack of diversity can also be understood within this context. The narrative surrounding inequities within finance have mostly been described as a problem of gender equality, and one that has largely focused on the representation of women and less on the gendered equality of pay. While initiatives such as the Race at Work Charter (introduced in 2018) and the consultation over race and ethnicity reporting were encouraging, any regulatory reform and a thorough intersectional analysis of the sector remain to be executed (CRED, 2021). More research is needed as exposing the issues that cannot be seen is critical to addressing them.

3.3 Corporate culture, workplace practice and organisational trends

This periodised analysis has demonstrated how significant organisational transformation has not served to reconfigure the gendered structure of banking institutions. Men's dominance in senior positions and the alpha male culture persist, despite seismic transformative structural shifts (Healy and Ahamed, 2019). The GPRR data, examined in Chapter 7, starkly reveals that the gendered inequities pertinent to the crisis have not been resolved. This demonstrates that other interconnected factors, such as these organisational cultures and behaviours, continue to help insulate the GPG from more wholesale change despite the widely recognised need for reform.

The inequities apparent in how the sector typically organises work, pay and recruitment are intensified by informal mechanisms and the corporate culture. The EHRC (2009) and Treasury Committee (2010) examined the under-representation of women in senior levels in banking. They highlighted the relevance of commonalities such as presenteeism in senior roles (Treasury Committee, 2010: 22), bonuses paid upon request and negotiation rather than as a result of clear targets and an overall lack of transparency in pay (EHRC, 2009: 6).

Resultant inequalities and pay gaps in the banking sector have been attributed to the cumulative effect of these processes and the informal mechanisms and organisational cultures in operation (Treasury Committee, 2010: 5; EHRC 2009; Metcalf and Rolfe, 2009; HoC, 2005; Atkinson, 2011: 250). Within banking, the reproduction of gendered norms in numerous informal and yet institutionalised structures can be identified.

Instances include: the unencumbered worker, still perceived as the ideal manager; the

long-hours culture; the incompatibility of caring and parenthood with the requirements of senior roles, thus presenting barriers to those with additional responsibilities; the after-hours networking culture, modelled around masculine traits; gendered skill sets associated with certain high-paying roles; and the structure of work that limits part-time roles outside the branch network (Acker, 2012; Martin, 2003; EHRC, 2009: 51; Wilson, 2014: 362; Liff and Ward, 2001; Özbilgin and Woodward, 2004; Manning and Petrongolo, 2008; Harkness, 2004).

A persistent resistance to eliminating masculine cultures was shockingly illustrated by the Presidents' Club saga in 2018, which many leading financiers attended (Marriage, 2018).¹⁰ In recognising the continued importance of these deeply embedded cultures, this chapter illustrates how the organisational and sociological explanations contributing to the architecture of inequality in the finance sector impact and overlap. The degree to which intangible aspects of the work remain central affects the experiences, prospects and choice for women working, and wanting to work, in banking.

3.3.1 Pay, collectivism and polarisation

The capacity to address inequities and discrimination is limited by these cultures and processes, as indicated in Chapter 2. This is demonstrated by the tendency for individual negotiation and the discretionary nature of pay (EHRC, 2009: 10). In financial services, there is typically a 65% usage of PRP, compared to 25% in the private sector overall, demonstrating a lack of transparency around pay (Gall, 2017: 14). Characterised

¹⁰ The Presidents Club was a long running men only fundraising event. It came under the spotlight in 2018 following reports of attendees sexually harassing hostesses.

as part of the system, this legitimises resultant pay gaps as individual failures of women to negotiate successfully and illustrates the 'doing of gender' at work (Acker, 2009: 213; Martin, 2003).

This is compounded, for those in lower pay grades, by declining levels of collective bargaining and trade union membership. There has been a trend away from the pursuance of industrial action in the sector since 1997, with a marked unwillingness post 2006. This highlights how the impact of trade unions has receded, indirectly contributing, through the lack of redress available, to the persistence of inequalities (Gall, 2017; Conley et al., 2019).

As the sector continues to evolve, occupational segregation and re-segregation persists (Skuratowicz and Hunter, 2004). The gendered substructure within banking remains pervasive as emergent roles continually re-establish structural inequalities (Acker, 1990; Acker, 2012). The repositioning of gender within organisations demonstrates the importance of both sector and occupation-specific analysis (Burchell et al., 2014). The phased historical analysis charted the growing divergence between the status and pay of those in the branch network and those in head office, as terms and conditions, such as pension benefits, have been reduced (Gall, 2017). Weil (2014) suggests that this process will continue as the sector mirrors the process of fissuring and polarisation that has been seen in other industries. Fissuring occurs as the trend for higher profits and erosion of mid-level jobs is accompanied by a growth in less stable work and conditions for those at the bottom of the income scale (Weil, 2014). Reorganisation typically occurs during periods of economic decline and instability, which has been a characteristic of the post-financial crisis period.

This goes beyond the well documented outcomes of globalisation, lower union density and technical innovations. While the changes outlined within banking were undoubtedly propelled and impacted by the financial crisis, Gall (2017: 183) goes further, suggesting that offshoring, automation and branch closures, would have taken place regardless of the crash. The introduction of ringfencing requirements (post financial crisis) and the varied classification of financial services across different SIC codes, described in Chapter 7, are an example of how this fissuring makes it increasingly difficult to map the development of the GPG within the sector: companies separate highly lucrative and high-status services from more routine operations into distinct organisational structures. New manifestations of the same problem mark the movement in the architecture model, indicative of the ongoing shifting goalposts surrounding GPGs.

3.4 Where now and what next?

3.4.1 Brexit, Covid-19 and the new digital world of work

Previous economic crises have ‘de-positioned’ the priority afforded to equality efforts, despite the economic benefit potentially unlocked through positive progress (Guerrina and Masselot, 2018; McKinsey, 2016; Acker, 2012: 221). The uncertainties associated with Brexit and the pandemic also represent significant periods of crisis since the financial crisis of 2007/08. Past recessions have legitimised organisations prioritising their competitive edge, and the link between high performance work practices and gender gaps has been described in this chapter and is developed in Phases II and III of the thesis (Davies et al., 2015). The consequences of Brexit will mean a lack of recourse to the ECJ, compliance with legal developments and best practice in the EU. As Chapter

5 goes on to elucidate, the EU has provided an important input in the positive development of equality practices. On the one hand, the wider climate of uncertainty created by the pandemic may excuse the failure to meet equality targets, as seen in the suspension of the GPRR. The lack of diversity and women's voices, in both Brexit and Covid planning committees, evidences a systemic disregard for their concerns (Topping, 2021; Guerrina and Masselot, 2018; Macleavy, 2018; Fuhrman and Rhodes, 2020; Queisser et al., 2020; Wenham, 2020). On the other hand, the level of protest around Black Lives Matter and against gender inequalities and violence reached unprecedented public visibility during 2020-21, building on the #metoo and #timesup social movements. Potentially this suggests that normative social values around equality are changing in a way that governments and organisations cannot ignore and have been forced to be seen to act on. In particular, significant legal cases on equal pay and the status of gig workers have also received high profile attention that will have repercussions beyond the sectors immediately affected by these rulings (see Chapter 6).

However, previous patterns of shifting goalposts suggest a lack of focus may again enable existing structures to replicate. For instance, the job losses anticipated as a result of Brexit and the pandemic may, without caution, see new forms of gender re-segregation and pay immiseration occur (Edmonds, 2018: 11). The resistance to compulsion, divergence to the needs of business and the lack of accessibility and collective recourse to the law (see Chapters 5 to 7) will no doubt continue to impact on the pace of change to address the GPG, potentially limiting the effectiveness of efforts intended to address these inequities.

The pandemic has accelerated changes to the world of work and digital working, ably demonstrated by the move to homeworking. While this has the potential to address the well-established need for greater flexibility, the spectre of shifting goalposts again looms large. In particular, for those whose work already required long hours, issues such as presenteeism may translate into expectations of hyper-connectivity in a digital workplace. Research by Deutsche Bank has suggested that post pandemic, its employees choosing to work from home could pay a 5% premium for the privilege, with the money generated being used to supplement the low incomes of those who cannot (Harper, 2020). This suggests a double-edged sword where change can be seen as enabling access and flexibility, and, at the same time, some of the unintended consequences of these developments may result in reformulated inequality regimes, contributing to the reformulation of gendered organisations (Acker, 2006).

At the same time, efforts to address women's representation at senior levels may be inadvertently enhanced by Covid-19. The model of what successful leadership looks like has been challenged by female-led government during the pandemic. Research by Garikipati and Kambhampati (2020) assessed how best to understand the marked success women have had, highlighting the importance of decisive and clear communication styles and their approach to the question of risk. The reality of this success, shifting normative masculinised cultures of leadership alongside the emergence of alternative ways of working, has been demonstrated during the pandemic, as Brexit unfolded. However, despite the potential benefit to business, experience has also shown that women have suffered more and are potentially more

vulnerable to future job losses (Verdin and O'Reilly, 2021; Landivar et al., 2020; Conaghan, 2020).

The emerging digital divide and ensuing inequality are increasingly apparent in the finance sector with the shift to online banking and the digitalisation of money (Lloyds Bank, 2020). Job losses resulting from branch closures continue apace with women more likely to be affected (Dunkley, 2017: 268). An unintended consequence of this may prompt a reduction in the GPG, given the prominence of women working in these lower paid branch roles. The shift may also provide a boost for the fintech industry as customers seek digital services. The implications of this may have detrimental impacts on equality progress arising due to: the lack of women currently working in the sector; well reported problems of a 'leaky pipeline' causing those that do join to leave; and the gender gap in STEM qualifications (Rubery, 2018b: 98; Howcroft and Rubery, 2019: 221; Krieger-Boden and Sorgner, 2018; Quiros et al., 2018; Alfrey and Twine, 2007; Verdin and O'Reilly, 2021). Without engaging in too much crystal ball gazing, these shifts highlight the continual momentum of forces impacting around both institutional and organisational explanations. As work is a socially organised activity, it is invariably intertwined with wider institutional, economic and cultural shifts. This chapter has evidenced how the GPG needs to be examined in the broader sectoral context at the meso level and in relation to regulatory change at the macro level. It has shown how the fragility of equality gains can easily be destabilised and is subject to the continual momentum and ongoing reconstruction of the architecture of inequality.

3.5 Conclusion

Gender pay inequality within the finance sector is a longstanding problem, yet despite the costs of failing to address it, the potential for marked improvement remains remote. Ten years on from the financial crisis, there has been a marginal improvement in closing the GPG in the financial sector (Healy and Ahamed, 2019). Analysis of challenges and changes illustrates how equality goals remain peripheral to organisational restructuring since the 1980s up until and beyond the current period. The narrative surrounding inequities, the preference for voluntary targeting and the self-determination of organisational priorities underline this positioning of the gender agenda. Despite the GPRR and the resultant increased awareness of GPGs, gender equality in pay remains ‘nice to have’, rather than critical, despite the evidence suggesting otherwise. Organisational efforts, such as targeting increased seniority and improved flexibilities, are undermined by hidden pay systems and the cultures, norms and values that inform them. Within organisations shifting the dial requires broadening the approaches used to pursue change, alongside a cautionary sensitivity to how the architectural foundations may reassert.

This chapter has examined the historical development of the finance sector in Britain and its consequences for women’s employment. Analysis of change within banking has aptly demonstrated how organisational practices towards pay equity have operated and developed. Workplace cultures, pay and reward processes, and the management of people are all critical catalysts around which the substantial inequalities have been reconfigured. The attention paid to these inequalities can be diverted if and when organisations deem necessary. Just as the architecture surrounding GPGs is continually

redrawn, the natural consequence of reorganisation in banking is, seemingly, the redefinition of the inequality within it.

Alongside the slippery nature of organisational focus on the problem, analysis of the macro and meso level is now required to investigate the ongoing impact of the architectural feature of laissez faire governance, despite the improved regulatory landscape. Additional mutually constituting aspects, such as: a lack of transparency around pay and reward; policy that fails to walk the talk; a lack of collectivism; and the difficulties of reconciling work and family life, will be explored. As consistently problematic areas, they present opportunities for bold actions. However, sociological and institutional explanations, visible in workplace cultures and behaviours, alongside the uncertainty and challenges arising from Brexit, the pandemic and digitalisation of the sector represent the complexity of barriers inequities need to overcome.

The next chapter elaborates the research design and methods used to answer these questions. Subsequent chapters then develop this analysis by interrogating these explanations at the macro, meso and micro levels.

4

A methodological journey

Chapter 4: A methodological journey

4. Introduction to the mixed methods research design

This chapter outlines the research processes used to answer the questions identified in Chapter 2. By incorporating an historic approach, this thesis builds a picture of the full life cycle of gender pay provisions, in law, the workplace, and for individual women employed in the finance sector. The variety of data collection and analysis tools used, the process carried out for each approach, and the methodological practicalities, in terms of the strengths and limitations they pose, are described. The research combines macro, meso and micro level analysis using both qualitative and quantitative methods, corresponding to the different theoretical explanations described in Chapter 2.

The first macro level stage of the research involves a feminist socio-legal analysis, to assess the relevance of institutional perspectives on the pay gap. Legal prohibitions and reflexive requirements are examined alongside the context within which they have been implemented, and subsequently operate. The historic development is charted in a periodised approach in Chapter 5, from 1970-2010, and in Chapter 6, from 2010-present.

The second meso level stage draws on both institutional and organisational perspectives and gives a quantitative analysis of the Gender Pay Reporting Regulations (GPRR) data and accompanying narratives within the banking sector (Chapter 6).

Methodological limitations with the data and the process of constructing the dataset are identified, alongside examining the value and quality of the output reported. The

historic overview of changes within the industry, given in Chapter 3, contextualised the organisational approaches pursued.

The final micro level stage interrogates the persistence of inequalities at the individual level, through qualitative interviews with women working in Britain's finance sector.

This is approached thematically, again recognising the salience of institutional, organisational, economic and sociological explanations for participants. This gives voice to some of the multiple identities women hold and explores those that have been ascribed to them. Methodological practicalities, such as the selection of research subjects, the role of gatekeepers, and how these were overcome, are discussed. Finally, a reflexive analysis acknowledges the importance of positionality in the sense-making part of the research.

This combined methodological approach is fundamental to the contribution the thesis offers. The construction of a layered thematic analysis lends itself to the metaphor of an architecture of inequality. By utilising a mixture of methods, legal approaches are assessed within the organisational context and alongside the lived experience of the women interviewed. This serves to evaluate legislative requirements through a gender lens and enable the wider research questions to be answered. Ultimately, this focused assessment demonstrates why the gender pay gap (GPG) has stalled and the reasons for this.

4.1 Stage one: Macro institutional analysis

4.1.1 Construction of the feminist legal methodology

The first phase of the research periodises the development of equality law within Britain since 1970. Chapters 5 and 6 describe legislative progress, through statute and case law analysis, as an evolving set of characteristics within the context of a prevailing neoliberal agenda. The legal methodology used combines a doctrinal and feminist socio-legal approach. This highlights how legislative provisions and the conceptualisation of equality have been shaped by key actors, those being: government, both within Britain and the EU; trade unions, social movements and collectivism; business and economic interests; and the judicial process and case law. The trajectory of legal change is explored and the role of these key actors in driving, blocking or responding to developments, is considered.

There is extensive academic critique considering how and why legislation and policy have failed in their apparent objectives (Rubery and Grimshaw, 2015; Hepple, 2011; England, 2010). A descriptive analysis of legal rules, alongside a more empirical socio-legal methodology, provides a means to understand the law's theoretical and practical limitations. By identifying and understanding the sources of law, and the way it can impact and differentiate in different arenas, undoubtedly gives a greater awareness to those who study, create and apply the law. Through a deeper understanding of its impact, and the different needs the law seeks to balance, socio-legal studies opens up diverse potential for researchers utilising its methods. Subsequent methodological approaches then further explore its effectiveness at the meso and micro levels. This

macro phase of the research demonstrates that the use of, accessibility, application and interpretation of the law remains gendered and revolves around key actors (Banakar and Travers, 2005: 20-1; Hunter, 2010). The law in this way is presented as an inherently social and political phenomenon. While legal rules may appear to create a level playing field, a feminist methodological approach evidences the inequities in these determining and foundational elements.

Feminist socio-legal theorists have identified resistance to acknowledging women's interests in areas as diverse as equality, property, public and criminal law (Lacey, 1998). Incorporating a feminist methodology as a method of socio-legal research is a way of examining this resistance and presenting alternative strategies for change. While that does not suggest that law can resolve the problem of the GPG, identifying the barriers to this endeavour remains critical.

Feminist scholars and practitioners have set out to define what a feminist methodology is and outline why it is important to ground feminist perspectives with a feminist method (O'Leary, 1992, Bartlett, 1990). The techniques used here involve: asking the woman question; feminist practical reasoning, and consciousness-raising (Bartlett, 1990).

The woman question, while useful, brings up its own debate given the essentialist nature of the category 'woman' (Conaghan, 2000: 367). While this research recognises the impossibility of representing all women's voices, the question remains useful to help uncover exclusion and pursue equality. Framing a definition with a range of diversities and characteristics in mind is critical. The analysis therefore recognises the

social structures and mechanisms that integrate norms which render others different and highlights where hidden bias and disadvantage may operate.

Applying feminist practical reasoning requires legal resolutions to consider a contextual analysis of the problem itself, the reasons for it and potential outcomes. This case law discussions in Chapters 5 and 6 are approached with this reasoning in mind.

4.1.2 Locating the law in the workplace

A parameter within this multi-level research design, is established through construction of Britain's relevant labour market regulation. To assess the occurrence and persistence of gender pay inequity within this framework, the factors that impact upon its effectiveness and use need to be considered. Mixed methods are often used within the context of research combining multiple theoretical foundations (Cameron and Molina-Azorin, 2011; Cameron, 2011: 248). As such, this research incorporates legislative analysis with organisational perspectives and then explores the individual experience of them both.

A case study of the financial sector is used to observe the linkage between the macro, meso and micro levels of analysis (Aharoni, 2011). Legal requirements are applied, understood and experienced at the workplace, both by the employer and the individual worker. A combination of evidential sources is therefore necessary to achieve a more complete understanding of the complexity of the problem (Noor, 2008: 1602).

4.2 Stage two: Meso organisational analysis

The way that organisations have approached pay reporting is instructive both in terms of monitoring pay gaps, but also with reference to transparency. A continuation of the feminist socio-legal approach is provided to evaluate the GPRR, paying particular attention to a sample of banking organisations (Chapter 7). Quantitative data analysis techniques are used to summarise the data for this sample. The findings are used to generalise and infer trends relating to the wider banking sector population. Analysis of reporting levels and publication of the voluntary accompanying narrative shows how organisations have responded to the requirement, how they rationalise the problem and the steps they are taking to mitigate it.

Consideration of the linkage between legislative intention and its practical application, and ultimately effectiveness, helps highlight the various ways that lack of change is legitimised (Hallett, 2010). For instance, despite the requirement to publish pay gap detail, there is a lack of compulsion around both the use and purpose of accompanying narratives. Taking steps to address gaps, and ultimately achieving movement to reduce them, is beyond the scope of the GPRR. This reiterates the need to understand how regulatory requirements are being approached within different occupational environments, and then experienced by the women they are designed to support.

4.2.1 Planning and evolution of the research

The availability of gender pay reporting data was a key consideration when constructing the sequence of research. While reviewing the data was an ongoing process, by placing the task at the end of the research journey, three reporting years could be interrogated. The Covid-19 outbreak resulted in the government suspension of enforcement

measures on 24th March 2020, less than two weeks before the reporting deadline (GEO, 2020a). At this point, 74% of organisations were yet to make their submissions, reflecting earlier last-minute publication patterns.

Quantitative analysis charts and compares progress for the full population and the banking sample, despite this limitation. A mixture of descriptive and inferential statistics are used. This enables reflection on Healy and Ahamed's (2019) assessment of the GPG trajectory in banking. They contend that the focus on a lack of diversity as a result of the financial crisis, as discussed in both the EHRC (2009) and Treasury Committee's (2010) subsequent reports, led to the sector's pay gap reducing marginally quicker than in the wider population (Healy and Ahamed, 2019: 302). The analysis of the first three years of reporting data, given in Chapter 5, supports these findings.

The banking dataset used in this analysis underwent numerous iterations before reaching its consolidated and consistent format for all years examined. Initial plans were for a full sector analysis, with categorisation of different types of banking organisation. Under the category 'Financial and Insurance activities', 441 company reports are included on the pay data reporting website for 2017-18. This search was subsequently refined to financial activities, with a resulting dataset of 206 companies.¹¹ To compare these organisations required individual manual selection and highlighted difficulties, due to the overlapping nature of Standard Industrial Classification (SIC) code categories. For instance, numerous large banking organisations listed themselves under 'Professional, scientific and technical' codes, given the potentially broad application of

¹¹ The decision to exclude insurance firms was made to ensure findings were not distorted, given the focus on inequities within finance.

these categories, and so would have been excluded. A further complication was identified as not all companies provide a SIC code, and some list different functions in different areas. As a result of this inconsistency, data was then cross referenced against organisations listed under the Bank of England's registered banks and building societies list, which again highlighted anomalies.¹²

The next iteration of the sample was based on categorisation used by specialised think tank 'New Financial' which defines organisations by type (Benson et al., 2018). Given the rigorous approach adopted by this think tank, this was deemed a sufficiently comprehensive dataset on which to base the analysis.¹³ However, once the empirical fieldwork was carried out, some of the organisations that interview participants worked for were not included. In addition, a large number of organisations had changed the composition of their reporting entities, and the website requirement to search and manually select each company was prone to error. In order to ensure the target population was not incorrectly represented, the process of selecting organisations for analysis was simplified. This ensured a robust definition compatible with the qualitative part of the research.

4.2.2 Construction of the dataset

The final dataset is constructed from the GPRR SIC codes, with further manual additions to ensure that organisations where interviewees worked were included. The resulting

¹² <https://www.bankofengland.co.uk/statistics/data-collection/institutions-in-the-uk-banking-sector> (Accessed: 19 May 2021).

¹³ The New Financial review included a sample of 446 firms where they differentiated between 9 different sectors of financial services and manually adjusted the data for larger firms that had made multiple entries.

sixty-four employers include the top three SIC codes of 'Central Banks', 'Banks' and 'Building Societies'. This selection failed to include interviewed organisations, such as Lloyds Bank, Nationwide Building Society, Mizuho Bank and Citibank, which were then added. A final broadening of the scope of analysis was intended to mirror Britain's 'big four' banks (Barclays, Lloyds, HSBC, RBS). As such, for each category / type of organisation, a minimum of four comparable organisations were added to the SIC code comparison list (i.e. additional building societies, Asian, European and US global banks). The resultant organisations were then coded by type and age (see Appendix 3 for categorisation and a full list of organisations included). This was not intended to create an exhaustive list of Britain's financial institutions, for the reasons set out above, but is transparent, replicable and comparable.

4.2.3 Assessing quality, limitations and challenges

Central to the criteria for quality in quantitative research is the appropriateness of the methods used for the research question asked, consideration of limitations, and factors such as validity and reliability (Spencer et al., 2003; Fielding, 2010; Bryman et al., 2008; Bryman, 2016). To understand the effectiveness of legal and organisational approaches and how and why progress to address pay gaps may have stalled, a clear picture of the problem is required. The data produced by the GPRR fits that requirement. Under the scrutiny of the Equality and Human Rights Commission (EHRC), the first two reporting years achieved 100% compliance (Adams et al., 2018). Within this, the banking sample is not intended to be exhaustive or all-encompassing but is sufficiently generalisable and capable of indicating trends within the sector. Outliers are useful in highlighting problematic areas. For example, the significant and growing GPGs reported by young

banking organisations, or reports of ‘diversity fatigue’ in areas such as asset and fund management, provide interesting considerations in the analysis of change (Makortoff, 2019; Sheerin and Garavan, 2021).

The limitations relating to the GPRR require methodological reflection (also discussed in Chapter 7). There is a growing recognition and awareness of limitations in the data, such as reporting thresholds, calculation errors, and lack of compulsion surrounding the accompanying narrative (Dromey and Rankin, 2018; HoC, 2019a). A central part of criticism levied at the Regulations relates to the bonus gap figures (BEIS, 2018). While quantitative research may be perceived as scientific and credible, this element of the reported data may be misleading. Women’s prominence within the part-time workforce is well established. However, bonus gaps are not pro-rata and so do not reflect fundamental and gendered differences in hours worked. Chapter 5 discusses how the early phase of equality law struggled to recognise difference in comparison to the male norm standard. Some fifty years on, the failure again of legislation to be alert to these differences, may escalate bonus gap figures, where women are employed on reduced-hour contracts. In so doing it highlights the foundational sociological norms and values that limit the utility of the GPRR as a monitoring tool. The Business, Energy and Industrial Strategy committee made recommendations to improve transparency including the requirement for organisations to publish pay deciles (10% banding) rather than quartiles (25% banding). However, this was dismissed by government illustrating how the transparency of this mechanism remains limited (BEIS, 2018). While organisations typically stress that large pay gaps are not representative of unequal pay, the broad and often undefined pay ranges within finance make independent assessment of this contention problematic. The mixed methods approach utilised here

gives voice to these aspects. The experiences of the women interviewed in relation to hours worked, pay, bonus and progression shows the perfunctory reality of the transparency afforded by the GPRR.

Validity and reliability are achieved, despite anomalies in the reported data. Chapter 7 describes how these are pinpointed and excluded, or acknowledged, to ensure that resultant findings are robust. Comparison within the banking sector population is further complicated by the ringfencing requirements, that arose in the aftermath of the financial crisis. This has led some larger organisations, including Britain's 'big four' banks and other global firms, to change the balance of their reported organisational entities. Despite this difficulty, one of the benefits of quantitative research is that testing can be replicated and verified. Given the small size of the sample used, this is certainly true for this research. The resultant quality is demonstrated by the consistency of analysis this research demonstrates with contemporary critique on the issue (Healy and Ahamed, 2019).

The identification of any progress and trends in addressing GPGs, as year-on-year comparisons are published, has been disrupted due to the suspension of enforcement as a result of Covid. Methodological reflection on the decision itself underlines the priority afforded to equality in times of crisis (Guerrina and Masselot, 2018: 327).

Britain's tendency to defer to the needs of business and opt for voluntarist approaches has re-emerged as a default position (Dickens, 2007). Given organisational systems for the requirement are now well established, the choice to suspend, rather than delay, illustrates this trend. The combination of suspension and willingness of organisations to report anyway demonstrates the centrality of key actors in the trajectory of progress.

This again underlines the importance of the methodological choice to focus on both institutional and organisational elements. The limiting systemic parameters of free market governance and the cultures of silence surrounding pay, within both frames of analysis, demonstrate why progress keeps stalling. The micro level aspect of the research, which is addressed next, further illustrates these themes, demonstrating the need for and utility of a mixed methods approach.

4.3 Stage three: Micro combined thematic analysis

The final layer of this multi-level analysis reveals the human experience and impact of legislative and organisational requirements to address GPGs (Perry, 2011). As the goalposts obstructing the path to equal pay are constantly shifting, an understanding of the value laden society and workplaces that perpetuate this inequality is vital. While some suggest GPGs have closed for millennials (O'Connor, 2017), their complexity can also be seen in variables such as family commitments (Fredman, 2014), the industry worked in (Deakin et al., 2015), levels of disparity across the pay spectrum (Arulampalam et al., 2007; TUC, 2015a), and hours worked (Hepple, 2011: 11). To examine the efficacy of legislation and workplace policy, in the case study of finance, it is necessary to understand the lived experience of women working in this sector.

4.3.1 Qualitative interviews and ethical review

Despite the focus on gender pay inequalities in the banking sector, it has remained largely resilient to change. To understand how and why this has occurred, the lived reality of this resilience is illustrative. Interviewing as a method enables the researcher to capture individual experiences, hear the individual narratives that accompany them

and highlight the constraints of the workplace (Seidman, 2013: 19; Denzin and Lincoln, 2000). The use of semi-structured interviews incorporates Kvale's (1996: 4-6) 'traveller' metaphor, whereby meaning and insight are pulled together through the interview. We all play a part in the different discourses of our social reality, and so it is vital to understand how women define their own experiences, given the feminist lens the research adopts. As Dunne (2005: 38) recognises,

People [are] both products and producers of the discourses through which their subjectivity is constructed.

Listening to the active voice in personal stories and working experiences, enables a grounded assessment of current provisions.

[The] primary way to investigate an institution is through the experience of the individual people who make up the organisation (Seidman, 2013: 10).

Interviewing as a method gives an appreciation of how the GPG is perceived and experienced and what shifting goalposts, if any, were present for participants (Rubery and Grimshaw, 2015). Individuals are able to describe their own experiences as part of an ongoing state of employment (Polkinghorne, 2005). The objective of interviews was to ascertain how policies, processes around pay and employment, and normative cultures and behaviours impacted on the experiences of these women.

Once a plan was established, ethical approval for the qualitative phase of the research was sought and subsequently approved by the Social Sciences Cross Schools Research Ethics Committee (see Appendix 4). According to the University's ethical review checklist, the research proposed was considered low risk, with no adverse effects

anticipated for participants. The review required consideration of: the types of participants that would be interviewed; how they would be recruited; how the notion of informed consent would be approached and ensured; where interviews would be carried out and issues associated with lone working; the questions to be asked; recording and storage of interviews; and how key sensitivities, such as anonymity for participants, would be addressed.

4.3.2 Recruitment and planning of the research

Interviewee recruitment was bound by work within the banking sector. There were no restrictions on age, seniority or length of service. That said, given the size and slow progress in addressing gaps at the top of the earnings distribution, there was a focus on senior and management roles, which did, in part, drive the target population. One of the primary difficulties with interviewing as a method is the process of securing participants. Given the sensitivity of the topic, management reluctance to engage with the research limiting the ability to select organisations to take part was anticipated. To overcome this problem a dual approach to participant recruitment was planned (Tourangeau, 2014).

Direct contact and a purposive sampling method targeted those listed on organisational gender pay reports, through email or LinkedIn. This generally elicited the response that the organisation did not want to take part in the research. Alternatively, no response was forthcoming at all. This approach failed to generate any leads.

As an alternative, approaches were made to contacts in professional and personal networks. Trade union interviewees were secured through the researcher's previous employment. Trade union networks assisted in the recruitment of HR contacts which

then translated into interviews. Academics in the University of Sussex Business School and the researcher's personal networks led to further respondent-driven contacts and the majority of participants. As the snowball analogy suggests, this process took time to build up momentum.

Given the purposive sampling strategy failed to generate any leads, the intention to adopt McDowell's (1998: 2136) 'comparative research strategy' for interviews, whereby those in similar jobs across different organisation types are interviewed, was not possible. Concern over the topic, possibly given the increased attention on GPGs, made gatekeepers hesitant to grant access via the purposive approach. (McDowell (1998: 2141) experienced these difficulties in similar circumstances.) While the implications of this approach in terms of reflexivity warrants discussion, its validity is not an issue. The importance and relevance of interviewing is through identification of individual perceptions and experiences. Inferences about occupational groupings are still achieved through participant insights. This richness of the research is not intended to be definitive. The force of example, or the 'critical case' can be just as relevant and impactful and therefore is also generalisable (Ruddin, 2006; Flyvbjerg, 2013; Aharoni, 2011). Interview findings form part of a stratified understanding of the problem. The different insights garnered help to build a dynamic reflection of the goalposts surrounding gender pay inequality in action.

Eighty contacts were made over the course of the research and ultimately twenty-six interviews were carried out. Once a potential participant was identified, they were then contacted via email and directly asked to participate. The email included: a broad outline of the thesis; a request to take part; reassurances around confidentiality and

anonymity; a participant information sheet (detailing the voluntary nature of the research, the ability to withdraw at any point, supervisory contacts, and ethical approval details (see Appendix 5)); and a consent form. No incentives were offered for taking part in the research. These emails were typically followed up a number of times. On the day before the interview, a reminder was sent reiterating the notions of voluntarism and consent.

Some potential participants asked for further details around anonymity. A description of the process that would be followed was sufficient to reassure them. This involved the assignment of unique numbers at the point of transcription and removal of any identifiable features that may have been discussed during the interview. All subsequent transcription then used age ranges, non-specific job titles, the location of work was defined as London or 'other' and operational areas of business were discussed in broad terms.

The sequence of interviews was driven by respondent availability. They began in January 2019 and were finished in July 2019. Interviewees were asked to suggest a time and location that was most convenient for them, some taking place in person, others by phone. Most were scheduled directly, whereas a couple were diarised by administrative assistants.

4.3.3 Interviewee cohort and conducting the interviews

Twenty-six interviews were conducted and included:

- Four trade unionists, three of whom were employed directly by unions (two male, one female), two from smaller banking staff associations and one larger

general union, alongside one lay rep, who was employed by a bank but given facility time to undertake a union role.

- Four HR management participants, two of whom were very senior and two mid-level.
- Ten participants in management grades, two of whom were at managing director or global head level.
- Seven mid-level roles.
- Two junior cashier level roles, one of whom undertook union duties.

Aside from the two trade union participants, all identified as women. They ranged from those relatively new to the sector (three years' experience), to those with careers spanning thirty plus years. The majority of participants were British (nineteen), alongside five European, one Asian, and one Australasian. Their age range was spread fairly evenly from twenty-five to sixty. Participants were generally well educated. Over 82% of the sample were educated to degree level and 40% had masters or post-doctoral qualifications. In addition, 35% of the women interviewed did not have children, while the majority had one or more, ranging from infant to adult (see Appendix 6 for an overview of the pseudonyms ascribed to participants, employer type, age and family status and nationality).

Fourteen interviews were carried out face to face, with the remaining conducted either by Skype or phone. Interviews typically lasted around an hour. Recordings and transcripts were kept on a personal double locked laptop and once written up, recordings were deleted.

A list of similar questions was drawn up for trade unions, management, and employees, respectively. These broad questions were intended to assess the impact and relevance of the four different thematic approaches outlined in the literature review: institutional; organisational; economic; and sociological perspectives. For instance, questions focused on the individual's understanding, experience and use of legal requirements were used to highlight the relevance of the institutional theme. Organisational perspectives were considered through questions concerning workplace policies, pay practices and culture. The economic approach involved questions around hours worked and time out, educational attainment and workplace training. The sociological theme was approached via questions concerning caring requirements, domestic responsibilities, and typical character traits.

The interviews themselves began with a reiteration of consent and the voluntary nature of the research. Neutral questions were used to put participants at ease, after which the thematic questions were introduced (McDowell, 1998: 2141). Topics were then developed dependant on experiences, with cues being taken from participants. The intention for this loose structure and responsive interview technique was to give voice and ownership, enabling interviewees to exert some control over the process (Skinner, 2012: 13). The researcher was able to guide the conversation around broad themes, while participants retained an ability to tell their stories.

Some participants asked for the questions prior to the interview so that they could prepare. They were reassured that this was not needed, indicating the intention for a loose, free-flowing structure. Others expressed concern that perhaps they had nothing of interest to discuss. By about ten minutes in, most participants had relaxed and

seemingly spoke freely about their experiences. At the hour mark, the researcher indicated time had run out, recognising the time pressure many were under. However, at this point, if the interview had not yet concluded, most were keen to keep talking. Others mentioned afterwards how it had been good to talk about and reflect on their careers, key moments within them, and factors that had impacted these journeys. This proved to be the prompt for them to then suggest others who may also be willing to take part.

Interviews centred on matters such as: the impact of pay policy and how bonuses are distributed; how careers had developed and the effect of caring commitments; and their perceptions of workplace policies. These are all personal and emotive topics which the interviews opened up in various ways and to varying degrees. Participants gave their lived experience of interacting with pay processes, the day-to-day challenges of balancing work and family life and described how policies were used. In that way they were able to make 'the invisible visible' (Kvale, 1996: 53). The use of interviews triangulated the individual with their own life story, the workplace and wider social world, and issues and insights being discussed (Skinner, 2012: 6).

4.3.4 Assessing quality, limitations and challenges

Debates around the criteria of 'quality' for both quantitative and qualitative aspects of the research are highly contested (Symon and Cassell, 2017; Sinkovics et al., 2008; Denzin and Lincoln, 2000; Bryman, 2016). However, as already described and central to both is the appropriateness of the methods used for the research questions asked, alongside aspects such as credibility, a worthy topic and rich rigour (Spencer et al., 2003; Fielding, 2010; Bryman, 2016; Symon and Cassell, 2017). This list is not

exhaustive, nor universally accepted. However, with reference to these factors, the research process achieved a mixture of banking organisations, occupations and age ranges, making the findings credible. The selection process was fully documented and subsequent transparency and consistency in the framing of interviews and broad questions for discussion, ensured confirmability. Informed consent and anonymity/confidentiality were rigorously pursued and participants were offered verbatim transcripts from their interviews. The design addressed the research questions thoroughly, and the resultant account is therefore both dependable and reliable.

The difficulties presented by the methods deployed require methodological reflection. Gusterson (1997: 115) contended that researchers may experience a glass ceiling, in terms of the seniority of those they are able to interview. In reality, while those in senior positions did prove difficult to pin down for time and access, this was just as relevant for cashier staff. Given the lack of control they have over their time during the working day, cashier interviews took place after working hours. This echoes Smith's (2006) finding, that the challenges of interviewing elites are no different to challenges faced interviewing elsewhere.

The first few months of interview recruitment were marked by offers of assistance and suggested contacts that ultimately did not materialise. On one occasion, the researcher met with a 'snowballed' participant only to discover that while previously she had been employed for a short period within finance, most of her career had been spent working in telecoms.

The long hours and high-pressure environment notable in the banking sector may have compounded the difficulty of participant recruitment. The slow progress of gaining

access was subsequently marked by time pressures in scheduling the interviews themselves. The ability for participants to find the time to meet was often challenging, and interviews were frequently postponed and cancelled, due to last-minute work commitments. Despite confirmations and reminders, a number of participants simply failed to turn up. Responses then typically referred to the need to rearrange, citing last-minute work pressures, or on occasion, simply sudden silence. The pressurised nature of the working environment and the pervasive wider cultural silence around pay was clear.

The hesitancy to take part was also evident for management. For example, contact with a senior human resource professional for a hedge fund, arising from the researcher's personal network, had been entirely positive. Email and telephone discussions demonstrated interest and the organisation's desire to engage with the topic. This exchange resulted in the researcher being invited to present at the organisation's women's network meeting. The intention was to then ask the anticipated audience to sign up as interview participants. However, the presentation was cancelled at the last minute upon the instruction of senior management as a result of anxiety about the topic.

The cultural reluctance to talk about pay also rang true in the first two interviews. Participants were not willing to discuss specific remuneration, with one stating they were contractually unable to talk about it. The impact the question had on the remaining interview led to the decision to adopt a less direct approach for future interviews. Given the snowballing recruitment technique relied upon, having participants relaxed, happy to talk and willing to volunteer others was deemed more

important for the overall research. Only one participant (mid-level) subsequently volunteered specific salary information. At the top end of the income spectrum, another, unprompted, stated only her and her partner would ever know her income. This underlines the depth and pervasive nature of the lack of transparency in pay, particularly at higher grades.

4.3.5 Conclusion of the interviews, transcription and data analysis

The difficulty with securing participants led to consideration of what is a sufficient interview sample size (Seidman, 2013). The benchmark for organisational research, referenced by Lerodiakonou and Stavrou (2019), was followed. Despite potential further leads, it was decided sufficient respondents had been recruited to provide insights that covered the key questions and themes of the planned research. The data secured from the interviews conducted offers a rich stream of experiences from participants working within a range of organisations, including Britain's four largest banking groups. Participants came from various job types in commercial (both retail and business), and investment financial institutions. The interviews yielded rich data eliciting common positions and individual insights (discussed in Chapters 8-10).

The relative homogeneity of the sample also supports the decision to conclude interviewing as it had reached saturation point, in relation to the information required. The recruitment model used resulted in an interviewee cohort that was largely white, middle class and heterosexual. This may reflect the lack of diversity within the sector. Further intersectional analysis could yield additional insights in this regard. The emergence of voluntary ethnicity and disability gap reporting may support such a project in the future.

The transcription process involved an immediate summary of the interview, followed by full transcription within a week. Once the interviews were completed, a process of re-reading transcriptions a number of times took place to enable immersion in the data. Given the number of respondents, it was decided to manually code the data (Basit, 2003; Saldaña, 2015). This decision was made in full recognition of the need to maintain trustworthiness in the data (Sinkovics et al., 2008).

Data analysis was undertaken, recognising the interrelationship and capacity for movement and extension within the architecture model. Quotes were highlighted and colour coded according to Rubery and Grimshaw's (2015) analytical framework. Once this process of categorisation was complete, key themes were identified through manual re-reading and then searching for key words. Key words were identified from each theme of the literature and searches noted their frequency, occurrence and context, a process of inductive interpretive reasoning (Basit, 2003; Saldaña, 2015). Searches included word groupings such as: brutal/ battle/ fight/ bullying/ accusatory/ toxic; care/ flexibility/ part-time; risk taking/ risk averse; pay transparency/ secrecy/ hidden; politics/ power. In addition, the transcripts were re-read numerous times with reference to each theme. This was intended to identify anything missed by the word search. Focus was progressively achieved, as patterns and common elements were identified and abstracted from the transcripts to help in the meaning-making process. This then led to an assessment of how themes overlap and how multiple meanings may be interpreted, supporting the architecture of inequality metaphor.

The key topics that participants discussed provide the format for how the qualitative analysis is presented, as shown in Table 4.1.

Table 4.1: Thematic approach to qualitative analysis

Chapter 8	Chapter 9	Chapter 10
<ul style="list-style-type: none"> • Equal pay & remuneration systems 	<ul style="list-style-type: none"> • Career paths & care responsibilities 	<ul style="list-style-type: none"> • Policy & the practical application of it

The process of identifying themes and untangling the relevance of each theoretical explanation, ultimately ended up being an important part of the enquiry. It highlighted the interrelationship between theoretical explanations, how they have shifted and the consistency of barriers woven between them, those being: the limitations and contradictions of transparency; the foundational sociological norms and values that undermine institutional, organisational and economic developments; and despite a shift to institutional compliance, the ongoing tendency for voluntarist approaches and the gap between policy and practice. The iterative process utilised often involved overlap, but by considering each theme independently, clear vision on the consistency of these interactions was achieved. Analysis of interview transcripts is an iterative process as textual data needs to be connected to the situational context and the meaning distilled in relation to competing explanatory accounts. As such, the researcher experienced a 'sustained reflective pause' during analysis, which at times felt static, but upon reflection, was necessarily slow (Alvesson and Ashcraft, 2017: 9). These factors underline the importance of a mixed methods approach for this research, given the multiple understandings of the phenomenon it affords (Tashakkori and Teddlie, 2010: 175). The researchers' role in this process is now considered.

4.4 Reflexivity and positionality in the research

Reflexive analysis is of central importance to the research journey, to ensure trustworthy and valid findings. The assumptions inherent within decisions, such as the choice of topic, construction of the interviews, and analysis of the data, requires consideration of positionality as a vital part of the research (Denzin and Lincoln, 2000).

The researcher's interest in the area is reflective of a commitment to social justice and equality, underlined by a feminist consciousness. Professional experience as a trade union organiser generated an ongoing interest in the way the law works and who it works for. The introduction of the GPRR and wider acknowledgement of inequality and lack of diversity in the banking sector, in the wake of the financial crisis, prompted the selection of the case study. This choice was also informed by the researcher's lack of experience and knowledge in and of the sector.

The recruitment method used inadvertently afforded the researcher 'insider' status, despite this lack of connection (Banakar and Travers, 2005: 107). An element of trust was implicitly afforded to the interviewer through this recruitment process. The research had effectively been sanctioned by friends and colleagues, so participants were seemingly willing to discuss their experiences openly. Despite a lack of professional experience in banking, the researcher's position, both as a woman and a working mother, assisted this connection.

In conducting the research, efforts were made to ensure both qualitative and quantitative research processes were as transparent as possible in their formulation and practice. A reflexive assessment of participant motivation to take part may have led

those who felt they had something to say on the topic to self-select. This may also shed light on the organisational reluctance to engage with the research. The large gaps within the sector are clearly challenging for those tasked with addressing them and so the lack of interest in voluntarily discussing this is perhaps inevitable. This also reflects the trends associated with voluntarism, discussed in Chapters 6 and 7.

While the overall topic may have been challenging for management, the difficulties experienced discussing the specificities of pay also need reflection. The researcher's experiences in the first two interviews prompted a reluctance to ask specific details around pay. The cultural taboo around discussing pay is, in this way, embedded in both interviewer and interviewee (Pfefer, 2020). This serves to further underline one of the central barriers emerging from the research, which relates to the way that pay inequalities can be hidden in plain sight. Interestingly, as the theme of lack of transparency came through during interviews, they naturally evolved into a more thorough understanding of the multiple ways that participants experienced this impairment.

During these discussions, some participants described how they had discovered instances of unequal pay. At these points, the professional history of the researcher, as a union organiser, had to be put to one side (Scheper-Hughes, 1995). The inclination experienced and resisted, to offer advice and challenge disparities, was something reflected on during and after these interviews. This prompted the researcher to focus on the need for methodological openness in the sense-making process of the interview analysis. The need to leave space for women's own understanding of issues, such as employment law, pay negotiation, and their role as mother/ carer, was central to the

research design. The importance of hearing personal stories adds necessary qualitative depth, to address how legal and organisational initiatives have impacted gender pay inequity, beyond the headline pay gap statistics. While the researcher's voice is central to this integration, the sites of contestation exposed through the analysis speak for themselves. Understanding the various identities that professional women embody and the process of 'doing gender' within the case study context, is part of the contribution the thesis offers, enabled through the mixed methodological approach (West and Zimmerman, 1987; Martin, 2003).

4.4.1 Integration of the data

The combined methodologies outlined here have been constructed so that the respective elements complement each other, providing added detail to the phenomenon being studied. The utility lies in the dialogue between the data streams. The value of each approach and its relevance to the theoretical framework has been described (Taylor and Trujillo, 2011). Throughout the research process, the mixed methods have been integrated. The use of more than one data source adds rigour to situate and strengthen the findings (Denzin and Lincoln, 2000). Each element progressively draws upon key themes, gradually constructing the architecture of inequality model, and, in so doing, builds a richer understanding of the problem.

The various empirical threads are concerned with related yet different aspects of the same occurrence. The research design offers alternative and discreet explanations, not intended to objectively verify one or the other, but woven together to build a stratified comprehensive understanding of pay gaps within finance. When considered in their entirety, the points of overlap and interaction more fully address the research questions

and explain why progress has stalled (Yauch and Steudel, 2016; Sale et al., 2002: 466).

In this way, the effectiveness, limitations and potential of legal and organisational approaches are informed by the combined evidential strands of the research.

4.5 Conclusion

This chapter set out to explain the range of methodological tools used to address the central research questions, outlined in Chapter 2. The persistence of large GPGs, particularly within finance where targeted approaches have been pursued, requires mixed methods to fully understand why they remain so resilient to change. The core of the research is the premise to go beyond the raw pay statistics and identify the stories lurking behind them. In so doing, these methods can identify the myriad of factors impacting on legal and organisational efforts to offset the problem. Using this diverse body of empirical evidence permitted critical evaluation of the different theoretical explanations of why progress to reduce the GPG remains so slow.

Methodological sensitivity to interpreting the varying sources of empirical evidence has remained an ongoing process from planning and interviewing, to drawing together the findings and writing up the research. Awareness of the issue of positionality informed the data analysis and its interpretation, without letting this lead the conclusions. The intention to be as objective as possible and remain open to multiple analytical approaches has helped meaning emerge. As a result, this research presents a version of how policy relating to gender pay inequity is developed, applied and experienced by some of the individuals it is designed to support, in the wider context of organisational initiatives and accounts, as well as statutory reforms.

The mixture of methods used in this thesis are central to the construction of the architecture of inequality. The model helps bring into focus the ways that both the law and organisations fail to address foundational inequalities and the systemic silences around pay. Accordingly, as legislative approaches to target the phenomenon have been extended, the capacity to address gender pay inequity seemingly remains just as remote. The contradictions of transparency are evident as efforts to see inside organisations and gain greater clarity on the processes associated with pay gaps reveal all the aspects which remain obscured from view (Menéndez-Viso, 2009). The increased transparency offered by the GPRR and targeted focus on inequities in finance are considered with reference to these central difficulties. Qualitative insights highlight the silence associated with discussing pay, and the experiences of women, largely confused as to how organisational pay systems operate and distanced from any means to challenge them (Chapter 8).

The combination of methods used is therefore fundamental to the contributions this thesis offers. The slow reduction of the GPG is both normalised and legitimised by existing foundational inequalities upon which legal and organisational approaches have been created and subsequently extended, over the past fifty years. Sociological norms and values reconfigure, gendering legal and organisational approaches and limiting the capacity for progressive change. Stark gaps and accompanying narrative commitments to change are invariably restricted by inaccessible rights, organisational hierarchies and cultural silences. The research design allows an examination of the different theoretical explanations alongside a multi-level analysis of actors and domains that is critical in bringing contradictions and impediments sharply into view. To understand how policies

to address the GPG have changed over time we turn to focus on legal developments since the 1970s in Part II.

5

The legal framework
regulating equal pay in
Britain from 1970-2010

Chapter 5: The legal framework regulating equal pay in Britain from 1970 to 2010

5. Introduction

To address how institutional developments have impacted gender pay inequity and why progress has stalled, this chapter explores macro level legal arrangements. An equality norm was first signposted in British law with the Equal Pay Act 1970 (EqPA70) and, upon joining the EEC in 1973, the Treaty of Rome 1957 (ToR57). The law has since been progressively broadened. To understand the effectiveness of this change, three phases in the conceptualisation of equality are defined. This draws on Hepple's (2011) generational approach and distinctions used by Fredman (2011) and Dickens (2007).

- **Phase I, 1970-1984:** formal conceptualisation of equality as sameness.
- **Phase II, 1984-1998:** recognition of the importance of difference.
- **Phase III, 1998-2010:** proactive developments.

This chapter highlights the slow moving, incremental development of the law, recognising its disruptive and pre-emptive potential, drawing on the work of Deakin et al. (2015). Legal measures have evolved as the law has been constructed, applied and extended, resulting in gradual changes in the gender pay gap (GPG) over time (Streeck and Thelen, 2005). Governments, business, unions and social movements are presented as key actors who contest the parameters of the legal framework, alongside the momentum of decisions encapsulated in case law.

Assessment of the law prompts identification of common features inherent within institutional approaches. The British preference for a *laissez faire* style of governance,

reflecting the ongoing priority afforded to the needs of business, has defined more stringent equality approaches as costly and burdensome. A limited transparency in terms of the knowledge required to address inequities and the process of accessing developing entitlements is a further characteristic of legal requirements.

The law is critically examined with reference to these barriers and the foundational inequalities that inform them. Sociological norms, values and power relations are central to the architecture of inequality that is developed, which recognises the interaction between the theoretical explanations (see Figure 2.2). Subsequent chapters build upon the architectural metaphor by assessing the meso level organisational application and micro level individual experience of legal arrangements and how they have been established and adapted over time.

This chapter first outlines how Britain's relationship to the EEC has contributed to legislative development. Other key actors in government, business, unions, social movements and the role of the judicial process are then discussed, recognising how they too have shaped the changing conceptualisation of equality. In this way, the analytical framework of a dynamic architecture of inequality is constructed to understand the changing approaches to gender pay inequity in Britain since the 1970s.

5.1 Phase I, 1970 to mid-1980s: Equality as sameness

5.1.1 The legal system and the key actors that catalyse change

The external influence of the EEC was central to the British approach to equality since the outset. The new and developing Common Market stated, in Article 119 of the ToR57,

Each Member State shall ... ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work.

Under s2(1) European Communities Act 1972 (ECA72), EEC law automatically became part of British domestic law. Some types of legislation were directly applicable, such as Regulations and Decisions while others, such as Directives, required enacting legislation within Member States. Measures such as Guidelines and Recommendations were not legally binding but presented persuasive authority for Member States to act. In addition, ECA72 s2(4) stated that courts must interpret domestic legislation in line with EEC provisions and could not enact contrary requirements. *Van Gend en Loos* [1967] applied this principle and confirmed that Article 119 would have *direct effect*, independent of any national provision, or lack of. The case established the criteria that so long as requirements were *clear, precise, unconditional, and capable of giving rise to an individual right*, then they could be relied upon in Member States. In the case of conflicting requirements, European law would prevail. Reference could be sought from the European Court of Justice (ECJ) if needed, often prompting progressive and purposive judgements.¹⁴

The EEC's inclusion of equal pay in the ToR57 was largely due to French concerns over other Member States gaining a competitive advantage (Burri and Prechal, 2013: 2). France had already enacted its own equal pay provisions and feared cheap labour elsewhere would put them at a disadvantage. This economic motivation was extended

¹⁴ For instance, in *Garland v British Rail Engineering Ltd* [1983], the ECJ clarified that a retirement travel benefit was covered by the EEC's equal pay provisions and could therefore be discriminatory.

to include a social goal, as per the judges' interpretation of the ToR57, in the case of *Defrenne v Sabena* [1976]:

The provision forms part of the social objectives of the Community, which is not merely an economic union, but is at the same time intended ... to ensure social progress and seek the constant improvement of the living and working conditions ... This double aim, which is at once economic and social, shows that the principle of equal pay forms part of the foundations of the Community (*Defrenne v Sabena* [1976] 2 CMLR 98 (ECJ), 122-123).

However, despite recognition of the social aim, this thesis shows how the underlying economic rationale has remained central and restrictive in Britain's architecture of inequality (Dickens, 2007). In response to EEC requirements, Britain's preference for a laissez faire approach to governance reflected the impact of key actors in government and business, acting to stall or restrict the approaches pursued (Gallie, 2007a). In addition, the relationship and tensions between key actors concurrently catalysing change, 'sets in motion path altering dynamics', as the influence of unions and case law illustrates (Streeck and Thelen, 2005: 23).

Alongside and prior to EEC membership, there was increased political attention and mounting collective pressure to address inequality within Britain. In 1964, the Labour Party election manifesto made a commitment to equal pay in its proposed 'Charter of Rights', and again in 1966 (Labour Party, 1964; Labour Party, 1966). The women's movement for equal pay gathered steam during the post-war years, most notably in teaching and the civil service (*Hansard*, HC Deb 09 February 1970 vol 795 cc914-915), supported by Barbara Castle, Secretary of State for Employment. Industrial action and

campaigning, particularly by the Ford sewing machinists at Dagenham, the Women's Liberation Movement and National Joint Action Campaign Committee for Women's Equal Rights, critically provided the internal backdrop for the implementation of the EqPA70. The GPG, in 1970, stood at 36.2% for full-timers and 48.5% for part-time workers (Perfect, 2011: 8). The current 15.5% overall GPG demonstrates the marked yet slow progress that has occurred over the intervening fifty years (Smith, 2020b).

Alongside these political, industrial and organisational pressures, there were profound changes in the economic structure of the home (Jenkins, 2013). The dual breadwinner household became increasingly prevalent as larger numbers of women, in particular mothers, were working in both full- and part-time roles, alongside sharp increases in women entering higher education. Women's role in society and investments in work and education were markedly changing. These shifting patterns impacted on the conventionally established architecture of gender inequality that was emerging from the late 1960s and early 1970s.

Despite the changing educational and occupational status of women and reductions in the GPG, the evolution of the law was slow and limited in its recognition of this change. Legal development was constrained by underlying business considerations, such as cost and bureaucracy, that both required and legitimised the pace of change (Dickens, 2007). Assertions made by the Confederation of British Industry (CBI) flagged the potential burden on business of the proposed inclusion of equal value to the EqPA70, ultimately contributing to its more limited scope. As a result, while the sewing machinists in Dagenham were one of the triggers for the Labour government to pass the Act, the factor that prompted them to strike in 1968 was not addressed by the

legislation: the nature of their work was not recognised as skilled, although their pay rates were increased. The gendered template and power imbalance upon which the law was constructed failed to recognise the importance of value. Given the marked occupational segregation at the time, this demonstrates how embedded foundational inequalities restricted the effectiveness of the EqPA70. The Dagenham workers took further industrial action following the Equal Value Amendment 1983 (EqVA83) that did ultimately re-grade their work as skilled. The way that the key actors described here (governments, both in Britain and the EEC, businesses, trade unions, social movements and those within the judicial process) constantly contested the conceptualisation of equality illustrates why progress to eradicate gender pay inequity has been incremental and slow. This accords with the process of layered change Streeck and Thelen describe (2005: 24). Applying their definition of this concept, the amendments, refinements and differential growth prompted by the constant contestation of key actors, (presented in Table 5.1), can be characterised as layered change.

Table 5.1: A periodised socio-legal analysis of the development of equality law, Phase I

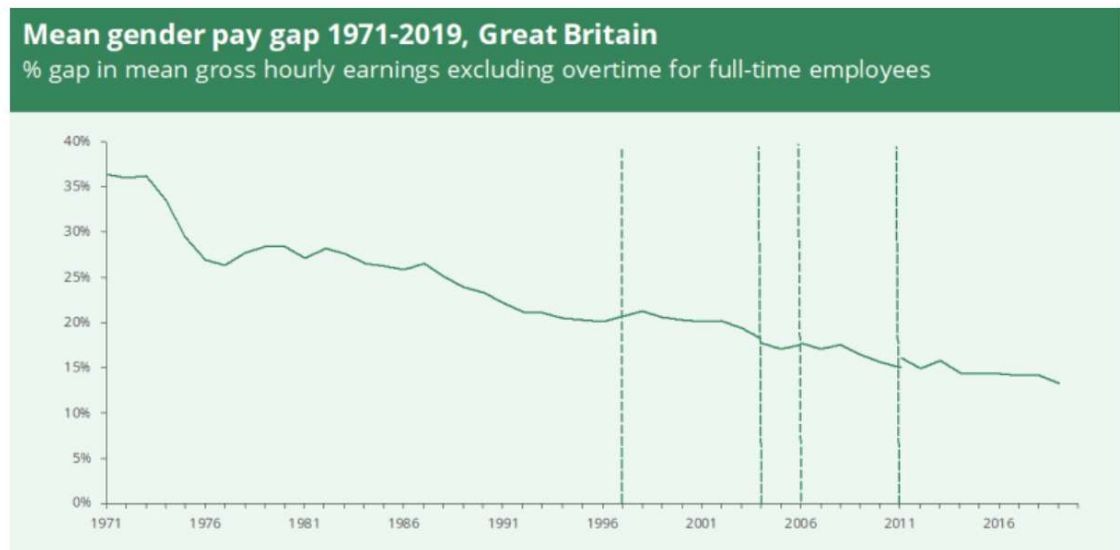
<u>Cultural ideas about gender and equality</u>	<u>The law and legal discourse</u>	<u>National and industrial politics</u>	<u>The economy and labour market</u>
Phase I conceptualisation: 1970-1984 Equality as sameness Formal approach to equality Prohibitive standard Legal remit firmly focused on the public sphere	Operationalised by: Article 119 Treaty of Rome 1957 European Communities Act 1972 Equal Pay Act 1970 Sex Discrimination Act 1975 Implications and developments: Direct effect (<i>Van Gend en Loos</i>) Social aim of equal pay (<i>Defrenne</i>) Biological difference (<i>Turley/Hayes</i>) Occupational / sectoral segregation	National politics: Joining EEC Labour & Conservative administrations Advent of Thatcherism, deregulation, privatisation & free market approach. Industrial politics: Widespread TU membership & bargaining Mass strikes (Dagenham) Collectivism of women's movement	Financial crisis IMF bailout Complete overhaul of pay systems Women entering labour market

5.1.2 Conceptualisation of formal equality in the law

As a result of the combined forces of key actors, the Wilson government passed the EqPA70 just prior to the election in 1970. The EqPA70 represented a formal approach to equality requiring equal pay for work that was the *same, broadly similar, or equivalent* (section 1.(4) and (5)). The hidden complexities of this individual claimant-centred approach required to pursue equal pay, underline another aspect of the power imbalance. The law prohibited *less favourable treatment* in pay unless there was a *genuine material* difference. To bring an equal pay claim a woman needed to identify a male comparator in the same employment, with whom they could be compared. If the courts found the work to be the *same, broadly similar or equivalent* to the comparator, they then had to consider whether there was a *genuine material* factor for the difference. The difference could not be directly discriminatory. If it was, then it had to be *objectively justified*.

The EqPA70 came into force in 1975 as employers were given time to make the salary adjustments that were required. This period of adjustment immediately following the legislation prompted an 18% increase in women's wages between 1970 and 1977 (Shannon and Kidd, 2005: 350). This highlights the ebb and flow of legislative effect shown in Figure 5.2. The initial impact of the law on the GPG was marked, followed by a lull as those inclined to make adjustments had done so.

Figure 5.2: GB mean gender pay gap 1971-2019



Source: Francis-Devine and Ferguson (2020)

Barbara Castle introduced the Act to the Commons stating,

We are witnessing another historic advance in the struggle against discrimination in our society ... This goes beyond anything in the law of other major countries (*Hansard*, HC Deb 9 February 1970 vol 795, cc914-917).

However, despite these assertions the resistance from business that the Act prompted is notable in this five-year period for adjustments and in the wording of the legislation itself.¹⁵ While *broadly equivalent* went further than the provision in the ToR57, the notions of equal value and equal treatment in pensions were not included. Castle went on, 'the phrase "equal pay for work of equal value" is too abstract a concept to embody in legislation' (*Hansard*, HC Deb 9 February 1970 vol 795 cc916), with which the CBI

¹⁵ The CBI lobbied for seven-year period of salary adjustment, while the TUC campaigned for two years.

agreed. Dickens (2007) has argued that this demonstrates the economic underpinnings of the law.

Ten months prior to the EqPA70 coming into force, the EEC approach had developed to include equal value.¹⁶ Illustrative of the competing tensions already described, this highlights how key actors can both enable and limit development. The EEC's role was more progressive, while the lack of political will and deference to the needs of business within Britain were limiting factors. The lack of institutional inclination to address the practical reality of the type of work women do and the value ascribed to it, was legitimised by the apparently burdensome nature of such a requirement. Within this context the British tendency to 'stall, divert or dilute [EEC] legal measures' was a continued feature of its membership of the EEC (Fagan and Rubery, 2017: 16).

This period was witness to a growing body of legislation concerning inequality in Britain, within which the core architectural features of governance and transparency were notable. Alongside the recognition of inequality in pay, the concept of discrimination was given legal voice by the Race Relations Act 1965 (RRA 65). In 1975, the Sex Discrimination Act 1975 (SDA75) was passed, intended to 'compliment' the EqPA70 prohibiting discrimination in employment, education and training (*Hansard*, HC Deb 26 March 1975 vol 889 cc515). Much like the EqPA70, the SDA75 is based on the principle of sameness and a requirement for consistency in the treatment of men and women. Lord Justice Orr stated the two acts should be considered, 'two parts of a single code

¹⁶ The EEC Equal Value Amendment was raised in February 1974 in the Official Journal and by February 1975, Directive 75/117/EEC had been agreed.

directed against sex discrimination' (*Shields v E Coomes Holdings Ltd* [1978] 1 WLR 1408, 1423).

The SDA75 defines direct discrimination as *less favourable treatment* and indirect discrimination as the disproportionate impact of a *provision, criterion or practice*, unless justified. The inclusion of the concept of *justification* within the SDA75 encompassed the potential to capitulate the principle of equality and accede to the needs of business, again highlighting the economic underpinnings of the law (Dickens, 2007).

Prior to the passing of the SDA75 and EqPA70, separate pay structures for men and women had been commonplace (*Roberts v Hopwood* [1925]). By virtue of these Acts, direct and indirect discrimination became prohibited and the legal entitlement to equal pay enshrined in law (Hepple, 2011). This period of formal equality was characterised by the pursuit of equality as sameness. The barriers women as individual claimants experienced and the contradictions of transparency they show, can be understood through analysis of case law.

5.1.3 Case law and the pursuance of legal rights

The notion of judicial precedent is fundamental to the development of British law, as decisions of higher courts must be adhered to. This provides, 'a centralised hierarchical approach' and ensures a meaningful progressive development of rules that can be applied consistently (*Willers v Gubay* [2016]).¹⁷ Legal discourse, in this way, can highlight key areas of difficulty and allows for the law to be challenged and extended.

¹⁷ By virtue of the Practice Statement (Judicial Precedent) [1966] 1 WLR 1234, and referenced in *Willers v Gubay* [2016] WLR 534, 534.

Analysis here focuses on the individualised claimant-centred approach of legal entitlement and the shortcomings of equality as sameness, with reference to hours worked and pregnancy.

The legal right to challenge any discriminatory or unequal pay structures could be pursued by individuals with assistance from organisations, such as trade unions and the Equal Opportunities Commission (EOC). The EOC was established with a duty under both the EqPA70 and SDA75 to help tackle discrimination and promote equality between the sexes. The EOC's role included the power to investigate and support cases, alongside providing advice. In addition, the Central Arbitration Committee (CAC) had an adjudicatory role, when discriminatory collective agreements were referred to them (Deakin, 2015: 383). This highlights the relevance of wider developing institutional structures, the broader industrial climate and interaction with meso level organisational approaches, in efforts to combat the GPG. The need for support mechanisms to assist in the legal process demonstrates the foundational power imbalance and existing inequalities upon which legal measures were constructed. The architectural barrier of transparency in the limited access, complexity of legal requirements and support needed to pursue a claim, highlights how a lack of clarity hid them from view. This opacity and cultural ideas about gender were embedded within the formal conceptualisation of equality. The limitations resulting from this are evident from case law analysis.

To pursue an equal pay claim, a female claimant would first have to identify a male comparator. The tribunal would then assess whether the work carried out by both parties was: *the same; broadly similar; or equivalent* to require equal pay. Contestation

in the courts, concerning the investment of time and hours worked, helped to highlight the difficulties of this early conceptualisation, demonstrating gaps in the legislation and sowing the seeds for future reforms. To illustrate, in *Dugdale v Kraft Foods* [1977] and *Electrolux v Hutchinson* [1977] contractual overtime, night and Sunday working requirements were held not to be sufficiently different in terms of contractual obligations. The work was found to be broadly similar and the equal pay cases were upheld.

However, a different interpretation of time was considered appropriate for part-time work. While in *Dugdale* and *Electrolux* the choice of day of the week or time of day worked did not impede the requirement for equal pay, in *Handley v H. Mono Ltd* [1979] the courts considered the overall volume of hours worked did. Part-time hours were found to constitute a *genuine material factor* difference, by the more restrictive British courts, despite the work undertaken being the same (*Handley v H. Mono Ltd* [1979] ICR 147, 148). The concept of sameness as a standard for equality was seemingly based on a full-time contract, with no reference to productivity.

After referral to the ECJ, the case *Macarthys v Smith* [1980] confirmed that employment need not be contemporaneous to require equal pay. Having established that a comparator need not be employed at the same time, the court went on to state that performance of the same job (albeit on part-time hours) could require equal pay, seemingly supporting *Dugdale* and *Electrolux*. However, this purposive judgement left the matter open to the national courts to consider upon the facts of the case. This demonstrates how the contestation of legal rules, including reference to the European courts, has helped extend the scope of the law and illustrate how inequality works.

These cases highlight the variability in judicial interpretation and the need for contestation in the courts. Cases have both revealed and clarified the ways that unequal pay may be obstructed from view, sometimes in plain sight.

The limitations of this rigid formal approach to equality as sameness were also highlighted in cases presented to the courts concerning pregnancy, where women's biological difference led to disadvantage in the workplace. In *Turley v Allders* [1980], the claim of discrimination as a result of pregnancy was not considered *less favourable* treatment, as there was no pregnant male comparator.¹⁸ While *Hayes v Malleable Working Men's Club* [1985] did not follow *Turley*, the minority judgement reasoning from *Turley*, that of illness in the case of a man, was applied. A pregnant woman was likened to a sick man needing an extended period off work. Again, this presents pregnancy as a difficult concept to overcome, with reference to what was clearly a male legal norm. As the case law discussion has shown, the foundational gendered cultural template on which this early conceptualisation of equality law was both applied and interpreted, limited its capacity to recognise and resolve inequities.

5.1.4 Limitations embedded in inequality, governance and transparency

Individual cases had highlighted the need for reform, to extend the parameters of formal equality beyond the concept of sameness (Fredman, 2014). The contestation of the legal process and the interrelationship of key actors impacted the development and effectiveness of the formal Phase I approach to the GPG. Existing inequalities shaped provisions and implicit bias and assumptions limited their application and effectiveness.

¹⁸ In *Turley v. Allders* [1980] Smith's minority judgement introduced the idea of illness.

The architecture of inequality is, in this way, defined by the different theoretical explanations explored in Chapter 2. Understanding the incremental layered change of institutional approaches highlights the limiting architectural features of governance and transparency. The preference for free market governance delayed and restricted the capacity to address gaps, somewhat tempered by the progressive role of the EEC and collective pressure within Britain. A lack of transparency in the prohibitive provisions that were adopted, characterising equality as sameness, failed to recognise or be responsive to the inequities women were facing. To illustrate, the occupational segregation in the work that men and women did, had not been addressed by the EqPA70. The limited reach of the Act was also evident when considering the trajectory of GPG progress. By 1980, initial reductions in the gap had levelled off (see Figure 5.2) (Harkness, 1996: 4).

Subsequent change in the law and the legal formulation of equality did not transition of its own volition, but as a result of combined and sustained pressures upon it. This demonstrates the importance of multi-level analysis and the utility of the architecture model. Alongside the architectural features of governance, transparency and foundational inequalities, the variable roles of key actors helped lay the groundwork for legislative extension. The subsequent reform and re-conceptualisation of equality demonstrate the layering of change as legal measures moved beyond sameness to recognise difference and comparable worth (Streeck and Thelen, 2005).

5.2 Phase II, 1984 to 1998: Recognition of difference

5.2.1 Key actors catalysing change

The transition to a new conceptualisation of equality within the law reflects the dynamism in the architecture model, a gradual shift in cultural ideas about gender, alongside the continued influence of key actors. The process of ongoing contestation between these key actors has run in tandem with legislative development. Relations between the EEC, government within Britain and trade unions illustrate how contested ideas of equality were again exposed and weaknesses in legal approaches identified.

The influence of the EEC was again pertinent. Britain's failure to comply with the Equal Value Amendment Directive (EqVA83) demonstrates the institutional and organisational resistance to address the clear disparities in the types of work men and women did. Proceedings were pursued and in *EC v UK* [1982], Britain was found to have failed in fulfilling its obligations to the EEC, as per the ECA72. The EqVA83 was subsequently implemented, accompanied shortly thereafter by the Sex Discrimination Act 1986 (SDA86).

Despite these provisions, the prevailing political agenda of Phase II was marked by a free market preference for deregulation, characteristic of Thatcher's conservative government (1979-1990). The increasing deference to business needs, during the 1980s, typified the institutional reluctance to consider equal value. Dickens (2007: 477) notes how British courts and judges adopted a more restrictive approach to the social aim of equal pay legislation when compared to the more purposive recognition shown

by the ECJ. This was accompanied by an increasing Euroscepticism within government, as proponents suggested the EEC relationship was infringing British sovereignty.

Alongside this laissez faire approach to governance from parliament and the courts, the changing structure of employment, unionisation and increased privatisation were further restricting the potential of legal apparatus to address the GPG. The typically unionised manufacturing industry was in decline, alongside a growing service sector. Having peaked in 1979, levels of collective bargaining, trade-union membership and density declined sharply in the 1980s, accompanied by the implementation of anti-trade union legislative measures (Mayhew and Rosewell, 1980; Deakin et al., 2015; BEIS, 2018; Conley et al., 2019; Gallie, 2007a). The architecture of inequality is a useful tool to understand these competing tensions and how they impacted the trajectory of GPG progress.

The changing industrial climate and declining collective potential was further emphasised by governmental repeal of the CAC's jurisdiction to adjudicate, with regard to discriminatory provisions in collective agreements. The capacity the CAC had to challenge institutionalised practises and so act as a preventative measure, going beyond the individual remedies available to claimants, was deprioritised due to concerns over bureaucracy (Fitzpatrick, 1987: 942-947). In addition, the EOC's role was redefined as advice-focused, further limiting access to and support for remedial justice. While the EqPA70, SDA75 and subsequent amendments conferred legal legitimacy to challenge inequalities in pay, the declining ability to address inequality demonstrates one of the contradictions of transparency: the means to access justice were increasingly hidden and beyond the scope of support.

These changes reflected Thatcher's prioritisation to 'roll back the frontiers of the state' and ensure legal requirements were not too onerous for business (Dickens, 2007). This concern was not extended to the individual and their capacity to navigate assertion of their legal entitlements. Despite the EqVA83 recognising the different spheres in which men and women work, the complexity of the legislation, combined with the impact of these changes, inevitably added to the barriers faced by potential claimants. The architectural features of light-touch approach to equality governance and a lack of transparency in who could pursue it and how it could be pursued, acted as impediments in terms of how the law evolved and its utility once it had. The continual momentum of opposing forces in government, the limited recourse to collective support and labour market shifts help to explain why progress remained slow in Phase II.

5.2.2 Conceptualisation of equality that recognised difference

Within this period, equality was characterised by a reconstruction of the rigid approach of equal treatment and sameness to recognition of the importance of difference. Most critically, the EqVA83 enabled claimants to identify a comparator doing work of equal value, with reference to effort, skill and decision-making. The ebb and flow of legal development and effect can be seen in the GPG reduction, following the implementation of the EqVA83 (Figure 5.2). This re-conceptualisation of equality enabled occupational segregation and the variable value ascribed to roles to be recognised. This resulted in the widening of the meaning of pay and began to acknowledge the variegated impacts of pregnancy and the family.

The impact and reach of the EqVA83 was tested in subsequent case law. Emergent areas of difficulty again highlighted how pay inequalities operate, flagging both the potential and limitations of the EqVA83. Incremental change is, to some extent, ‘produced by the very behaviour an institution itself generates’ (Streeck and Thelen, 2005: 19). Analysis demonstrates that while legal rules can be reactive, the tendency is for slow moving progress as parameters take time to bed in, not only in terms of the law-making process, but the subsequent application and understanding of legislation in the courts.

This discussion also demonstrates how periodisation and the transition between phases gather momentum over time. Analysis of case law relating to Phase II now shows this gradual shift from formal standards and equal treatment to a more substantive approach to equality, that began to recognise difference.

5.2.3 Case law and contestation in the courts

Case law analysis is again used to show the progressive development of the conceptualisation of equality within Britain and the interrelationship and constant contestation of key actors. The themes of hours worked and pregnancy are returned to, demonstrating how legal discourse has helped to highlight deficiencies in the law. The importance of combined pressure driving the development of policy is described, acknowledging the role of the ECJ and collective mobilisation in generating change (Millns and Skeet, 2013).

As described in Phase I, the notion of hours worked was troublesome for the courts. A significant example of this was the ECJ ruling in *Bilka Kaufhaus v Weber von Hartz*

[1986]. The court ruled that the German company had indirectly discriminated against part-time employees, who were excluded from their occupational pension scheme available to all other employees. The UK made numerous alternate submissions to the court stating that pensions were not pay and therefore not covered by Article 119 (*Bilka v Weber Von Hart* [1986] CMLR 701, 707); however, the court found they were. The judgement in *Bilka* outlined a three-part test for *objective justification* and indirect discrimination which required consideration of whether the means used were *appropriate, proportionate and necessary*.¹⁹ This is a move away from the 'equal treatment formulation' according to Dickens (2007: 474): the male cultural template of a full-time contract was no longer the starting point for assessing equal treatment.

The courts approach to pregnancy was again an indicator of the struggling advancement in equality provisions and the recognition of difference. The ECJ's judgement in *Dekker v Stichting Vormingscentrum Voor Jonge Volwassen Plus* [1992] had important ramifications. The case had been referred from the Dutch courts, who sought guidance on the Equal Treatment Directive (76/207/EEC). As only women could be dismissed on the grounds of pregnancy then this was held to be direct discrimination, with no need for a hypothetical male comparator. The *Handels-og Kontorfunktionaerernes Forbund i Danmark (acting for Hertz) v Dansk Arbejdsgiverforening (acting for Aldi Marked K/S)* [1991] judgement was given on the same day and also considered Directive 76/207. *Herz* reiterated the *Dekker* approach, that treating woman differently because of pregnancy is discriminatory, with no need for a comparator.

¹⁹ Subsequent ECJ cases (*Douglas Harvey Barber v Guardian Royal Exchange* [1991] and *Dietz v Stichting* [1997]) helped further refine Britain's approach to part-time work and ultimately led to the extension of the notion of pay to cover pensions.

Legal actors within the British courts were reticent to adopt this interpretation, as demonstrated by the ruling in *Webb v EMO Air Cargo Ltd* [1995]. The lower courts were unwilling to apply the rulings of *Dekker* and *Herz* (Millns, 1992). In *Dixon v Rees* [1994] and *Hopkins v Shepherd and Partners* [1994], two appeals brought regarding dismissals of pregnant women, the EAT again used the male comparator, despite *Dekker*. In *Iske v P&O European Ferries Ltd* [1997] the EAT did conclude, in referring to *Dekker* and *Webb*, that the hypothetical sick male comparator was not needed. This illustrates the competing factors impacting upon the application of equality law, as actors within different jurisdictions interpret requirements according to prevailing norms and standards. It also underlines the importance of exploring the movement in gender pay inequity as part of a broad architecture of inequality. The lived reality of legal entitlement and organisational disparities, revealed through case law analysis, demonstrates the need to understand the interrelationship of theoretical explanations at the macro, meso and micro levels. It also reveals the impact of the restrictive foundational inequalities upon which the law has been constructed and interpreted.

Accompanying this sluggish institutional recognition of difference, the importance of unions and representation from the EOC, creating further pressure in the change process, was again relevant in Phase II. This was notable in the growing movement of multi-party equal value claims in Britain. Both *Enderby v Frenchay* [1991] and *British Coal Corp v Smith* [1996], were group litigation cases, seeking equal value for roles across large organisations. In *Enderby*, the separate Whitley Council bargaining agreements in the NHS, covering speech therapists and pharmacists, were ultimately

held to be discriminatory. Equally, in *British Coal Corp*, female canteen workers and cleaners were able to successfully identify surface mineworkers as comparators in their equal value claim. With the financial support of their unions, and in *Enderby* the EOC, the cases took over ten years to resolve. Given the cost and timescale associated with these lengthy resolutions, the importance of collective representation in enabling claimants to access justice is evident.

5.2.4 Limitations marked by architectural features

The changing political, economic and industrial climate is pertinent to understanding the reach and effectiveness of the EqVA83. Within this context, key collective actors and the architectural features of governance and transparency are useful to highlight the impact and limitations of the law.

Privatisation by Thatcher's Conservative government and her divisive political approach ultimately limited the capacity of unions to address unequal pay (Bauld, 2017: 153; Moon, 1986). Collective bargaining was increasingly limited to trade union strongholds in the shrinking public sector (Hepple, 2011: 101-102). Policy measures were designed to increase economic independence and boost the private sector, while creating distance with the public sector and undermining the role of trade unions (Moon et al., 1986: 341). The considerable political and organisational change of the time, in this way, obstructed women's ability to access justice and assert their legal rights. The ability to compare the value ascribed to certain skills and areas of employment, fundamental to decreasing the GPG, was, in effect, diminished.

While attempts had been made in the public sector to address inequalities, via the use of job evaluation schemes, this was typically not the case in the private sector where the usage of performance related pay schemes was increasing (see Chapter 3) (Rubery and Grimshaw, 2015). Increased privatisation in this way supported the tendency for inequalities to be kept hidden. *North Yorkshire CC v Ratcliffe* [1995] helps illustrate how this impacted the pursuit of equal pay. A group of school midday supervisors challenged the Council's attempt to dismiss and re-engage them, on lesser terms and conditions. Their successful claim referenced the male Council employees, with whom they had established equal pay, that were not put out to tender. However, the pressures of private finance were able to downgrade jobs, once outside the scope of this comparison (*Lawrence & Ors v Regent Office Care Limited* [2003]). The potential for equal pay claims was in this way obstructed, as services were increasingly outsourced (Whitehouse, 2001).

These trends, shown in Table 5.3, demonstrate how institutional structures and potentially increased transparency were undermined by wider political and economic developments. This phased analysis of the law shows how recognition of difference critically broadened the notion of equality alongside key actors contesting those boundaries. However, the preference for light-touch governance, the ongoing contradictions of transparency and foundational inequalities exerted opposing forces, slowing the pace and momentum for change. As institutional approaches developed, this process continued into Phase III.

Table 5.3: A periodised socio-legal analysis of the development of equality law, Phase II

Phase II conceptualisation: 1984-1998 Difference Substantive approach to equality Equality of opportunity Focus on public sphere	Operationalised by: Directive 75/117/EEC (<i>EC v UK</i>) Equal Value Amendment 1983 Sex Discrimination Act 1986 Implications and developments: The need for comparators (<i>Herz & Dekker</i>) Objective justification (<i>Bilka</i> 3-part test) Multi-party claims beginning	National politics: Thatcherism, deference to market forces, rolling back the state Purposive judgements ECJ Industrial climate: Sharp decline in TU membership & collective bargaining Collective representation of EOC & CAC restricted	Outsourcing & privatisation Women's increasing workforce participation
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5.3 Phase III, 1998 to 2010: Proactive developments

5.3.1 Key actors and catalysts shaping change

Phase III was marked by a resurgence of interest in addressing inequality as key actors again helped catalyse change. Legislative developments such as Gender Mainstreaming (GM), the Open Method of Communication (OMC) and the Gender Equality Duty (GED) represented proactive developments in the conceptualisation of equality. However, these approaches were subject to competing tensions, despite increased liability for failure to address inequality.²⁰ The emergence of no-win-no-fee group litigation during this period highlighted the systemic nature of inequality and signalled the need to review public sector pay and grading systems (Deakin et al., 2015). Critical analysis of legislative extensions made during this period demonstrates how the architectural model helps to understand the broader ongoing process of change and resistance that has occurred.

GM was adopted as a new EU strategy in 1996 and required the proactive promotion of equality. It was given binding effect in Member States by the Treaty of Amsterdam 1999. GM has been defined as,

The (re) organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels (Shaw, 2005: 260-1).

²⁰ The EEC was incorporated into the EU and renamed by the Maastricht Treaty in 1993.

The Charter of Fundamental Rights in 2000 underlined the EU commitment to a 'universal value' of equality, with provisions requiring Member States to act accordingly. Rubery (2005: 5-6) has noted the role of the European Women's Lobby and the impact of EU presidencies in moving the agenda forward.

The OMC was introduced to deepen the EU approach to equality and represented another more proactive, purely soft law approach to the problem (Beveridge and Velluti, 2008: 2). It was applied in the European Employment Strategy in 1997, initially intended for employment policy, though later given a wider remit. Both GM and the OMC incorporated the use of mutual learning, the sharing of best practice and common targets alongside benchmarking and peer review (Beveridge and Velluti, 2008: 3). This demonstrated a shift in the EU's position, to incorporate both hard and soft law measures, as different means of exercising constraint and checking consistency in policy initiatives (Paolo and Charlotte, 2015: 7). These measures were intended to work alongside and be incorporated into the existing hard law framework, where legal obligations are binding for Member States.

These changes prompted Britain's decision to adopt GM as a new strategy to address gender inequality (Squires, 2005). The political climate had shifted with the advent of New Labour in 1997 and their focus on social justice and labour market reform (Buckler and Dolowitz, 2000). However, there are conflicting views over how effective these methods of GM and OMC have been. Critics noted the British preference for soft law approaches, also citing their application as a means of avoiding more stringent requirements (Beveridge and Velluti, 2008; Fagan and Rubery, 2017: 5). Even in changed political times, the shift to a more self-regulatory voluntarist approach by the

EU accorded with Britain's typically laissez faire style of governance (McLaughlin and Deakin, 2011). To illustrate, in 2001, the EOC reported that the UK's combined GPG was the largest of all EU states and had only reduced by 2% over the preceding four years (Parker, 2001). The report recognised a lack of transparency and made a series of recommendations including that employers be compelled to carry out regular equal pay reviews and that the tribunal procedure be simplified. The subsequent resistance from the business community prompted the pursuance of EOC recommendations in an entirely voluntarist capacity (Parker, 2001). The utility of soft legal rules is invariably impacted by the degree to which key actors accept them or not, as is clear from these failed attempts at greater transparency.

Correspondingly and with reference to governance, there was an increasing recognition of the economic imperative for change operating alongside the fluid and changeable structure of employment. As discussed in Phase II, the need to harmonise pay had been starkly illustrated by the liability in *Enderby* and *British Coal Corp* [1991]. This was enhanced by *Magorrian v Eastern Health and Social Services Board* [1998]. The case concerned indirect discrimination for part-time workers' occupational pension rights and ultimately extended the maximum compensation for equal pay claimants from two to six years. The impact of *Magorrian* can be seen in the no-win-no-fee lawyers that subsequently entered the market, given the increased potential for compensation (Deakin et al., 2015).

In addition to this drive for reform, historical and systemic inequities were also being recognised in other areas. Following the Stephen Lawrence enquiry and MacPherson report in 1999, Britain acknowledged institutional racism, prompting the creation of the

Race Equality duty (Macpherson, 1999). This was introduced in 2001 as an attempt to challenge cultural disadvantage and discriminatory attitudes, both within organisations and the services they provide. The gender and disability duties followed in 2007. They represented a new understanding of how inequality pervades society and social structures and critically introduced a more proactive approach to tackle systemic organisational failures.

5.3.2 A more proactive and voluntarist conceptualisation

Phase III's conceptualisation of equality was marked by this active targeting of disadvantage (Dickens, 2007: 473). This involved recognising how apparently neutral practices can have disproportionate outcomes and so needed to go beyond equality of opportunity (Fredman, 2001: 15; Barnard and Hepple, 2000: 564). This more comprehensive conception of equality is now discussed with reference to the GED, developments related to the reconciliation of work and family life and the increased workforce participation of women (Rees, 2005).

The GED was perhaps the most striking of the legislative developments. It signified an attempt to embed gender equality into the heart of public services by promoting equality of opportunity across all public sector functions and moving beyond individual rights. This statutory duty represented GM in operation and a shift away from reliance on the individual claimant, to a more positive pre-emptive approach. Public sector bodies needed to establish gender goals and review progress in areas such as occupational segregation, recruitment practices and service delivery. This implicitly

recognised the detrimental effect of embedded foundational inequalities and the need for a new approach.

During this period, the Employment Relations Act 1999 (ERA99), the Employment Act 2002 (EA02) and subsequent associated regulations increasingly acknowledged the need for a family friendly discourse within the law, beginning to recognise embedded inequalities surrounding care.²¹ Measures included therein had the potential to introduce greater flexibility and fairness to some key areas of disparity that impact upon the drive for equal pay. For instance: the introduction of two weeks paid paternity leave, alongside thirteen weeks parental leave; increases to maternity leave and pay; rules regulating the use of fixed-term employees; and the introduction of an equal pay questionnaire. When introducing the measures to the Commons, Alan Johnson stated,

We are extending the safety net of basic employment protection rights to reflect the diversity in today's work force (*Hansard*, HC Deb 05 November 1999 vol 337 cc591).

The increased gender diversity of the workforce had been firmly established through the 1990s, as women increasingly returned to work after maternity leave. The percentage of returnees in the UK rose from 40% in 1990, to 80% in 2005 (Brannen and Lewis, 2000: 103), illustrating how not only legislation but the challenge confronting it had changed (Smeaton and Marsh, 2005: 3). The competing demands of work and family life were gaining legal voice in this phase of legislative development, visible in this

²¹ These provisions implemented the framework agreement on parental leave Directive 96/34/EC and the pregnant workers Directive 92/85/EEC.

active targeting of inequality. The gendered cultural template upon which women had entered the workplace was gradually changing.

This highlights the dynamism within the architecture of inequality model. Regulations were constructed and extended surrounding the shifting conceptualisation of equality. Consideration now turns to the application of these legal protections demonstrating how key actors responded.

5.3.3 Case law and the legal process

Emergent case law in Phases I and II helped reveal how the law needed to evolve.

Tensions often involved overlapping themes, concerning the format and type of work and the difficulty of reconciling it with family life. Phase III again illustrates how potentially pre-emptive legal developments were impacted by key actors and the architectural features of transparency and governance. Discussion here focuses on part-time work, public sector regrading and collective litigation, and how the legal discourse they generated altered the dynamics of the problem.

In recognition of the inequities concerning hours worked, the Part-Time Work Regulations 2000 (PTWR00) were implemented, prompted by the EU framework agreement for part-time work. They were intended to ensure that part-time workers are treated no less favourably than their full-time counterparts. To use the Regulations, a part-time claimant needs to identify a full-time comparator. Subsequently the employer can put forward justifications to objectively justify any differential in treatment which must be *legitimate, necessary and appropriate*. This introduced a

separate stream of protection additional to the SDA75 for the largely female part-time workforce.

Consideration of how the law was constructed and applied reveals the persistent centrality of existing inequalities, the tendency for free market governance and an undermining lack of transparency. The Labour government chose to apply the Regulations to casual workers, going further than the EU Directive, despite political resistance echoing business concerns over competitiveness (*Hansard*, HL Deb 22 May 2000 vol 613 cc557-64). However, the PTWR00 did not allow for hypothetical comparators, which, given the gendered occupational segregation of part-time work, severely restricted their scope (Busby, 2001). Women occupied 80% of the six million mostly low-paid part-time roles in the UK in 2000. It was anticipated that by requiring a comparator, the Regulations would only cover one million of those (McBride 2000). This further emphasised a full-time contract as the standard norm through which other employment should be referenced, despite part-time workers representing a quarter of the UK's workforce (Bell, 2011: 257; Kilpatrick, 2003: 143).

Clause 5 of the Directive also stipulated a two-fold purpose, requiring accompanying statutory guidance intended to facilitate greater access to part-time work and improve flexibility in the labour market (Bell, 2011).²² This was a key part upon which Britain chose not to legislate. The soft law proactive element was lost, highlighting the difficulty with voluntarist approaches and Britain's preference for liberal governance. The combined tensions of key actors in government and business prompted reversion to a

²² Clause 5 of Directive 97/81/EC required 'measures to promote employment and equal opportunities for women and men and called for measures with a view to increasing... a more flexible organization of work in a way which fulfils both the wishes of employees and the requirements of competition'.

more formal rather than substantive approach, to the inequality the PTWR00 were attempting to address (Busby, 2001: 346).

The role of key actors in government and competing pressures arising from Phase III's more proactive conception of equality is also evident in the swathe of no-win-no-fee cases already touched upon (Deakin et al., 2015). This increased litigation was, in part, prompted by the introduction of large scale pay and grading reviews. The Single Status Agreement 1998 (SSA) was introduced in local government and Agenda for Change 2004 (AFC) in the NHS, to address the inequities between jobs of equal value across the public sector. The collective implementation of these public sector re-grading exercises highlighted the historical inequalities of bonus payments, shift enhancements and pay discrimination. They were accompanied by recognition of the inherent bias in job evaluation schemes.²³ Despite the EO02 also introducing measures intended to limit the rising tide of employment litigation in the public sector and declines in trade union membership, solicitors like Stefan Cross and unions were able to capitalise on the opportunities presented by public sector re-grading.²⁴ Local authorities found themselves liable for eye watering settlements (*Abdulla v Birmingham CC* [2012]), demonstrating the transformative impact of multi-party litigation in this area (Deakin et al., 2015).

This also led to the role and liability of unions being challenged, given the pay protection arrangements agreed for male employees, alongside the limitations on back pay for female members who had been underpaid (*GMB v Allen* [2008]). Again, this

²³ For example, in *Redcar and Cleveland BC v Bainbridge* [2008] and *Middlesbrough BC v Surtees* [2008].

²⁴ The EO02 introduced new workplace dispute resolution procedures to encourage disputes to be resolved at the workplace, intended to reduce the cost and burden on the tribunal service.

illustrates the pervasive relevance of existing inequalities and the contradictions of transparency. By 2008, only half of those covered by the SSA had fully implemented (Wright, 2011). Some local authorities had prioritised stark anomalies in pay while phasing others in over time. The cost of change and remedying historic grading inequalities was an issue, as implementation was not centrally funded. Many local authorities hoped to undertake regrading as close to nil cost as possible (Conley and Page, 2018: 293-4). While liability ensured that organisations could not ignore the matter, women were routinely not fully compensated for unequal pay and cases took many years to resolve (Wright, 2011).

While regrading was intended to eradicate deeply embedded foundational inequalities, this more proactive period did not generate wholesale change. Change remains a slow and incremental process, as illustrated by Britain's largest equal pay strike to date, which took place in 2018 in Glasgow (Brooks, 2018). In 2019, over 6000 local government employees finally concluded their twelve-year dispute and equal value claim, regarding regrading and pay protection arrangements (BBC, 2019) (see Chapter 6 for further discussion).

In parallel with the case law arising from Phase III's conceptualisation, the outsourcing of public sector jobs further limited the potential of regrading to address inequities (Rubery and Grimshaw, 2015; Conley and Page, 2018). Women in the private sector were not afforded the same protection, demonstrating how the goalposts for them had shifted. Job evaluation is significantly less common and the utility of collectivism to address pay anomalies may only just be coming to a limited fruition (Deakin et al., 2015; Butler, 2021) (see Chapter 6 regarding ongoing retail cases). To further illustrate, a

sample of equal pay cases from 2000-2010 revealed that less than a quarter of employing organisations had transparent pay structures (Ware, 2012: 4). This demonstrates the importance of collective opposition in the change process and how individually enforceable rights remain limited and limiting without it. Legislative rights and equality norms take time to embed, are variable according to the organisational context and are themselves subject to reconstruction given the response of key actors and emerging challenges. Developments may be uneven and unmatched across the institutional and organisational spheres, illustrating the utility of the architectural model as a framework for analysis. Movement that counteracts potential progress within the broad architecture is not only possible but inevitable.

5.3.4 Architectural limitations and impediments to change

The context of Phase III's legislative change again flags the importance of key actors in the development of legal apparatus and is summarised in Table 5.4.

Table 5.4: A periodised socio-legal analysis of the development of equality law, Phase III

Phase III conceptualisation: 1998-2010 Equality of outcome Transformative Institutional inequality Duality of approach Private sphere	Operationalised by: EU - Treaty of Amsterdam Gender mainstreaming, OMC Part-Time Workers Regs 2000 Employment Act 2002 flex working/ maternity & paternity rights Implications and developments: Race & Equality Duty Bias in job evaluation Public sector regrading (SSA, AFC) Increase in back pay (<i>Magorrian</i>) and public sector litigation	National politics: New Labour: combined market forces & social justice Industrial climate: Declining TU membership Resistance from unions and NWNF solicitors through multi-party cases	2007/08 financial crisis Recession High unemployment Growth of atypical work
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This period marked a surge in legal activity to address inequality, with New Labour acknowledging some key areas of difficulty (Fredman, 2004: 308-9). The contrast with the previous Conservative government is evident, as efforts to block the EEC parental leave proposal (Haas, 2003: 92) and the subsequent delays in enacting legislation in this area demonstrate (Haas, 2003: 103). While the parameters of the law were slowly remodelled throughout this phase, the trajectory of legislative and GPG development highlights the ebb and flow of layered change. The trend for securing political support and gaining judicial momentum in particular areas of contention was tempered by business arguments and approaches to governance, invariably countering progress and limiting potential.

While factors affecting the GPG were increasingly recognised in Phase III, the counterbalancing influence of key actors, alongside the architectural features of limited transparency and light-touch regulation, represent the constantly shifting goalposts that impeded their potential (di Torella, 2007: 328).

5.4 Conclusion

This chapter has presented an historic account and periodised legal developments since the passing of the EqPA70 up until 2010. This phased approach has explored how the conceptualisation of equality has been determined according to the contestation of key actors, operationalised in law and then evaluated through the judicial process.

Assessment of legislative provisions has shown the fluctuation of progress targeting the GPG and evidenced the layered incremental nature of the change that has occurred.

As per the research objectives of this thesis, analysis of the efficacy of equality law with reference to the GPG has demonstrated the obstacles and barriers that legal developments and potential claimants face. This has shown how the combined tensions arising from key actors simultaneously drive and resist the pursuit of gender equality. Further, the capacity of the law to promote change has been impeded by the architectural features of transparency and governance. In Phases I to III, a lack of transparency made accessing legal rights remote, time consuming and costly for potential claimants. Alongside this, the on-going deference to the apparent needs of business stymied the development of British law.

The intransigence of gender pay inequality, despite the progressive broadening of legislative equality measures, can be best understood through the application of the architecture of inequality model. Positioning this macro level legal analysis within the broader theoretical framework outlined in Chapter 2 affords a multidimensional view of factors at both the meso and micro level that feeds into the GPG.

The legal rules of the game do not represent a level playing field. They are invariably impacted by other factors, such as: pay structures and grading systems; differential growth in public and private sector provisions; and the levels of collective bargaining and union organisation in various industries. Legal rules may be applied differently, with variable recourse for individuals, or have different meaning, resonance and applicability. Understanding the translation of legal rules to normative realities is one of the strengths of this mixed methods analysis (see Chapter 4). This socio-legal analysis has shown how societal gender norms have slowly changed, demonstrating the dynamic struggle within the architecture. Understanding the meso (Chapter 7) and micro level

(Chapters 8-10) theoretical explanations demonstrates the inexorable connection they have with each other. Each theoretical explanation is a constituent part of the architecture of inequality respectively indicating why progress to address gender pay inequity remains slow and stalled.

It is with that in mind that Chapter 6 picks up and develops the feminist socio-legal analysis, investigating the current conceptualisation of equality and the influence of key actors in Phase IV.

6

The Equality Act and beyond: Potential transformations and resurgent limitations

Chapter 6: The Equality Act 2010 and beyond: Potential transformations and resurgent limitations

6. Introduction

This chapter continues the periodised socio-legal analysis of Britain's institutional arrangements. The passing of the Equality Act 2010 (EqA2010) marked another re-conceptualisation of the legislative approach towards equality and the start of Phase IV.

This current phase builds upon the proactive potential of Phase III, embedding transformative mechanisms and streamlining equality processes, with the capacity to increase both vision on gender pay inequity and the accessibility of the law.

The importance of these developments is first identified. The law is outlined indicating the scope of the initiatives introduced and refined within the Act. The effectiveness of these potentially transformative provisions is then considered, with reference to the role of key actors and the architectural constraints that surround them. Secondly, the success of the Act, in terms of streamlining and increasing the accessibility of equality measures is discussed, again referring to key actors, the judicial process and collective resistance.

The chapter then turns to address legal developments beyond the EqA2010, focusing on efforts to offset the factors that contribute to and are associated with the gender pay gap (GPG). Recognition of aspects designed to assist the reconciliation of work and family life demonstrate how the foundations and broad architecture of inequality impacts effectiveness and restricts change. This section goes on to highlight the

increasing preference for voluntarist and reflexive requirements. Having critically evaluated elements within and surrounding the EqA2010, and the key actors impacting upon them, the analysis then addresses the impact of political, economic and societal shifts. The current legislative space is, in this way, considered alongside the threats, challenges and opportunities that it faces.

In conclusion, the law is firmly placed within a broad architecture of inequality, recognising its relationship with other social sub-systems. The points of interaction between the different explanatory approaches, arising from foundational inequality, governance and transparency, underline the need for this multi-level evaluation. It is within and around these points of contestation that the goalposts surrounding the aim of achieving pay parity continually shift. Understanding this interrelationship is critical to explain why progress to address the GPG has remained so slow and stalled. It will also help suggest pathways to more effective measures in the future.

6.1 Phase IV: The Equality Act 2010

6.1.1 Reconceptualising equality

The introduction of the EqA2010 was the culmination of an extended period of review and consultation, highlighting the need to update the disparate nature of existing equality law. The proposed Equality Bill reflected the changing nature and understanding of equality in society (Hepple, 2000; GEO, 2010). The Bill included: acknowledgement of the importance of and provision to tackle socio-economic inequality (section 1); proposals to use the public sector to model good behaviour and

promote equality (section 149); and to go beyond legislation prohibiting unequal pay to a requirement to publish GPGs (section 78). However, their inclusion in the substantive Act did not always result in enactment, or, in some cases implementation some years later. The Equality Act was passed in October 2010 (GEO, 2008). The new conceptualisation of equality it represented is first outlined and then evidenced by the proactive duties and improved approaches to transparency within it.

Prior to the Act's passing, Britain's equality laws were spread across 116 separate legislative provisions. These had grown and developed in a piecemeal way, reflected in the inconsistency and complex nature of their approaches. The EqA2010 successfully updated and consolidated existing provisions, and in so doing provided some much-needed consistency to the law. The EqA2010, in compliance with the EU's better legislation programme, intended to make the various equality strands more readable, accessible and transparent.

The Act harmonised and reformed the law by streamlining approaches, introducing new provisions and reconceptualising equality in potentially decisive ways. It attempted to recognise the need for more affirmative action, building on the measures outlined in Phase III, and as such was described as 'transformative' (McLaughlin and Deakin, 2011; Hepple, 2011b). Part 11, Advancement of Equality, acknowledged that equality law is not just about treating everyone the same, but taking additional steps to level existing inequality. Proactive measures were introduced that attempted to reposition the claimant-centred approach to equality law, by specifically acknowledging the need to take positive action to address historical disadvantages (Bell, 2011). This demonstrates a recognition that some inequalities are so entrenched that prohibitions alone are not

effective. The intention to develop the programme of reflexive legislation, through measures such as Gender Mainstreaming (GM) and the separate equality duties, had the potential to be embedded and enhanced through the EqA2010.

The section 149 Public Sector Equality Duty (PSED) illustrates this new conceptualisation of equality, by requiring organisations to pre-emptively change and challenge inequalities (Hepple, 2011b). The new single equality duty, incorporated the old gender equality duty, and required public authorities, and bodies who exercise a public function, to have 'due regard' to the need to advance, rather than merely promote, equality of opportunity (Wadham, 2012). The PSED represented an attempt to embed equality considerations into the public sector provision (GEO, 2013a: 15). Demanding change before discrimination occurs demonstrated the shift in direction that efforts to address inequality underwent (Fredman, 2011: 423).

Some equality functions have been devolved to the Scottish Parliament and Welsh Assembly, meaning that the responsibility for determining how the PSED applies now lies within these separate administrations (Pyper, 2020: 15; Women and Equalities Committee, 2019: 6). As a result, the PSED has been used to varying degrees as a tool to target the GPG. For instance, in Scotland the PSED required that public bodies publish gender pay information and detail on equal pay and occupational segregation, prior to the implementation of the GPRR (Pyper, 2020: 17-18). In Wales the PSED includes an obligation to publish strategic equality plans with consideration of the need to reduce inequalities in pay (Pyper, 2020: 17). This demonstrates the variability in institutional approaches and underlines the importance of the detailed sector specific focus, given in this thesis.

Case law has subsequently confirmed the ‘great importance’ of the duty (*R (on the application of Essex CC) v Secretary of State for Education* [2012] EWHC 1460 (Admin), 48). Commentators have noted that,

The courts have developed a jurisdiction that enables them to give extremely close scrutiny to decision-making processes in the context of equality issues (Hickman, 2013: 343).

The potentially transformative effect the duties had on the way public authorities approach equality issues has been acknowledged, while recognising the impact on outcomes has not been so clear (GEO, 2013a: 15). In this respect, the significance of the PSED lies in its intention to make equality central to public services and as such, help embed these principles in society (Duggan, 2010: 9).

That said, it has been noted that the requirements of the single equality duty, are less prescriptive and potentially diluted the previous duties (Bell, 2011; Millns and Skeet, 2013). It was, and remains, only applicable to the public sector and is ‘virtually unenforceable’, given the limited enforcement mechanisms in place when local authorities do not comply (Hepple, 2011b: 142).²⁵ Fredman further asks, why there is only a ‘due regard’ to remove discrimination in the act, when an ‘express duty’ is clearly more appropriate (Fredman, 2011: 411). This demonstrates a,

²⁵ The EHRC is responsible for enforcing the PSED by first encouraging compliance and then moving to compliance mechanisms (Women and Equalities Committee, 2019: 10). If the duty has not been met, the EHRC and or organisations such as trade unions, or charities, may institute judicial review proceedings. This is intended to identify whether the public body has acted lawfully in respect of its obligations. However, the use of judicial review by the EHRC has in reality been very limited, a fact undoubtedly enhanced by the severe reductions to their funding since 2010 (Women and Equalities Committee, 2019: 13 and 25; Doward, 2016).

fundamental ambivalence as to the importance of equality, deferring to public authorities' view as to what priority equality deserves (Fredman, 2011: 417).

This demonstrates the ongoing restrictive architectural preference for free market governance.

The section 78 Gender Pay Reporting Regulations (GPRR) represented a significant legislative development, requiring employers to recognise their own GPGs. This again evidences the change from the previously reactive and individualised scope of the law and the incremental progression and disruptive potential of institutional arrangements. The provision shifted the focus from the individual employee/ claimant, to enable vision on the site at which inequality occurs.

Other aspects of transparency in pay were also included in the EqA2010. Section 138 introduced the questionnaire procedure, enabling employees to ask questions in order to find out whether pay differences were discriminatory. This made pay structures potentially more transparent and the process of challenging inequities more accessible. In addition, while pay secrecy clauses are still legitimate, section 77 rendered them unenforceable when an employee is seeking a *relevant pay disclosure*. Under section 124, tribunals were given powers to make recommendations to benefit the wider workforce. This power enabled rulings to be given not just in favour of the claimant but relating to the whole workforce. For instance, in *Tantum v Travers Smith Braithwaite Service* [2013] the Employment Tribunal (ET) recommended the company implement diversity training for all of their staff. This represented a development away from the

wholly claimant-centred reach of the outcome. More broadly these provisions demonstrate how adjustment to the architectural barrier of transparency has been challenged in the most recent phase.

The importance of the multiple identities that people hold and the intersectional way that inequalities operate was first recognised by Crenshaw (1989). The growing awareness of intersectional inequality and the impact that it can have was acknowledged by the inclusion of the section 14 dual discrimination provision. The section 1 socio-economic duty was intended to highlight and address the impact that factors such as housing, education, and social status can have on an individual's health, welfare and inequality. It was proposed to require public bodies to both consider and reduce the impact public policy decisions have on socio-economic markers. In so doing it had the capacity to recognise the multifaceted ways that inequality works and address their marked occurrence (Dorling, 2015). Despite the importance and potential of these provisions, they have not yet been brought into force. Positive action in recruitment and promotion was enabled by section 159. This acknowledged that additional support might be required by those with protected characteristics, to address unequal representation in the workplace.

The inclusion of these provisions indicates a changing approach to the gendered cultural template upon which the law is based, by potentially enabling a more comprehensive understanding of the ways that they may impact. If fully implemented, these provisions highlight how the EqA2010 could help address the obstacles claimants face in a more proactive way, broadening access to the law and enhancing its impact. The effectiveness of these measures and their enactment is now considered.

6.1.2 Foundational architectures and resurgent limitations

The application of the provisions flagged highlights the tendency for slow adjustment of institutional arrangements and the shifting dynamics within the architecture model. The success and effectiveness of streamlining and transforming equality provisions was again impacted by key actors (see Chapter 5). This demonstrates the continued relevance of both government and business and how, as key actors, they operate according to architectural constraints.

The incremental development of legal structures is apparent when considering the GPRR. The Regulations were not initially enacted, merely included, while voluntary measures were pursued in the first instance.²⁶ The increasing reference to the requirement arising from the EU was accompanied by the Equal Opportunities Commission Taskforce report and Cambridge Review, that had recommended adoption of such provisions nearly a decade earlier (see Chapter 5) (Parker, 2001; Hepple, 2000). Their subsequent enactment, via the Equality Act (Gender Pay Reporting) Regulations 2017, demonstrates the clear progress enabled by their inclusion in the EqA2010. The requirement came into force in April 2017 and requires annual publication of pay and bonus gap detail. While this provision will be fully analysed in Chapter 7, it was a significant breakthrough shifting from voluntarism to compliance. The consultation it prompted, with reference to the publication of ethnicity and disability pay gaps, also demonstrates the transformative nature of the wholesale approach to equality that is afforded by the EqA2010 (Adams et al., 2018).

²⁶ In 2011, the government devised 'Think, Act Report' to encourage employers to voluntarily report on gender and equality issues.

The socio-economic duty and dual discrimination provisions were not brought into force by the newly empowered coalition government, elected soon after the Act's passing in 2010. The costs, increased bureaucracy and burdensome effect on business were cited as the rationale behind the decision, reflecting the ongoing tension of Britain's deference to the needs of business (Bell, 2011: 14; GEO, 2013a).

In 2012, the government went further and repealed some requirements already in force (GEO, 2012; Bazeley, 2019). Powers for wider recommendations were removed, meaning that employers can choose if and how to approach any liability found in relation to their wider workforce. While the potential for collectivism was already limited, given the declining strength of trade unions described in Chapter 5, this again restricted the courts' reach to the individual claimant. The questionnaire procedure was repealed and the planned review of the PSED was brought forward (GEO, 2013a). The PSED's limited application, particularly given the wider repositioning of the public sector, already suggested an ambivalence in its aims. The government's reiteration of a light touch governance did nothing to encourage private sector employers to follow suit and embed proactive and transparent measures to address inequalities.

This demonstrates how the government agenda and business interests have responded to architectural barriers, reflecting the underlying preference for a limited regulatory burden, alongside the multi-level resistance to greater transparency (Dickens, 2007; Dickens, 2014). Even the GPRR, while a significant development requiring compliance, is limited in its effectiveness as a monitoring tool, given restrictions in terms of bonus and quartile reporting and the lack of compulsion surrounding the accompanying narrative (Murray et al., 2019) (see Chapter 7). The fundamental relationship of key actors

(government, business, the judicial process, unions and social movements) with legislative development is clearly illustrated by the importance of political context, which at one point promoted the agenda of equality, and then subsequently has retrenched, reversed or failed to implement it to varying degrees (Riddell and Watson, 2011). This presents the objective of the EqA2010 as a constantly shifting paradigm, whereby the conceptualisation of equality, in terms of how proactive it is, is varied and contested.

Another central objective in the passing of the Act was the goal of simplifying equality legislation to make it more accessible, though effectiveness here has also been dubious (Feast and Hand, 2015). This will now be explored with reference to case law and collective resistance.

6.1.3 Contestation in the courts and collectivism

The difficulties of pursuing an equal pay claim, in terms of knowledge, access and support, highlighted in Chapter 5, continued in Phase IV limiting the transformative potential of the EqA2010. When dealing with an equal pay claim, Lord Justice Mummery said,

The situations presented to the tribunals can sometimes hover on the verge of non-justiciability (*Audit Commission v Haq* [2012] EWCA Civ 1621: para 13).

Mummery noted the high cost and unpredictable nature of equal pay cases, but in so doing, recognised the difficulties of simplifying this task. The very essence of the problem is a significant clash between employer and employee. The intricate and

embedded nature of the problem being addressed and the imbalance of power in these relationships therefore makes attempts to resolve inequities equally troublesome.

The issue of accessibility and the potential of the law to address embedded and historic inequalities can be illustrated with reference to the Glasgow multi-party equal pay case, first referenced in Chapter 5. This protracted saga, involving over 6000 claimants, illustrates how the translation of legal rights to individual realities is overwhelmingly complex. At issue in *Glasgow City Council v Fox Cross Claimants* [2014] was the question of whether female employees, who had been transferred from their City Council employer, could be construed for comparison purposes as working for an associated employer. The court held they were and the equal pay claim progressed. A subsequent and associated claim, *HBJ Claimants v Glasgow City Council* [2017], found a job evaluation scheme, introduced as a result of the Single Status Agreement 1998 (SSA), invalid. While the matter was seemingly on the verge of being resolved, as the Council decided not to appeal to the Supreme Court in 2018, negotiations to conclude a settlement between unions and employers then broke down (Brooks, 2018). Consequently, Britain's largest equal pay strike took place at the end of October 2018. The conclusion of the case in 2019 has since resulted in further contestation over the settlement of legal fees, given the variety of unions and no-win-no-fee solicitors involved in the dispute (BBC, 2019).

The Glasgow case illustrates how some of the difficulties, first highlighted in the previous chapter, remain: cost; the complexity of multi-party actions; the substantial length of time for cases to proceed and reach conclusion; the difficulty of undertaking regrading agreements; and the embedded nature of the underlying problem. These

inherent complexities allow resistance to creep in at various levels. This twelve-year battle clearly demonstrates the gendered template, both in terms of the unequal value claimants were subject to and in the choice to pursue regrading at nil cost (see Chapter 5). The lack of transparency in pay practices and the inaccessibility of the judicial system remains obstructive and cumbersome for equal pay claimants, undermining the potential to resolve inequities. This is further highlighted by the potential pending equal pay case against Dundee City Council (Livingston, 2021).

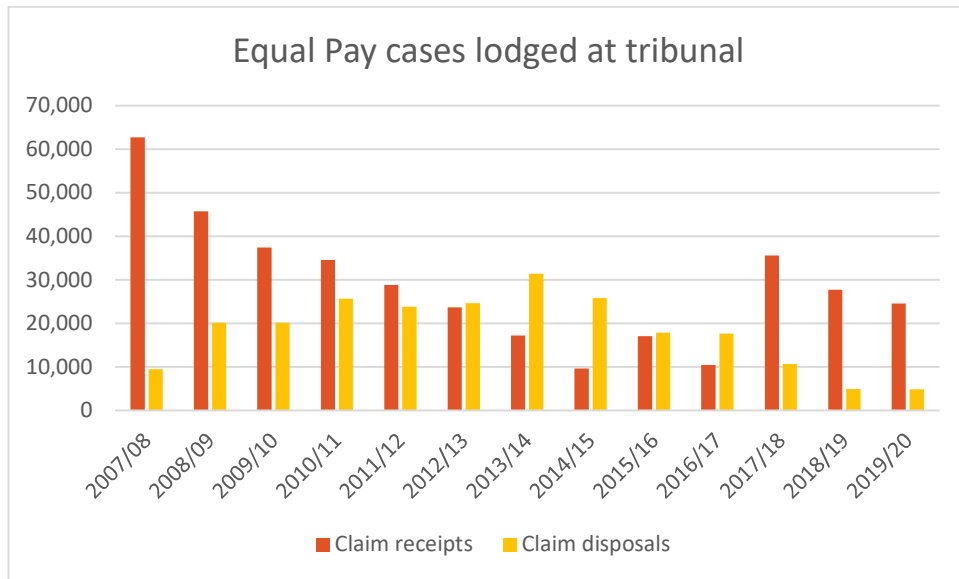
Having noted the intractable difficulties of the legal pursuit of equal pay and the restrictive role of some key actors, conversely unions and lawyers in multi-party cases have exerted a positive influence. This also demonstrates the incremental potential of the law in shifting normative values. In *Asda Stores Ltd v Brierley* [2021] claimants are challenging gendered disparities within their pay. Here several factors have been contested, though the legal battle continues. The case has already considered the question of whether pay rates achieved through collective bargaining for the well-organised male warehouse and distribution workers can be compared to the rates paid to the typically less organised female shop floor staff. In addition, the Supreme Court has held that while the comparator for the shop floor claimants does not work at the same physical location, the common terms requirement has been established. While conclusion of the matter is likely to be some years away, the ramifications of the case across a spectrum of retail organisations is significant. To date, around 44,000 claimants from Sainsburys, Co-op, Tesco, Morrisons and Next are part of the wider claim, with liabilities estimated at around £8 billion (Butler, 2021). This demonstrates the complexity of unpicking the notion of value when foundational inequities are so

ingrained. It also highlights the importance of considering the broad architecture of inequality and the interrelationship between institutional arrangements, meso level organisational structures, and the micro level norms and values that impact upon both.

Understanding this interaction and the potential for equal pay rules to become more embedded is relevant not just for this new era of private sector cases, but in the continued volume of them. In 2018/19, equal pay claims were the second most common to be lodged at tribunal (see Figure 6.1). While the prevalence of cases is, on the one hand, shocking some fifty years on from the EqPA70, the resurgence of the matter in recent years has inevitably assisted in the recognition and definition of some pay gaps as unequal pay.²⁷

²⁷ High profile cases, such as *Ahmed v BBC* [2020], have combined with the GPRR to help highlight the need for a more progressive approach to unequal pay.

Figure 6.1: Equal Pay cases lodged and disposed of at tribunal



Source: Ministry of Justice (2020)

Figure 6.1 shows the level of claim receipts and disposals. The consistently high level of cases that are withdrawn highlights a structural constraint of the legal system. The lack of relationship between cases lodged and then disposed of also demonstrates the time taken for any resolution. This again underlines the difficulty of simplifying and addressing the inaccessibility of equal pay provisions, as illustrated by the *Glasgow* cases and potential pending Dundee case (Livingston, 2021). The lack of visibility in how these matters are concluded and the tendency for this to occur, speaks volumes about the individualised processes associated with taking a case (Scott, 2019).²⁸

The impact of key actors is starkly highlighted by the reduction in claim numbers in 2013/14, reflecting the government's introduction of tribunal fees. Despite the supposed intention of the EqA2010 to make equality law more accessible, the

²⁸ The Fawcett Society set up an advice service in recognition of the costs and difficulties women face resolving equal pay disputes, though this does not support litigation <https://www.fawcettsociety.org.uk/equal-pay-advice-service> (Accessed: 19 May 2021).

introduction of this measure, as part of the government's austerity drive and reflecting architectural governance trends, had a hugely detrimental effect. It further reiterated the notion of equal pay as an individual concern, for which wider societal responsibility was not necessary or required. Yet, as Figure 6.1 and the case law discussion here and in Chapter 5 have shown, this is at odds with the experiences of claimants.

The graph also demonstrates how other key actors have refined their approach. Law firms have continued to independently but alongside trade unions, so a lack of union membership has not necessarily been a barrier in terms of accessing legal support. This has assisted the potential for multi-party actions for private sector claimants in large organisations with similar job roles, as per the retail example. Claimants from Asda are being represented by law firm Leigh Day alongside the GMB union's legal department (Prescott, 2021). Another case in point is the *Glasgow* local authority claim, where unions and no-win-no-fee lawyers worked collaboratively to represent claimants (BBC, 2019).

The importance of the role of organised labour was also highlighted by the implementation and subsequent reversal of tribunal fees. A judicial review case, brought by UNISON (*R (on the application of UNISON) v Lord Chancellor* [2017]), highlighted the discriminatory impact of the fees and led to the abolition of the measure. However, aside from this initial cost, the difficulties faced by claimants and the fundamental power imbalance in the system remain restrictive. This is highlighted

by the need for and use of crowdfunding campaigns to support individuals trying to assert their legal right to equal pay.²⁹

The capacity of the legal system to address gender pay inequity extends beyond the EqA2010 and so associated measures and their relationship to architectural limitations are now considered.

6.2 Looking beyond the Equality Act 2010

6.2.1 Potential transformations and restrictive foundations

In evaluating the current legislative space, the provisions that have developed surrounding the EqA2010 also demonstrate a transformative, proactive potential.

Analysis here focuses on the intersection of work and family life, how key actors reproduce foundational inequalities and the interrelationship of the broad architecture of inequality that surrounds them.

The effect of parenthood and childcare on GPGs is well understood and efforts to offset and allay detrimental effects have been implemented (Brynin, 2017: 9).³⁰ The tendency for women to take on the majority of childcare is inevitably impacted by legislative provision and the cultural landscape within which it operates. For instance, maternity leave had, at this point, developed without state support of any alternative (Datta Gupta, 2018). Explicit reference to this wider cultural landscape was debated in a number of cases around the time of the EqA2010's passing, highlighting this

²⁹ <https://www.crowdjustice.com/case/equalpayforall/> (Accessed: 19 May 2021).

³⁰ For instance, the maternity and parental leave regulations 1999 and maternity pay regulations of 1986 and 2005. Rules on less favourable treatment and dismissal related to pregnancy and maternity are included in the EqA2010.

contestation. Cases such as *Hacking and Paterson v Wilson* [2010], *Cooper v House of Fraser* [2012], and *Chandler v American Airlines* [2011] concerned restrictions on working hours and the impact on women as carers, ultimately helping to prompt development in the legislative space around the EqA2010.

Britain's regulatory response to the EU Directive on parental leave in 2010 was illustrative of the shifting and yet distinctive response of key actors within the existing legal framework in Britain. The Directive set out minimum requirements intended to help reconcile work and family life for men and women. The Shared Parental Leave (SPL) Regulations, subsequently enacted in 2014, unusually went further than the Directive mandate which did not require the leave to be paid.³¹ This represented a significant legislative development, potentially enabling men and women to share parenting, whilst recognising and attempting to accommodate the changing shape and needs of families. The shift in direction reflected increasing pressure for greater equality within government from the Women and Equalities Select Committee (2018) and from organisations such as the TUC (2015b), Fawcett Society (2018a) and Working Families (2018). However, its effectiveness is inherently limited. The mother is required to forgo her maternity leave and have employment status in order that parental leave be shared. In addition, the rate of pay once eligibility is established is low.³²

The SPL financial differential and entitlement for men and women has been contested.

Case law has questioned the level of pay men can receive, alongside concerns over the

³¹ EU Revised framework agreement on parental leave Directive (No.2010/18).

³² SPL is paid at the statutory rate of £145.18 or 90% of earnings, whichever is lower, whereas statutory maternity pay is paid at the statutory rate of £145.18, except during the first six weeks when it is paid at 90% of earnings, whichever is higher. The question of discrimination in case law has arisen as employers often offer enhanced maternity pay.

threat of levelling down and losing existing rights for women. The charity Working Families intervened in *Capita Customer Management Ltd v Ali* [2018], where the purpose of maternity leave (ML) was discussed.³³ The tribunal found that ML is for the health and wellbeing of the mother and so cannot be a comparator for SPL. This begins to highlight some of the binary gendered cultural boundaries associated with care and the persistence of foundational limitations. It also underlines the need for an approach to parenthood that recognises it as a shared endeavour. Consequently, the bound together entitlement of SPL, rather than providing a standalone addition to ML, reinforces the notion of the mother as primary carer.

Consideration of how SPL requirements operate within the broad architecture of inequality is a useful means to assess the reported 2% take up, demonstrating overlap in the value of the different theoretical approaches. Foundational inequalities and normative societal values concerning care are pervasive and operate alongside governance trends and the transparency barrier. To illustrate, the complexity of the Regulations, a lack of understanding, awareness and promotion within organisations, limitations over who can apply, and critically the question of pay, have been mooted to account for the low take up (Taylor, 2017; My Family Care, 2017; Women and Equalities Committee, 2018; BITC, 2018).

Despite the transformative proactive potential within the EqA2010 and associated legislation such as SPL, the resurgence of these areas of difficulty helps account for the

³³ The case of *Snell v Network rail* [2016] is also useful to consider. The case concerned the differential between shared parental pay compared to the enhanced maternity package that the company offered. While the tribunal found the two could not be compared, the company subsequently chose to level down their enhanced maternity package highlighting the need both for a cautionary approach and the intervention by Working Families in *Ali*.

slow-moving nature of the law. While the legal architecture has been extended, sociological aspects, such as cultural norms and values, limit its effectiveness. Within this context, the preference for voluntarist legislative approaches is now explored.

6.2.2 The development of combined approaches

The development of legal provision from Phase III to Phase IV indicated a greater proactive capacity. However, a key feature of this was an ongoing reluctance to proscribe and enforce change. The hope that business would embrace the equality agenda, through positive measures such as sharing of best practice, gave business the freedom to choose to act. This highlights the relevance of the broad architecture of inequality, as institutional arrangements were very much dependant on commitment to engage at the organisational level. This is now demonstrated by the variable success of the Women on Boards initiative and gender pay reporting (BIS, 2015; EHRC, 2018).

In 2011, the EU created a non-binding Resolution concerning corporate gender imbalance. This followed efforts, most notably by Britain, to block more prescriptive legislation and quotas (Guerrina and Masselot, 2018). The Resolution outlined steps that should be taken by Member States to address the imbalance, with a Directive to follow, should voluntary measures prove unsuccessful (Fagan and Rubery, 2017: 15; Guerrina and Masselot, 2018).³⁴ These EU developments prompted Britain's pursuance of measures in this regard, most notably the Lord Davies report (BEIS, 2011), establishing the Women on Boards initiative, and more recently the Hampton-

³⁴ The proposed Directive was to improve the gender balance among non-executive directors of companies listed on stock exchanges and related measures. This proposal was pursued after opposition, most notably from Britain, with regards to the prospect of quotas (Traynor and Goodley, 2012).

Alexander Review (BEIS, 2017). These combined voluntary approaches have targeted development and, to a degree, successfully mobilised a changing attitude in business. For example, the 2015 Lord Davies Report target of 25% women on FTSE 100 boards was achieved, though the updated Hampton-Alexander 33% target for 2020 has been less successful (BIS, 2015; BEIS, 2017; BEIS, 2020). This represents a degree of change in Britain, whereby the ambit of self-regulation has in some cases aligned the business case for equality with an element of corporate social responsibility (McLaughlin and Deakin, 2011: 1). The business benefits and reputational impacts of poor equality measures was flagged in Chapter 3 and is discussed further Chapter 7, with specific reference to the banking sector.

A much less successful attempt at voluntarism can be demonstrated by the ‘Think Act Report’ initiative, implemented in 2011. This required companies to think about gender equality issues in the workplace, take action to address and improve them, and report on progress. The section 78 pay reporting provision was not initially enacted, given the coalition government’s preference for a voluntary approach. ‘Think, Act, Report’ encouraged companies to publish their own pay data, highlighting the potential benefits of retaining and developing quality staff, the reputational effect of increased gender awareness and the opportunity publication would afford to promote good work. However, after three years only five companies had reported their GPG (Wintour, 2015). As such, the GPRR were brought into force, with the Equality and Human Rights Commission setting out compliance procedures since March 2018 (EHRC, 2018). The narrative accompanying the report is not specifically required. It can therefore be

perceived as a combination of voluntarist proactive principles, alongside a regulatory requirement for monitoring and compliance.

Analysis has demonstrated how key actors and restrictive trends within the architecture have impacted the scope, shape and implementation of legislative measures. The impact and relevance of wider societal reforms on the inequality that those provisions sought to address will now be considered. This underlines the importance of a multi-level understanding of how rights, organisations and societal norms interact.

6.2.3 Beyond the Equality Act 2010: Key actors and change

Key actors impact inequality by exerting influence in complex ways, both shifting the debate forwards and obstructing progress. Discussion here is focused on the impact of the financial crisis on legislative interventions. Pressures from political ideology arising from both the EU and Britain, business and the changing world of work, and the potential for various forms of collective resistance, have been and remain central features.

The financial crisis of 2007/08 prompted significant repercussions resulting in a deep recession, both within the UK and Europe, and the government's programme of austerity politics (Clarke et al., 2011; Taylor-Gooby, 2013: 3). The electorate had lost faith in the Labour Party's programme of spending, with blame attributed to their light-touch approach during their period in office and the resultant lack of financial regulation (Jackson, 2018; Diamond, 2013: 95). This vulnerable and uncertain economic climate resulted in the Labour government being replaced by a Conservative/ Liberal

Democrat coalition in 2010. The approach subsequently pursued impacted equality measures in several ways.

The preference for austerity as a means to address the government deficit saw state spending reduce at unprecedented levels (Taylor-Gooby, 2013: 7; Alston, 2018). Social protection systems were overhauled with the application of more stringent eligibility criteria, the freezing of some benefits, the introduction of a benefit cap, and pay freezes applied across the public sector (Albertyn et al., 2014; Macleavy, 2018; Lambie-Mumford and Green, 2017). To the disadvantage of a largely female workforce, public sectors, such as social care, were outsourced and subsequently outside the scope of local authority job evaluation and single status pay scales (Conley and Page, 2018: 800-1). Despite the adoption of GM, discussed in Chapter 5, and the commitment to pay 'due regard' to the need to advance equality of opportunity, as per the PSED requirements, changes were implemented without any reference to the inequality of impact they may have. It has since been widely noted that this package of measures led to increasing inequalities, felt most by women and those with 'intersecting disadvantages' (Durbin et al., 2017: 2; Sanders et al., 2019; Taylor-Gooby, 2013: 12; Rubery, 2015; Alston, 2018). Durbin et al. (2017) note the double disadvantage of austerity politics, given the limitations placed on mechanisms designed to promote equality that accompanied the cuts.

The impact of the political choices made in the aftermath of the financial crisis highlights how key actors in government shape the effectiveness of legal approaches to inequality. Despite the growing preference for reflexive legislation, demonstrated by GM and the PSED, the narrative of cutbacks and efficiencies to address the national

deficit served to deprioritise equality. There were no Equality Impact Assessments (EIAs) carried out on the programme of government cuts, the 'need' for austerity legitimised associated impacts (Conley and Page, 2018).

This shift in gender relations is further reiterated by the subsequent abolition of EIAs, part of David Cameron's intention to reduce unnecessary government bureaucracy (Pyper, 2018: 22). This was part of a series of measures, known as the 'Red Tape Challenge', introduced in April 2011. This demonstrates the vital nature of the relationship between law and society, not only in the introduction and application of legislative measures, but also the varied interpretation and abolition of them.

From May 2014, associated employment law reforms were also progressed, including: extending the qualifying period for unfair dismissal rights from one to two years; the introduction of tribunal fees as already flagged; and mandatory early conciliation (Dickens, 2014).³⁵ These measures were intended to give employers greater freedoms and reduce the burden and cost of tribunals (Pyper et al., 2017). These reforms illustrate how the 2007/8 economic crisis, and the approach pursued in its aftermath, shifted gender relations (Albertyn et al., 2014: 423).³⁶ Having legitimised cuts in spending as necessary, women bore a dual burden in terms of impact. Benefit reductions and the increased stringency of eligibility led to an increase in the unpaid care burden. This was accompanied by the shrinking public sector, in which a significant proportion of women work, putting largely female supported services beyond the remit

³⁵ As per the Unfair Dismissal and Statement of Reasons for Dismissal Order 2012, the Employment Appeal Tribunal Fees Order 2013 and the Employment Tribunals Regulations 2014.

³⁶ Enacted by the Deregulation Act 2015, intended to reduce 'red tape' during the 2010-2015 parliament.

of the PSED (Taylor-Gooby, 2013: 14 –16). Gender equality was not a key priority in this time of crisis, with policy development in Britain and Europe brought to a ‘quasi-halt’ (Massetot, 2015: 350). This ‘fair weather’ (Dickens, 2005: 189) approach to equality has again been demonstrated in the wake of the pandemic, given the decision to suspend enforcement of the GPRR.

The preference for light touch equality initiatives can be understood within this context, given the variability and capacity of other factors to diminish their importance. The blame for the financial crisis was partly attributed to the lack of diversity in the sector (see Chapters 3 and 7). As such, on the one hand, business can acknowledge the problem while retaining the ability to determine its own approaches, at the same time they can legitimately maintain the freedom to deprioritise efforts, should the ‘need’ arise. The restrictive effect of existing and embedded inequalities, a lack of transparency and this free market liberal approach re-legitimised the problem as efforts to counter it were positioned as ‘nice to have’ add-ons. The evidence shows how the ever-shifting role of key actors continually reconfigures inequalities in this way.

There has been a revived focus on GPGs that has underlined the importance and positive momentum of collective resistance in the drive for equality. Despite the declining remit of unions, a more positive contextual development can be identified, underlining the influence of social movements (Deakin et al., 2015). The #timesup and #metoo social media campaigns achieved a newfound willingness for a public narrative about the experience of harassment and abuse for women, challenging societal norms, values and behaviours. In turn, the timing of these social movements coincided with the implementation of the GPRR in Britain, and undoubtedly helped redouble their impact.

This can be seen by the furore surrounding the BBC's gender pay inequality, the Gracie and *Ahmed* equal pay disputes, and their subsequent target of a 0% pay gap by 2020 (Kentish, 2018).³⁷ However, a public forum for debate around victims of inequality is not a panacea and does not, of itself, signal meaningful change. What it has done is starkly highlight the multitude of ways that inequality pervades society and social interaction. This reiterates the historic lack of transparency surrounding the problem and the importance of openness.

The interactions between the combined elements in the broad architecture of inequality are central to understanding resistance and the potential for change. The organisational willingness to voluntarily publish reports this year may also be read in light of this. It seems the reputational impact of engagement with the problem is now operating beyond legislative compliance (see Chapter 7). The need for a sociological sensibility and cultural ideas about gender is paramount to understanding why progress to address the GPG is slow and stalled. Understanding these historic trends and current intransigence may also be useful in anticipating the trajectory of the GPG as we move towards Phase V.

6.3 The emergence of Phase V

The impact of the financial crisis, and the political and economic uncertainty in its aftermath, has been linked in this chapter to the de-prioritisation of gender and increasing levels of poverty and unemployment in Britain (Goodwin and Heath, 2016). As such, a changed governance model, resulting from Brexit, alongside the impact of

³⁷ It is worth noting that the furore was also no doubt fuelled by other areas of the media market.

shifts in the world of work and the potential effects of the pandemic, are now considered, with reference to how equality measures may evolve beyond Phase IV.

The UK's EU Referendum was held in June 2016 with 52% voting in favour of leaving the EU and 48% against, with a 72.2% turnout of voters (Hobolt, 2016). While gender was not a determining factor in voting trends, socio-economic factors such as class, education and generational distinctions were significant (Goodwin and Heath, 2016; Hobolt, 2016; O'Reilly et al., 2016). While there is no point speculating as to the nature of the changed picture that leaving the EU may afford, it is appropriate to acknowledge, given the spectre of shifting goalposts in Britain's equality landscape, that this will lead to a shift in gender relations (Macleavy, 2018: 1-2). Women, and women's issues were marginalised throughout the debate, from the Referendum campaign to the leave negotiations (Guerrina and Masselot, 2018). This deference to other apparently more important factors was underlined by the lack of women involved in the negotiation process. Given the model of the previous chapter, and the themes identified and continued in Phase IV, it is also worth recognising the potentially tenuous basis of legislative developments thus far. The implications of Brexit, in terms of lack of recourse to developments within the EU and the ECJ, suggest another re-conceptualisation of equality may be imminent. The pledged Employment Bill, to safeguard workers' rights post-Brexit, has been delayed (Partington, 2021), while pay transparency developments are already emerging from the EU (Wigand, 2021).³⁸

³⁸ The Queen's speech 2019 indicated the intention to pass the Employment Bill and, within it, to address the lack of clarity on protections for workers' rights in the European Union (Withdrawal Agreement) Act 2020.

Alongside these political shifts, the world of work has also undergone change. The growth of atypical working patterns in the 2000s underwent a sharp increase in the post-financial crisis period (Warhurst, 2016; Dorling, 2015; De Beer, 2012; Clarke and Cominetti, 2019). Britain's job market has witnessed an increase in precarious work, with a marked division between high skill high pay and low skill low pay roles, expected to continue and projected to exacerbate existing gaps (Lawrence, 2017; Caruso, 2018). Women occupy the majority of zero-hour and casual contracts in the UK and increasingly marked intersectional inequalities seem inevitable without interventions (Verdin and O'Reilly, 2020; O'Reilly, 2018; Meager, 2019; Mandl et al., 2015). The lack of security and benefits such as sick pay and holiday pay for non-standard workers highlight the inequities inherent within precarious work arrangements. This has been recognised by the government in the Taylor Review (Taylor, 2017), and with stark consequences emerging as a result of the pandemic (Paul, 2020; Wong, 2020; Hendy QC, 2020). Should this trend continue, as a result of the current economic downturn, existing inequalities already increasingly hidden will remain beyond the scope of governance (Verdin and O'Reilly, 2021). The 'deafening silence' from government in terms of any effort to address these issues has been noted (Partington, 2021).

While the importance of unions to address inequalities has been clearly demonstrated, the capacity to organise in these emerging labour markets is challenging (Deakin et al., 2015). However, the role of key actors asserting influence remains prevalent as emerging forms of organised labour demonstrate (Staton, 2020; Però, 2020). In addition, progressive development has been afforded by the courts in the absence of government action to reconsider legal categories of employment (*Pimlico Plumbers v*

Smith [2018], *Uber BV v Aslam* [2021]), and recognise the importance of intersectionality (*O'Reilly v BBC* [2010], *Hewage v Grampian Health Board* [2012]). As political and economic dynamics evolve, some legislative blind spots remain.

The most prescient of these challenges is undoubtedly the emergence of the pandemic since early 2020. Foundational inequalities have been brought to the fore. Entrenched gendered and intersectional inequalities in care have been highlighted as a result of school closures during the British national lockdowns (Summers, 2020). They have been visible for keyworkers and are reflected in the prominence of those more likely to work in shutdown sectors (Queisser et al., 2020; Gardiner, 2020). In addition, the response to the crisis and the absence of women has been noted, both globally and within Britain (Wenham and Herten-Crabb, 2021; Wenham, 2020; Norman, 2020; Fuhrman and Rhodes, 2020). This has led to the shaping of Britain's Covid response plans with a lack of women's experiences in mind. The subsequent and disproportionate impact of care demands on women's productivity and career development has been evidenced as a result (Kim and Patterson, 2020; Landivar et al., 2020; Oleschuk, 2020).

The trend that has been outlined, involving the repositioning of equality due to economic forces and the need to maintain competitiveness, has legitimised an institutional de-prioritisation of equality provisions. To illustrate, the burdensome nature of the GPRR was used as the rationale for withdrawing the compulsion to report in 2020. Despite the suspension of the requirement, there was an organisational willingness in the aftermath of the decision to publish anyway (see Chapter 7). The announcement of a six-month extension to the reporting deadline for 2020-21 again demonstrates a deference to the needs of business and equality as a secondary concern

(GEO, 2021). A renewed focus on and support for the needs of the economy post-pandemic is inevitable.

That said, there are voices within government supporting the increased need for gender equality measures in the current context (Fawcett Society, 2020). The visibility of these voices will be fundamental in shaping the next inevitable reconfiguration of the problem.

6.4 Conclusion

Gender pay inequity is a socially constructed problem. This analysis has shown how the conceptualisation, operationalisation and implications of legislative approaches have been shaped by key actors, restrictive foundations, and resurgent limitations. The pressures exerted by government both in Britain and the EU, the interests of business, the role of the judicial process, and collectivism in its various forms have been fundamental to both the development and scaling back of legal initiatives. This shows that the difficulties encountered and discussed in the early phases of the law's development (Chapter 5) are still apparent, albeit in refracted forms.

The legislative evolution, summarised in Table 6.2, depicts law as a site of both constriction and enablement.

Table 6.2: A periodised socio-legal analysis of the development of equality law, Phase IV

Cultural ideas about gender and equality	The law and legal discourse	National and industrial politics	The economy and labour market
Phase IV conceptualisation: 2010 – current Proactive potential Increased transparency, monitoring and compliance	Operationalised by: Equality Act 2010 (PSED, GPRR) Tribunal Fees National Living Wage 2016 SPL Implications and developments: <i>UNISON v Lord Chancellor</i> – tribunal fees abolished EU / ECJ developmental, but recourse due to be limited <i>Ahmed</i> and BBC equal pay cases Need to acknowledge more fluid definitions of gender Intersectionality in the courts <i>Bahl, O'Reilly</i> and <i>Hewage</i> Taylor Review and <i>Uber</i> and <i>Pimlico</i> cases in the courts	National politics: Coalition and Conservative Austerity Conservative landslide 'levelling up' Covid Industrial politics: Collectivism - new world of work/ precarity Lack of regulatory protections.	Resurgence of interest #timesup #metoo Expectations variable according to sector of employment Economic – sectoral pay secrecy / wide pay bandings / PRP

While the EqA2010 and associated measures were potentially transformative, much of this promise, with reference to gender pay inequity, has not materialised. It is perhaps more pertinent to think of the process of legal reasoning as gradually embedding normative values around equality, as well as accommodating those that are changing in society regardless of the machinations of the legal system. The institutional regulatory

and legal framework is slow-moving, incremental and inherently vulnerable to the push and pull of key actors and the foundational structures that continually reconfigure and legitimise inequities.

Phase IV is characterised by a deepened understanding of inequality in pay, yet it is limited by the seismic political and economic shifts discussed. This indicates the importance of understanding inequality as part of a broad architecture, which is central to this multi-level analysis incorporating interdisciplinary explanations. The restrictive trends that have been flagged are key points of contestation, visible with the application of each explanatory lens. To illustrate, beyond the legal boundary, the legislative framework can catalyse productive developments in the organisational sphere, as discussed in Chapters 3 and 7. The pay reporting requirement, of itself, is not transformative, although it has forced organisations to comply. It is what is done with the information that has the potential to be transformative. As organisations seek to understand their particular problems, through the accompanying narratives, they reassess the degree to which they embed the need to achieve pay equity. The need to add further transparency to the pay process, particularly in the private sector, and the contradictions that emerge when efforts at transparency are improved, reflect how embedded this architectural feature is. This is compounded by the preference for light touch governance in Britain, as described within each phase of development and illustrated by the public/ private sector differential and the growing trend for voluntarist approaches.

Despite the architectural features of transparency and governance, the dynamics are shifting. The increased recognition of the business benefits achieved through greater

diversity has become more central. Framing the eradication of the GPG as a business imperative, not merely a legal problem, has been ongoing in the diversity literature (Healy et al., 2011). The depth to this imperative and the added scrutiny that the GPRR provides is crucial. Widening the motivation and responsibility for addressing the problem is therefore an interesting development, echoing the work of Dobbin and Kalev (2016) and again demonstrating overlap in the different explanatory approaches.

However, the risks to the reformulation of the business imperative, greater pay transparency and a reframed gendered cultural template, are writ large by the pandemic. Alongside this a re-conceptualisation of equality seems imminent as the new world of work emerges and greater recognition of intersectionality is evident (see Table 6.3).

Table 6.3: A periodised socio-legal analysis of the development of equality law, Phase V

Cultural ideas about gender and equality	The law and legal discourse	National and industrial politics	The economy and labour market
Phase V conceptualisation: Intersectionality Reformulation of legal definition of worker Enhanced preference for voluntarist approaches	Yet to be operationalised	National politics: Brexit and Covid - women's voices marginalised Industrial politics: New forms of organised labour	Covid – homeworking, school closures, risk of reversal of gender gains Recession and high levels of unemployment Increasing levels of inequality Increasing use of technology and AI

The phased analysis has shown legislative approaches can tip into new models, according with the process of incremental layered change described by Streeck and Thelen (2005: 31). Within this context, a further reliance on voluntarist approaches seems likely, demonstrating how law and organisations can and often do catalyse each other (Streeck and Thelen, 2005: 19).

Given the number of moving parts within the architecture of inequality, innovations can become derailed at various points and so moving goalposts are inevitable and continuous. The organisational element of the architecture is again refined through normative values, with existing inequalities and occupational hierarchies informing the approaches sanctioned for use. The law is an integral part of this ongoing and ever-changing relationship. These conclusions inform the subsequent analyses as the thesis moves onto consider the GPRR and organisational aspects of the architecture in Chapter 7. The multidimensional vision that is ultimately achieved helps to envisage how these interactions seem poised to change and, in so doing, suggests where future pathways may be best positioned to assist change for the good.

7

Evaluating the impact of the Gender Pay Reporting Regulations

Chapter 7: Evaluating the impact of the Gender Pay Reporting Regulations

7. Introduction

This chapter presents the quantitative element of the research, utilising the largely untapped data generated by the Gender Pay Reporting Regulations (GPRR). It sets out to examine how the impact of regulation has affected firms' reporting behaviour. It also illustrates how the move from voluntary to compulsory reporting accounts for a change in the institutional architecture of inequality in Britain. Since the introduction of compulsory gender pay reporting in 2017 we can avail of three years-worth of comparable new data.³⁹ The GPRR operationalised a potentially transformative aspect of the Phase IV conceptualisation of equality. This chapter evaluates the regulatory requirement and the data that it has produced to reduce the gender pay gap (GPG).

The GPRR present both opportunities and limitations. By identifying the stark reality of reported figures, organisations can begin to understand them through the narrative accounts reporting the data and potentially strategically target approaches for change. The increased focus afforded to the finance sector's GPG seems to have prompted greater traction, though this is variable and the pace of decline remains slow (Healy and Ahamed, 2019). A diagnostic requirement in itself is not enough to remedy the problem and the effectiveness and scope of the GPRR requires amendment. As the initial shock of what organisations reported has subsided, coupled with the government's decision

³⁹ The 2019-2020 reporting year dataset is limited due to the Covid-19 outbreak and resultant decision to remove enforcement measures, two weeks prior to the deadline.

to suspend 2019/20 enforcement, a further challenge will be ensuring momentum at the current level of reporting is not diluted, nor lack of progress legitimised. Attention must be paid to ensure accountability for gender equality and the pursuit of it in the workplace is not merely perceived as a 'nice to have' add on.

First, the variable roles of the key actors who shaped the implementation of the GPRR are considered, building on themes discussed in Chapters 5 and 6. An overall review of the data is then given, detailing where progress has occurred and the need for sector-specific review. The evidence is used to critically assess the requirement, noting levels of compliance, and the impact and limitations of the architectural features of governance and transparency.

Second, a sample of banking organisations is constructed to compare the value and progress of reported variables, alongside those manually coded according to organisation type, nationality and age. The need for sectoral focus is clear as examination demonstrates the persistence of large GPGs within banking organisations. A review of the voluntarist accompanying narrative element of the GPRR is then given, demonstrating the common policy measures pursued alongside those routinely disregarded.

7.1 Gender Pay Gap Regulations 2017

7.1.1 Key actors and enactment

The alternative motivations driving the implementation of the GPRR in 2017 were varied and demonstrate the catalysing role of key actors in the evolving legal

framework. The role of government, business and the collective drive for change are described as central to the Regulations' introduction.

The EU was increasingly focussed on driving pay transparency among Member States. Following the limited take up of a European Commission recommendation in 2014, regarding pay audits, there was a growing inclination from Brussels to mandate quotas to address GPGs (Hofman et al., 2020).⁴⁰ There was a wide remit of measures in operation across Europe as some countries have implemented mandatory quotas with tough sanctions for non-compliance (Seierstad, 2011), while others have opted for more voluntary approaches (Arndt and Wrohlich, 2019). This has led critics to suggest that the GPRR were implemented in Britain to offset any mandatory requirement arising from the EU (Fagan and Rubery, 2017: 5). A general political reluctance to mandate change in this area was also evidenced in the resistance to implement quotas to increase women's representation on boards (BIS, 2015; Traynor and Goodley, 2012: 10). The increased use of voluntarism in Britain's legal framework, reflects the preference for light touch governance, as introduced and elaborated in Chapters 5 and 6 (Dickens, 2007; McLaughlin and Deakin, 2011; Milner, 2019; Conley, 2014). The resistance of key actors in business and government led to the section 78 pay reporting requirement in the Equality Act 2010 (EqA2010) remaining inactive for seven years, as the coalition government (2010-2015) failed to implement it during their time in government (GEO, 2015).

⁴⁰ A proposal for a Directive addressing various aspects of pay transparency was announced in March 2021 (Wigand, 2021).

That said, there was increasing recognition of the importance of diversity and inclusion amongst the business community. The CBI acknowledged the business benefits and importance of mandatory measurement to help drive necessary change (Milner, 2019; Fairbairn, 2018). McKinsey (2016) quantified the substantial economic benefits of enabling women's participation in the workforce, in their 'Power of Parity' report, flagging a potential increase of £150 billion to UK gross domestic product (GDP) by 2025. They propose unlocking this financial imperative by increasing the number of women who are economically active, increasing the number of hours they work and encouraging the employment of women in more productive sectors which usually have higher rates of pay.

A shifting political will was also emerging in the Conservative party. The Conservative 2015 manifesto commitment to implement the GPRR has been attributed to Cameron's low popularity amongst female voters (Milner, 2019: 128-9). The growth of cross-party feminist activism, across the three main political parties, generated support for a mandatory approach (Milner, 2019: 126-7). Prior to the 2015 election, Labour introduced a ten minute rule bill to address the failures of 'Think, Act, Report', that finally enacted the compulsory reporting recommended in section 78 of the EqA2010 (Perraudin, 2014). Ultimately Cameron (2015) pledged to,

Cast sunlight [on the gender pay gap] and create the pressure we need for change, driving women's wages up.

Increased and combined pressure from collective and political actors drove the implementation of the section 78 provision. The resulting Regulations are now explored.

7.1.2 The regulatory requirements and compliance

The Equality Act 2010 (Gender Pay Gap Information) Regulations were implemented in April 2017 for the first time. The detail and data required by the GPRR, enforcement mechanisms, compliance levels, and sectoral analysis trends are now examined to understand how they have contributed to reducing the GPG.

The Regulations oblige all private and voluntary sector employers in Britain, who employ 250 or more employees, to publish six calculations of their pay gaps. This includes: both the mean and median hourly GPG; the mean and median bonus pay gap; the proportion of men and women receiving bonus payments; and the proportion of men and women in each pay quartile (25% band). Companies have been required to publish information on the six variables on an annual basis since 2017. Employers should publish this data within twelve months of the relevant snapshot date, the date determined by whether they are public, private or voluntary sector organisations. This data is then publicly available on the government website.⁴¹ Employers can choose to provide an accompanying narrative, though they are not obliged to. Additional information can be included and employers with less than 250 employees can voluntarily report, should they so wish.

Measuring the mean or the median

The GPRR require the publication of two measures of central tendency, the median and the mean. The closer the mean and the median, the more symmetric the data.⁴² The

⁴¹ <https://gender-pay-gap.service.gov.uk/> (Accessed: 19 May 2021).

⁴² The pay distribution, particularly in finance, is highly skewed. This reflects the falling number of jobs as pay increases (as shown in the sample: 33.4% mean and 30.5% median GPG).

ONS and the Annual Survey of Hours and Earnings (ASHE) use the median in their GPG analyses. When data is not symmetrical this represents the middle point in the salary range, with half of staff earning more and half less. Outlying values have the potential to skew the average mean value, which is relevant for this research given the typical right-hand skew of earnings. The pay reporting data demonstrates that earnings do not follow a normal distribution.

In deciding which measure to use, there is clearly a debate within the choice (Scholar, 2009). While the ONS and ASHE prefer the median, the Institute for Economic Affairs objects to the use of the mean (Andrews, 2017). They suggest that, given women's prominence in part-time work and the fact that it is lower paid, an average of wages of all men and all women presents a misleading picture. Combined with the level of CEO pay, they assert this measure is inevitably skewed and, as such, misrepresentative.

The Fawcett Society, on the other hand, calculate its Equal Pay Day date using the mean gap data.⁴³ In addition, the EU and the UK Household Longitudinal Study (UKHLS) use the mean value in their analysis. The mean represents the average calculated by the sum of values, divided by the count. It is impacted by high earners and, as such, is more sensitive to extreme scores in its calculation of the average value (Olsen et al., 2018). The mean value, in this way, highlights the high paying practices found within the finance sector and lack of women in the most senior roles. Given the capacity of a small number of high earning outliers to impact the average value, this may also conceal progress occurring within the pay range.

⁴³ Equal Pay Day is a national campaign led by the Fawcett Society in the UK to highlight the point in the year at which women, on average, stop earning relative to men.

Using either the mean or the median reveals different aspects of the GPG, further reiterating the importance of acknowledging both figures. The analysis presented here uses the median value, the mid-point in the distribution; where there is reference to the mean values, this is to illustrate the high earning outliers which are common in the finance sector.

Enforcement and compliance

Enforcement action can be taken by the Equality and Human Rights Commission (EHRC) if employers have not complied by publishing their pay gaps by the deadline (EHRC, 2018). The question of non-compliance and enforcement was a matter of early criticism, with the government ‘failing to provide legal certainty as to the available enforcement mechanisms and sanctions for breaches’ (BEIS, 2018: 12; Milner, 2019). This process has now been clarified. The first stage involves a written request to comply, which, if unsuccessful, leads to the second stage of formal enforcement action involving a court order requiring the breach to be remedied, punishable by an unlimited fine (EHRC, 2019). Incomplete submissions are also subject to enforcement action.

However, it is unclear whether and how the validity of pay reports is being checked. The first two years of reporting saw some clear errors. For example, some companies reported statistically impossible gaps of over 100%. The ‘unwieldy enforcement mechanisms available to the EHRC’ suggest the need for a clearer, quicker resolution process (Francis-Devine and Pyper, 2020: 32).

It is estimated that the GPRR cover 56% of employees in Britain (BEIS, 2018: 13). The first year of reporting (2017-18) saw a surge of employers choosing to publish at the last

minute: 90% of eligible companies submitted in the last three months. This led to speculation that the tactic was intended to ‘bury the bad news’ (Wisniewska et al., 2018). Nevertheless, the level of compliance was much higher than anticipated with nine out of ten employers publishing their data by the first April deadline in 2018. Within four months of the deadline, outstanding reports had also been submitted, achieving 100% compliance in year one (GEO, 2018a; Hofman et al., 2020: 19). A written warning was a sufficient prompt, without the need for recourse to court action by the EHRC. Similarly, year two also achieved 100% compliance, with a slightly lower level of late reports (from 8% down to 3%). This indicates that by the second year, companies had set up their reporting systems more effectively to comply on time; however, levels of additional reporting declined slightly in later years. The tendency for employers to voluntarily report additional information saw a slight decline from 73% in year one, to 68% in year two, and then 69% in year three (see Table 7.1).

Table 7.1: Gender Pay reporting levels 2017-2020

Year	Group	Number	Late	Extra Info
2017-18	Full population	10560	846	7798
2018-19	Full population	10750	340	7351
2019-20	Full population	4962	0	3442

Source: <https://gender-pay-gap.service.gov.uk/>

This level of additional reporting may be evidence of employers attempting to ensure they are ready for any regulatory shift, given the enactment of the GPRR prompted consultation over ethnicity gap reporting (Adams et al., 2018). Given the publication of

the government's controversial race report suggests regulatory change is not likely, it will be interesting to see whether this level remains (CRED, 2021).

The government decision to suspend compulsory reporting in 2020, as a result of Covid-19, again highlights this tendency for organisational compliance. At the point of the announcement, there was up to ten days remaining until the reporting deadline (GEO, 2020a).⁴⁴ At this point, 26% of employers within the full population had reported, demonstrating a continued preference for late reporting. By the deadline, 46% had reported (see Table 7.1 for the figure at the point of the deadline, % based on the previous year's reporting total). The numbers of those reporting in the full population increased from 4962 on the deadline date, to 5997 as of January 2021. Given the government's decision to suspend enforcement, 2019-20 figures do not show any organisation as reporting late.

There is a marked difference in the reporting levels in the banking sample, suggesting that increased focus within the sector has helped achieve greater traction (Healy and Ahamed, 2019). At the point of the government announcement in March 2020, 48% of companies within the banking sample had already submitted their reports, increasing to 80% by the deadline. These figures certainly suggest a willingness to comply and potentially reflect the establishment of automated systems to assist this process.

Classifying organisations

Organisational pay reports are given a Standard Industrial Classification (SIC) code which identifies the organisation's business activity (see Appendix 7). This enables a sectoral

⁴⁴ Reporting deadlines and the 'snapshot' date are different for public sector organisations (31 March) and businesses and charities (5 April).

analysis of differences and trends within particular industries (see Figure 3.1).⁴⁵

Consistent with the ONS sectoral analysis of GPGs, based on the ASHE, the GPRR data finds gaps in finance and insurance industries are amongst the largest (Smith, 2019; Francis-Devine and Pyper, 2020). In addition to the gaps identified in Figure 3.1, the relatively even overall gender make-up of employees and the breadth of literature recognising the organisational explanations for the GPG in finance, prompted the selection of finance for case study analysis (see Chapter 3).

Having identified the compulsory elements and compliance with the GPRR, engagement with the voluntary aspect and a broad evaluation of the Regulations is now given.

7.1.3 Voluntarism and evaluating the effectiveness of the GPRR

The increasing preference for combined statutory and voluntary approaches in the law, flagged in Chapters 5 and 6, is reflected in the GPRR as the accompanying narrative is not a mandatory element. Analysis of the 2017/18 data shows 83% of companies chose to include one (Murray et al., 2019: 87), with 48% of organisations using it as an action plan (HoC, 2019a). Private sector companies have been slightly less likely to publish a narrative (81%) than the public (90%) and voluntary (92%) sectors (Murray et al., 2019: 24). This demonstrates how organisations vary within the confines of the same legal apparatus. This reflects the importance of governance as an architectural feature, in terms of choosing the degree to which legal requirements are mandated. Exposing the trends and organisational variability is useful to help understand both the barriers and

⁴⁵ The picture is not entirely accurate as some companies failed to input a SIC code or classified different parts of the business under different codes. This is of particular relevance to the finance industry where 570 employers failed to submit SIC code data, making reflective industry analysis unreliable (Treasury Committee, 2018: 34).

potential for change within the architecture of inequality. Understanding movement beyond the boundaries of legal requirement may help explain why disparities occur.

Within the narratives, there is inconsistency in the level of detail given. Organisations typically: define GPGs as distinct from unequal pay; refer to organisational and sectoral challenges; and outline how they have been addressing, or intend to address, the situation. Some companies have failed to provide one at all and/ or simply provide a link to their company website, where they reiterate what has been said in their report (i.e. Bank of China and RBS).

Some companies use the narrative to defend their position, attributing gaps to the wider social problem within their particular industry (i.e. Ryanair). At the other end of the spectrum, employers have used the narrative to provide clear, open and honest reports, with detail of their own organisational picture, the wider sectoral perspective, the initiatives they are pursuing and have pursued, and how these will be measured (i.e. Barclays and Department for Transport).

Some organisations have chosen to publish additional information, such as ethnicity gap details (i.e. RBS, Barclays and Nationwide Building Society). This highlights how some organisations are willing to go beyond the mandatory legislative aspect, marking the proactive potential that they retain.

The human resource profession has been propelled by the increasing drive for equality and diversity since the 1960s (Dobbin, 2009). This has been accompanied by a growing understanding of the business benefits and economic imperative to improve diversity and GPGs (Oswick and Noon, 2014; Healy et al., 2011). The sharpened focus on gender

pay inequity, as a result of the GPRR, further reiterated the need for commonplace best practice standards. For companies that have taken the time to publish meaningful narratives, they typically show an understanding of the complexities causing gender pay inequality, defining the organisational perception of the problem and the challenges of counteracting it. Without the narrative, the GPRR is simply an exercise in collating and publishing data. Understanding how organisations approach the voluntary aspects of the GPRR is therefore critical. This also demonstrates how the architecture of inequality helps to understand the movement between different theoretical explanations, and how within that, organisations retain the capacity to innovate.

The compliance levels described certainly suggest a degree of effectiveness of the GPRR. However, identification of regulatory limitations and the trajectory of GPG progress also indicates the confines of their success and whether this capacity to innovate has, in reality, occurred. Evaluation by a governmental select committee identified limits to the efficacy of the Regulations and prompted various recommendations to improve them (BEIS, 2018). These included: making the narrative mandatory; recognition that the bonus calculation needs to be pro-rata for part-time staff, as in its current format it potentially skews the data; the threshold for reporting to be reduced to fifty employees; further granularity from quartile to decile reporting; publication of full-time and part-time figures; and to recognise and prompt action on other markers of inequality, such as disability and race reporting. While a consultation was undertaken regarding race reporting, all recommendations have, thus far, been rejected by government (CRED, 2021; HoC, 2019a).

Despite the purpose of the GPRR legitimising these recommendations, the reluctance shown by government demonstrates ambivalence. The need for greater transparency has again been de-prioritised given the burdensome nature of these suggested amendments and an ongoing deference to the needs of business. The financial and moral imperatives for change are seemingly less important than the perceived costs of mandating more rigorous and stringent legislative requirements.

Feedback from those that have submitted reports has shown that 24% increased their prioritisation of gender pay inequality as a result of the GPRR. This rose to 43% for those with gaps over 20% (Murray et al., 2019: 5). Despite the limitations described above, this demonstrates that the organisational application of the requirement has improved awareness of the issue and highlights the potential of the GPRR. The incremental development of the law has prompted a wider dynamism in the architecture, as demonstrated by this meso level impact.

Policies to bring about change

The Government Equality Office (GEO) has provided an assessment of organisational actions that can be taken to reduce GPGs (GEO, 2019a; GEO, 2018b; GEO, 2019b). Its guidance on typical policies describes a range of commonly used measures: those deemed 'effective', such as women on shortlists and salary negotiation with transparent ranges; those deemed 'promising', including workplace flexibility, mentoring and sponsorship; those with 'mixed results', including unconscious bias training and diverse selection panels. This developing understanding of what is considered best practice in

targeting the problem underlines the positive impact of compulsory reporting and the role of accompanying narratives in this process.

The translation and practical application of these recommendations highlights the importance of considering the GPRR within the organisational context. Choices made within the workplace may follow sectoral best practice path dependent norms, but there is also potential for change (Streeck and Thelen, 2005). However, analysis of reporting data demonstrates that increased awareness of the problem does not necessarily correlate to success in reducing inequities. The GPRR are, first and foremost, a monitoring and diagnostic tool. The proactive potential within them requires further activation at the firm level. The key focus for organisations has been compliance with the Regulations and explaining or justifying reports. Comparisons over time will ultimately indicate whether measurement and publication are both prompting action and delivering results. This is likely to operate in divergent ways across different industries, as priorities and actions vary as different sectors take up the challenge to varying degrees. This echoes the themes, discussed in Chapters 5 and 6, concerning the variability of legal requirements, such as the private/ public sector differential. Understanding these trends and this interaction is vital and requires the sector-specific focus that is now pursued.

7.2 Sector-specific analysis

7.2.1 The sample dataset

The 2007/08 financial crisis exposed the gender inequality within the finance industry, prompting the implementation of measures to address the lack of senior women

(Metcalf, 2009; EHRC, 2009). Healy and Ahamed (2019) considered how the sector has approached gender pay inequality since the crisis, using Labour Force Survey data. They found a greater reduction within financial services GPGs than in the wider population. Their research also highlighted greater degrees of reticence in certain parts of the industry with increasing gaps at the top of the wage spectrum; this reticence was picked up in the interviews and is discussed in subsequent chapters. The reluctance within certain parts of the sector underlines the importance of understanding the sectoral variation of GPGs. This analysis explores some of Britain's largest pay gaps and the variety of ways that vision on gender pay inequity is impeded by creating a sample of banking organisations. The organisational variables of type, organisation's country of origin and age are outlined, and the limitations arising from banking ringfencing requirements and the reporting measures themselves are noted.⁴⁶

Anomalies in definition and SIC code usage challenge the potential to construct a comprehensive and accurate list of all types of finance organisation. For example, Mizuho Bank, Macquarie Bank, Coventry Building Society, Leeds Building Society, Yorkshire Building society and Nationwide Building Society did not input a SIC code number. Lloyds Bank plc and HBOS (Lloyds subsidiary) defined themselves under SIC code 70100 'Activities of head offices', a category that included numerous companies not deemed relevant to this research. This prompted the adoption of a more limited approach and smaller sample of representative organisations for review (Benson et al.,

⁴⁶ Ringfencing requires large banking organisations to separate their core retail banking services from investment and international banking services. The requirement was introduced from 1 January 2019, as a result of the financial crisis, in order to offset the risks arising from large highly leveraged organisations.

2018). The decision to have a smaller more accurate dataset was further reinforced by the errors in reporting identified in the interrogation of the full dataset.

To construct the sample, all organisations listed under Bank and Building Society SIC codes were selected. For the benefit of comparative analysis, manual additions were then made to ensure Britain's big four banks were represented and additional categories reflecting key organisation types were included with a minimum of four in each category. This comprised of: global banks based in Britain, the US, Asia and Europe; asset management firms and private banks; currency firms and payment cards; and challenger banks.

Finally, additions were made to ensure the organisations employing staff interviewed (Chapters 8-10) were also included (see Chapter 4 for full sample selection process). One of the employers from the interviewee set did not report, as they fell below the 250-employee reporting threshold. Interestingly, this organisation was a hedge fund; these typically have a smaller number of employees yet are known to provide some of the largest reward packages in the industry. Further to the GPRR limitations already discussed, this again highlights the multiplicity of ways that vision on the problem is constrained.

A number of challenger banks have emerged since the 2007/08 financial crisis. They are typically smaller organisations focussed on retail banking; some are entirely online organisations with no physical branches, while others maintain a high-street presence. The sample includes internet only challenger banks Atom, Starling and Monzo, alongside Metro Bank, that also has a high street presence. As new organisations, they

do not have historic GPGs to contend with. However, despite women's prominence in retail banking, given the tech focus of the challenger bank sample, women's lack of representation in this field may also negatively impact their pay gaps (see Chapter 3).

The importance of cultural factors and normative values prompted the inclusion of firms with headquarters in the US, Asia and across Europe. This adds a further dimension to enable the exploration of cultural difference between organisations.

Having created the dataset, age categories for the respective organisations were added.

The majority of the sample was established pre-twentieth century. The Equal Pay Act 1970 (EqPA70) denoted the first legal requirement to systematically recognise and address pay inequalities; as such, reference is made to organisations operating either prior to or after this point. A further delineation marks the start of the financial crisis in 2007/08. When determining an organisation's age, various mergers (i.e. Santander), name changes (i.e. Cynergy Bank), or operations in new markets (i.e. Mizuho) have been disregarded. Age has been ascribed according to the creation of the financial group.

Pay reporting data from the selected organisations provides an opportunity to see how GPGs have changed since the Regulations were introduced. As per Healy and Ahamed's analysis (2019), consideration is given to how the finance sector trajectory compares to the overall population GPG. Direct comparison with ONS figures is not possible as there is a tendency for gender pay reports to show lower industry gaps than ONS longitudinal data. This is due to the ONS inclusion of employers with less than 250 employees, where GPGs tend to be higher (Colebrook et al., 2018). Consideration is given to any

commonalities and difference in the organisational variables: type; country of origin; and age, with reference to pay, bonus gaps and quartile information.

A further complicating factor to note is the impact of ringfencing requirements, implemented in the wake of the 2007/08 financial crisis (see Chapter 3). For instance, with reference to HSBC, they now report the retail and commercial part of their business (which includes around 21,000 employees), as HSBC UK, while the global banking and markets part of the business (which includes around 2,000 employees) is reported as HSBC Bank Plc. Within their narratives, they provide the aggregate UK-wide detail, but in terms of the reported data, it is important to understand the difference, given the impact this will have on the organisation type variable. They note in their report that their global and market-based operation, while significantly smaller, has higher rates of pay and more men in senior roles than the other parts of the business. This is reflected in the figures. A similar situation is apparent with Barclays, Lloyds, RBS and others. This demonstrates a contradiction of transparency, as the effect of organisations fissuring their operations in this way obstructs the potential to compare year on year progress (Weil, 2014).

While smaller organisations are typically thought to have larger GPGs, the organisation size detail reported in the GPRR is not explored further in this research. This is due to the size of the sample, the impact of ringfencing requirements separating organisational entities, and, as many of the organisation's reporting are large global firms, their main employee base may be located elsewhere.

The reporting measures themselves, as discussed above, also limit the capacity to make inferences about the population and sample sector. The variability and potential bias involved in bonus calculation, as discussed during interviews, means that bonus gaps could potentially illustrate bias and discrimination. Additionally, the prominence of women in part-time roles, particularly within the branch network, skews this data as bonus figures are not pro-rata for part-timers. Further, the lack of granularity in quartile reporting does not enable a focused analysis on women's seniority and areas of progress or retrogression. The devil is very much in the detail, which is now addressed.

7.2.2 What the data shows

Analysis of the GPRR data shows the shockingly large pay inequities and variability within the banking sample, illustrated in the graphs below. There is a broad trend for higher pay gaps to be associated with higher bonus gaps. GPG reductions from reporting year one to three are apparent, albeit marginal (Figures 7.2a to 7.2b). This demonstrates the continued need for sectoral and organisational focus on the persistent and stark problem. The data is used here to help highlight the way inequalities move and to better understand why efforts to address the GPG remain slow and stalled. In order to do this, errors within the data are first acknowledged, pay gaps, bonus gaps, and quartile movement and progress are then considered, before finally the added variables of organisation type and age are assessed.

Figure 7.2a: Reported pay gaps and bonus gaps within the banking sample for 2017/18

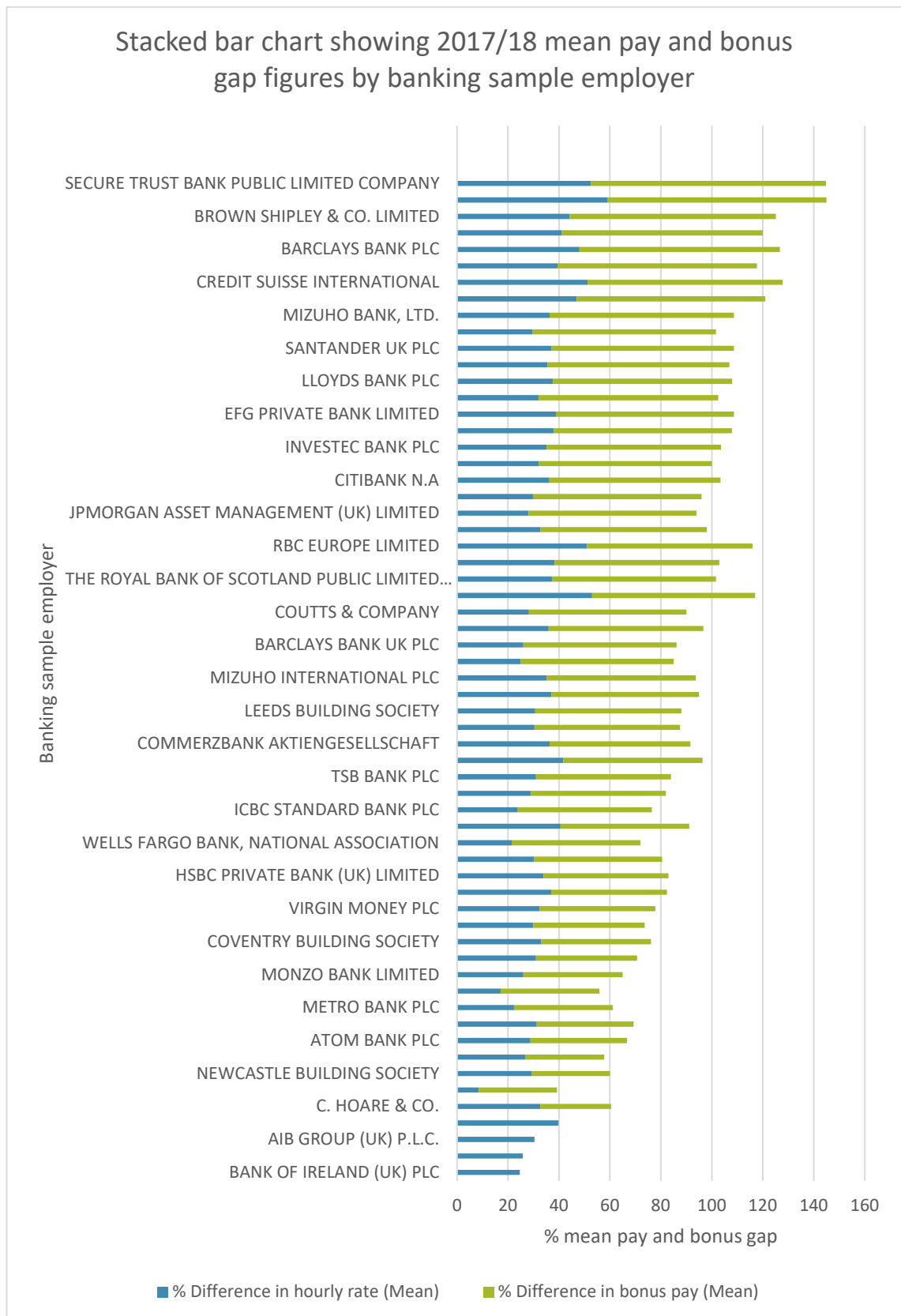
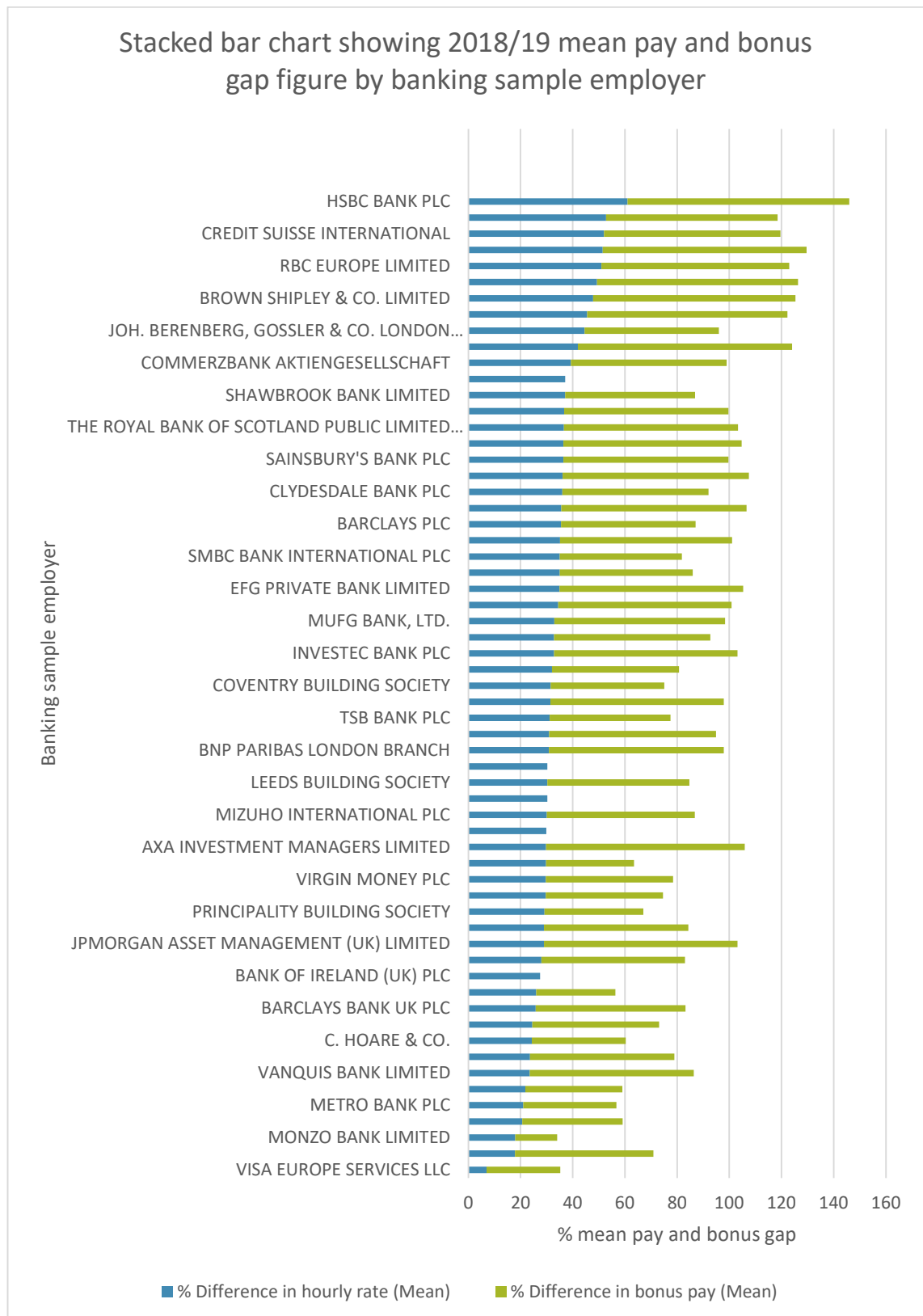


Figure 7.2b: Reported pay gaps and bonus gaps within the banking sample for 2018/19



Source: <https://gender-pay-gap.service.gov.uk/> (a full list of sample companies is provided in Appendix 8).

Firstly, the errors within the data need to be acknowledged. Figures for the full dataset show anomalies with reference to the GPG and quartile information (Table 7.3). Some organisations have reported impossible GPGs of more than 100% or less than -100%. However, this appears to have occurred in a relatively small number of reports (less than 10). Significantly more organisations have reported minus numbers in their quartile information, which is also not possible (if there are no women or men in a particular quartile, a zero should be entered). However, these anomalies only occurred in the upper low and lower quartile figures, and only in 2017-18 and 2018-19. Pay reports from 2019-20 do not appear to be affected and so may be relied upon more.

The bonus gap information for the whole population also appears to have errors, which will have inflated the mean and median figures. While there are no minus entries, there are again anomalies as organisations appear to have mis-entered information. These will act to inflate the percentages. These factors underline the importance of the methodological rationale for using a small sample to assess the banking sector.

Table 7.3: Comparison of reported data in the full population and banking sample

	Full Population			Sample		
Reporting year	2017-18	2018-19	2019-20	2017-18	2018-19	2019-20
Number in group	10561	10816	4962	62	62	45
Pay Gap median	11.8%	11.9%	12.8%	32.6%	31.4%	30.5%
mean	14.3%	14.2%	13.9%	34.6%	33.3%	33.4%
Bonus Gap median	39.1%	39.7%	34.4%	46.1%	39.7%	44%
mean	45.1%	45.6%	35.5%	54.8%	51.9%	50.5%
Women in top quartile	33.9%	34.4%	41.7%	27.1%	27.4%	28.9%
Women in upper-mid quartile	35.4%	35.7%	47.4%	41.2%	42.2%	43.6%
Women in lower-mid quartile	-21.8%	-1%	52%	54.2%	53.5%	56%
Women in low quartile	7.7%	18.4%	56.4%	62.2%	62%	62.5%

Source: <https://gender-pay-gap.service.gov.uk/>

Pay gaps

The pay reports for the entire dataset show that the median GPG is rising and the mean is shrinking, although movement either way is limited (Table 7.3). This highlights the relevance of which measure is being considered.

The increasing median gap in the full population may reflect disparities within sectors. For instance, women's prominence in the public sector may help explain this tendency. Following a two-year pay freeze, announced in 2010, there was a 1% pay cap in place until 2017, given the coalition and Conservative governments' policy preference for austerity to offset the national deficit. Since then pay increases have been below inflation, and below those in the private sector (Pyper et al., 2018). In addition, the ONS recognises an overall trend for wage growth above inflation, but within that, highlights disparities within sectors (Smith, 2020a).

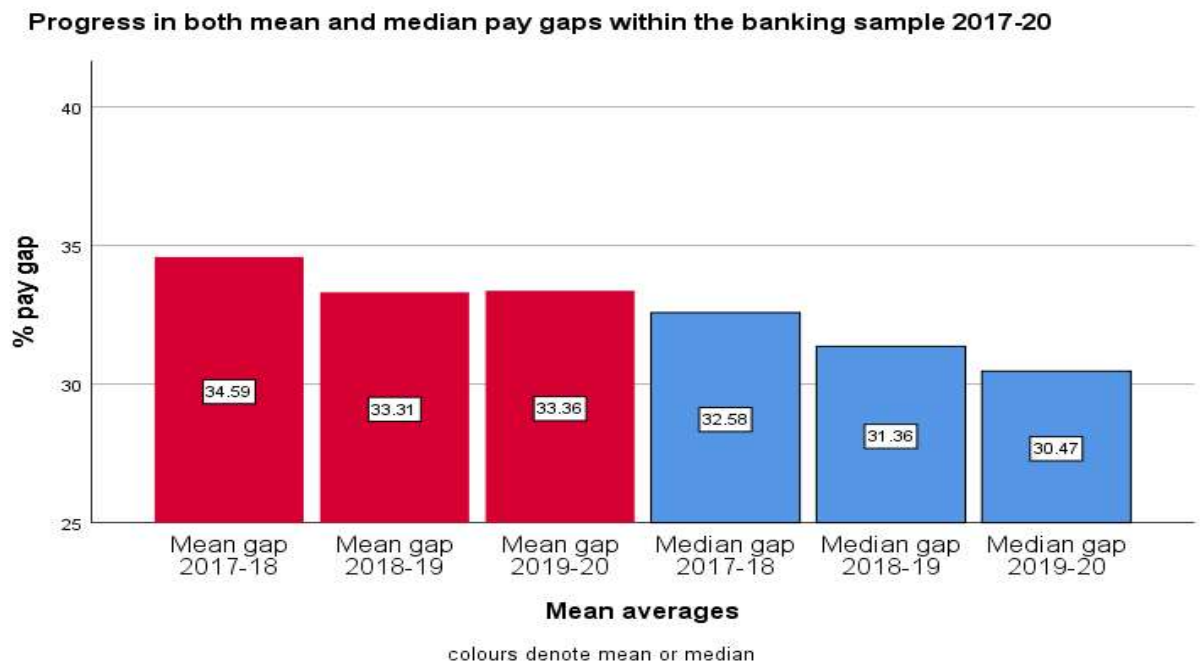
The declining mean pay gap may be partially representative of the declining number of low paid jobs. According to the ONS, this fell to 16.2% in 2019, the lowest since the reporting series began in 1997. This also corresponds with National Minimum Wage (NMW) and National Living Wage (NLW) increases, which have seen the earnings of the lowest centiles grow on average over 4%. The ONS highlight that there has been no change in the proportion of high paid jobs, but the hourly pay for the 5% highest earning full-time employee jobs grew by less than the average (1.8%) (Smith, 2019). The Institute of Employment Studies reports that there has been above average wage growth for the bottom third of earners as a result of NLW increases (Wilson et al., 2020: 8). That said, these figures may not be entirely representative of low earners on atypical

contracts. However, given they may also not be covered by reporting requirements, this aspect of the low paid economy can be disregarded in this conclusion. This does reiterate the need for more transparent approaches to understand intersectional difference in various work formations.

Comparatively, Table 7.3 shows that the banking sample performs worse on each stand-alone measure of gender pay reporting than the whole population (bearing in mind the anomalies outlined above). While the banking sample is relatively small, this reflects the trends highlighted by the post 2007/08 financial crisis analysis of the sector, the themes that were discussed during interview, and concurs with the think tank New Financials' analysis (Benson et al., 2018; Treasury Committee, 2010). Understanding how organisations respond to existing inequalities and their different approaches to governance and transparency is essential in understanding and addressing the gaping inequalities within the sector.

Within the banking sample the median GPG has declined each year (Figure 7.4).

Figure 7.4: Comparison of average mean and median pay gap progress 2017-2020



Source: <https://gender-pay-gap.service.gov.uk/>

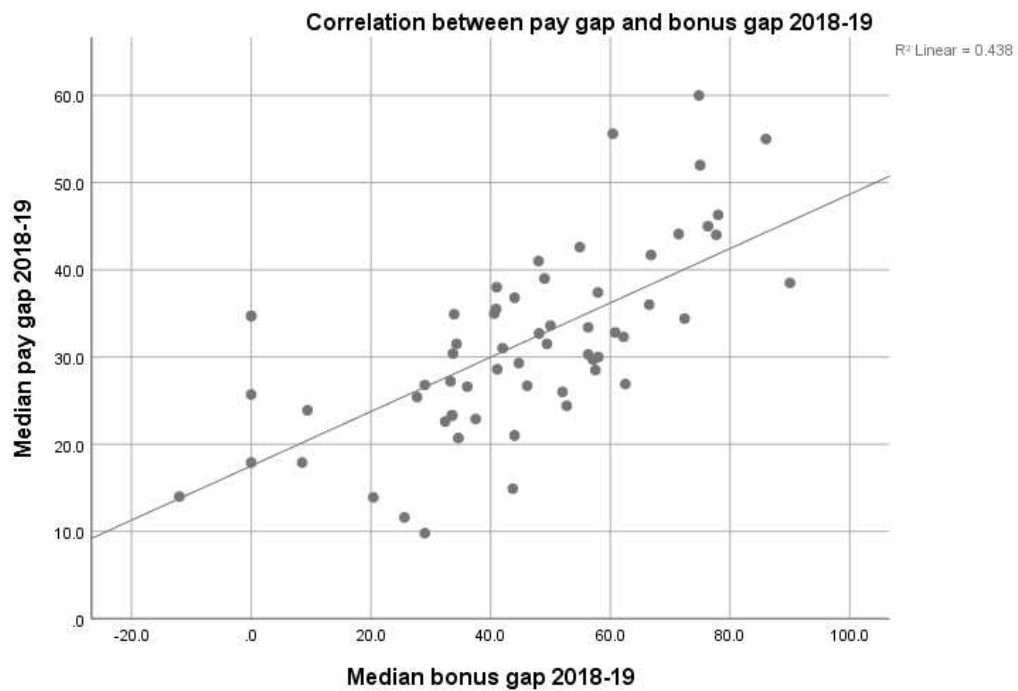
The mean measure declined in 2017-18 and 2018-19 but saw a slight increase in 2019-20. Given the relative values, the mean wage gap has the potential to inflate quicker than the median. The impact of large salaries at the top of the income scale has the potential to eradicate progress within the pay range. The improvement in the median gap may reflect the efforts being made to advance women's representation in more senior roles.

Bonus gaps

A central feature of an employee's pay package in the banking sector is bonuses. The importance of the bonus culture in terms of pay inequities is well established in the literature (Treasury Committee, 2018; EHRC, 2009; Gall, 2017; Benson et al., 2018). Despite the limitation of the measure itself, not recognising the impact of part-time

workers, there is still a clear relationship between the pay gap and the bonus gap. As the pay gap increases, the bonus gap increases (see Figure 7.5).

Figure 7.5: Correlation between the pay gap and bonus gap 2018-19



Source: <https://gender-pay-gap.service.gov.uk/>

When conducting the analysis for 2018-19, one organisation with a negative bonus gap and three organisations that do not pay bonuses were identified. In addition, a -278 median bonus gap for the Co-operative Bank, was removed from the data. They reported this figure as 65 in 2017-18, and 47 in 2019-20, so it appears to have been an error in the 2019-20 data.

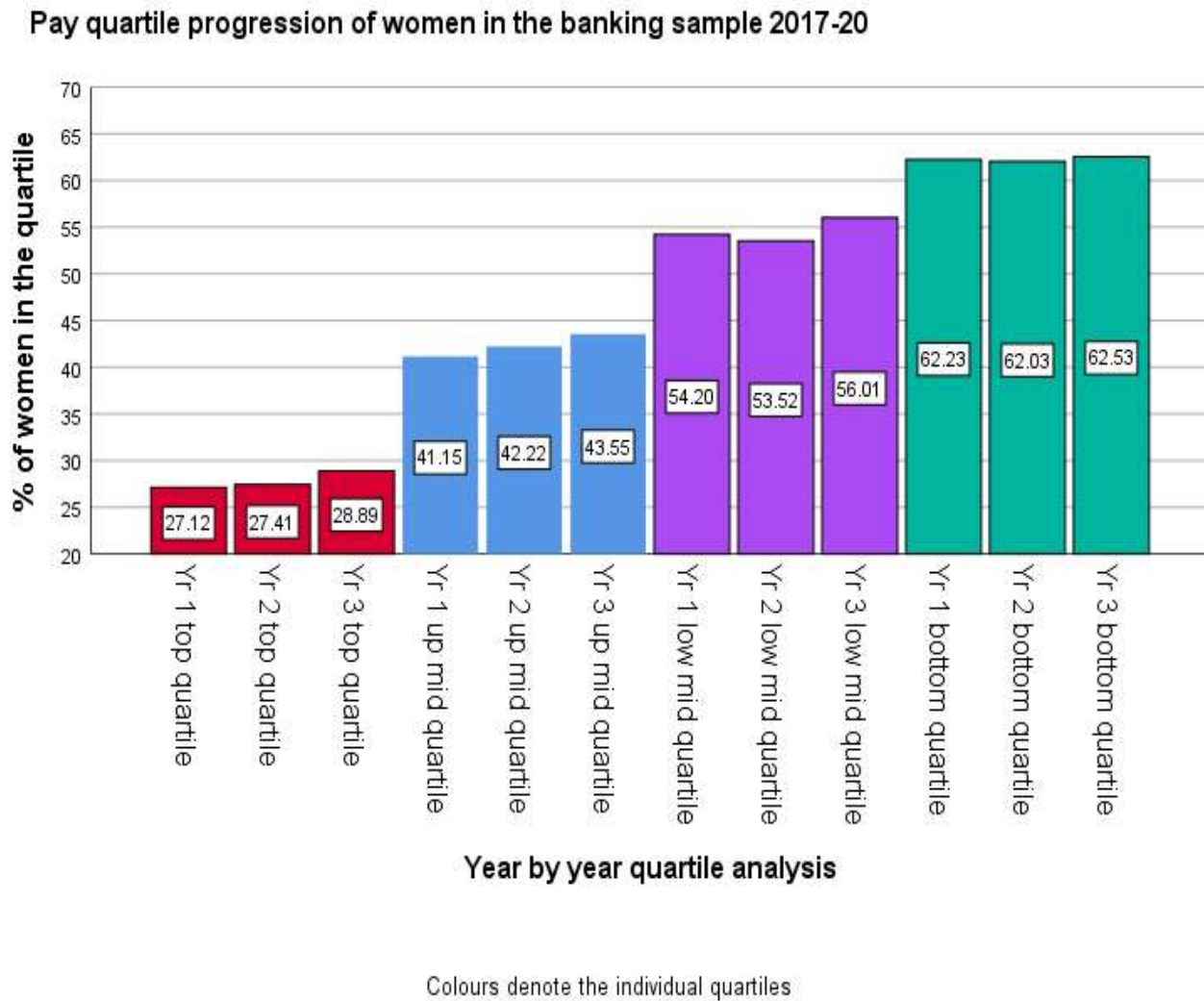
The payment of bonuses is a largely hidden process (see Chapter 8) which, as evidenced by the data, exacerbates pay inequalities. Yet, there is a limited mention by banking organisations of the impact of bonuses, despite the size of the gaps. This is all the more

confounding given the entirely discretionary nature of how these payments are awarded and the strict secrecy associated with them. This illustrates one of the contradictions within which organisational approaches towards pay secrecy reside. Normalcy is afforded to this complete lack of transparency despite the potential for bias inherent within their calculation. It is therefore useful to reflect on this in relation to how the architecture of inequality is remodelled and adapted in the light of regulatory change and organisational processes. Gender pay inequality is both exacerbated and legitimised by: the lack of take-up of the BEIS (2018) recommendation to understand the impact of part-time staff on the bonus gap calculation; the disregard shown to bonus gaps in narratives as a result of this discrepancy; and the values awarded and associated with certain higher revenue generating and highly gendered occupations.

Pay quartiles

Occupational segregation in the banking sector is described as a defining feature of pay inequity (see narrative analysis and Chapter 3). Women's employment in the top two quartiles has increased year on year in the banking sample (Figure 7.6).

Figure 7.6: Banking sample pay quartile progression



Source: <https://gender-pay-gap.service.gov.uk/>

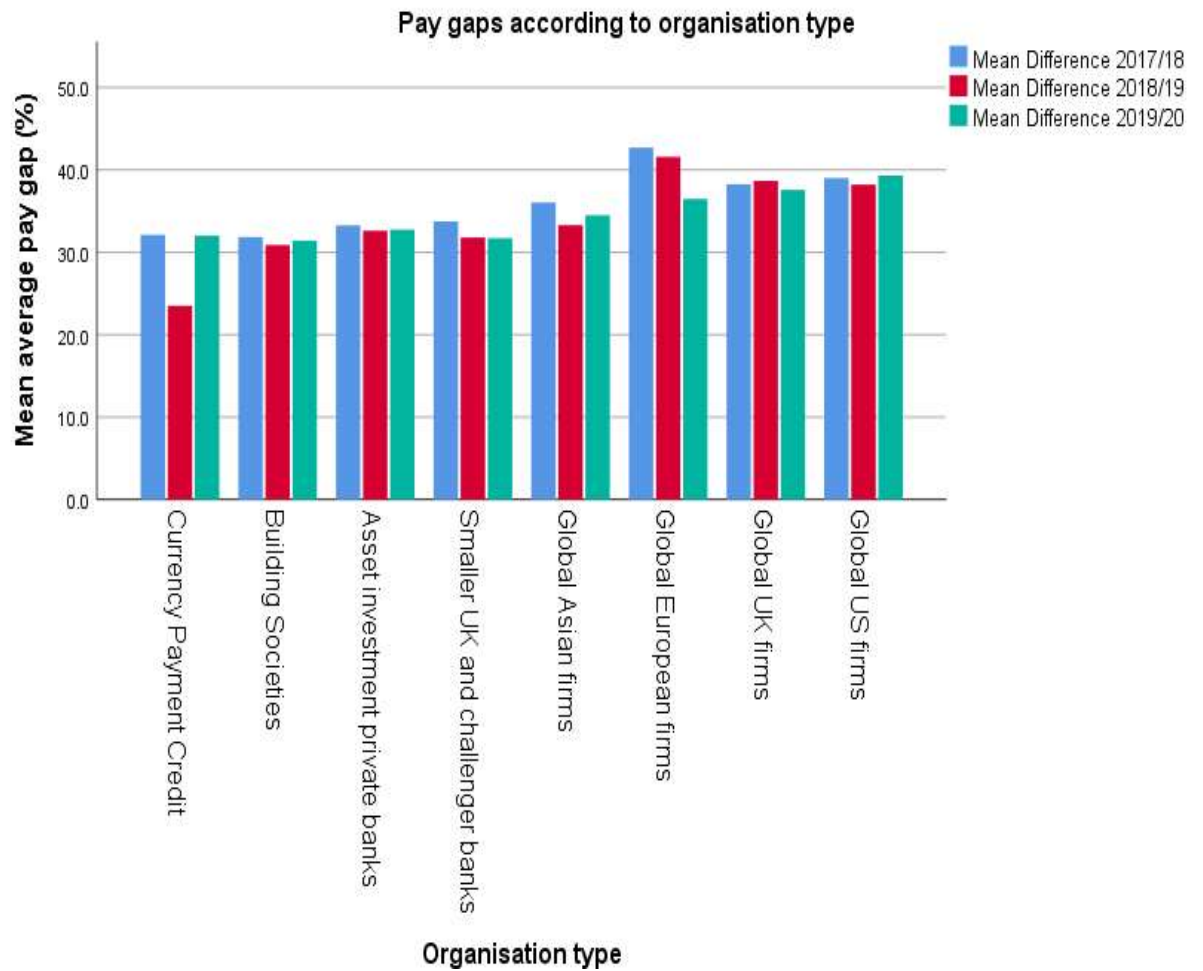
A bivariate correlation test showed there is a statistically significant relationship between this and the median GPG. This correlation occurs to a statistically significant level (at 0.05) for both the top and upper-mid quartiles. There is a significant inverse relationship between these variables. As the pay gap increases, women's representation at the top and upper-mid quartiles decreases to a significant degree, for all three reporting years. This suggests there is enough evidence to imply a relationship between

these two variables in the wider banking and finance sector. This reiterates the importance of organisations focusing on the promotion of women to more senior roles, statistically, for fairness, and ultimately to improve in terms of gender pay inequality. That said, increases have been small and the limitation of lack of granularity in the quartile measure is clear. A resistance to further transparency here also speaks volumes in terms of the existing inequalities and power imbalance that efforts are trying to address.

Organisation type

The banking sample analysed here contains a number of different organisation types. Comparison of gaps according to organisational type shows that currency, payment and credit firms have significantly lower gaps (Figure 7.7). Analysis of building societies shows that there is more consistency across the group and both the range and size of reported gaps is smaller. This reflects again reflects the more limited services they provide. They do not engage in the trading and global aspects of the business, typically associated with higher GPGs. The prominence of larger global banks at the higher end of the scale reflects the wide remit of operations they are engaged in, including those associated with higher pay.

Figure 7.7: Mean average of median pay gaps by organisation type and reporting year



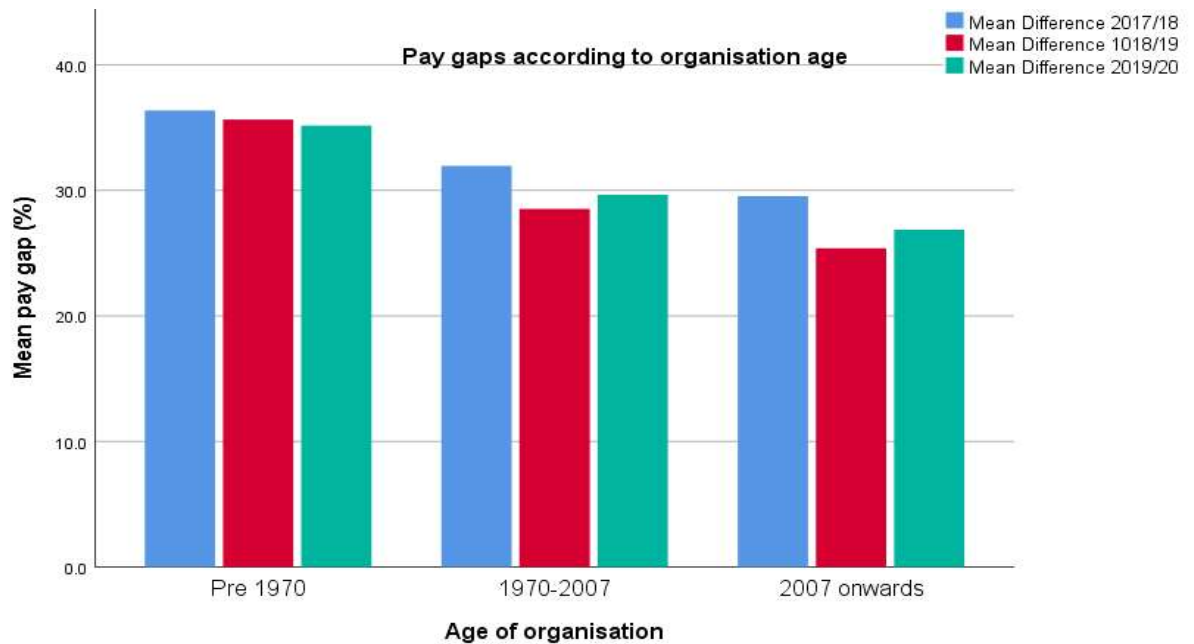
Source: <https://gender-pay-gap.service.gov.uk/> with additional variable of organisation type

An Anova test was conducted to see whether there was any association between pay gaps and organisation type. While differences can be seen graphically (see Figure 7.7), these trends were not found to be statistically significant, perhaps reflecting the small size of the groups. This assessment is supported by Benson et al. (2018), whose analysis of the whole banking sector showed clear organisation type trends.

Organisation age

An assessment of GPGs, with reference to the organisation's age, shows a trend for smaller gaps in newer organisations (Figure 7.8).⁴⁷

Figure 7.8: Pay gaps according to organisation age by reporting year



Source: <https://gender-pay-gap.service.gov.uk/> with additional variable of organisation age

The post 2007/08 financial crisis category comprises organisations that have emerged since the focus on gender inequalities within the sector arose. This incorporates newer challenger banks. However, the limited number of organisations within the sample and

⁴⁷ Mean pay gaps have been used here given the impact of a particularly higher median gap figure for Starling Bank, which despite its size, voluntarily reported. In 2017-18 it reported a significantly higher median gap compared to its mean gap. This reflects the organisations quartile make-up. Unusually for the sector, and undoubtedly reflected in its decision to voluntarily report, Starling has a female CEO. However, it also has significantly higher percentages of men in the top two quartiles. This somewhat anomalous figure concealed the trend within the wider group and so the decision to show the mean was made accordingly.

indeed across the sector that fit within the category is small ($n=6$). This inevitably impacts the ability to find statistically significant results. It is also of note that the organisations that fit into this category are UK banks. As per the organisation type analysis, the services they provide are limited and do not operate in parts of the business associated with higher pay and larger gaps. Unfortunately, the impact of ringfencing requirements and the operation of global firms with different arms of the business operating under different trading names mean that an analysis of organisation size does not offer any additional insights on this theme.

With reference to age, it is perhaps more surprising that organisations that have emerged since 2007 have pay gaps of 25%+. They do not have historic inequalities to remedy yet find themselves drawn into pay practices associated with the sector. As discussed at interview, the pressure to match or better salaries at the point of recruitment means that organisations may inherit pay anomalies, unless systems are robust enough to counter this tendency (see Chapter 8).

These findings underline the importance of the architecture of inequality model. The institutional framework was well established and understood when these firms were created. Nevertheless, the limitations to its utility are evident. The potential that organisational practices, norms and values add to pay inequities is central to understanding their occurrence in this context, demonstrating the continued importance of the work of Acker (2006, 2009, 2012), and sociological explanations (see Chapter 2). Combined with the pay and bonus gaps, quartile segregation and indications of organisation type relevance, the centrality of approaches pursued at firm level in determining unequal outcomes is clear. Exploration of the efforts that organisations

choose to address inequities, and importantly those they do not, is therefore highly relevant. Analysis helps to understand why gaps persist or vary between organisations, despite working within the same legal statutory compliance framework.

7.2.3 Accompanying narrative analysis

Monitoring and understanding the causes of gender pay inequality and the myriad of ways that it operates are key to changing it. The reflections and actions that accompany pay reports are therefore critical. As such, the raw presentation of reported gaps is further enhanced here by an analysis of organisational priorities. A systematic review of the accompanying narratives of companies in the dataset examined demonstrates areas of focus and the level of ambition amongst organisations with reference to this voluntary aspect. Later Chapters (8-10) then review the lived reality of these initiatives based on employees working for them.

The analysis here categorises the initiatives described in the narratives, according to the GEO (2018b) review of evidence-based actions for employers, which defines their outcomes as effective, promising or giving mixed results. More open approaches are typically referenced as effective actions. This seems logical given increased vision on the problem lends itself to an increased capacity to address it.

The range and frequency of approaches pursued by organisations is outlined in Table 7.9.

Table 7.9: Analysis of approaches referenced in accompanying narratives

Evidential category						
Effective actions	Shortlists	Skill-based assessment	Structured interviews	Salary ranges and encourage negotiation	Transparency of pay / reward/ promotion	Diversity managers / diversity task force
Referenced by	27	4	3	4	4	27

Promising actions	Flexible working	SPL – enhance, guide, encourage	Returner programme	Internal targets	Networking	Mentoring / sponsorship
Referenced by	35	22	14	43	34	29

Mixed results	Unconscious bias training	Diversity training	Leadership training	Diverse selection panels	Performance self-assessment
Referenced by	17	10	26	22	None

Source: author's own analysis based on reports of GEO suggested initiatives in accompanying narratives

(GEO, 2018b)

The most common description within the narratives asserts the company position that their GPG does not reflect unequal pay. It is from this starting point that organisational practices are described. The most common initiatives are the targeting of change in terms of gender balance within the organisational quartiles. Nearly all organisations referenced commitments to the Women in Finance Charter (WiFC) and internal targets to address the lack of women in senior roles. This accords with the major theme of the narratives that GPGs are the result of the lack of women in senior roles and concurs with the correlation of quartile progression and pay gap reduction described above.

The respective targets organisations then set reflect the varying degrees of ambition within them and the varied positions they are starting from. Some organisations do not explicitly state goals in their reports.⁴⁸ Some had been met with years to spare.⁴⁹ Some are limited in ambition, while others are striving for full parity at senior levels.⁵⁰ What does appear consistent is that even when objectives are set, there has not been, as yet, significant movement to meet them. This suggests that subscribing to these policies and targets is perhaps more important than meeting them (see Chapter 10) (Hoque and Noon, 2004; Healy et al., 2011).

There is also variation in what defines the target population. This corresponds with interviewee reflections on the utility of WiFC targets, their comparability and the ability for organisations to shape them. The impact of voluntarist self-determined approaches

⁴⁸ Skipton Building Society only signed the WiFC in December 2018 and did not divulge target details in their narrative.

⁴⁹ Aldermore met their 30% target two years early, yet they did not update it and in 2019/20, fell back below it.

⁵⁰ RBC Europe and Brown Shipley and Co had set their target at 25% by 2020. At the other end of the scale, some firms are targeting full parity in senior roles or management populations, though timescales vary: Santander by 2021, currently at 38%; TSB 45-55% target, initially set for 2020 but has since been pushed back to 2025; and Coutts 30% by end of 2020, full parity by 2030.

to governance are determined by organisational ambition and interest and in this way, limited.

The second most commonly referenced approaches were workplace flexibility measures and networking opportunities. This growing organisational commitment to allowing and enabling flexible working, alongside a focus on trying to support relationship building, was noted during interviews. The foundational limitation of existing inequalities means developments here are critical, yet Covid has shown how their application is also vulnerable to these embedded inequities. Understanding how flexibilities and networks may impact career development and the variability of provisions within organisations again requires greater transparency, a theme picked up in more sociological explanations for the intransigence of reducing the GPG.

The prominence of actions, such as unconscious bias and diversity training, are less apparent in more recent narratives.⁵¹ This progression seems to highlight the positive impact of the GEO review, which suggested that these actions deliver mixed results (Dobbin and Kalev, 2016; Bohnet, 2016). It also reflects the development of trends in anti-discrimination strategies (see Chapter 3) (Oswick and Noon, 2014; Healy et al., 2011). While some organisations have removed older narratives from their websites, preferring to just publish the most recent ones, others still display all the narratives.

Correspondingly in more recent narratives there seems to be a growing prominence of returner programmes and the increased promotion and enhancement of Shared

⁵¹ Leeds Building Society referenced unconscious bias training in earlier reports, but it is removed in the 2019-20 report.

Parental Leave (SPL), which are both deemed promising.⁵² The importance of these developments was reiterated by interviewees. These trends also indicate the sharing of good practice across the sector in the equality and diversity space. This demonstrates the isomorphism between organisations, discussed with reference to institutional theory in Chapter 2 (DiMaggio and Powell, 1983). There is a similarity in the approaches firms pursue, demonstrating the importance of firm-based policy development to address equality requirements (Dobbin, 2009). This also illustrates the concept of layered change, as the incremental development of alternative approaches is gradually accepted over time (Streeck and Thelen, 2005: 19).

These reflections are interesting given the actions that the GEO deem effective. While shortlists and diversity managers are clearly amongst the most popular effective approaches, the other initiatives are strikingly less so. This may, in part, reflect the lack of specificity within narratives and the resultant difficulty in identifying these kinds of measures within them. However, it does also suggest a resistance and lack of willingness to address the question of transparency around pay, reward and promotion, a theme consistently described during interviews. The inability to identify salary bandings inevitably impacts on pay outcomes, particularly if gendered approaches to negotiation ring true, as suggested by more sociological explanations (Rubery and Grimshaw, 2015; Bohnet, 2016: 70-1; Acker, 1991). This stymies the ability of individuals to make equal pay claims, and also restricts the ability to assess whether organisational assertions around the lack of unequal pay are indeed true. The organisational

⁵² Schroder's narrative outlines its efforts challenging gender stereotypes around parenthood. Mizuho references their enhanced SPL package.

inclination to reject the imperative of greater transparency is detrimental and yet robust (Fawcett Society, 2020).

Efforts to enhance legislative approaches to pay secrecy, given the ineffectiveness of measures contained in the EqA2010, are also faced with these combined and resistant countertendencies (Chapter 6) (Fawcett Society, 2020). Yet, reluctance in this area is in stark contrast to the pay and bonus gap data findings described above. Understanding the intersection and contestation within and between institutional and organisational aspects of the broad architecture, helps flag this fundamental lack of transparency as a key limitation. The combined analysis also suggests that the architectural barrier of transparency is conversely one of the most accessible and tangible means with which to target change. This analysis highlights the importance of focusing efforts on this aspect of the phenomenon, but also expecting the counterbalancing reaction of some key actors who will invariably resist.

Chapters 8-10 assess the lived experience of the initiatives described, to help evaluate these findings. The capacity of individuals within the workplace to limit access to policies or interpret conditionality, both overtly and covertly, inevitably impacts the scope and uptake of organisational efforts and will be explored. The thematic insights garnered from both previous and subsequent chapters are, in this way, woven into this stratified mixed methods approach helping to construct the architecture model.

7.3 Conclusions

This chapter has examined the large GPGs within finance through analysis of the application of the GPRR at the organisational level. The level of reduction in reported

pay gaps is greater within the banking sample than in the full population, confirming the trend identified by Healy and Ahamed (2019). This variability highlights the importance of understanding the interrelationship of theoretical explanations and the utility of the architecture of inequality model. The slow positive change that has been critically evaluated demonstrates how architectural development and extension can prompt change and the potential for improvement located in the organisational dimension. Conclusions are also drawn concerning the contradictions of transparency, as improved visibility has shown the obstacles that transpire at the organisational level, the policy blind spots that have emerged through accompanying narrative analysis, and the limitations of the GPRR and governance trends.

The effectiveness of reports as a diagnostic tool has demonstrated that identification of the detail can certainly be used as a means to recognise inequities and target change. However, this is limited at the organisational level by factors such as pay and reward policies, and normative values and behaviours. This is evidenced through the bonus gap analysis and organisation type trends discussed in this chapter. Reports of equality fatigue in certain parts of the sector, resulting in the increased visibility of organisations less willing to address the problem, support this finding (Makortoff, 2019; PWC, 2019; HoC, 2019b; Sheerin and Garavan, 2021). The research has, in this way, demonstrated how, while remaining compliant with the GPRR, various points in the strategic pipeline can impede vision on the problem and disrupt efforts at progress.

A second central theme relates to the accompanying narratives. The terminology itself suggests an element of storytelling, distance and a predetermined course of events. The banking narratives generally reflect this in their assertion that pay gaps are outside their

control (Murray et al., 2019: 49). While the limited effect of policy to target change seemingly supports this, the increased improvement within the sector, as opposed to the wider population, suggests otherwise. As such, an alternative conclusion is that organisational efforts are not ambitious or far reaching enough. The failure to include key issues, such as pay transparency, quite obviously central to understanding and targeting pay differentials, speaks volumes. The notable absence of focus on pay and reward systems, as indicated by the narrative analysis, despite the GEO evidence-based assessment as effective, is as illuminating as it is concerning (GEO, 2018b). Greater transparency is needed (BEIS, 2018). Without full visibility of the problem, the capacity to eradicate it is invariably limited. The multiple ways vision on the problem is constrained reiterate the themes discussed in the legal analysis and more sociological explanations.

A final conclusion concerns the architectural feature of governance, the role of key actors in government and what is next for the GPRR. It is encouraging that despite the 2019-20 government suspension of enforcement, companies chose to still report. This suggests either a genuine commitment to reporting or that systems have been set up for compliance.⁵³ However, the suspension itself reflects the trend to de-prioritise gender equality measures by key political actors, also observed in the aftermath of the 2007/08 financial crisis (Guerrina and Masselot, 2018: 327). The requirement itself is not new; companies had a year to prepare reports and systems were in place, yet suspension instead of a temporary delay was deemed necessary. Within this context the

⁵³ 4962 companies had reported by the deadline. By 25/1/21 the total reports submitted for 2019-20 stood at 5976.

effect of Brexit and the lack of compulsion to keep up with emerging EU requirements, are also concerning (Wigand, 2021). The adoption of recommended changes, or additional efforts to address the lack of transparency are unlikely, despite the financial imperatives for change (BEIS, 2018; HoC, 2019a; McKinsey, 2016). While the reintroduction of the requirement for the 2020-21 reporting window is encouraging, the decision to offer a six-month grace period underlines the positioning of equality measures as peripheral (GEO, 2021). This evidence suggests that path altering dynamics are more likely to occur at the organisational level.

What remains clear from this and previous chapters is that both institutional regulations and organisational responses contribute to the way the architecture of inequality is structured beyond its initial foundations, how it changes over time through statute and how organisations respond to these regulatory changes beyond levels of compliance. Approaches to gender pay inequity are affected by the foundational principles of addressing gender inequalities in Britain, how these principles have changed with the passage of legislation, and how organisations have taken these up with varying levels of engagement. This chapter has shown how the phenomenon of the GPG persists and evolves, as emerging firms in tech finance with large gaps have clearly demonstrated (see Chapter 3). Within this context organisations can still act in a decisive and influential way and retain the capacity to change. To make that more of a reality the challenge will be moving away from the language of lack of control over gaps, to confront the contradictions of transparency, fix the repositioning of equality as a business imperative and utilise the control mechanism of pay.

Examination of women's micro level experiences of both legal and organisational approaches is now given, focussing first on the topic of pay in Chapter 8.

8

Remuneration practices and unequal pay

Chapter 8: Remuneration practices and unequal pay

8. Introduction

This micro-level phase of the analysis interrogates the semi-structured interviews carried out with those working in and around the finance sector. As described in Chapter 4, interviewees were drawn from a range of organisations alongside some trade union participants. The empirical data from qualitative interviews is used here to examine gender pay inequity in the workplace and the efficacy of efforts designed to offset it. This addresses the core research questions of this thesis with reference to: how legal entitlements translate into a practical understanding and knowledge of rights; whether rights and institutional structures are accessible to workers; the factors relevant to accessibility; and how regulatory requirements are experienced in the context of the finance sector.

In the following series of chapters (8-10) the interview data is examined. The analysis is structured according to the topics that women working in the finance sector discussed during interviews (see Table 4.1). Each chapter focusses on specific subjects, starting here with the most significant for participants, pay. Exploring how pay policies and equal pay provisions are understood demonstrates the practical effects of pay secrecy and wide pay bandings. Participants described a disconnect with legal entitlements arising from a lack of knowledge, difficulties of access and organisational norms. This analysis reveals the practical effect of a broad lack of transparency around pay highlighting the need for greater openness.

First, the pay and bonus systems interviewees described are examined with reference to annual uplifts and the discretionary nature of reward. The capacity for individuals to negotiate pay is considered with reference to out-of-cycle increases and job change. This reveals how impenetrable organisational pay systems are and exposes gendered differentials in how women position themselves with regard to pay.

Second, the capacity for interviewees to challenge disparities is assessed in terms of their knowledge of equal pay requirements and initiatives intended to support the drive for equal pay. What is evident from this analysis is how the law is obscured by organisational practices, such as hidden pay systems and the bonus culture, which dilute the strength of legislation seeking to redress gender pay inequity. While organisations are obliged to comply with statutory regulatory requirements, the architectural features of transparency and light touch governance demonstrate how organisational practices, norms and power relations can obfuscate and retard the original intentions of the lawmakers. The contradictions of transparency are evident.

To draw together the analysis employees' experiences are considered with reference to the theoretical explanations, described in Chapter 2, with a particular focus on institutional explanations. Interviewees give voice to interesting dynamics in the impact effectiveness of key aspects of legislation at the micro level. What is evident is how despite improved institutional approaches to transparency, the normalisation of GPGs, the fear of repercussions and the individualised approach to pay setting, remain limiting.

8.1 Remuneration systems and the capacity to negotiate

Wage determination and pay policy ascribes value to the work men and women do (Rubery et al., 2005). Performance related pay (PRP) systems are typically applied across the finance sector (see Chapter 3) (Gall, 2017: 14). Large pay bandings and hidden pay and reward systems can mask and legitimise gendered valuations, as is well documented (Koskinen Sandberg, 2017; Gall, 2017: 203; EHRC, 2009; Madden, 2012; Rubery and Grimshaw, 2015). The lack of transparency around pay, beyond the pay reporting requirements, is a significant feature of the banking sector's approach to remuneration. This is despite the Government Equalities Office designating greater transparency an 'effective' action to combat pay inequity (see Chapter 7) (GEO, 2018b). Participant experiences of pay policy, which we turn to now, highlight the impact of broad discretion in the awarding of pay and expose the lived realities of the organisational blind spot surrounding remuneration.

8.1.1 Hidden pay systems, wide bandings and bonus

Organisational pay and reward practices are central to understanding gender pay gaps (GPGs) within organisations. Interviewees described their perceptions of and interactions with the pay systems used in their respective firms. The overriding criticism they consistently flagged was the lack of transparency in these hidden approaches. This is now explored with reference to annual uplifts and wide pay bandings.

The communication of annual pay rises highlights how organisational approaches can undermine the law. Participants described the notifications they receive outlining uplifts which are accompanied by explicit instructions or implied expectations to keep the

information confidential (Sophie, Sue, Yasmine, Belinda, Jade, Nia, Alice, Krista and Kaye).⁵⁴ Alice (senior in global UK bank) said, ‘the letter clearly states, “you’re not allowed to discuss this with your colleagues.”’ Yasmine (mid-level in global UK bank) noted, ‘we’re very very actively discouraged from talking about it.’ Some participants went on to suggest that any such discussions would potentially be disciplinary offences:

I’ve heard it’s a disciplinary offence to discuss your salary package ... you would be seriously reprimanded if you did (Sue mid-level in global UK bank).

While it’s not necessarily a disciplinary event if you did [discuss your pay], you know it could be used as a reason to have a disciplinary event (Claire senior in global UK bank).

These organisational expectations and the employee response to them, act as a barrier to the right to request pay details, as discussed later in the chapter with reference to section 77 EqA2010. Meaningful conversations about pay, performance, and grading are, in this way, restricted. This organisational control is further underlined by the wider cultural norm that renders discussions around pay taboo, conflicting with the macro level statutory right.

Banking sector approaches to pay are further resistant to challenge, given the voluntary and limited remit of collective agreements and the PRP system itself. Union participants described the way that organisational approaches and negotiations concerning PRP work (Roy trade union organiser in the sector and Faye cashier and trade union rep) .

The annual pay uplift is agreed according to a bell curve approach, which requires pay

⁵⁴ Interview participants were ascribed a pseudonym, as shown here. A full breakdown of pseudonyms, and their associated characteristics of age, family status and nationality is given in Appendix 6.

review outcomes to fit the pay pot. This 'highly subjective' system pre-designates how many satisfactory, good and outstanding performance reviews there should be (Roy trade union organiser in the sector). If managers have too many 'good' ratings, they need to recalibrate to achieve the required amount.

Participants talked about their experience of this subjectivity, citing instances of receiving 'excellent' performance ratings, yet limited pay increases. Jacqui (mid-level in global UK bank) noted the variable approach of managers when faced with ratings that do not add up. Val (mid-level in global Asian bank) described how the process does not operate like a 'meritocracy' and is laden with bias. Union representatives explained how their capacity to address the issue is limited. Collective bargaining agreements typically cover pay negotiations to agree the pay pot, up to mid-level grades. The way this is then distributed is beyond their remit.

Participants frequently described a complete lack of understanding of the pay systems. Sue (mid-level in global UK bank) acknowledged,

Our organisation has no transparency with regards to pay scales, so I couldn't find anywhere what the minimum would be for someone at my grade.

Being uninformed in this way led to feelings of frustration for employees, echoing the costs of pay secrecy, described by Colella et al. (2007). Alice (senior in global UK bank) described the vagaries resulting from large pay bandings.

We need to be more transparent in terms of our pay within pay grades. Rather than have a pay range within a certain role, you can have a range

and be more transparent about what that is, what that means. There's no point in publishing the bracket, it's so huge no-one knows what it means.

The frustrations articulated by participants extended beyond annual uplifts and pay scales, to include all aspects of reward. The mechanisms that calculate and award bonuses were described as even more opaque. Heavily dependent on who your manager is, responses were typified by comments such as, 'it's not an exact science... it's very secret squirrel' (Sophie senior in global UK bank).

Interviewees revealed practices such as bonuses that stay with you even after leaving high-income generating roles. Nia (senior in global UK bank) described the bonuses a couple of her male colleagues, who had previously worked in high income generating trading roles, were still receiving. Despite now occupying roles in her team, they continue to receive comparatively high bonus payments associated with their previous roles. Her relatively low bonus figure and the inequality arising from these ongoing disproportionate payments was organisationally normalised. Historic pay differentials are, in this way, preserved and a disconnect between current performance and pay is legitimised. This demonstrates the practical application of Acker's inequality regimes (2006).

The allocation of pay and bonus is subject to management discretion, laden with potential for bias and defined as variable and uncertain. Participants described how the secrecy surrounding pay bandings and bonus restricted their capacity to position their expectations and negotiate uplifts, which we turn to now.

8.1.2 Out-of-cycle increases and negotiation strategies

The degree to which negotiation of pay is possible is also shrouded in secrecy. The uncertainty in pay bandings was described as enabling other factors to come into play as participants raised interesting observations about out-of-cycle pay increases and their perceptions of negotiation strategies.

Tali (mid-level in global UK bank) described her experience of fighting to achieve an out-of-cycle pay increase to remedy her low pay. She was later told she would not receive her annual pay review, again rendering her pay below the market-rate. The relationship between the legal entitlement to equal pay and organisational approaches to pay rates demonstrates the tension between theoretical explanations.

Those with experience of either managing others, or from an HR/ trade union perspective, noted how men are more likely than women to request out-of-cycle pay increases. Interviewees described how, in their experience, men were more confident than women about taking the risk of asking; they will shout the loudest and more commonly seek out uplifts driven by external job offers (Kate, Jean, Moira, Sally and Kaye). Sally and Sophie (both senior in global UK banks) conveyed their experience of awarding out-of-cycle increases to women in their teams, having realised their pay was too low. The women concerned did not drive the increases themselves, indeed they may not have known of the disparity. More broadly these interviewees acknowledged the well-documented trait that women do not negotiate as well as men (Blau and Kahn, 2017; Colebrook et al., 2018). Correspondingly, Tali (mid-level in global UK) suggested that she would like more support in how to negotiate. This reflects the theme in the

literature that men are more confident in these situations (Niederle and Vesterlund, 2007).

HR respondents were also aware of these gendered differentials (Kate senior HR in global UK bank and Jean mid-level HR in building society). They described how they were in the process of looking into the impacts of out-of-cycle pay awards for men and women. The intention of their analysis was to inform the construction of organisational policy in an attempt to offset these gendered effects, supporting the work of Dobbin (2009). If higher rewards are partly achieved by shouting the loudest in asking, reducing the ambiguity around pay would support individuals in positioning their expectations and negotiations around what is achievable and expected (Bohnet, 2016: 70-1).

The effect of gendered assumptions and values, such as men's risk-taking appetite, will be discussed further in Chapter 9. Of relevance to the discussion here, is the way the secrecy inherent within PRP systems clearly allows existing inequalities to reproduce, re-legitimising existing gaps. Evidence has shown the self-fulfilling impact of performance ratings: those for women being typically less developmental or less likely to find potential than those for men (Eden, 2017: 113; Correll and Simard, 2016).

In each of these instances the potential for anomalies and gender bias was enabled by the culture of secrecy concerning pay. The impact of this was directly verbalised by Val (mid-level in global Asian bank), 'there is no transparency at all, there is an equality problem.' This demonstrates Acker's (2006) theory of gendered processes within organisations. This lack of clarity has further repercussions with reference to negotiation of pay at the point of job change, which we turn to now.

8.1.3 Job change

The overriding lack of transparency around pay had significance for participants in terms of how pay rates are secured upon joining an organisation or when moving roles. These discussions also offered an opportunity to explore the impact of the changing shape of careers within finance (see Chapter 3).

Excluding clerical or graduate trainee roles, all participants described salary negotiation upon joining an organisation, or moving within it, as largely uninformed. They had no knowledge and no way of finding out the detail of often extremely wide pay bands, or within some organisations, non-existent ones. This resulted in the frequent response that job applications and pay negotiations were approached blindly (Sabina, Val, Claire and Krista). Yasmine (mid-level in global UK bank) commented, 'I've never seen a salary advertised with a job'. Nia (senior in global UK bank) reflected, 'there is no choice or power really. You either want the job or you don't.'

Nia (senior in global UK bank) noted a fortuitous occasion where, at the point of changing job roles, she happened to know a colleague working in a similar role.

That was pure luck as I knew someone who was willing to share. Otherwise, you just go in blindly. There is no choice or power really.

Equally, Hilary (senior in global European bank) acknowledged how not knowing had affected her.

I didn't realise at the time, but I should've fought harder for a higher grade. I went in too junior.

This experience resonated with Ella (mid-level HR in global Asian bank), who had been suggested a rate of pay for a role by a recruitment consultant. She realised too late that the tip she had been given was below the market-rate. These experiences highlight the different obstacles that women face in securing comparable rates of pay at the point of recruitment. The resultant inequities are then further embedded over time.

An evolving mechanism around maximising pay can be seen in the now redundant concept of a 'job for life' within the sector (Crompton and Birkelund, 2000; O'Reilly, 1992). While historically the requirement for long service has been a factor associated with lower pay for women, now the frequency of change between roles and most notably between companies is a significant organisational mechanism. Participants described how 'job shopping' opens up the opportunity to negotiate larger pay increases than those achieved by staying in a role, regardless of performance ratings (Manning and Swaffield, 2008). This again denotes a variance in the capacity to negotiate pay.

Annual pay awards were described as small compared to those achieved by changing company. Alice (senior in global UK bank) said, 'you tend to find if you're moving roles then you can get more [money].' Sally (senior in global UK bank) agreed, 'the only way to really negotiate salary is when you change jobs.' Jade (senior HR in global investment management firm) elaborated,

If you're doing the same role then you get year on year a smallish increase.

If you move to another role there's a bit of room to negotiate, but nothing like if you're an external candidate.

Relatedly interviewees also revealed various factors limiting their capacity to change roles: wanting to keep existing flexibility arrangements (Kaye senior in global UK); the importance of trust and the known entity prompting them to stay with their current employer (Nia senior in global UK bank); career being on hold for kids, first in the expectation of having them, and then to be available for school drop offs (Yasmine mid-level in global UK bank); and finally, the frequency of job change being affected by typically gendered traits (Sally senior in global UK bank). The ONS gender pay report reflects these trends, drawing out indicators such as the commuting gap (Smith, 2019) (see Chapter 9 for another dimension of how gendered factors limit choice).

Kate (senior HR in global UK bank) described the implications of employers continually bettering existing packages. As men are more likely to move roles than women, firms inherit inequities and gaps increase. This, she reflected, results in the continual reproduction of GPGs. She went on to acknowledge the institutional requirement to ban conversations regarding salary history, utilised in parts of the US and Australia, and incorporated within a recently proposed EU Directive (Wigand, 2021). This legal tool prohibits employers from requesting the details of previous remuneration packages, to offset this trend.

Throughout the career lifecycle, hidden pay and grading processes create practical barriers, obstructing the right to equal pay. The undermining influence of a broad lack of transparency is now considered with reference to the statutory entitlement to equal pay.

8.2 Legal entitlement in practice

The interview data evidence shows that the lack of organisational transparency around pay stymies women's ability to challenge unequal pay. Interviewees flagged the common theme of lack of clarity about pay structures to feel fully informed and able to contest pay inconsistencies. Participant experiences demonstrate the need for and importance of a woman's 'Right to Know', currently being championed by the Fawcett Society (Bazeley and Rosenblatt, 2019).⁵⁵ In addition, nearly fifty years on from the Equal Pay Act's inception, research from the Fawcett Society (2018b) suggests that one in three women and men in work still do not know that pay discrimination is illegal. In the case study interviewees were asked about their experiences of some of the institutional regulations outlined in Chapters 5 and 6. Their responses demonstrate the practical barriers the law faces. These are now described, first with reference to unequal pay and the difficulties participants faced in rectifying it. Second, these difficulties are considered in terms of participant knowledge of legal entitlements. Finally, participants' experience of combined statutory and less stringent voluntarist measures is explored.

8.2.1 The right to equal pay at the workplace

Gender pay anomalies were identified by 23% of those interviewed. In all, 15% of the interviewee cohort discussed specific instances of unequal base salary pay with male comparators, how they had challenged this, and how the organisation responded (Sue,

⁵⁵ 'Right to Know' is a campaign for an enforceable legal right for women to know what their male colleagues earn, if they suspect pay discrimination. A draft Equal Pay Bill 2020 is due to be introduced to Parliament as a Private Members Bill, with cross-party support, as soon as the parliamentary timetable allows (Fawcett Society, 2020).

Val and Nia). Interestingly, these participants did not acknowledge the potential illegality of the situation. This may reflect a lack of awareness of equal pay provisions, or reluctance to use them (Fawcett Society, 2018b). While back pay was mentioned (by Sophie senior in global UK bank and Val mid-level in global Asian bank), inequities were resolved in all instances by an uplift in salary, albeit sometimes a significant period after the underpayment was first raised by the employee, without any compensation for lost earnings and not necessarily in full. Clearly their employers may have had a 'material factor' defence to claims of unequal pay, but the illegality is not what is of note here. What is of interest is why the applicability of the law in these situations was not even acknowledged, let alone a viable consideration for participants.

Interviewees talked about the practical reality of being treated unfairly and voiced a disconnect with legislative entitlement. Tali (mid-level in global UK bank) described her experience of trying to rectify unequal pay. Having spent a year challenging her level of pay, she was finally given an out-of-cycle pay increase to remove the difference. However, at the end of the normal pay cycle review, she was not given an annual uplift. She described the management response:

They told me the regulations say that if you've given [an out-of-cycle increase] then you can't give one again. But they gave it to me as I was underpaid. If I don't get it again then I'm underpaid again?! You reach a point where you can't fight anymore.

The suggestion that correcting pay disparities was a battle, rather than a clear statutory entitlement, was echoed by Val (mid-level in global Asian bank). She discussed her struggle over a two-year period to bring her pay in line with a male comparator.

Eventually they increased my salary, they brought me up by £20k in the end and now I'm in line with male colleagues ... You have to fight all the time, I'm there now, but it's hard.

Regardless of whether the employer perceives liability, the culture is one that seemingly does not enable employees to feel supported in asserting their legal right to equal pay. A fundamental power imbalance between interviewees and their employers illustrates one of the foundational aspects of the architecture of inequality. Roy (trade union organiser in the sector) explicitly recognised that, 'parties are not equal'. The impact of these inherent inequalities was described on a practical level by Nia (senior in global UK bank).

When you're in a room and you have HR, and your line manager siding with HR, that made me feel quite threatened. I felt that I didn't want to push it any further. You don't have any HR resource on your side. I didn't have any support. It felt like if I kept pushing the issue, I would come off the worse for it.

Participants spoke about feeling exhausted by the fight to correct pay inconsistencies (Tali mid-level in global UK bank and Val mid-level in global Asian bank). It seems, in these instances, the legal right to equal pay was accompanied by a loaded choice. The viability of this choice was reflected on by participants who perceived that challenging the situation more formally constituted a risk. Workplace power dynamics, individual reticence to drive a claim and negative assumptions about the potential consequences are evident.

Disparity in pay was also identified with reference to bonuses. While a bonus is not a contractual entitlement, where it is paid it is included in the equal pay provisions in the EqA2010 and subject to the same equal treatment requirements. Sophie (senior in global UK bank) described a bonus payment error. A management miscalculation had occurred whilst she was on maternity leave.

A mistake was made while I was on maternity ... in my bonus calculation. My boss at the time hadn't realised it would be pro-rata, the figure he put down, so I got half of what I should have got.

However, Sophie went onto describe how despite acknowledging their fault, the organisation did not fully rectify and pay her according to her performance ratings, and presumably, in line with her male colleagues. Correcting their error was apparently too difficult and so she lost out. The lack of clarity and discretion in bonus calculation makes challenging them problematic. In addition, and for Sophie, the potential to challenge further and rectify fully was seemingly not an option. This echoes the resigned acceptance of inequities that others described and the practical barriers they faced when trying to assert their legal entitlement.

8.2.2 Awareness of rights and the culture of secrecy

The instances of unequal pay described show a disconnect with statutory equal pay provisions, but also section 77 in the EqA2010 (see Chapter 6). This provision concerns pay secrecy clauses and an employee's ability to render them unenforceable, if seeking to make a relevant pay disclosure. This is potentially at odds with the lack of transparency and threats of disciplinary action for discussing pay, as already examined.

The management expectation that employees will not talk about pay or bonus was referenced by 39% of interviewees (Sophie, Sue, Yasmine, Belinda, Jade, Nia, Alice, Krista and Kaye). Jade (senior HR in global investment management firm) acknowledged a disconnect with the legal entitlement.

People are encouraged to keep quiet about their pay. I'm sure that within the Equality Act they are able to act, but that is not common knowledge.

While general discussions about pay are not covered by section 77, the typically British approach to discussing pay is closed (Jean mid-level HR in building society). The implied and explicit organisational norms further embed this cultural expectation and stymy efforts at enabling greater transparency. The inevitable impact of this lack of transparency is writ large in the experience of Nia (senior in global UK bank). She described the organisational reluctance to comply with section 77 after she had requested pay information, with reference to making a relevant pay disclosure. A colleague had shared his salary information with her, but she did not want to breach a trust, given the company position on this. Management pressed her into revealing her source and making her request a formal process, but her concern over the repercussions led her to drop the matter. Management did not remedy the inequity. She described a subsequent job move which achieved a 20% pay increase that brought her in line with colleagues. She was told her pay was, 'embarrassingly low compared to my team' (Nia). This again demonstrates how legal entitlement to equal pay can, in reality, be impenetrable and inaccessible for many; the alternative to finding a remedy within the organisation was to leave.

The inability to speak up about inequalities at work is described here by participants in terms of the lack of support they experienced, the confused and variable pay systems in operation, and the pervasive nature of the culture of silence. The regulatory approach to pay transparency has been dramatically improved since the introduction of the Gender Pay Reporting Regulations (GPRR). The impact and effectiveness of the measure for women working in finance is now considered.

8.2.3 The Gender Pay Reporting Regulations and Women in Finance Charter

The long-held preference for a light-touch approach to regulation and avoidance of onerous regulatory burden in Britain was described in Chapters 5 and 6. Efforts to prohibit and mandate change have been limited by the competing pressures of business and tempered by government, reflecting the variable priority given to equality policy initiatives (Dickens, 2007). The statutory compulsion of the reporting elements in the GPRR marked a step change (see Chapter 7). The requirement has undoubtedly raised awareness of GPGs across all organisations with more than 250 employees.

A resurgence of interest in gendered inequities, partly as a result of the financial crisis, also prompted the introduction of the Hampton-Alexander Review, the Women on Boards initiative and associated targets (BEIS, 2017; BIS, 2015). Within the finance sector, the Women in Finance Charter (WiFC), a voluntary commitment supported by HM Treasury, was introduced to address the large GPGs within the sector. It requires signatories to commit to four targets concerning gender equality at senior levels. It is now seen as normal practice within the sector to sign the charter (see Chapter 7). The resultant increase in interest and organisational focus on equality and diversity, was recognised by participants during interview (HoC, 2019). Research has found that the

GPG within finance has reduced marginally quicker than in other sectors, suggesting that systems of institutional and organisational rules can help encourage change (Healy and Ahamed, 2019: 321). The GPRR and the WiFC were discussed by participants in terms of their understanding of the requirements and the degrees to which organisations complied and engaged.

Participants were all aware of the GPRR, though they varied in how valuable they believed the requirement to be and whether they had read or shown any interest in their own employer's report. The most common response was that it had achieved an increased level of attention on the problem (Greg, Kate, Jean, Moira, Sally, Nia, Alice and Claire). While prior to the implementation of the GPRR gender inequities within the sector were well understood, the publication of pay data has helped focus attention and underline the need for change.

Participants did, however, express a divergence of opinion as to whether the GPRR and the WiFC will drive much needed progress. For instance, compliance with the GPRR was considered less important than the resultant negative publicity and reputational impact prompted by a bad report (Jade senior HR in global investment firm). Sally (senior in global UK bank) described this differential.

It's [the GPRR] helped us to lobby and resource. Negative media has a much bigger impact for us than the regulator. What are they going to do? Fine us? They're never going to fine us enough to make a difference.

That said, Roy (trade union organiser in the sector) did not believe the GPRR, or the resultant bad publicity and increased attention, were a sufficient driver for change.

They're pretty embarrassed by the figures but they'll get over it.

Embarrassment's not a problem, they're pretty inured to it now. I genuinely don't think they care. I don't believe this industry will change on a voluntary basis. I can't voluntarily decide to adhere to the speed limit, it's not just a guide. There's a reason why these things are mandatory. The Regulations need to go further.

The limitations of the GPRR, given the widely understood and accepted inequalities within the sector, perhaps more aptly reflect the resigned acceptance and normalisation of the problem. The most common reaction amongst those interviewed was a lack of response to the stark gaps that reports revealed. Despite the majority of participants occupying mid to senior roles and so potentially most affected by limited progression and or pay inequities, only one expressed disappointment in her organisation, given the size of its GPG. Sally (senior in global UK bank) said,

When the numbers came out, I went to my boss and said, 'for the first time I'm embarrassed to work here, how is it so bad?'

Interviewees sensed that little had changed as a result of the GPRR and WiFC, emphasising their belief of organisational reluctance or inertia to address reported gaps (Jane, Roy, Sally, Faye, Jacqui, Ella and Krista).

Sophie (senior in global UK bank) mentioned a pay increase she had received prior to the GPRR being implemented.

Before the report was published, I got an ad hoc pay review, completely out of the blue. The idea of that was to put me in line with my male colleagues,

but it wasn't explained very well. Two weeks later the gender pay gap report was published. It was very nice at that point in time, but then I thought, have I been paid £6/7k less than male counterparts and for how many years? It felt a bit suspicious. There was no back pay.

Interviewees experiences demonstrate the inherent tensions between institutional efforts to reduce the GPG, such as the GPRR and WiFC, and their limitations, due to the setting of low targets and organisational acceptance of the persistence of gaps.

The importance of legislative development and change in the GPG over time, identified in Chapters 5 and 6, has been considered here with reference to the micro level experiences of women working in the finance sector. Institutional explanations are now used to situate these insights within the architecture model in order to better understand the nature of progress and change.

8.3 Applying the architecture model to the thematic analysis

The law has been significantly extended and developed in relation to gendered pay inequity. This chapter has explored how long-standing rights and more recent developments have been experienced by women working in finance to understand the persistence of gaps in the sector. Barriers to legal entitlement in terms of access, power dynamics, limited knowledge and recourse to the law have been described. This has highlighted the practical consequences of the broad lack of transparency surrounding all aspects of pay.

Attempting to isolate institutional rules for assessment at the micro level has shown how organisational elements, such as remuneration structures and pay grades,

alongside sociological considerations, such as power and workplace hierarchies, are useful to contextualise interviewees experiences. The characteristics evident in both the macro level legal analysis (Chapters 5 and 6) and meso level organisational analysis (Chapters 3 and 7) of a blinkered approach to transparency and underlying foundational inequalities, are again evident. Despite an improved regulatory landscape shifting to the compliance of reporting, the secrecy around pay and promotion remains limiting and helps reproduce foundational inequalities. This theme is developed in Chapter 9 with reference to career paths. The existing free market preference, whereby the needs of business can legitimise the awarding of large salaries in order to attract the best talent, illustrates how organisational practices can present barriers to women's legal entitlements. This characteristic challenges the claims of Dobbin (2009) and will be developed in more detail in Chapter 10.

The theoretical framework, and the architecture model arising from these competing explanatory approaches (as presented in Chapter 2), provides a useful way of understanding the persistence of the GPG. Despite the continual modification of institutional approaches, the model is a helpful way to conceptualise and evaluate the progress trajectory of the GPG. To assist this endeavour, an assessment of institutional explanations is now given to explore the limitations the law faces. This draws on the feelings of disconnect and lack of support in accessing legal entitlements that participants described. Their insights are explored in terms of the barriers claimants face: first with reference to transparency and access to the law; and then to governance, the role of trade unions and voluntarism. Conclusions are then drawn articulating how these architectural features inform the potential for future change.

8.3.1 Institutional explanations and importance of transparency

It is first useful to recap what is meant by institutional explanations with reference to the wider context of equal pay law. The practical reality of how the law operates demonstrates the restrictive factors impacting upon individuals and their ability to use it. The extent to which the legal developments discussed here reduce or hide GPGs demonstrates the contradictions of transparency described throughout the thesis.

The law is framed as a vehicle with which to challenge inequities. Litigation has been shown to still hold potency in its ability to drive change, as the public sector no-win-no-fee cases in the 2000s and the ongoing supermarket equal pay cases demonstrate (Butler, 2021; Deakin et al., 2015; Croft, 2019). Yet as the socio-legal analysis evidenced, the pursuance of equality measures has been subject to de-prioritisation (see Chapter 6) (Collins, 2019; Macleavy, 2018; Cabinet Office, 2011). The role of law, the positioning of it, access to it and the factors associated with that, such as cost and consideration of the knock-on-effect of taking a claim, are also fraught with difficulties for claimants.

Exploration of these factors within the finance sector shows, despite the size of GPGs and reports of the 'alpha-male' culture, aside from some notable cases to be discussed next, that reports of cases reaching tribunal are limited (Ablan, 2019; Treasury Committee, 2018). Recent high-profile cases concerning discrimination and unequal pay, within BNP Paribas (a large global bank) and the Co-operative Banking Group, respectively, help to account for this disconnect by illustrating the difficulties claimants face (Szalay, 2019).⁵⁶ In *Macken v BNP Paribas* [2019] the judgement focussed on three

⁵⁶ *Macken v BNP Paribas London Branch* [2019]; *Walker v Co-operative Group Ltd* [2020].

key elements: i) the variable and inherently biased approach to the awarding of bonuses; ii) the lack of set criteria against which to score candidates at the point of recruitment; and iii) the application of the McLagan salary code to the individual and not the role.⁵⁷ The *Walker v Co-operative* [2020] case, supported by the Fawcett Society, highlighted other pertinent issues for equal pay claimants coming from the finance sector: the time taken for cases to be resolved; the scale of legal costs involved; and the impact of adversarial legal interventions on the individual, both personally and professionally.

These cases demonstrate how the lack of formal pay structures, wide pay bandings and issues of accessibility mean equal pay provisions do not easily translate into the work environment. As also indicated by these cases, a combination of factors may place insurmountable obstacles in the path of those wishing to pursue claims. Costs associated with representation in equal pay and discrimination cases are high and can stretch beyond the outcome of claims, even if successful. In equal pay cases, back pay is limited to six years, does not include lost pension rights and compensation is taxable, again limiting the potential for fair compensation. In addition, future employment can be impacted, given the stigma associated with taking a case and the close networks within the 'small world' of finance. Indeed, subsequent to winning her discrimination case *Macken* is now pursuing a £3.4m claim to address the detrimental impact her case has had on her career prospects (Fullerton, 2021).

⁵⁷ McLagan is a pay benchmarking code to determine salary ranges in jobs across the finance sector.

The foundational power imbalance around which the law is constructed is reflected in factors such as the burden of proof and costs of pursuing a claim. Alongside this, the ever-present lack of transparency, in terms of individual pay and identification of comparators, demonstrates the interrelationship between the institutional and organisational aspects of the architecture model. Institutional approaches are further limited by the declining role of trade unions and Britain's preference for voluntary approaches in the pursuit of change, which we turn to now.

8.3.2 Institutional explanations and the role of governance

Counterbalancing some of the limits of institutional regulation in terms of access, knowledge and support, organisations such as trade unions can extend the reach of the law (Heery, 2006). However, there is a long-held preference in Britain for a voluntarist system of industrial relations, where unions are free to bargain collectively. In 2011 bargaining agreements covered just 20% of the finance sector (Prosser, 2011). The role they have in negotiating pay is limited to those covered by collective agreements, which in the finance industry incorporates the lower end of income distribution. Unions are not able to address pay inequalities higher up the pay distribution via collective bargaining. Further, the remit of union negotiations is limited to the pay pot, and not the subsequent allocation of that, which is apportioned according to PRP systems at the behest of managers. That said, in addressing unequal pay, unions have typically moved beyond bargaining and have co-opted the law to challenge and campaign for change,

helping counteract the difficulties of cost and access described (Conley, 2014; Deakin et al., 2015).⁵⁸

The importance of collective action in driving institutional regulatory change was recognised as a core strand of the different phases in Chapter 5. The declining remit of trade unions since the 1980s is therefore a contributory factor restricting the effective implementation of equality measures. The importance of union representation, no-win-no-fee lawyers in multi-party cases and social movements driving change has been well evidenced. Bearing in mind the barriers evident from the interview data, ensuring workers have the means and support to access and understand legal entitlements underlines the importance of collective forms of opposition (see Chapter 10).

The collective fuel that social movements can provide has been demonstrated again recently with the increased visibility we now have on the problem. For instance, this is illustrated by the attention derived from the introduction of GPRR, and the accompanying furore around the BBC's publication of the salaries of its top stars (Kentish, 2018; Ruddick, 2018). The subsequent surge of visibility around equal pay coincided with the mass online social media campaigns against sexual abuse, #timesup and #metoo. The increased exposure on the issue of equal pay and discrimination in the workplace is helping to provide a sense of collective opposition beyond the trade union movement. For example, the expense and isolation of raising pay inequities has been raised by campaign groups like the Fawcett Society, which in conjunction with Yess Law,

⁵⁸ The impact of cost is illustrated by the sharp decline in tribunal claims, most notably discrimination cases, after the introduction of tribunal fees. Their subsequent removal following *R (UNISON) v Lord Chancellor* [2017] has prompted an increase in cases, reiterating how cost impacts access to justice (see Figure 6.1).

are now providing free equal pay advice and support for individuals earning under £30,000 pa.⁵⁹ The difficulties associated with a lack of transparency have been countered by women at the BBC as they have organised themselves into sharing salary information (Gracie, 2019; Moore, 2018). Initiatives like The Fawcett Society's 'Right to Know' campaign, championed by the claimants in the *BNP Paribas* and *Co-op* cases, all demonstrate how collective voices can push for change (Bazeley and Rosenblatt, 2019). That said, the degree to which these kind of initiatives are tempered by the changeable political climate, the pandemic, Brexit and the digital transformation of jobs in the sector, remains to be seen.

Assessment of institutional perspectives also demonstrates the resonance of the ongoing deference to the needs of business. This is illustrated by how participants perceive the prohibitive measures around equal pay and initiatives such as the GPRR and WiFC. Despite the statutory and voluntary requirements, action to remedy change is voluntary and interviewees commonly described the setting of low targets. Resigned acceptance of the status quo reflects the 'diversity fatigue' and 'resentment' that has been associated with the GPRR in certain parts of the sector (Makortoff, 2019). This demonstrates the organisational potential to disconnect from institutional regulatory requirements that require going beyond the statutory need to report.

⁵⁹ The Equal Pay Advice Service was set up following crowdfunding to the Equal Pay Fund, accompanied by donated backpay from the BBC's former China editor, Carrie Gracie <https://www.fawcettsociety.org.uk/equal-pay-advice-service> (Accessed: 20 May 2021). Similarly, the Times Up Legal Defence Fund in the US, has been established to support women experiencing various forms of misconduct and discrimination in the workplace <https://timesupfoundation.org/work/times-up-legal-defense-fund/> (Accessed: 20 May 2021).

While there are clear benefits to the legal compliance required by the GPRR and the voluntary sign up to the WiFC, the preference for letting organisations decide, thereby avoiding mandatory action plans and quotas, is a persistent architectural feature. It has been suggested that the Hampton-Alexander review targets were implemented to avoid more stringent measures from the EU (Fagan and Rubery, 2017; Guerrina and Masselot, 2018; Traynor and Goodley, 2012).⁶⁰ Nevertheless, research shows that statutory requirements with tough sanctions are more effective, in terms of women's representation at senior levels, compared to the voluntary approach currently preferred in Britain (Arndt and Wrohlich, 2019). In this context, further decoupling from the EU equality agenda post-Brexit is therefore concerning, given the British preference to defer to the needs of business.

8.4 Conclusion

This thesis set out to interrogate the efficacy of equality regulations and understand the markedly slow progress trajectory of the GPG within finance. By drawing on interviewees micro level experiences this analysis has shown the nature of the barriers and opportunities the law has encountered since the late 1960s to the present day. Institutional regulations can and do impact on organisations and the way they deal with the GPG. However, as the evidence from the employees interviewed has demonstrated, there are limits in terms of how women understand, experience and access legal entitlements. While institutional regulations retain a disruptive potential, as the revived feminism prompted by the GPRR and the capacity to litigate show, this potency is

⁶⁰ Hampton-Alexander was a government-led initiative to increase the representation of women in senior positions (see Chapter 6).

diminished. The lived realities of combined statutory and voluntarist approaches, alongside the power retained by organisations where the norms of secrecy and fear are prevalent, have limited the potential for meaningful and lasting change to reduce GPGs.

The improved legal approach of the GPRR is one element in a very large construction. This extension of the regulatory model sits alongside existing and competing tensions where the foundations, dug deep, remain unchanged. Through the experiences of interviewees, described in this chapter, the interactions within the architecture model are evident. Meso level organisational barriers such as hidden pay systems, alongside micro level norms such as gendered character traits and the pay taboo, have been shown to contribute to how inequalities are constructed and reproduced. The practical barriers that the law faces demonstrate the utility of the multi-level approach pursued in this thesis. For instance, the drive to improve organisational performance through PRP systems, can act as a barrier to realising the business benefits achieved through gender equality. This demonstrates how work systems, designed to support businesses to achieve a higher bottom line, may be at odds with the drive for greater equality, confirming the themes discussed in Chapter 3 (Davies et al., 2015: 539). The tensions described, highlight the fundamental limitations of the improved approach to transparency. The value of visualising these interactions according to the architecture model helps determine the sites at which the contradictions of transparency occur. The light touch approach to governance does little to dissuade organisations from pursuing existing pay and progression policies. These restrictive characteristics, as described by participants, also demonstrate how the foundational inequalities upon which legislative

extensions have been constructed perpetually undermine institutional efforts at change.

The most pressing point from this analysis concerns the cohesion and resilience across the sector of a lack of transparency around pay. This is despite the centrality of hidden pay practices to the problem of gender pay inequality. The capacity of high GPGs shaming firms into action is limited by the legitimisation afforded to these inequalities, given their normalised occurrence across the sector (Bennedsen et al., 2019). The claim commonly made by organisations that they do not have an unequal pay problem, is blindsided by the fact that processes to ascertain these values are so opaque and undefined. The lack of open communication around all pay processes creates uncertainty, ambiguity and mistrust (Colella et al, 2007). PRP systems are not open or permeable to challenge yet laden with the potential for unconscious bias. Policymakers need to confront that reality, instead of attempting to work around it. Further to this, the 'institutional vocabulary' that legitimises the large GPGs in the sector positions them as arising from occupational segregation and the factors associated with this (Suddaby and Greenwood, 2005). The fact that this logic does not then address the contradiction of transparency around pay and reward highlights the intractability of the problem and the need for organisational architectural reform.

This exploration of women's micro level experiences has evidenced the practical reality of how change is constrained. The way that interviewees navigated critical decisions around their career paths and care offers another dimension to understand these limiting factors, and is now address in Chapter 9.

9

Career paths, care
responsibilities and
contingent choices

Chapter 9: Career paths, care responsibilities and contingent choices

9. Introduction

This chapter interrogates the interview data with reference to how participants described their career paths, care responsibilities and the contingent choices that shaped them. Interviewees revealed how their career trajectories and decisions around care were limited by conditional decisions and barriers to progression. They also reflected on areas of progression, such as the ability to balance work and family life. These topics and the themes arising from them are then explored with reference to the explanatory approaches identified by Rubery and Grimshaw (2015). Particular attention is paid in this chapter to economic and sociological perspectives. This builds on the Chapter 8 assessment of legal entitlements and the institutional and organisation nexus. What is evident is how inequalities arise not just from pay systems and structures but according to embedded norms in the workplace and the home (Acker, 2006). This highlights the need to adopt a layered explanatory approach to understand inequities in pay. As the qualitative interview analysis develops, this series of chapters highlights the interrelationship between each theoretical explanation in the architecture model and how the ongoing tensions between them obstruct the eradication of the gender pay gap (GPG). This demonstrates how the architecture model can be used as a way of understanding the changing shape of persistent gender pay inequities within the finance sector.

This chapter first examines how participants described their initial motivations to enter the banking sector and their subsequent career choices. Occupations that are more

resistant or less appealing to women, such as the most highly remunerated jobs in investment banking, are explored. The typical character traits, associated with some male majority jobs and the concepts of workplace hierarchies and the ideal worker are then considered (Acker, 2006, 2009). How participants aligned to those workplace codes is indicative of the barriers they experience and factors shaping career paths. The interview data evidences the importance of networks and increasingly political power struggles to reach senior levels. This demonstrates the restrictive effect of underlying gendered assumptions within occupations, reflecting the foundational inequalities evidenced in previous chapters, upon which the architecture is constructed and subsequently developed.

Secondly, the effect of decisions around working time, and the reconciliation of work, family and home life is addressed. Those interviewed described how they have navigated choices relating to work and care responsibilities. Within this context the interviews revealed there are degrees of resistance to embrace diversity marked by factors such as: presenteeism; the organisation's country of origin; and trends associated with the type of work carried out. Further reflections on the effect of unpaid domestic labour also demonstrate how this is a changed and changing landscape.

To draw together the analysis, consideration is given to the economic and sociological explanations of these insights and how they relate to the architecture model. Firstly, an economic lens is applied to the interview data, exploring the career choices of participants and the factors impacting how they have since progressed. The importance of education and training is considered. The opportunities available, in terms of hiring and promotion choices, illustrate the limitations of neoclassical human capital theory.

The skills women bring to their respective organisations are described as framed within contingent and gendered management expectations, more accurately shaping their chances to progress. The barrier of transparency is used to demonstrate the insufficiency of a purely economic assessment, with reference to career choices and lifecycle.

The relevance of the sociological perspective is then considered. The importance of gendered hierarchies at work and the ways that existing inequalities are reproduced helps contextualise interviewees experiences. The degree to which norms and values in both the workplace and the home impact upon the jobs that women do is discussed.

One of the strengths of this multidimensional approach, is the opportunity to examine the themes arising from interviews with reference to these perspectives. The empirical evidence presented in this chapter shows the shifting relevance of economic and sociological explanations, demonstrating the ongoing movement in the architecture of inequality. Understanding the factors that impacted the key decisions for interviewees described in this chapter, shows how the continual modification of the banking sector has, in effect, reasserted existing inequities. This demonstrates the variety of ways that the continual modification of jobs and careers within banking can protect gender pay inequity. The dynamic architecture of inequality in this way helps make sense of the progress trajectory of the GPG.

9.1 Career choices and investments

9.1.1 Why banking, investment in work and career progression

The factors shaping participants career trajectories were described during interviews.

Career paths and decision making from the point of entry into the sector to subsequent progression and promotion are now discussed. This demonstrates the ongoing and pervasive effect of the deeply embedded and gendered assumptions prevalent within banking sector occupations.

For some participants their original choice of job was, in part, motivated by the higher wages they anticipated earning. They recognised themselves as ambitious and keen to achieve (Sophie senior in global UK bank and Jacqui mid-level in global UK bank). Kaye (senior in global UK bank) articulated this by describing how she had entered on a graduate programme, 'looking for roles that paid good money'. However, more significantly women spoke of the importance of non-economic forces, such as interest in the work, social networks, and the 'fun' of working in the industry, as key determining reasons for their choice of career (Jane, Hilary, Sophie, Claire and Kaye). In addition, Reshma (mid-level in global payment firm) described her initial career choice to be the route of least resistance. As a young successful graduate keen on aeronautical engineering, she opted for her current career path believing it would be less challenging as an Asian woman.

The stimuli for subsequent career path choices demonstrates how these initial motivations were developed. Senior roles within the industry are known for high pay and within that, income generating roles, in areas like investment banking and asset

management, tend to offer significantly higher financial rewards than retail and corporate banking. Despite the driver of money that had motivated some women to enter the sector, subsequent career moves reflected that the potential to maximise earnings was limited by other factors. Sally (senior in global UK bank) described the gendered consequences of the culture in the higher paying parts of the industry.

The investment bank is worst for women breaking in, the culture isn't there yet, retail is pretty good, corporate is getting better ... If you think about the trading floor, then it's work hard play hard ... most trading floors you can count the number of women on one hand. It's a testosterone filled environment. Most women I know who've been in have opted out.

Hilary (senior in global European bank) also acknowledged the motivator of money, while noting the importance of other factors.

Yes, it can be very financially rewarding, but that's not the be all and end all.

There are much nicer, more respectful places to work.

These reflections demonstrate the norms and behaviours that participants expect in certain higher paying parts of the sector, which inevitably effect their decision-making.

The rational choices of women working in the sector are accompanied, and in part determined, by these expectations and the way they are acted out in certain occupations. Jade (senior in HR in global investment management firm) discussed her perception of investment management, concluding, 'the general appeal of the industry, it's never been attractive to women, from grass roots level.' Further to this, Kaye (senior

in global UK bank) described her motivation to change job from a role in capital markets and trading.

The culture was unpleasant, bullying and it drove me to think about moving.

It wasn't personal, not because I was a woman ... We were all going through it. It was very aggressive, quite toxic and accusatory.

Cultural expectations, norms and environmental factors were significant for the career lifecycle decisions these interviewees had made. The interrelationship between theoretical explanations can be seen in the complexity of factors that shaped their decisions, as explored later in the chapter.

The participant cohort on the whole reflects a very well-educated group of employees. They described a significant amount of time spent investing in in-work training, particularly those on graduate programmes. The speed and ability to progress was an attractive proposition for those who joined on such schemes. However, the effect of this investment was variable and a source of frustration and potential inequities for interviewees. For example, Nia (senior in global UK bank) became aware of a pay gap with a male colleague who had been part of her graduate programme. Despite their comparable performance review ratings and depth of experience, there was unequal progress in terms of pay.

The non-linear relationship between education and career development has been noted in the literature (McDowell, 2008). This was echoed by respondents as they described the more gendered parts of the industry as inaccessible or remote, not due to lack of skill but rather off-putting behaviours and norms (Jane, Sally, Ella and Val). In

addition, Jane (senior in global European bank) spoke of an organisational disregard for her educational achievements, noting her abilities were not fully utilised or recognised at work. Krista (senior in global UK bank) commented,

When I passed this exam, I said, 'what is the incentive for me?' to my manager. 'Can we talk about this, a pay rise, promotion?' But I've had nothing, not even, 'we can't promote as we have a pay freeze.' No explanation.

The obstacles to accessing highly paying parts of the sector participants described were based on closed networks and gendered barriers, rather than unmet degrees of attainment. Hilary (senior in global European bank) recognised this difficulty.

At that level it's all about who supports you. Women aren't so good at getting that support ... If someone's not banging the drum about you it's hard to do that yourself. Don't know whether it's harder as a woman or man? Or whether as a woman you come across as annoying, too pushy or too masculine?

Progression to senior roles was discussed in terms of the need to have networks or backers and the inevitability of power struggles between those vying for promotion (Jane senior in global European bank). Interviewees made reference to hierarchy and political positioning, echoing Acker's (2006) inequality regimes (Ella mid-level HR in global Asian bank and Val mid-level in global Asian bank). The ambitions of respondents were impacted by their willingness to engage in these power struggles, the variability of flexibility on offer and the pathways to leadership available to them, as described in the

literature (Cassirer and Reskin, 2000; Madden, 2012; Correll and Simard, 2016). Hilary (senior in global European bank) described her career trajectory in this light.

You need to be noticed. You can get known by drinking and being at the socials, or, by making a lot of money. I got known in the credit crisis, I worked with some of the traders and got known by managing their risk. It wasn't particularly sexy, but it was very effective ... That was my way. It wasn't my thing to be on golfing weekends, not my scene at all.

These reflections evidence how typically gendered networking environments may present barriers for women and in so doing reproduce existing inequalities. Women's choices are constrained by opportunities and their aspirations are inevitably impacted by what is achievable, or viewed as such (Aisenbrey and Brückner, 2008).

This demonstrates that the translation of investment to outcome is not clear cut, but laden with foundational inequalities and a lack of transparency in how these are rewarded across the diverse range of organisations interviewees worked for. Jacqui (mid-level in global UK bank) described frustrating discussions she had had with management about how to progress within the organisation, despite being 'more than qualified.' Assessment was based around her visibility and profile within the firm and not her achievements and experience. She described how her manager had said,

'You must have a better strategy. You must be networking more, you're not visible enough'. But it's quite difficult to get that visible. I said, 'I'd like to be more visible and I'm more than happy to take the report I write every month [to the senior management meeting], I'm more than happy to deliver

it'. I was told 'the difficulty you've got is they associate your boss as the face of your work stream' ... I had a chat with one of our women ambassadors, and she said, 'that's a very common thing ... they just like dealing with the same person they've always dealt with.' So what do I do?

The vicious cycle Jacqui found herself in highlights how closed and gendered networks can be, regardless of skill and proficiency.

Further to these difficulties, participants described how exposure to different experiences at work and the chance to broaden their skill sets were subject to the whim of managers in enabling these opportunities. This concurs with research findings showing that gender differences in occupation and unobservable characteristics are significant, particularly at the top of the earnings distribution (Blau and Kahn, 2017; Healy and Ahamed, 2019). Promotion and development were not attributed to education and workplace training, but with reference to other more impactful factors (Jane, Greg, Jacqui and Krista). The hidden complexities both motivating and limiting career trajectories demonstrate the interrelationship between each theoretical perspective in the architecture model.

9.1.2 Favoured character traits and the double bind

A gendering of occupations operates both horizontally and vertically within the banking sector (see Chapters 3 and 7). Interviewees were able to reflect on their experiences of these stereotypes to further illustrate the effect of factors beyond their educational investments impacting career trajectories. Their insights demonstrate the depth of

normative behaviours, the valuing of roles and the double bind women in the industry face, which is addressed next.

Participants described how credibility and success within post operates within the gendered hierarchies of the workplace. Claire (senior in global UK bank) reflected on how others perceived her as a woman in the senior management team. She described how her team responded to her, as opposed to other senior male leaders.

There's a sense in how they react to me, versus how they react to other senior men in the business. Some do not like to be led by a woman.

The socialisation of who is expected to be in a high paying job is based upon those commonly occupying those roles. This can cast women in senior roles as misfits (Pham et al., 2018: 912).

Alice (senior in global UK bank) described how she wanted to move from retail bank management to head office management. Her area director responded by telling her, 'it's the wrong role for you, you're too nice for that'. While her knee jerk response was to plough ahead with the move anyway, the suggestion that the environment would be too tough illustrates the normative expectation of aggressive masculinised behaviours at work. Conversely, trade union participants were able to reflect on how branch management is now much more feminised and correspondingly less prestigious (Greg and Roy, trade union organisers in the sector). Whether these factors are contingent upon one another is a moot point. What is clear is that the gender hierarchy within retail branch management has been reconstructed and its value has diminished (as

discussed in Chapter 3), demonstrating how organisations remain gendered through periods of change (Skuratowicz and Hunter, 2004; Acker, 1990; Acker, 2012).

The deeply embedded nature of the value associated with women and women's work was noted by Moira (trade union organiser in the sector). She described how female branch staff regularly undervalue their performance in evaluations, with the frequent statement, 'I'm only part-time ...' (Moira). Her oversight concluded that part-time staff often held a lesser perception of their own utility in their performance reviews, as a result of their limited hours. Regardless of the fact that this wholly negative perception and valuation is not empirically based, the way that these women internalised notions of value shows how pervasive assumptions and underlying inequalities can be (Kunn-Nelen et al., 2013; Lerodiakonou and Stavrou, 2015; Chadwick and Flinchbaugh, 2016).

These perceptions of value were accompanied by the identification of favoured character traits. Participants noted how particular areas, such as trading and tech finance, are more heavily gendered and roles in these areas are seemingly impervious to change (Sabina, Kate, Jean, Moira, Laila, Ella and Kaye). They identified the varying ways that attributes, such as risk-taking, aggression and confidence, are valued and rewarded in certain parts of the business. Their experiences of the 'double bind' that Acker (2012: 216) describes help illustrate the normative behaviours in certain parts of the industry.

Kaye (senior in global UK bank) noted her experience of working within a high risk, high reward environment at the end of the 2000s. She described the organisational

expectation to conform to the risk-taking culture and how that ultimately led her to leave.

It was aggressive, the culture was just dog eat dog. The senior guys there, bear in mind they were under huge pressure to deliver, drove this continued pressure to deliver bigger and bigger deals, I'm sure that sort of culture [risk-taking] came from that.

The financial crisis prompted recognition of the typically masculine risk-taking cultures inherent within the industry and highlighted their damaging consequences (EHRC, 2009; Walby, 2009). However, despite the association of these behaviours with the consequences of the crisis, masculinised performances are still prevalent in certain parts of the industry. Participants used terms like 'aggressive' to describe the culture of working in asset management, investment, acquisitions or private equity banking, as compared to more feminised parts of the business like commercial, corporate and retail banking (Jane, Sabina, Sally, Ella, Claire and Kaye). Jane (senior in global European bank) referred to the aggressive culture in certain parts of the business, highlighting the 'slap dash sweary culture' she would expect on a British trading floor.

That said, the lack of diversity and hard-hitting environment can be experienced in different ways. Claire (senior in global UK bank) described her experience of working in leverage finance:

I think there is this perception by women that this is an aggressive industry to be in. It can be, but that doesn't mean it's not fun or it's not good.

These behaviours and the increased testosterone associated with them (Sally senior in global UK bank) remain highly rewarded in certain parts of the sector, despite the financial crisis (McDowell, 2010: 653; Coates and Herbert, 2008).

Correspondingly, a number of respondents noted that demonstrating typically male personality traits was viewed negatively (Tali, Sally, Hilary, Jacqui, Jade and Alice). Jacqui (mid-level in senior UK bank) described being asked during interview whether she was 'confident enough' for a senior management role. Her incredulity and disbelief at this line of questioning was based on her track record of successfully carrying out the role for the previous two years. She gave a further example of an occasion where she was criticised for being 'too aggressive' after making what she believed to be a legitimate, measured challenge in a meeting. This demonstrates the double bind that Acker (2012) describes, as on the one hand her confidence was questioned, while on the other, her forceful approach was also deemed inappropriate, or too masculine.

The common perception of skills, such as women's inferior capacity to negotiate and self-promote, and men's highly competitive risk-taking nature, is widely recognised in the literature (Babcock and Laschever, 2003; Exley and Kessler, 2019; Bohnet, 2016; Niederle and Vesterlund, 2007) (as explored in Chapter 8 with reference to pay negotiation).

9.1.3 Doing gender at work

The occupational segregation within the sector was also identified by participants in terms of how they experienced gender at work. Women described their experience of

being a woman in and around the office and their experiences of discriminatory behaviour.

Interviewees in mid-level and senior roles reflected on the frequent occurrence of being the only woman in the work environment (Sally, Laila, Hilary, Sophie and Kaye). Val (mid-level in global Asian bank) commented on the judgements made by others with reference to her success at a young age.

You have to defend yourself, they're like, 'you've got there because you're good looking'. You're thinking 'how many times do I have to hear that?' But to them it doesn't matter, it's a male environment! It shouldn't be normal, but it is.

Participants described how they managed working in these gendered environments. For instance, Jane (senior in global European bank) reflected on her own character traits.

I'm a bit Aspergersy, I don't get group conversations very well ... I'm just oblivious to things other women are sensitive to. It takes me ages to realise people are hitting on me. Once, with a colleague, we were talking about mutual interest and I realised his hand was on my leg. I'm not the most sensitive person.

She recognised how her lack of perception or concern about behaviours that others may have found off-putting may have, conversely, enabled her progress to seniority in male dominated areas. This underlines the lack of homogeneity in how women experience masculinised environments and behaviours.

Others described how workplace norms and being the only woman limited their ability to be themselves at work. Kaye (senior in global UK bank) said:

The language changes when you enter the room, they talk differently. My conversations, like gushing about my baby girl, don't happen. I just don't do that kind of thing, it doesn't feel right.

Jacqui (mid-level in global UK bank) described her experience:

I felt excluded from all the banter and chat around the desk. They would talk about blokey things, moan about the wife, talk about football. I actually love football but don't think I got the chance to say anything.

Aside from 'blokey, lad chat' (Sophie senior in global UK bank) in work, social interactions outside the workplace were described as extensions of these gendered topics and activities, with references made to heavy drinking, golf and sport generally (Roy, Hilary and Jacqui). This illustrates McDowell's (2008; 2010) contention that women are viewed as different and outsiders in an inherently male industry. These exchanges and activities demonstrate how women may feel excluded, devalued and unable to bring their whole selves to work.

While interviewees noted that overt sexism and discriminatory behaviour in the industry has diminished, the degree of this change was variable. Some were able to reflect on their careers, citing a positive shift. Kaye (senior in global UK bank) recalled the previously commonplace practice of meetings at men only clubs, while Jane (senior in global European bank) recollected being whistled at on the trading floor and being

‘groped’ at banking events.⁶¹ Despite progress, others described on-going discriminatory incidents, reflecting the lack of headway notable in some organisations. Val (mid-level in global Asian bank) described her head of department as ‘a misogynist’, who still felt able to use inappropriate language at work, frequently commenting on how her female colleagues were dressed and telling sexist jokes in the office. Others, as outsiders looking in, recognised the different workplace cultures in certain parts of the sector that women choose not to be part of (Sally senior in global UK bank and Ella mid-level HR in global Asian bank). The impact of these behaviours, particularly in global banks that demonstrate some of the largest GPGs, is evident. These foundational inequalities are now explored in relation to working time and the intersection of work and family life.

9.2 Working time, career interruptions and the second shift

The effect of working time norms, career interruptions and the second shift in the home remain critical factors in understanding the GPG (Hochschild, 2003; England, 2010). Given the prevalence of the long hours culture in the banking sector, the effect of normative cultural expectations around working time, maternity leave and parenthood are pertinent. The way that interviewees perceive the effect these factors have had on their career paths is therefore insightful.

⁶¹ As recently as 2018, the Presidents’ Club charity fundraiser, attended by many senior banking executives, exposed the sexual harassment of its female hostesses (Marriage, 2018).

9.2.1 Working time and the unencumbered worker

Part-time work has been used in Britain as a means to balance the competing demands of work and family life, its availability most prominent in low pay, low skill work. The wage penalty associated with this is well understood (Brynin, 2017; Eden, 2017; McGinnity and McManus, 2007). The significant occupational segregation within banking is one of the drivers of the sectors' GPG. Women occupy the majority of clerical part-time roles within finance firms at the bottom of the pay scale, while men are significantly more prominent in senior roles (see Chapters 3 and 7). The degree of agency that interviewees described in terms of their working time is now explored.

The usage of part-time work as a means to reconcile work and family life is supported by the interview data. Of the two-cashiering staff in the interview cohort, both occupied part-time roles throughout their careers and described how this enabled them to meet their caring responsibilities (Faye cashier and union rep in global UK bank and Belinda cashier in global UK bank). Their desire to be mothers and be around for their children informed their career choices. That said, one was a single parent and so the element of choice was contingent. A further two participants chose to work in the branch network in the early part of their career to meet caring commitments. Once their children had grown up, they felt able to prioritise work and progressed to head office roles (Yasmine mid-level in global UK bank and Alice senior in global UK bank).

Beyond the branch, more senior participants described their long working hours, commonly associated with the sector, sometimes with additional requirements of travel and after-hours networking (Tali, Sally, Sophie, Ella and Nia). While these expectations

were flagged by those from mid to senior level, interviewees also noted the increased availability of flexible working and how this shaped their career choices.

Based on the wide range of interviews conducted, it is clear that the choice of working hours for participants was embedded in an array of hidden complexities. Aside from perceptions of managerial support and seniority, the type of organisation they worked for was also significant for some. Participants described inconsistency between and within organisations, in terms of the firms' willingness to embrace flexibility. This variability included the job grades being considered, hierarchical variations, the organisation's country of origin and cultural norms, and the approach of individual line managers (Tali mid-level in global UK bank and Jade senior HR in global investment management firm). For instance, participant Ella (mid-level HR in global Asian bank) discussed the normative barriers within her firm.

Culturally I think it's not predisposed to flexible working or remote access ...

The culture needs long hours, there are certain areas here where you can't go before your boss, they need a lot of face time.

Interviewees described resistance to anything other than 'very full-time' work surrounding the most well-paid roles, demonstrating the embedded nature of a long-hours culture within the industry (Sophie senior in global UK bank). Participants reflected on the value associated with working time arrangements and the costs they had experienced when choosing roles that supported flexible working and non-standard hours (Sabina, Sally and Ella).

Respondents also recognised that presenteeism was, at times, self-driven by a desire to fit in and do well (Tali, Sophie and Nia). The acknowledgement that this was, at least in

part, self-motivated demonstrates the embedded image of the ideal worker. The competing tensions that participants described are illustrative of the ongoing preference for the 'unencumbered worker' in the highest paying occupations (Acker, 2006). Household responsibilities and caring requirements cannot be present, as the need to fully commit and be flexible to the needs of the job remains paramount (Acker, 2006). The ideal worker, Acker argues, is therefore best suited to men. This accords with the favoured character traits and gendered support networks already described.

Presenteeism has been noted for its gendered effects, relating to work-family reconciliation and gender pay inequities (Rubery and Hebson, 2018: 416; Metcalf, 2009; Atkinson, 2011). The factors framing how women choose their working time arrangements has shown how this can affect career path trajectories. Women described how their career plans and priorities changed as they got older or had families. The importance of work-life balance alongside expectations around the hours required in certain roles, became a decisive and limiting factor (Sabina, Kate, Hilary, Sophie, Yasmine, Nia, Krista and Kaye). As indicated in Chapter 7, organisations are increasingly recognising the need for greater flexibility (Fredman, 2014; GEO, 2018b). The variability in how firms facilitate this is explored further in Chapter 10, with reference to workplace policies and the practical application of them.

The theme of women's career path and care choices is continued here with recognition of how career interruptions and caring requirements further frame those decisions and their ongoing effects.

9.2.2 Maternity leave and care choices

When reflecting on their careers some participants described the impact of maternity leave and family commitments. Their insights illustrate how choices around care were made and the effect of time away from the workplace. The decision-making process that participants describe, demonstrates the loaded complexities inherent within these choices. The issues they raised resonate with both economic and sociological explanations of the GPG, with reference to factors such as the lost accumulation of human capital and deeply embedded norms around the workplace and the family. In addition, organisational change and development within the banking sector further contextualises how their careers were shaped. There is a continual state of flux in the industry, with gendered implications arising as a result of these changes. The variable capacity women have to align to these shifts exposes the relationship between limited change in closing the banking sectors' GPG and dynamism in the architecture.

Participants described how lost work experience impacted their career development and earnings, despite returning to work immediately after maternity leave. Krista (senior in global UK bank) outlined her perception of the problem.

When you come back you have to start off, to prove yourself again, almost from scratch. When you're in a team you're given a client portfolio and you're given what's left. People have worked with them while you've been off, so you have to start from scratch and build your client base again. Not only have you lost a year of work experience, but you're now working for a year to get back up to where you were, getting less chances to improve

yourself because you have to work from scratch. Then women often have another child, so the same scenario starts again, whereas males just carry on. They just improve and have no break.

The continual change and restructuring in the industry also demonstrate how alongside human capital choices and investments other factors routinely impact career development. Hilary (senior in global European bank) discussed the challenges she faced after maternity leave within this context.

You haven't been there to see what's happening and protect yourself, to make sure someone's backing you. And when this stuff happens it all becomes about backers. The more senior women are, the more quickly they drop away. The support structure isn't there for them, there's no one backing them.

These comments concerned the impact of organisational change on a group of senior women, previously promoted as part of the drive to improve the firm's gender balance at senior levels. However, when cuts had to be made, these women were in the firing line. She went on,

When it comes down to closing stuff, then who your pals or mates are is important.

The huge upheaval and ongoing restructuring in the industry (see Chapter 3), were discussed in these ways as redoubling the impact of time out. While the effect of maternity leave was perceived as detrimental, this was accompanied, in this instance,

by the re-emergence of old support networks. In reality, a selection process relating to either maternity leave or 'old boys networks' seems likely to have been discriminatory. The interaction between institutional legal requirements, organisational redundancy policies and sociological explanations, that informed the choices subsequently made, demonstrates the utility of the architecture model in helping illustrate how inequalities persist.

Decisions around the allocation of care were also described with reference to existing foundational inequalities. Participants explained how care decisions were reached based on the earning ability of each partner (Sally, Alice and Kaye), in this way reproducing existing wage inequalities. Kaye (senior in global UK bank) articulated this process.

My husband works for a private equity bank firm, if things go well over the next two years ... he would get a pay out of a couple of million. So that being the case we've taken an active decision to let his career develop, to prioritise that. I'm steadying the homelife.

That said, factors beyond the economic rationale as to which partner should take the career break were also discussed during interviews. Reshma (mid-level in global payment firm), who despite earning significantly more than her partner, took the full maternity period paid at the statutory minimum without attempting to return to work any earlier. In this instance, a purely human capital analysis fails to consider the crucial relevance of the wider context, invariably impacting her choices in intersectional ways. Gendered cultural and religious family norms were highlighted by this participant.

I have a huge family network, my kids are raised by my whole family, that's how it works.

In addition, the enhanced needs arising from her child's disability further contextualised her decision making.

The experiences interviewees shared highlighted the divergent ways that women and men choose to invest in work and family. The choice to have children is not one usually made in its entirety by the woman, yet the distinct binary impact of the decision is troubling. This was illustrated by Sally (senior in global UK bank), who described her choice to prioritise building her career before trying for children. Given her substantially higher earnings, the intention was that her husband would be the primary carer. She went on to describe how they were ultimately unable to have children, again demonstrating the contingent choices women make, beyond the simplistic translation of work experience and reward.

There is a choice, albeit gendered, in deciding to have a family. The context and importance of non-economic factors and associated care decisions impact and steer the length of career interruption. The way that both women and men 'choose' is laden with complexity.

The pervasive impact of normative behaviours around care was illustrated by Sally (senior in global UK bank). She recollected a discussion with a male member of her team regarding the potential effect of a career interruption for him. She described his concern over taking SPL.

His reaction was, 'if I take 3 months off will it be career limiting for me?'

I said, 'if it is, your wife's got real problems!'

In addition, the impact of organisational attitudes and normative expectations around maternity was also evident. To illustrate, Sophie (senior in global UK bank) described her employer's response to her decision to take the full statutory entitlement for maternity leave as positive, suggesting this was unconventional.

They've been really good about it, they never made me come back from maternity leave early, there was no pressure to come back early at all!

Expectations and pressure to conform can impact career paths and shape behaviours. This demonstrates how economic rationality and decisions around care are not unencumbered for men or women. With this in mind, the importance of networks to assist career development and enable the job to be done effectively, and the detrimental effect on those networks of taking time out, was flagged by a number of participants (Tali, Sally, Jacqui, Claire, Krista and Kaye). Time out was discussed in terms of lost human capital but also with reference to the impact it has in distancing women from networks, vital for success in post and progression to more senior roles.

Alongside the effect of caring responsibilities, the literature also recognises how an unequal division of labour within the home contributes to gender pay inequities (Hochschild, 2003). The relevance of this for the women interviewed is now explored.

9.2.3 Gendered roles within the home

The unequal division of labour for both caring and household work and its gendered impact on working time and the GPG is well recognised (Bensidoun and Trancart, 2018; Eden, 2017; Manning and Petrongolo, 2008; Benard and Correll, 2010; Paull, 2008).

While the family unit and roles within the private sphere have changed, the effect of these traditional stereotypes remains relevant. As such, the decisions that participants made around workplace flexibilities, parenting and household labour is now examined to highlight the effect of these societal norms and foundational inequalities within the home. The paramount importance of existing inequalities, and the interrelationship they have with macro and meso level explanations, help illuminate how initiatives have impacted and why progress to address the GPG has stalled.

In terms of mothers taking the lead in parenting, that was still the experience for the majority of the sample. Kate (senior HR in global UK bank) described her belief that women are naturally predisposed to consider the needs of family before career, noting she had done just that. That said, there was no apparent resistance or inherent aversion from interviewees to fathers taking the lead in parenting, and indeed some families were organised that way (Jane, Sally and Jade). Krista (senior in global UK bank) commented that she would like to see improved paternity rights, to enable men to be more involved. There was also recognition from Claire (senior in global UK bank) that the traditional role of full-time mother was not a natural fit for her.

I know I could never be a stay-at-home parent. I admire anyone that does, I don't know how they do it. Part of my personal identity is caught up in having a professional identity. When I was on maternity leave I loved it, but I do remember we went to a sing and sign class and I found myself woofing 'twinkle twinkle'. I almost had an out of body experience, six months-ago I was renegotiating hundreds of millions of dollars, and now I'm woofing

‘twinkle twinkle’. What has my life become?! I thought ‘I don’t know if I can do this?’

The difficulty of combining parenting with work was simply too much for Hilary (senior in global European bank), who saw no way to reconcile the two and so ultimately left her job. However, interviewees also flagged improved opportunities for flexible working (see Chapter 7), demonstrating the progress that has been made and a generational shift. Flexibility measures had not been available for older participants and as such their choices had been constrained. This cohort had either opted for a traditional approach to balance work and care (Faye, Sue, Belinda and Alice) or, given their earning status, a ‘house husband’ had taken on the domestic responsibilities (Jane senior in global European bank and Sally senior in global UK bank). For younger women, there was more of a mixture. Some utilised full-time work with compressed hours and flexibilities like home working (Sophie, Reshma and Krista), while others combined part-time working and a more traditional approach (Yasmine mid-level global UK bank and Kaye senior in global UK bank). These interviewees all described active parenting roles for the father and a sharing of some responsibilities, though they also acknowledged they took the major share. There were exceptions, Claire (senior in global UK bank) stated, ‘it’s split firmly down the middle’. Jade (senior HR in global investment management firm) noted the fortuitous timing of her husband’s redundancy which, given the difficulties they were experiencing with wraparound childcare and long working hours, prompted him to take on primary carer duties full-time. The slowly evolving normative behaviours around parenthood and the role of fathers is evident.

However, the uptake of workplace flexibilities still reveals gendered mentalities. This is demonstrated by the participants who work full-time compressed hours to balance competing demands in a way that their partner does not. The ability to 'have it all' seemingly means that women are still taking the majority of the parenting load, but now doing so on top of employment demands. It seems that while greater flexibilities may have opened up the potential for women to stay in senior roles, it may not be sufficient to disrupt gendered family norms and may inadvertently further embed them (Grönlund and Magnusson, 2016).

The gendering of roles within the private sphere extends beyond caring responsibilities to encompass the division of household labour. Despite changing social attitudes, women still bear the burden of the 'second shift' at home (Hochschild, 2003; Shelton and John, 1996; Friedman, 2015; Sayer, 2005). This was explored during interviews. Two participants stated that they took on the bulk of the work (Belinda cashier in global UK bank and Jacqui mid-level in global UK bank). However, the majority of the sample did not. Many hired in help (Sophie, Reshma, Alice, Claire Krista and Faye), some described a sharing of responsibilities with their partner (Hilary, Sophie, Yasmine, Jade, Krista and Faye), while others noted that their partners took on the majority of domestic duties (Jane, Sabina, Tali, Sally and Sue). Interestingly, for respondents whose partners assumed the larger proportion of household work, children were either not present or had moved on.

The nature of the sample, given it is occupied by a majority of senior high earning women, is relevant here, given their ability to pay for help. It does also suggest that

there may be a changing relevance in the burden of household work, at least for high earning women.⁶²

There were interesting reflections from the two younger participants (aged 25-35 and without children), whose partners carried out the majority of household labour tasks as a result of their long working hours. Tali (mid-level in global UK bank) spoke of her desire to have a more equal share at home and suggested feelings of guilt about their current arrangement. Sabina (mid-level in hedge fund) directly articulated these,

I have prioritised career quite a bit ... I feel guilty that I should share what needs doing more equally. I should make a bigger effort to deprioritise work and be more available at home to share the chores with him.

The way that these women have invested in the long-hours culture and yet experience guilt demonstrates how normative values concerning domestic labour are internalised. Corresponding comparative discussions with men in similar positions would be helpful to understand their perceptions of these expectations and norms.

The variable ways that career paths are shaped and the effect of caring requirements and normative roles within the home has demonstrated the competing tensions that inform womens' decision making. To draw this analysis together the theoretical approaches that contribute to the architecture model are now used as a scaffold to position these discussions around career paths and care.

⁶² The gendered nature of hired help was not discussed, though this too may reinforce traditional gender norms and intersectional inequities. Paid domestic roles are typically low paid, vulnerable, outside the scope of social protection systems and still deemed women's work.

9.3 Applying the architecture model to the thematic analysis

Over the past fifty years the role of women, both within the public and private spheres, has changed. Nevertheless, the construction of gender and the behaviours associated with traditional masculine and feminine characteristics remain prevalent. Qualitative interview data has shown that inferences made on the basis of sex continue to inform occupational identities within the banking sector and the inequality regimes that occur therein (Acker, 2012). Roles and identities are ascribed to gender through the process of socialisation. These predetermined patterns and rules, while changeable, operate within and beyond the scope of institutional and organisational structures, implicitly impacting upon them. They are built into the very fabric of society (Criado-Perez, 2019). There is social meaning and value attributed to the skills typically associated with women, and they are of lesser value than those associated with men. This can be seen in the institutional devaluation of women's work (Perales, 2013), and the tendency for devaluing when jobs become progressively feminised (Levanon et al., 2009; Reskin and Bielby, 2005; Rubery and Grimshaw, 2015; England, 2010).⁶³

Alongside the gendering of occupations and assumptions of value, these processes and norms can impact career choice and progression (Bensidoun and Trancart, 2018).

Occupational positioning can affect the importance placed on promotion prospects in particular roles, compared to others which have flatter career outlooks. Research suggests that this is not because women value promotion less, but is due to the sex segregation that operates in terms of the roles women occupy, and the promotion

⁶³ This theme is demonstrated by the public sector regrading exercises (see Chapters 5 and 6). Resultant equal pay cases revealed these gendered valuations when comparing low pay low skill roles, such as care worker and teaching assistant, with those of refuse worker and caretaker (Deakin et al., 2015).

prospects associated with them (Cassirer and Reskin, 2000). Research has also assessed the effect of performance reviews, which typically don't embody the same career development pathways for men and women (Correll and Simard, 2016). The lack of transparency in how these processes work in the banking sector, as evidenced in this chapter, contributes to the difficulty in challenging them.

This chapter has examined how career paths have been shaped by these behaviours and norms to help explain gendered pay hierarchies. What has become clear are the ways that rational economic choices are impacted by workplace values, expectations and culturally situated family norms. The theoretical framework, introduced in Chapter 2, is now returned to to examine the relevance of these explanations to the insights elucidated here. Given the topics discussed, attention is focussed first on the economic and then sociological perspectives. Resultant conclusions subsequently describe how understanding these explanations in terms of the architecture model helps illustrate why the closure of the GPG remains so slow.

9.3.1 Economic explanations

The significance of the economic theoretical approach and the rational choices interviewees made within the sector are now explored. A recap is first given and then the key topics discussed in this chapter, those being career path investments and contingent choices, are used to assess the relevance of the perspective. The significance of human capital investments at the micro level are determined by how salient interviewees experienced them to be. This demonstrates the declined applicability of the theoretical approach and the need to look beyond the economic perspective to fully understand the slow closure of the GPG.

According to the rational economic model, value in the workplace is achieved based on the skills, knowledge and investments of those working within it. Educational attainment, labour force participation and the continuity of work experience are recognised by economic theorists as means to accumulate human capital (Becker, 1985). Within this context, individuals make choices about how they invest their own human capital. These choices impact upon earnings ability and consequently the GPG. Individual preferences, in terms of occupational field, work type, educational investment, labour force experience and hours worked, reflect these choices. This, in turn, determines the value placed upon the individual (Pham et al., 2018).

Theorists suggest that investments are variable, reflecting the productivity gap between men and women. For women who have caring responsibilities, their investment is subject to interruption. Becker (1985) contended the increased demands women face on their leisure time, due to more intensive household and caring commitments, rendered them less productive at work. Further contestable assumptions are offered by Polachek and Xiang (2014), who suggest that women's labour force participation is less intensive and productive, as a result they are subject to lesser financial rewards.

Since the foundational work of Becker (1985), there have been significant increases in both women's participation in the labour force and women's level of educational attainment (Harkness, 1996; Quiros et al., 2018: 29; OECD, 2017: 274). While career breaks for mothers are getting shorter, Polachek (2004) notes the determining impact that any break has on potential earnings. The economic theoretical approach also places significance on the volume of hours worked over the life course. While traditional human capital variables have been amended to keep pace with the

increasing level of women's labour force participation, the preference for full-time employment, demonstrated in the legal analysis (Chapters 5 and 6), is also relevant at the organisational level. It seemingly provides the gold standard capable of preventing human capital 'rusting' and against which other contractual hourly arrangements are measured (Rubery and Grimshaw, 2015: 327).

The relevance of the economic benefit associated with educational investment has shifted. Across all age groups, the proportion of tertiary educated women is now higher for women than for men in almost all OECD countries, including Britain (DfE, 2019b). The gap in favour of women has risen in the EU from 10% in 2008 to 14% in 2018 (OECD, 2019: 50). In recognition of women's developing educational attainment, the economic theoretical perspective has also repositioned itself. More recent research now suggests that the subjects' women study are of greater importance than solely achieving the level of qualification (Schulze, 2015; Chevalier, 2007; DfE, 2019a).

Despite the theoretical repositioning, limitations with the economic approach are demonstrated by these marked improvements in both women's educational and workforce participation investments, which have not seen associated progressive reductions in GPGs (Rubery et al., 2005). This reflects the shifting relevance of how clear-cut these factors are, as explored in Chapter 2. Blau and Kahn (2017: 801) note that education and experience accounted for 27% of the GPG in 1980 in the US context, dropping to 8% in 2010. Their research also highlights a slower decline in progress to eradicate gaps at the top of the earnings distribution; an area where you would expect the translation of educational investment to reward to be most potent. Research shows within the finance sector there is still a qualification gap, albeit declining, as men remain

more highly qualified (Healy and Ahamed, 2019). Given the contrary wider educational trends, this suggests that more highly qualified women are less likely to be recruited or promoted. Correspondingly, the impact of women's relatively low level of attainment in STEM subjects in Britain and Europe is significant and becoming more so (Sorgner et al., 2017; Howcroft and Rubery, 2019; DfE, 2019b).

Interviewees described how the investments they made in and around the workplace to reach seniority have been subject to changing barriers. To illustrate, alongside increases in women's workforce participation and workplace flexibility, there have been seismic shifts in the way finance firms operate (Chapter 3). The previously commonplace expectations of a job for life and the resultant investment such an approach required, have changed significantly over the past fifty years (Greg, Roy, Moira and Faye) (Crompton and Birkelund, 2000). The influx of players in the financial services market, beyond Britain's big four banks, the transformation of the branch network and globalisation of finance has presented new opportunities and required different types of investment in work (McDowell, 2008; O'Reilly, 1992). This fissuring of the workplace means that employees' movement between companies is now commonplace and the incentive to move is high (Weil, 2014; Olson, 2013). Seniority as a salary determinant is no longer as relevant as when employees remained with one organisation for life.

Participants described the need to move company regularly to maximise their educational investment and returns (Tali, Sally, Alice, Claire and Kaye). Yet the changed workplace continues to reward investments in different gendered ways. Within the banking sector, the premium paid for this movement demonstrates a repositioning of reward and the commodification of the individual and not the job. However, the

capacity to go 'job shopping' is not necessarily a 'free' choice (Manning and Swaffield, 2008). This is evidenced by the commute gap for women, marking the way that gendered factors can limit the use of time and the ability to move (Smith, 2019). The expectations and outcomes around investments in work and choices over working have changed, but they still remain heavily gendered. This is not because the women interviewed prioritised their families over their careers, or because they were less well-qualified, as economic explanations would suggest. Rather it depended very much on the organisational context and culture in which they were making these decisions and the degree to which they felt they were supported or hindered in their career progress.

When considering the translation of educational attainment and experience into outcomes, the problematic notion of the input/ output model is reiterated by the experiences of participants evidenced in this chapter. On the one hand the loss of time and opportunity to develop skills and workplace experience, that participants described, reaffirms the economic theoretical position. However, the interview data revealed a range of limiting factors influencing how career pathways were chosen, including exclusive and inaccessible networks, and the effect of gendered values and assumptions both in the workplace and the home. The impact of maternity leave, factors shaping decisions regarding care responsibilities and flexible working illustrate the practical realities and constraining barriers interviewees experienced.

Shifts in women's educational attainment and workforce participation have corresponded with limited reductions in the large GPGs in the banking sector, seemingly more resistant to progress than other industries. The societal attitudes, norms and values within which gender pay inequality arises and stubbornly persists highlights the

fundamental and embedded notions of gender identity both at work and in the home. The interview data has in this way evidenced the need to look beyond the model of economic rationality. The intractable influence of workplace hierarchies and the themes of transparency and governance are useful to explain the limitations of the approach. Choices around maximising returns on human capital investments are complicated in many ways. The inadequacies of the economic lens are indicative of a core component of this thesis, the contradictions of transparency. The potential for the women interviewed to maximise their investment returns is blindsided by the hidden networks and gendered barriers that limit their choices.

These limiting factors and their resonance to sociological explanations are now addressed before positioning them within the architecture model.

9.3.2 Sociological explanations

Given the gendered nature of this research, a feminist sociological perspective provides a useful rubric with which to analyse the interview data and women's micro level experiences. A recap of sociological explanations is first given. The relevance of the theoretical approach to the discussions around career trajectories and care is then presented.

To understand how gender inequalities are produced and reproduced, sociological explanations consider the norms and values surrounding women and women's work. Notions of power and patriarchy in the workplace and the division of care and household labour in the home are highly relevant themes. Since the inception of the Equal Pay Act 1970, there has been significant change in the sexual division of labour.

However, foundational inequalities remain marked, both in the workplace and for domestic and caring responsibilities (Eden, 2017; Sayer, 2005; Shelton and John, 1996; Friedman, 2015). These foundational underlying inequalities are slowly evolving and the mechanisms that restrict or prompt such movement, are at the heart of this enquiry. The phenomenon of the GPG operates within these socially embedded constructs, values and discriminatory behaviours.

Efforts to address inequalities are limited by normative behaviours and values. Those in positions of power define the needs of business and can legitimise resistance to initiatives, for instance, quotas for senior roles (see Chapters 7 and 10). Equally, the cultural frame which suggests that the best person for the job should get the role, fails to recognise how gendered the job itself and the process of acquiring it may be (Bohnet, 2016). Gendered management structures may disadvantage the best person if they do not fit the existing mould. Existing structures of power and influence are, in these ways, retained and reproduced (Martin, 2003).

These theories add weight to Acker's notion of gendered hierarchies in the workplace. When considered in the abstract, she suggests the ideal worker is a man (Acker, 1990; Acker, 1989). High status roles within banking typically require this unencumbered worker. Commitment to the job is demonstrated by an ability to undertake long hours and the flexibility to meet the demands of commuting, travel and networking. She posits that effectiveness at work is measured against these norms and subsequent rewards are associated with these masculine traits (Acker, 2012). In this way, the classification of jobs, promotion and wage systems (discussed in Chapter 8) are not neutral but serve to reinforce existing inequalities (Pham et al., 2018). Barriers for

women, represented by both the glass ceiling and glass cliff, are synonymous with hierarchies of power. They operate alongside the privileged access and glass cushion afforded to men, when in pursuit of positions of seniority (Eden, 2017).⁶⁴ Within banking, research also shows that social relations and common practices are informed by patriarchal assumptions that position women as outsiders (Wilson, 2014). The way that interviewees experienced this has been well articulated in this chapter.

These processes and the formation of gender are replicated in the private sphere. Progress towards a more egalitarian sharing of parenting and unpaid household work has apparently stalled since the 1990s (ONS, 2016; Hochschild, 2003). Women's biological capacity to have children continues to inform their status as primary carers. Sociological accounts place the choices associated with these roles, and the motherhood pay penalty incurred as a result, beyond any tangible control mechanism. These normative values instil social pressure to conform to a gender essentialist model of parenting. Hays (1998) suggested the concept of 'intensive mothering' has been reasserted. This creates a paradox in efforts to achieve equality in the workplace, alongside the choice and pressure of balancing work and family life (Cotter et al., 2011). The tension in these competing expectations can be identified in the guilt experienced by women, as compared to men, in terms of attempting to balance the competing demands of work, caring responsibilities and domestic commitments (Miller, 2012). These tensions are demonstrated in both the construction and limitations of Shared Parental Leave (SPL), as discussed in Chapter 6. Women are required to forgo their

⁶⁴ Eden (2017: 116) describes the glass cliff experience women can have when trying to breach the glass ceiling, typically offered roles where others have failed. This contrasts with the more supportive glass cushion promotions afforded to men.

leave in order for men to access this poorly paid provision (Kaufman, 2018; BITC, 2018).

The transformative potential of SPL is constrained by this structure, given it reinforces the notion of a singular primary carer to be determined by the mother (Atkinson, 2017).

The trend of governance is ever present, informing and contributing to the 'doing of gender' (West and Zimmerman, 1987). Interviewees experiences of caring

requirements, as described in this chapter, highlight that women are not a

homogeneous group, underlining the need for intersectional reflection. Expectations

and attitudes concerning the value of women's work and how gender identities are

framed, constructed and reproduced within organisations accurately frames the

contingent choices they described.

Sociological explanations are pertinent to the initial career choices that interviewees

made and their subsequent development, helping to counter the inadequacies of the

economic perspective for this case study cohort. The interview data helps demonstrate

how the movement and interrelationship within and between these explanations

insulates the GPG from change. The architecture model provides a means to visualise

and understand this lack of progress. The complexity of interwoven factors between

each explanatory component helps to address the key research questions of how

initiatives have impacted the GPG and why the gender revolution has stalled.

9.4 Conclusion

This chapter set out to explore how women approach their career paths, and decisions

around family and parenthood. The analysis has shown areas of development and

progress, but also the practicalities of evolving barriers and foundational inequalities

constraining their choices. The ongoing construction and reconstruction of the architecture of inequality in Britain is based upon these foundational principles. The micro level analysis in this chapter has given voice to the ways this fundamental power imbalance translates for women working in finance.

Exploration in this chapter has drawn on both economic and sociological perspectives. The supply side model of the economic theoretical approach has been examined with reference to the practical experiences of women in banking. The key explanatory factors of the approach emphasise choices around career investment and education as well as patterns of full- and part-time workforce participation. Consideration is given to the pertinence of these justifications and the associated factors that impact women's decision-making. The limitations discussed highlight the fundamental need to explore the GPG within a specific sectoral context. This is aptly demonstrated by changes in the sector itself and the variable applicability of human capital investments across the pay spectrum. For this case study, particularly given the size of GPGs and the typically well-educated status of women at the top of the earning distribution within the finance sector, the theory is of limited and diminishing use. There is a clear divergence in the way that investment and the trade off with outcomes works across the organisational hierarchy (Grönlund and Magnusson, 2016). Secondly, the depth of understanding that it affords is insufficient to enable a fruitful analysis of the barriers that women are facing and the depth of the problem (Olson, 2013). The notion that rational choices inform the investments women make suggest that they have the right, power and opportunity to choose freely. The suggestion of a direct translation of educational and workplace

investments to financial reward exposes a lack of visibility in how these decisions are made in different organisations in the sector, as well as for different grades.

Given these limitations, the application of alternative thematic lenses is useful to fully understand the dynamics within each theoretical explanation, their interrelationship and the dynamism in the architecture model. The evidence presented here has shown how sociological explanations and underlying foundational inequalities inform women's career path decisions. These decisions and the organisational responses to them are laden with normative values and bias. The data has shown how women's career paths have been shaped by unintended consequences resulting from these choices.

The persistent and significant GPGs within the finance sector and the shifting relevance of both economic and sociological explanations are enhanced by understanding the occurrence as part of the broad architecture of inequality model. The developments that have been evidenced here, such as increased workforce participation and greater flexibility in reconciling work and family life, are positioned within this dynamic model. Despite progress, participants described unused policies and reluctance to embrace flexibility, highlighting the variable and non-linear nature of change. Much like the contradictions of transparency discussed throughout the thesis, improvements in one area are counterbalanced by resistance and lack of change elsewhere. For instance, the organisation's country of origin and trends associated with the type of work carried out are factors shown to mark degrees of resistance to embracing diversity, demonstrating an alternative perspective to that of Dobbin (2009) (see Chapter 10). Understanding the continual movement of changing investments and choices around work and family, has revealed these ongoing tensions frustrating change.

Women's career paths and opportunities, as examined in this chapter, are now subject to further scrutiny in relation to legal requirements and workplace policies, again demonstrating why progress remains so slow and stalled. The degrees to which policies are implemented, diluted or obscured is discussed next in Chapter 10, helping to indicate where future change efforts should be focussed.

10

The gap between policy and practice and the role of organisational norms, HR and collectivism

Chapter 10: The gap between policy and practice and the role of organisational norms, HR and collectivism

10. Introduction

This chapter builds on the topics career paths, care and contingent choices, articulated in Chapter 9. To further contextualise interviewees decision-making attention here is given to the application of organisational policies. Participants flagged the mechanisms and initiatives designed to support organisational change and the gaps they experienced between policy and practice.

First, the analysis explores the themes of barriers to progression and working time choices, by looking at policies designed to address the lack of women in senior roles and the availability of flexible working. This demonstrates how far organisations go beyond statutory compliance. Interviewees described their perceptions of these organisational approaches and the effect of organisational cultures on change efforts. This reveals how workplace norms and behaviours can embed, filter and obstruct access to policies designed to target change.

Second, the impact of organised labour, group litigation and social movements as a means to challenge policy and build momentum for change is then identified. Various forms of collective resistance have raised awareness and visibility of pay inequities and given impetus to the drive for change, highlighting the importance of redress beyond the individual claimant (Deakin et al., 2015). The limited reality of this potential for interviewees, described in Chapter 8, is acknowledged.

Analysis then turns to consider the relevance of these discussions to the theoretical framework, in order to situate findings within the architecture model. Organisational explanations, such as Dobbin's (2009) contention that Human Resource (HR) professionals have been the instigators of equality and diversity policies, are examined. The evidence in this chapter shows the extent to which these arguments resonate with interviewees. While organisations have signed up to institutionally sanctioned change processes, such as the Women in Finance Charter (WiFC), these are too frequently 'empty shells' (Hoque and Noon, 2004). This draws into doubt the approach of Dobbin (2009) and demonstrates the need to examine the lived reality of organisational policies.

Situating the problem within the broad architecture of inequality shows the limited effect that organisational initiatives have had for the women interviewed, indicating why progress has stalled. The degree to which organisational structures and practices impact policy demonstrates the continual tensions and shifting goalposts that operate within and between each theoretical approach (Rubery and Grimshaw, 2015). While organisations are willing to recognise and focus resource on some of the causative aspects of the gender pay gap (GPG), the complexity of the inequality regimes in operation remain largely invisible to them (Acker, 2006). Understanding the variety of ways that the problem is obscured from view suggests where sustained and renewed actions and interventions need to occur, as will be discussed in Chapter 11.

10.1 Progression and flexible working policies

The sectoral variation in pay gaps (Figure 3.1) highlights the importance of understanding the relationship between both institutional and organisational policy and practice. This indicates the need to consider the differential role of organisations and their macro level responses to statutory institutional regulations. The financial imperatives for organisations to address GPGs are well established (Eswaran, 2019; EHRC, 2009; McKinsey, 2018; WEF, 2018; Directorate-General and EC, 2005). However, despite these motivating factors (see Chapter 3), there is variability in how finance firms approach the problem. This suggests the pursuance of equality is subject to competing pressures, making the degree to which it is recognised and targeted within organisations variable (GEO, 2013b; Davies et al., 2015; Makortoff, 2019). This is the context within which business led approaches to the GPG are framed.

Most organisations, according to the accompanying narratives (see Chapter 7), attribute their GPG to occupational segregation. Understanding routes to promotion and barriers to seniority is therefore vital. In Chapter 8 we say how the lack of transparency around pay remains obstructive. The ability to balance work and family life was raised as a key theme in Chapter 9. To further contextualise the opportunities and barriers women face this chapter now assesses the practical application of policies designed to support women's progression and workplace flexibility. The interview data reveals layers of complexity in their availability and usage. This demonstrates how the somewhat myopic organisational perception of the problem acts to insulate the GPG from change.

10.1.1 Promotion: Mentoring, networking and shortlists

The occupational segregation within banking has prompted firms to implement mentoring and networking programmes to help women reach senior roles. However, divergence in the application and extent of these schemes reflects how embedded architectural barriers are within organisational approaches.

The drive to improve the lack of senior women was reflected on by Hilary (senior in global European bank). She described her experience of being part of a women's leadership programme. While she acknowledged the programme was successful in terms of enabling her and her seven female colleagues to reach senior positions, a subsequent period of organisational restructuring led to foundational gendered inequalities resurfacing. During this period, all eight of these women, previously supported, left the business in a highly gendered raft of redundancies. She felt that while male management networks were happy to support them to a point, the extent of this was limited.

They worked so hard to get people like me put in those positions, but when it came down to it, management said, 'we've got to get rid of staff', and then it was the women [who had been developed through the leadership programmes] that went. Nobody sat down and said there's a problem here, look at who you're choosing.

Participants also voiced frustration with policy efforts such as 50/50 shortlists (Sophie, Sue, and Yasmine). They described the demoralising effect of being invited to interviews

purely to make up the numbers, their experiences evidencing a tokenistic application of the policy.

They're very good at putting out things which look good and talk the talk, but when it comes down to it, not much has changed (Jacqui mid-level in global UK bank).

While good practice awards and policies were described as commonplace, participants viewed this as window dressing, an assessment supported by the evidence of ongoing inequities.

Limitations in the scope of initiatives were also recognised. Tali (mid-level in global UK bank) described how organisational efforts to support women to reach senior levels were seemingly targeted at those already in senior management positions. She described the frustration she felt given her own ambitions to reach a senior level, concluding, 'at the moment I have no visibility on how to get there'. While initiatives may look good on paper, they were all out of reach for her. Another participant described frustration with a women's networking day she had attended. Despite the group coming up with useful valid suggestions for change, she explained how these were subsequently not acted upon. This led her to surmise that the networking scheme was merely a 'talking shop' (Sophie senior in global UK bank).

Conversely Jacqui (mid-level in global UK bank) noted her firm's reluctance to go as far as others in their efforts to support women.

Are we being as radical as some other organisations? No. Putting shortlists together for interview candidates? Absolutely not.

These experiences evidence a tick box approach to equality and confirm the ‘empty shell’ hypothesis introduced in Chapter 2 (Hoque and Noon, 2004; Healy et al., 2011; Dickens, 2005). Participants described their own organisation’s limitations with a resigned acceptance of the ‘glacial’ and ‘slow’ speed of change to address the gender imbalance (Jane, Roy, Sally, Ella and Nia).

The inertia or apathy towards policies that participants noted at all levels of the workplace clearly impacted their accessibility and application. This illustrates the various ways the path of progress is obstructed, contributing to the intransigence of pay inequalities.

Alongside the variable applicability of these organisational approaches to promotion, participants also cited how improvements to flexibility were applied within firms.

10.1.2 Flexibility and the long-hours culture

As evidenced in Chapter 9, the availability of workplace flexibility policy is a much-improved landscape. The type of policies firms have in place and variability in their usage is now considered with reference to job type, seniority and resistance along the management chain.

Participants discussed the numerous forms of flexible working arrangements they were engaged in, including: compressed; term-time only; part-time; working from home; and use of parental leave (Faye, Sophie, Sue, Yasmine, Belinda, Jacqui, Alice, Claire and Kaye). Interestingly job-share was only identified in terms of its absence (Jade senior HR in global investment management firm). The degree of choice around flexible working appears to impact in different ways across the pay spectrum. Despite efforts to embed flexibility becoming more widespread, a common theme was the variable way flexibility

requirements were understood across occupational hierarchies (Greg, Sabina, Faye and Yasmine). While higher status participants acknowledged that a range of working-time patterns were increasingly available, this was not the perception for those at the bottom of the organisation. Faye (cashier and union rep in global UK bank) described her experience of this disconnect:

We have low-level managers who don't know it [flexible working policy] exists, or how to implement it. If a member asks for flexi-working they say no, as it's easier to brush them off than try to make it work.

The part-time hours that these staff can access are seemingly inflexible.

Pay gaps are typically lower at the bottom of the income scale. In banking, women are prominent working in these lower status, lower pay and often part-time roles (Figure 3.2). Of the participants who were currently working, or had previously worked in lower status jobs, they all acknowledged their choice in doing so was motivated by the need to prioritise family, resonating with economic explanations (Faye, Sue and Belinda).

At the mid and top end of the pay spectrum, participants had experienced a much-improved approach to flexibility from their managers. They mentioned the growth of connectivity and technical ability to work from home, alongside restrictions on office space, as helping support this change of organisational mindset. The various forms of flexible working were not identified in terms of any perceived detriment to their career trajectories, but rather they were largely seen as a positive development. Participants did not make a connection between their choice of alternative flexible working patterns and any negative impacts on pay in the longer term.

That said, the impact of the organisational response to part-time work was cited as crucial in determining some participants' choice of hours. Interviewees reflected on the lack of reduction in workload when moving to part-time hours. Yasmine (mid-level in global UK bank) explained that this resulted in her choice to work three, not four, days a week. Despite her preference for the latter, she believed appropriate cover for her job would only be provided at three days and so decided to take the accompanying financial detriment and work less. Equally, Krista (senior in global UK bank) decided to go back to full-time hours, given the continued expectations and lack of reduction in her work when she had been part-time. This lack of adjustment to account for 'off' days and the need for a better understanding of flexibility was also raised by those on compressed hours (Sophie, Claire and Kaye). This suggests that the use of flexibility is significant for those on both full- and part-time contracts, somewhat undermining the relevance of the economic approach. Any flexibility associated with hours was described as having an impact, diminishing the importance of overall investment of time. This demonstrates how the organisational aspect is seemingly more pressing and highlights the interrelationship between economic and organisational explanations.

Understanding how these decisions operate for both employees and organisations is vital to ensure that the drive to improve flexibility does not further embed pay inequities (Bian and Wang, 2019).

Following on from the way cultural practices affect issues like pay secrecy and promotion, the deeply ingrained expectation of presenteeism further contributes to reinforcing gender divisions (Treasury Committee, 2010; Metcalf and Rolfe, 2009; Atkinson, 2011). Despite pressure to address the problem (EHRC, 2009), post-financial

crisis research suggests that working hours have actually increased (Healy and Ahamed, 2019: 322). Expectations of working long hours, including frequent weekends and working through or cancelling holidays, was normal for some interviewees (Sally, Val and Claire). Others recalled periods during their career when they had worked in this way (Sophie, Sue, Jacqui and Jade).

Participants reflected on the horizontal occupational segregation and the typical jobs associated with these expectations. In so doing, they noted that resistance to addressing the long-hours culture and embracing flexible working in certain parts of the business was legitimised by the requirements of certain roles (Sally senior in global UK bank). They were most notably discussed by those working currently, or previously, in higher paying and typically more male dominated occupations, such as asset management and investment banking (Val, Jade and Claire). The ability for the typically higher earning parts of the sector to decouple from the push for flexibility is, in this way, legitimised by the apparent needs of the work environment. For instance, participants spoke about traders needing to record calls, or home computer systems not having the capacity for more technical roles (Ella mid-level HR in global Asian bank and Jade senior HR in global investment management firm). As technological innovations grow, it will be interesting to see whether this persists, or if the growing ability to work flexibly, as demanded by the pandemic, generates wholesale change in the way the sector works (Howcroft and Rubery, 2019).

The long-hours culture prevalent in the sector is further marked by vertical occupational segregation. Respondents described how from middle management upwards, the ability

to have a reasonable work-life balance was increasingly eroded (Kate senior HR global UK bank and Kaye senior in global UK bank).

That's one of the reasons why I've chosen not to pursue my career beyond the level I'm at, at the moment. There's an expectation if you progress beyond a certain level, that regardless of what's going on with you, at whatever time of evening or weekend, that you will just drop things (Yasmine mid-level in global UK bank).

In this way, profitability and diversity are positioned as diametrically opposed, with the benefits afforded by flexibility viewed as a secondary concern (Davies et al., 2015).

That said, policies to address flexibility at work were identified as having undergone a recent improvement by 43% of interviewees (Sophie, Sue, Yasmine, Jacqui, Jade, Nia, Alice, Claire, Krista and Kaye). The growth of flexible working initiatives, beyond statutory requirements, shows how the drive for diversity and inclusion is achieving some traction. Krista (senior in global UK bank) described this change.

In 2015/16 it was not common to work flexibly. I had lots of young male peers who didn't understand it at all. It makes you feel quite isolated. This team is different, but also the bank has changed in the last three to five years. There's a better understanding from them that people have their lives. It's more mature I would say.

Participants acknowledged the importance of the growth of flexibility, in enabling them to maintain a career in the industry alongside caring commitments (Sophie, Sue, Yasmine, Alice, Claire, Krista and Kaye) (see Chapter 9).

Respondents noted how this change also increased their ability to move jobs, given they were able to secure new flexible working arrangements. Krista (senior in global UK bank) described how she felt less tied to her employer.

They've relied on it [flexibility] a lot, they think people will just stay. For females my age they think, you get that and you won't leave. But other banks get flexibility as well now.

Another participant described how flexible working was part of her opening discussion with a new firm (Sophie senior in global UK bank). Given the higher pay awards achieved through changing firm, the progress organisations have made in improving and embedding flexibility is critical in helping women capitalise on these potential increases.

That said, much still remains to be done. The improved access to flexible working was identified as not operationally viable for those in lower grades. Participants noted that it was often much easier for mid to senior levels to be able to work flexibly (Greg, Roy, Sabina, Faye and Yasmine). These findings support research that has identified policy gaps in access to flexible working at the lower end of the pay distribution in the financial sector (Healy and Ahamed, 2019: 321).

Participants also noted how the organisational drive to embed flexibility can be lost along the management chain (Tali, Faye and Claire). Sally (senior in global UK bank) described how the escalation policy in an individual's right to request flexible working had been changed at her organisation, as a means to address this.⁶⁵ The need to be organisationally alert to resistance from line managers was accompanied by the

⁶⁵ The Flexible Working Regulations 2014 include the right to make a flexible working request, subject to having 26 weeks continuous employment.

importance of the tone from the top, both critical in driving change. The variability in management values informs and shapes the organisational culture and this can hinder organisational policy attempts to achieve greater gender equality.

The cultural expectations within firms and interviewees ability to challenge them, through collective opposition, provides another avenue to explore how policies are utilised and shaped, which we turn to now.

10.2 Organisational reluctance and declining unionisation

There is seemingly a growing acceptance of a range of policies to improve diversity. However, the degree to which firms, and the different levels of strata within them, embrace requirements is mixed. Interviewees reflected on how international banks perceive British equality requirements, building on the organisation type analysis in Chapter 7 (Figure 7.7). This exposes an aspect of organisational reluctance to see and target the GPG, highlighting the need to look beyond the role of HR (Dobbin, 2009). The competing tensions frustrating change are then further reflected on with reference to the importance of collective campaigning, despite declining levels of unionisation in the sector.

10.2.1 Cross national perspectives and the organisational environment

The rebuttal of equality initiatives and suggestions of 'diversity fatigue' in certain parts of the sector, demonstrates the variability in motivation to address the problem (Makortoff, 2019; PWC, 2019). Assessment of normative perspectives from foreign banks on the British regulatory context highlights how this reluctance can work. Some interviews were conducted with women working for Japanese, German and French

banks. These interviewees all highlighted the gap between the culture of their firm and British equality requirements. These gaps are now considered with reference to workplace flexibility, the Gender Pay Reporting Regulations (GPRR) and maternity leave.

First, with reference to flexibility, Ella (mid-level HR in global Asian bank) described the management mindset at her firm. She directly attributed their reluctance to implement workplace flexibilities to the prevalence of alternative cultural norms.

In Japan it's not even something [referring to flexible working]. Women are only just thinking about going back to work after having kids there. It's a very masculine environment, they're hamstrung by that.

Jane (senior in global European bank) acknowledged this cultural disconnect, suggesting the mindset at her organisation was more rooted in the country they are from, as opposed to the country they are in. She described this with reference to women's role in the workplace and the home.

It's very traditional here. In Germany most schools send kids home at lunchtime, as mum's at home. It will change, but very slowly. It definitely won't be at the front.

The interviews revealed how organisational approaches are shaped by these cultural and normative practices, that undermine British policy attempts to reduce gender inequalities. The scope and direction of policy, and ultimately its usage, is impacted by these normative cultural aspects. The emergence and proliferation of large global organisations within the banking sector means alternative institutional frameworks are indirectly relevant (see Chapter 3). Those working in global organisations reflected on

the, at times, unmatched nature of regulatory requirements, initiatives and attitudes across their different locales. Jade (senior HR in global investment management firm) noted alternative perceptions of flexible working.

General attitudes to agile working are different depending on the location of the manager. So, in France for example, they're not in the same place.

We have a home working policy, but there working from home is considered skiving [in France].⁶⁶

In terms of implementing new policy, decisions around how to position the organisational approach were acknowledged. Ella (mid-level in global Asian bank) described how policy development is a process, with some companies more likely to be leading the way, while others follow or lag behind.

We need to rewrite our [flexible working] policy, so we will go out and look at what others do. But we'll wait until there's a steer elsewhere, culturally we're cautious. If other banks go ten out of ten, we'll go seven or eight (Ella).

This adds a further level of nuance to Dobbin's (2009) argument. The variability between organisations and their engagement in equality practices was described in Chapter 7. For firms that are more reluctant, interviewees perceived the importance of benchmarking across the finance sector as vital for helping start the conversation about these catalysing equality initiatives (Jane, Ella and Jade). This also highlights the relevance of institutional theory and isomorphism between firms (see Chapters 2, 3 and 7)(DiMaggio and Powell, 1983). However, while organisation may resemble one

⁶⁶ Interviews were carried out pre-Covid, when homeworking became the norm.

another, one of the difficulties of reaching a critical mass of acceptance to change is demonstrated by this cross-national variability of global finance firms. This analysis of normative expectations and values within the sector, both in terms of hours worked and flexibilities, has evidenced how gender divisions are reinforced at the meso level in multiple and intersecting ways.

There are numerous sites of tension for legislation in its translation into organisational policy and working lives. Understanding context is vital to the perceived importance and impact of statutory and voluntarist approaches. The perception of British legal requirements, when viewed in the world of global finance, highlighted these interesting dimensions during interviews. The divergence of legal approaches in different national jurisdictions globally, flags the need to understand how organisations respond to their positioning within the British legislative framework. For example, Jade (senior HR in global investment firm), acknowledged the positive impact of the Gender Pay Reporting Regulations (GPRR) within her firm.

We are a global company and this [GPRR] has shifted the conversation in other locations. My view is the UK has really helped here. It's changed the conversation entirely. It has shifted it up a big notch.

Equally, organisational reluctance to British legislation was also raised. Ella (mid-level HR in global Asian bank) attributed her employer's response as indicative of the firm's country of origin.

One of the reasons Asian organisations are loath to invest here is the regulatory requirements. Compared to Thailand they're huge, and off-putting.

Further reflections highlighted the impact of different maternity entitlements in global companies. Hilary (senior in global European bank) described her experience of maternity leave whilst working with a largely American team.

Lots of my managers were American, so six months sounded like an insane luxury as they get twelve weeks, whereas here it's sort of the minimum ...

There was a huge amount of pressure to go back early. I was being told I was going back. My manager would say, 'I don't know anybody who takes this long'. He actually said I was coming back at some point when I wasn't. It was very unpleasant.

The interview data has shown how the push and pull of cross-national perspectives from foreign banks can impact the implementation of British equality requirements.

An alternative factor with the potential to drive policy implementation and change was also flagged, with reference to the role of organised labour in Britain, which we turn to now.

10.2.2 The role and remit of trade unions and collectivism

The long-held characteristic for voluntarism is mirrored in Britain's approach to industrial relations and the freedom to collectively bargain. Institutional perspectives on gender pay inequality recognise the positive role trade unions can have as institutional structures that are involved in wage setting, campaigning and enforcing legislation (ILO, 2016) (see Chapter 8). While the scope of existing collective bargaining arrangements is limited to the lower end of the organisational hierarchy and is largely voluntary, unions

can help focus on the problem of inequality and drive change. This capacity, despite declining membership, is now explored.

Union membership within the sector has typically been limited to clerical grades in retail banking (Greg, Roy and Moira). The wider challenges for the union movement are reflected within the sector, as density has shrunk from 47% in 1995, to 25% in 2014 (Gall, 2017: 76). The huge restructuring within banking, as a result of technological innovations and the financial crisis (see Chapter 3), has resulted in significant numbers of jobs both lost and outsourced (Weil, 2014). This in turn has impacted on union membership. Participants reported how those taking the voluntary redundancy packages on offer further impacted this decline, given the age of those more likely to take them and the typical union member profile (Greg, Roy and Moira). Union membership has therefore declined quicker than the bargaining unit it represents. This inevitably impacts their ability to negotiate, given the voluntarist agreements in place across the sector. Changes in the sector have been accompanied by an erosion of benefits as a further means of cost saving (Roy trade union organiser in the sector). For example, final salary pension schemes have been closed and sickness benefits for those at the lower end of the earnings distribution have diminished. Given the declining number of members, unions described the need to recruit to stand still. This posed resource constraints resulting in a focus on recruitment, as opposed to campaigning and organising in the sector (Greg, Roy and Moira).

The individual reluctance to challenge unequal pay in the finance sector, as described by interviewees in Chapter 8, is mirrored by a reluctance to challenge collectively. Since 1997, there has been a trend away from industrial action, and a move towards less

militant unions in the sector (Gall, 2017: 164 and 114; Prosser, 2011). This was confirmed during interview. Faye (cashier and union rep in global UK bank) commented,

Nobody every strikes or objects. You believe when you start that your manager will look after you.

The impact of this was considered by Roy (trade union organiser in the sector).

The problem is there's no recent history of industrial militancy. There was a time when we would take action, and members felt part of that collective opposition. The last significant industrial dispute was patchy at best, and it was fifteen years ago. That infects people's thinking about what is achievable from a collective point of view.

This reduced industrial muscle and climate of acceptance can perhaps be partially understood with reference to the perceived disconnect from the existing regulatory requirements to report and the reality of the pay process itself. The collective bargaining agreements, that cover pay negotiations for the lower grades, are conducted for the whole pay pot, as Performance Related Pay (PRP) systems are in place. Unions have a limited role in how that is then distributed, and do not have a role in negotiating bonuses. In addition, there is an organisational expectation of gratefulness to have a job, given the huge churn in jobs the sector has experienced post-financial crisis, cost pressures arising from low interest rates, and uncertainty as technological innovations change the shape of work (see Chapter 3) (Crow, 2019). Reasserting a collective voice, when resources are stretched and numbers are declining, is inevitably challenging. This wider context clearly illustrates the limitations of institutional explanations in the

context of this deep-rooted form of voluntarist governance in the collective space, a foundational principle in the British architecture of inequality.

At the same time, cause for a potentially more positive outcome can be drawn from interview discussions that described a campaign the unions are running with a view to litigating on pension inequities. The state clawback pension scheme, operated by two of the big four banks, requires employees to pay back 1/80 of their state pension per year of service, regardless of their earnings: meaning this has a disproportionate impact on low paid part-time workers. Given the make-up of the industry, these are typically women. The policy only affects those on the final salary scheme, which has since been closed to new starters. Those affected have formed a campaign group. Unions are now involved and campaigning to change the policy by preparing a legal challenge on the basis of indirect discrimination (Jones, 2019). Such claims have precedent in earlier phases of equality challenges, such as *Bilka*, discussed in Chapter 5. Faye (cashier and union rep in global UK bank) described how the policy affects her.

So, for cashier level like me, I've never progressed. I had kids, then elderly parents. My husband was the one with the career. I've given * years of my life, now I'm going to get */80 of state pension reduced off my bank pension. Obviously mine is a much smaller pension pot than mid-level management, inevitably a man. Their pension pot is much bigger, but still has the same * years' worth of money deducted.

Sue (mid-level in global UK bank) described how she found out about the clawback scheme in her early fifties.

I can categorically say that I was not aware of the scheme. I will lose an amount based on my * years' service and I didn't know. This targets those finishing at lower grades, they'll lose out and they're predominantly women, clerical part-time workers. The only saving grace for me is now I've gone up [previously cashier, now working in head office on management track] so in money terms it doesn't mean as much.

This confirms the potent and disruptive potential that both litigation and unions still hold, as suggested by Deakin et al. (2015). It strikes a chord with calls by the Fawcett Society to recognise the wider issue of lost pension rights beyond the finance sector, alongside other amendments to equal pay legislation to counter some of the difficulties experienced by claimants (Bazeley and Rosenblatt, 2019). It also suggests how, in reality, recourse to the law and the ability to challenge organisational policy may be limited to those with support. Correspondingly, where employees are not part of a trade union, the lack of support, and not just in a financial sense, is undoubtedly a barrier to pursuing redress for pay inequities individually or collectively. The heavy weight of sectoral, occupational and normative cultural context, described in this chapter, underlines why.

The interview data has shown how the potential for union opposition is subject to the same variability as other institutional explanations. The organisational trends outlined are now discussed with reference to the architecture model.

10.3 Applying the architecture model to the thematic analysis

Drawing on perspectives from interviewees at the micro level has allowed us to examine how action, at the macro level of regulation and at the meso level of the organisation, intersect to perpetuate gender inequalities. The application of each theoretical explanation within the architecture model is useful to fully understand these dynamics and demonstrates how institutional and organisational initiatives have had such a limited effect.

To draw together this series of qualitative interview analysis chapters, focus is now given to organisational perspectives, building on the topics discussed. Conclusions then outline how the trajectory of GPG progress is enhanced by understanding organisational explanations and the effectiveness of workplace policy.

10.3.1 Organisational explanations

The development of policies to improve equality and diversity in the workplace has been enhanced by the professionalisation and growth of HR (Dobbin, 2009). However, despite the proliferation of policies, progress in reducing the GPG has been partial and slow, prompting research to explore where progress has been achieved, and where it has not (Dobbin and Kalev, 2016). The importance of leadership from the top, mandating diversity as a key strategic priority and holding managers to account have been recognised as crucial in driving the culture shift that is needed (Bohnet, 2016; PWC, 2019; HM Treasury, 2016). The impact and effectiveness of policies alongside organisational practice and normative behaviour have therefore been considered.

The large GPGs within finance are attributed to the occupational segregation within the industry, both horizontally and vertically (Benson et al., 2018). Women are prominent in junior lower quartile roles, and men occupy the majority of jobs in the top quartile of organisations (Figure 3.2). In addition, there is an uneven distribution of men and women in particular parts of the sector, with men occupying the higher paid roles in the trading and investment parts of the business. This polarisation of roles and the lack of women in the top organisational echelons is a characteristic of GPGs within the sector. To understand how these organisational and occupational trends contribute this chapter has considered recruitment and promotion practices. The GEO (2018b) has designated initiatives to address gendered organisational hierarchies (Acker, 2006) as effective (i.e. shortlists), and promising (i.e. networking and mentoring). Despite the prominence of these initiatives in accompanying narratives, the maintenance of existing hierarchies has been facilitated by unequal power relations and foundational inequalities at the firm level. The interview data has shown how these features of the architecture model resist change (Reskin and Maroto, 2011).

Normative cultural and gendered behaviours, often used in sociological explanations for the GPG and discussed in Chapter 9, are a key component contributing to the architecture of inequality in Britain. They demonstrate the need to look beyond the argument of Dobbin (2009), to identify the obstacles that efforts to address gender equality face at the meso level. Resonant with the arguments of Acker (2009), the interview data exposes how foundational gender differences and the doing of gender in organisations are central to organisational explanations (Martin, 2003).

This chapter has also evidenced cross-national variability in measures pursued and implemented at the firm level, demonstrating the tensions and barriers within and between theoretical explanations. For instance, the effect of the employing organisation's country of origin demonstrates an alternative perspective to that of Dobbin (2009). The pervasive and intersecting ways that attitudes and inequalities operate also have an external perspective. While there is a growing literature on the business benefits of improved diversity (see Chapter 3), an alternative approach to the embedded nature of attitudes and norms is uncovered by Solal and Snellman (2019). They identify the gender penalty on market value that companies with good measures of diversity can achieve, resulting not from poor firm performance but the negative perception of investors given assumptions about organisational priorities. Market value diminishes as investors assume a corresponding de-prioritisation of shareholder gain in preference for social aims. This demonstrates the multiple ways that gendered values impact and restrict change, undermining efforts to address GPGs.

The priority afforded to equality by governments and the law has been restricted by economic needs since the outset (see Chapter 5). However, this chapter has shown how despite a move to regulatory compliance, institutional structures and workplace policy can be rendered immune as organisations act as a filter to dilute and obscure requirements. These restrictive mechanisms have been further enhanced by the declining influence of trade unions in the sector.

10.4 Conclusion

This chapter has explored the gap between policy and practice demonstrating the pivotal role of organisations as an explanatory factor for the GPG (Jewell et al., 2020).

The increased focus on gender pay inequities, partly as a result of the GPRRs, has resulted in the implementation of initiatives to offset the problem (Dobbin, 2009). The assessment given here, of promotion and flexibility policies, has revealed both progress and resistance. On the one hand the potential for change has been evidenced as interviewees flagged improved areas, such as workplace flexibility. However, the interview data also shows how organisational reluctance can temper both institutional requirements and policy initiatives.

The provision and accessibility of equality policies is seemingly marked by key factors: occupational difference; a focus on particular points in the pay spectrum; individual management discretion; and organisational culture. The pace and direction of approaches pursued highlights the role of organisations and those working within them. Employers need to understand if and how efforts are being implemented across the management chain, how they are perceived by those they are intended to support, and how cross-national perspectives may be limiting their effect. There is evidence of decoupling from best practice requirements, with a marked variability in certain higher paying parts of the industry. This illustrates Bohnet's (2016) assertion that organisations themselves are biased, impacting the effectiveness of initiatives.

This series of chapters and the micro level experiences therein usefully contextualise the findings of Chapter 7. There is an increased focus on the GPG in the banking sector

yet change remains limited by how organisations perceive the problem. Organisations are, 'interpretive mechanisms that filter, decode and translate the semiotics of broader social systems' (Suddaby, 2010: 18). Despite the shift in laissez faire governance, evident in the implementation of the GPRRs, institutional requirements can be rendered immune as organisations dilute and obscure them. This is further enhanced by the declining influence of trade unions in the sector. These findings underline the importance of this phase of the research. The architecture model captures this sense of movement by recognising how regardless of the increased focus on inequities, ongoing inequalities still breathe through the building.

11

Conclusions: Making the hidden visible

Chapter 11: Conclusions: Making the hidden visible

11. Introduction

This thesis set out to understand how the Gender Pay Reporting Regulations (GPRR) and broader legal and organisational initiatives have impacted Britain's gender pay gap (GPG), which currently stands at 15.5% (Smith, 2020b). The Equal Pay Act 1970 and the plethora of regulatory approaches passed in the subsequent fifty years have failed to combat the problem sufficiently. Astoundingly, four in ten people still do not know they have the right to equal pay (Bazeley and Rosenblatt, 2019). Despite the well-established moral, legal and financial imperatives, the GPG remains a stubborn phenomenon. This well-researched topic encompasses an extensive literature. However, ongoing persistent inequalities in the face of progressively broadened legal and organisational measures require the need for fresh theoretical consideration, as presented in this thesis. This has been achieved through an interdisciplinary empirical study of gender pay inequity within Britain's finance sector. The research has interrogated the largely untapped reporting data, alongside legal and organisational policy evaluation, and qualitative insights from those working within finance. The evidence provided has afforded a comprehensive and rich picture of the complexity of the problem and the trends and barriers that obstruct progress.

To conclude the research, this chapter first gives an overview of each component part of the thesis and the insights achieved therein. This describes how the macro, meso and micro elements of the research design and various data streams have been woven together to produce rich findings.

The ways in which the research questions have been addressed and the conclusions and theoretical contribution arising from this, are then presented. The framework of legislative measures, recently improved transparency of the GPRR, developing organisational approaches and the experience of them in the workplace, represent the macro, meso and micro levels of analysis. The combined elements of the research design are integrated and analysed according to the architecture of inequality model that has been constructed. This provides a richer understanding of how attempts to address the problem of the GPG have been framed over time, and why this gap persists. The utility and strength of this model is evident in the way in which it helps to understand the nature of change and resistance. The pervasive effect of common architectural features mark the need for greater consistency to enable institutional and / or organisational initiatives to drive change. The research findings indicate areas that are critical for policy to address and help identify areas of focus for future research. The core argument of this empirical analysis of four explanatory approaches demonstrates that, while the GPRR have increased the visibility of gender pay inequity, organisations are myopic in their focus and policy blind spots remain unrecognised.

11.1 Summary overview

The trend for broadening institutional and organisational measures has been accompanied by slowly declining GPGs, that have been prone to stalling over time (Hochschild, 2003). This research takes a multifaceted perspective to address the research questions of how the GPRR and broader legal and organisational initiatives

have impacted GPGs and why progress has stalled. This has been answered, alongside a series of sub-questions, in the four parts of the thesis, as follows.

11.1.1 Part I: Theory and methods

Having introduced the thesis in Chapter 1, a review of the literature and competing explanations of GPGs was then given in Chapter 2. Rubery and Grimshaw's (2015) theoretical framework was outlined, encompassing institutional, organisational, economic and sociological explanations. Key themes were explored and the questions drawn from them outlined. A mixed methodological approach was developed, providing a framework to assess the relevance of each of the four theoretical explanations, with reference to women's experiences in the workplace.

The introduction of the GPRR marked a significant development in British equality legislation to address the GPG. The thorough investigation that this thesis presents fills a gap in our understanding of its effectiveness.

The rationale for focusing on a case study of banking was presented in Chapter 3. A periodisation of transformation within the sector outlined how changes within the industry have failed to generate corresponding improvements in gendered inequities. Sites of progress and resistance were explored through analysis of organisational process and policy, exposing the lack of scrutiny given to pay, promotion and cultural inequities. The growth of human resource management and its role in proscribing the approaches pursued was acknowledged alongside these themes, reiterating the role of key actors and reflecting the work of Dobbin (2009). The interrelationship between

institutional and organisational explanations, and a developing understanding of foundational inequalities and approaches to governance and transparency was presented. The periodised analysis demonstrated how commonality in these architectural features is integral to how inequities have been defined and tackled within the sector.

Chapter 4 outlined the multi-method research design that goes beyond a purely quantitative analysis of GPRR statistics and incorporates macro, meso and micro level streams of analysis. Firstly, the macro level feminist socio-legal approach to evaluate legal change over time was described. To cross-reference this legislative context, the creation of the refined sample of banking organisations and statistical analysis tools to assess the GPRR data was outlined. Methodological reflections on the micro level processes used to recruit qualitative interview participants were given, alongside reflections on positionality. The implications arising from the range of research tools proposed were considered and their value described. The approach was designed to address the key research questions by providing a thorough and robust evaluation of GPG policies, within a case study context.

11.1.2 Part II: The evolution and multi-level contestation of the legal framework

The phasing of legal development was used in Part II as an analytical tool to assess the effect of the changed regulatory landscape. This prompted examination of the role and effectiveness of law that is seen to be slow moving. However, analysis described how the perception and understanding of inequality has changed over time, as provisions have evolved. By situating the developing conceptualisation of equality within its socio-legal context, Chapters 5 and 6 highlighted the importance of key actors in the change

process. The role of government (in the EU and Britain), employers, unions, social movements and the contestation of the legal process, were examined. The feminist socio-legal assessment of case law demonstrated how multiple mechanisms and shifting parameters determine the shape, speed, direction and application of legal initiatives. The impact of wider structures reinforcing inequalities became more apparent, as suggested by sociological theories, indicating the need to visualise the ongoing problem beyond institutional explanations. The analogy of an architectural model was developed as a useful analytical tool to integrate these different disciplinary approaches and understand the way they interact.

The conclusions reached in these chapters identified implicit trends and barriers. Since the inception of equal pay law, the needs of business and government reluctance to impose 'bureaucratic' requirements have been a persistent central theme. They have limited the remit and effectiveness of legal arrangements, despite successive reforms. However, there has been an increasing use of statutory and voluntarist approaches, demonstrating a shift from the laissez faire preference for governance towards greater institutional compliance.

However, despite the introduction of the GPRR, difficulties related to a lack of transparency remain a persistent barrier. Hidden complexities in terms of knowledge, access, cost and the claimant driven requirement for legal redress remain obstructive, despite the progressive broadening of legislative equality measures. Foundational inequalities were identified as an inherent part of the legal character, present in both the construction and application of law. However, addressing the inadequacies of the

GPRR, or the implementation of more targeted stringent institutional approaches beyond reporting, remains unlikely.

11.1.3 Part III: The intersection between legal regulation and organisational response

The intersection between legal requirements and their application in the workplace was examined in Part III. Chapter 7 provided a thorough analysis of the GPRR alongside factual conclusions, drawn from the pay reporting data. This evidenced slow progress in reducing pay gaps and significant occupational segregation within the banking sample, that continues to be associated with the intractability of the GPG. The data indicated that organisation type and age may be determining factors and are worthy of further examination. Beyond the quantitative statistical findings, ongoing governance trends and transparency barriers were assessed, reflecting on the suspension of the Regulations and voluntarist aspects. Pay reports were also used to evaluate how firms chose to present their data. The accompanying narrative analysis evidenced areas of organisational progress across the banking sample, such as improved flexibility, networking and targeting. Pay quartile analysis underlined the potential to effect change, albeit slowly, through the implementation of organisational approaches. The narratives also evidenced initiatives that are largely disregarded, related to more transparent pay, reward and promotion processes. This shows how organisations remain myopic in how they approach gender pay inequities. The conclusions demonstrated that while a useful monitoring tool, the underlying inequalities that informed the construction of the GPRR ultimately limit their effectiveness. Despite the increased transparency afforded by the Regulations, there are a number of ways in which conditions become more hidden, for example in relation to pay secrecy.

Notwithstanding these limitations, Part III demonstrated the sharpened focus on inequities in the sector, as a result of the financial crisis and GPRR. This has corresponded with larger relative declines in GPGs and an organisational willingness to report (despite the lack of compulsion from 2019-20). Given the reputational benefits, this led to the deduction that the organisational element of the architecture currently retains the greatest potential to effect change.

11.1.4 Part IV: The experience of initiatives and inequities within the workplace

To fully understand the impact of legal and organisational initiatives, Part IV examined the insights and experiences of women working in banking. Qualitative interviews provided rich data to explore the lived realities of pay and bonus systems, the right to equal pay, career paths and organisational policies. Assessment of the topics discussed enabled the resonance of institutional, organisational, economic and sociological explanations accounting for the GPG to be ascertained. The controversy around the causes and remedies of gaps, embraced in the research design, was used to consider the relevance of these competing explanations at the micro level.

The lack of transparency surrounding pay was discussed in Chapter 8. Participants reflected on the lack of clarity regarding pay with reference to the awarding of annual uplifts, bonus, job change and the capacity to negotiate. While accompanying narratives stress that unequal pay is not an issue, interviewees described their experience of large pay bandings, flagging instances of unequal pay and a weary acceptance of the problem, contradicting these assertions. Within this context, the relevance of statutory entitlements and their capacity to effect change was evaluated. The practical realities of

both statutory and voluntarist measures revealed the effect of organisationally self-determined approaches, as perceived by women working in finance. A lack of transparency was described in terms of how legal requirements were filtered and diluted, making them impenetrable and adding to the opacity of the problem. The architecture model was applied to assess the significance of institutional explanations for participants. The empirical evidence showed how despite ongoing modifications, foundational inequalities, and an overriding lack of transparency curb the efficacy of the law.

The factors shaping women's career paths were explored in Chapter 9. The importance of care responsibilities and gendered assumptions at work highlighted the need to contextualise decision-making. The rational economic choices interviewees made were implicitly affected by networks, power struggles and preferred character traits at the firm level, demonstrating Ackers (2006) inequality regimes. The decisions and subsequent outcomes interviewees described were informed by gendered norms at work and in the home, demonstrating the limited resonance of economic individualism. Participants discussed the multiple ways that embedded stereotypes and values continue to inform and shape organisational approaches and expectations around working time, underlining the importance of sociological explanations. The assessment also helped highlight the continual momentum and dynamism within the architectural model.

To draw together the micro level analysis, Chapter 10 explored the workplace policies on offer and women's micro level experience of them. Interviewees reflected on the marked improvement in terms of working time flexibility. However, they also flagged

how the pace and direction of change has been limited by management cultures, the availability of workplace policy and cross-national perspectives on British equality requirements. The importance of trade unions campaigning to drive change was significant, albeit limited. The salience of organisational explanations was examined, demonstrating the importance of HR innovations alongside limiting path dependant sectoral norms.

The qualitative data exposed the similarity between organisations and the policies they offer, and those to which they are blind and seemingly not willing to consider.

Qualitative insights confirmed how despite the move from laissez faire governance to compliance, a broader lack of transparency and the strength of sectoral norms have restricted the pursuit of equality. While the GPRR oblige firms to report, the contradictions of transparency demonstrate how significant aspects of the problem remain hidden. The progressive depth afforded through the application of alternative theoretical explanations evidenced the interrelationship between theoretical approaches. The interpretation of fieldwork interviews, in this way, helped highlight the necessity and utility of the architecture model, supporting the conclusions the thesis offers.

11.2 The architecture of inequality and policies for change

This thesis has examined how legal and organisational initiatives have impacted gender pay inequity, providing critical developments alongside ongoing barriers. Crucial to this analysis is the deepened understanding both of progress that has been made and more importantly, the ongoing inadequacies that indicate why development remains so slow

and stalled. The architecture of inequality provides a means to examine this stasis and development within a multi-level context.

These findings are now brought together to describe the theoretical contribution arising from them. The development afforded by the model is outlined; policy recommendations that have arisen from these insights are suggested, and reflection on research limitations are given.

11.2.1 Theoretical contribution

This thesis has combined disparate concepts in new ways to investigate a highly researched topic. The architecture of inequality model proposed here extends Rubery and Grimshaw's (2015) thematic framework in an original and imaginative way.

Franzoni and Sanchez-Ancochea's (2016) idea of policy architectures is developed, recognising the interaction and interrelationship between legal rules, workplace arrangements and the individual worker. The aim of the model is to use the literature and knowledge on the subject to explore the insights that a combined assessment offers and recognise the limitations inherent within a one-dimensional approach.

Each theoretical explanation is a component part of the architectural structure (Figure 2.2). Exploration of all aspects within the thesis has shown their respective defining features. Two useful outcomes have arisen from the application of the model: first, an appreciation of common architectural features; second, understanding the dynamism in the model suggests where the most promising capacity for future change lies.

Architectural features

Each alternative vantage point in the research design afforded different insights, as shown by the respective macro, meso and micro level findings. When considered in their entirety, they offer a holistic lens through which to gain greater clarity on impediments to progress. Gender pay inequity is a built environment. The contradictions of transparency and governance trends, described throughout the thesis, represent common architectural features that help to explain the durability of GPGs. The tensions arising from these themes, alongside underlying foundational inequalities evidenced at the macro, meso and micro levels, have frustrated change and continually reproduce existing inequalities. The commonality in these architectural features explains how despite the reconstruction and extension of legal and organisational approaches they have failed to eradicate the GPG.

The inconsistency of inequities across sectors is an inevitable outcome of the free market regulatory approach in Britain, despite the increased compliance of the GPRRs. The organisational policy architecture is defined by factors such as the public/ private sector differential and then further still by sectoral behaviours and trends (Franzoni and Sanchez-Ancochea, 2016: 13). The model can be used across different sectors of employment to understand organisational approaches to architectural features, how impediments to change operate, and account for sectoral variability in GPGs. This builds upon Acker's (2006) regimes of inequality and examines the relationship between stasis and change.

The empirical evidence presented has demonstrated how discrimination can occur hidden in plain sight. Legal policy efforts can remain marginalised as their application at the meso level is constrained according to the architectural features of transparency and governance, and the restrictive effect of foundational inequalities. This is despite the economic gains potentially realised by progressing more stringent and transparent approaches, alongside the benefits both for business and the whole family unit. The preference for voluntarist approaches alongside the obstructive cultures of secrecy are evidence of the contradictions of transparency, that surround gender pay inequity.

Dynamism in the architecture

The interrelationship between each aspect of the architectural model indicates another aspect of its utility. Understanding the movement and tensions between approaches is useful to grasp their relative importance and, in so doing, identify where the most likely potential for improvement is located. The model is predicated on Marginson's (2019: 298) assertion:

The drive for universal explanation overrides real world complexity ... the task of research is [therefore] to determine which explanations (s) is (are) primary, not to impose an exclusive straight jacket on the material.

In trying to visualise where efforts to shift the dial need to be focused, understanding the dynamism within the architecture model is useful. The application of each theoretical lens showed how momentum for progress towards eradicating GPGs is not necessarily continual or indeed linear. Each explanation has revealed a constant

reconfiguring, as the problem has evolved. The pay gap is in a continual battle to remain relevant, prioritised, and declining. As Rubery and Grimshaw contend, shifting goalposts are inevitable. Understanding and anticipating this movement within the architectural model is helpful to visualise interactions between actors at different levels, and in so doing suggest which approach currently offers the most potent potential for improvement.

The macro level institutional analysis showed the declining scale of the public sector and influence of organised labour in Britain, alongside the ongoing preference for free market governance (Gallie, 2007a). Within this context, the difficulties that potential claimants encounter, related to aspects like knowledge, access and cost, to assert their legal entitlements, further undermine the law's capacity to eradicate the GPG. The unintended consequences of Brexit and the economic fallout from the pandemic will further erode the likelihood of imminent future legal developments. Given the economic climate, Acker's (2012: 221) pessimistic post-financial crisis assessment of the ramifications for gendered inequities is again relevant. While the GPRR are a useful monitoring tool, providing impetus to sustain momentum, their limitations are evident. The ongoing failure of government to embrace the imperatives for more wholesale change and implement necessary amendments is unlikely to alter in the near future. Correspondingly, the willingness of organisations to report in 2019-20, despite suspension, and the increased understanding of business and reputational benefits achieved through positive development, suggest the organisational avenue is a more promising one for change. The fundamental role organisations have, in terms of applying and building on statutory requirements, underlines this potential.

The constant shifting within this dynamic architecture also serves to highlight policy implications and the need for future research arising from this thesis.

11.2.2 Policy implications and future research

In the current context of economic uncertainty, legislative developments such as improving the GPRR, progressing with ethnicity and disability reporting, or a more comprehensive approach to greater transparency, while necessary, seem highly unlikely (CRED, 2021). The historical trajectory of policy trends suggests risk for gender equality measures. The policy implications and shifting conceptualisation of equality, arising from this analysis, are useful and can be ascertained by again referring to the key actors (government, courts, unions, social movements and business), analysed in Part II.

Firstly, in terms of the role of government, the risk of decoupling from the EU's policy agenda is already materialising (see Chapter 6). Legislative proposals indicate the EU intention to pass a Directive mandating greater transparency around pay (Wigand, 2021). Alongside reporting GPGs, developments include greater pay information for job seekers, an employee's right to request pay information, salary history banning and shifting the default burden of proof in discrimination claims to the employer. Research from the US demonstrates the positive impact that a legislative approach banning pay secrecy and sharing of salary history can have, as noted in Chapter 8 (Kim, 2015). Given the significance of the transparency barrier, highlighted throughout this thesis, concrete measures such as these are vital (Bazeley and Rosenblatt, 2019).

The evolving influence of key actors, as described, indicates a re-conceptualisation of equality is imminent. The positive potential afforded by contestation in the courts and

various forms of collective opposition remain critical in the change process. Case law developments concerning worker status (*Uber v Aslam* [2021]) and wider recognition of intersectionality by government evidence this progress (GEO, 2020b). It is also worth acknowledging that inequalities within the existing framework have not yet been resolved. The pending equal pay case against Dundee City Council, concerning gender disparity in the roles eligible for bonus, demonstrates the ongoing need to fight for equal pay (Livingston, 2021). Recognition of the ‘markedly overcomplicated’ nature of equal pay cases is set to continue (*Asda v Brierly* [2021] UKSC 10: para 6). Within a Phase V conceptualisation, the layering of change will continue as the pursuit of longstanding rights remains a challenge.

Within this context, the continued deferral of the Employment Bill, with its promise to safeguard workers’ rights post-Brexit, is concerning (Partington, 2021). The suggestion that tribunal fees may be reintroduced implies that governance trends and the typical deference to the needs of business within Britain will continue (Ames, 2020). Women’s absence in policy making throughout the Covid crisis reiterates the unequal architectural foundations of policy measures. This lack of consideration for women’s concerns also signals the potential for regression (Topping, 2021; Madgavkar et al., 2020). The UK’s GPG at a national level is larger than the EU average of 14.1% (European Commission, 2020). In order to ensure no future slippage, Britain should go further than the proposed EU Directive and ‘build back better’ from the current crisis, securing potential economic gains which have yet to be realised by treating women more fairly for their contribution to the economy (McKinsey, 2016). The consequences

of failure to address this imperative will remain significant in terms of legal judgements, lost incomes and ongoing persistent GPGs.

Given the current economic difficulties and trends outlined, an increased reliance on cross-party collective pressure and ongoing campaigning for regulatory change within a Phase V conceptualisation is likely.⁶⁷ Finding ways to embrace the potential of collective opposition and further target the role of the organisation is therefore critical (Moore, 2018). The development and facilitation of wage and bonus sharing, via secure templates, could assist the confidential communication within organisations of pay arrangements, helping to leverage change and bypass organisational aversion to pay audits. Women could use this information to enter pay discussions and negotiations in an informed manner, equipping them with the tools to challenge inequities.

At this juncture, it is also useful to consider where further research could develop themes arising from the thesis. Conducting follow up interviews would enable reflection on how the national lockdowns have affected participants, their work and any caring responsibilities they may have. More broadly though, Covid has required a shift to homeworking and, in so doing, highlighted the adaptability of organisations to meet this need. The importance and development of improved flexibility at work, alongside the barriers to these changes in certain high paying parts of the sector, would benefit now from further investigation. There is a clear disparity in how firms are positioning the return to work and the new normal (Moore, 2021). Understanding how change has

⁶⁷ For instance, the Equal Pay (Information and Claims) Bill, introduced to the Commons by Stella Creasy and backed by the Fawcett Society, in October 2020 (<https://bills.parliament.uk/bills/2793/stages> 2020 (Accessed: 20 May 2021)).

been enabled and what the longer-term implications may be, would be a useful enquiry that could catalyse future change.

The research limitations also signal areas that require more questioning. The issue of intersectionality was not addressed in this research, yet an understanding of these complexities would have added further depth to the analysis. As clarity on the problem of gender pay inequity was sought, the complete lack of understanding of how cross-cutting intersectional elements impact gaps in finance, emerged as a critical blind spot. A rich area for future enquiry, such a focus may be supported by the increasing willingness of organisations to report ethnicity gaps, noted in Chapter 7, and the emerging requirement for an accompanying action plan when they do (CRED, 2021).

The sampling method and participant cohort achieved also limited the ability to make inferences about intersectional difference and any richer analysis of organisation type trends. A more targeted recruitment focus would have enabled greater consideration of both these elements. Gaining clarity on how resistance operates in certain parts of the industry and exploring comparative trends would offer useful insights about the persistent significant gaps at the top of the pay spectrum (Partridge, 2021).

11.3 Conclusion

In conclusion, this thesis has clearly demonstrated the ongoing ability for inequalities in pay to remain hidden and insulated from change, as institutional and organisational efforts struggle to eradicate the problem. The comprehensive exploration, afforded by the architecture model, has shown how progress is invariably limited by foundational

principles and the features of governance and transparency. It seems that, as our knowledge and understanding increase, what emerges is all the ways we still do not see. The contradictions of transparency described demonstrate the need for consistency and multiple alliances to engender change. While the architecture model is constantly reconstructed it remains unequal with some aspects of the building seemingly inaccessible.

Institutionally, the impenetrability and remoteness of the law weakens its effectiveness. A lack of knowledge, the claimant-centred approach, cost, timescale, impact and the gendered limitations in the law itself, enable inequities to remain hidden in plain sight. These difficulties are compounded within organisations as requirements are translated according to a logic determined by the apparent needs of the sector and individual firm. The pursuit of equality and diversity, while increasingly recognised, remains peripheral to more pressing economic challenges and can therefore be disregarded. Hidden pay, performance and progression systems, defined as necessary, are difficult to challenge. Historic and embedded inequalities are preserved as women do not have access to the tools needed to leverage equality.

All the while, women's voices remain marginal and the potential to shift the dial on gender pay inequity seems remote. The characteristics of both the institutional and organisational architecture reflect policy efforts that are fundamentally compromised by foundational inequalities and the contradictions of transparency. Britain needs to move beyond the perfunctory transparency of the GPRR and keep pace with EU developments. Embracing the economic imperative and addressing systemic obstructions would enable the 'doing of gender' to be done better (Martin, 2003). The

common architectural features do more than show where and how policy fails, they indicate how the very fabric of policy efforts to offset the problem is flawed. Greater transparency is a necessary precursor in addressing the GPG (Conley and Torbus, 2019: 145). The evidence has shown that more open and accessible means by which to understand pay, the value of work and the mechanisms that define it, are critical (Wrohlich, 2017; Conley and Torbus, 2019; Dromey and Rankin, 2018). To invest in greater equality requires resolving the pervasive cultures of secrecy and contradictions of transparency at the heart of the architectural model.

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Appendix 1: Legislation

This details all the legislation that has been referred to in the thesis. A brief description is given for some provisions where the detail may be useful to understand the reference made within the thesis.

British Law

Banking Reform Act 2013 c.33. Available at: <https://www.legislation.gov.uk/ukpga/2013/33/contents/enacted> (Accessed: 06 May 2021). Intended to contain the risks that had manifested in the earlier crisis, requiring structural separation of banking organisations.

Deregulation Act 2015 c.20. Available at: <https://www.legislation.gov.uk/ukpga/2015/20/contents/enacted> (Accessed: 06 May 2021). As part of the Explanatory Notes the 'Background' outlines how the Bill intended to reduce 'red tape' during the 2010-2015 parliament.

Employment Act 2002 c.22. Available at: <https://www.legislation.gov.uk/ukpga/2002/22/contents> (Accessed: 06 May 2021). Introduced the workplace dispute resolution procedures to reduce the burden on tribunals.

Employment Appeal Tribunal Fees Order 2013 (SI 2013/1893). Available at: <https://www.legislation.gov.uk/ukdsi/2013/9780111538654> (Accessed: 06 May 2021). Introduced tribunal fees to reduce the cost and burden on tribunals.

Employment Bill.
Pledged in the Queens Speech 2019 and is still forthcoming. It is anticipated to contain measures concerning workers' rights and worker status.

Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 (SI 2014/254). Available at: <https://www.legislation.gov.uk/uksi/2014/254/contents/made> (Accessed: 06 May 2021). Introduced mandatory early conciliation in an effort to reduce the burden on the tribunal system.

Employment Protection Act 1975 c.71. Available at: <https://www.legislation.gov.uk/ukpga/1975/71/contents> (Accessed: 06 May 2021). This law provided amendments to workers' rights, including the introduction of a maternity pay fund. Section 34 covered dismissal on the grounds of pregnancy.

Employment Protection Act 1978 c.44. Available at:

<https://www.legislation.gov.uk/ukpga/1978/44/contents> (Accessed: 06 May 2021).

Employment Relations Act 1999 c.26. Available at:

<https://www.legislation.gov.uk/ukpga/1999/26/contents> (Accessed: 06 May 2021).

Equality Act 2006 c.3. Available at:

<https://www.legislation.gov.uk/ukpga/2006/3/contents> (Accessed: 06 May 2021).

Introduced the equality duty.

Equality Act 2010 c.15. Available at:

<https://www.legislation.gov.uk/ukpga/2010/15/contents> (Accessed: 06 May 2021). The various provisions described in the thesis are detailed here:

Public Sector Equality Duty section 149: The new single equality duty requires public authorities, and bodies who exercise a public function, to have 'due regard' to the need to advance, rather than merely promote, equality of opportunity.

Section 1 socio-economic duty: not brought into force.

Section 14 dual discrimination: not brought into force as considered costly and burdensome.

Section 77 pay secrecy clauses: rendered pay secrecy clauses unenforceable when claimants seek a relevant pay disclosure.

Section 78 gender pay reporting: implemented by the Gender Pay Reporting Regulations in 2017.

Section 124 recommendations for wider workforce: repealed in 2012.

Section 138 questionnaire procedure: an individual who believed they had been discriminated against was entitled to ask their employer questions. The provision was repealed in 2014 as considered too burdensome for business.

Section 159 positive action: provision enables the limited use of positive action in recruitment and promotion.

Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (SI 2017/172).

Available at: <https://www.legislation.gov.uk/uksi/2017/172/contents/made> (Accessed: 06 May 2021). Requires all public and voluntary sector employers with over 250 employees to publish data on their gender pay gap.

Equal Pay Act 1970 c.41. Available at:

<https://www.legislation.gov.uk/ukpga/1970/41/enacted> (Accessed: 06 May 2021).

Enshrined the right to pay equality between men and women. It required equal pay for work that was the same, similar or broadly equivalent. A claimant had to cite a comparator of the opposite sex to bring a claim. The employer could use a genuine material factor difference for the difference in pay if it was for a non-discriminatory reason, if discriminatory then it had to be objectively justified.

Equal Pay (Amendment) Regulations 1983 (SI 1983/1794). Available at:

<https://www.legislation.gov.uk/uksi/1983/1794/made> (Accessed: 06 May 2021).

Introduced the concept of equal value into equal pay law. Equal value was to be ascertained with reference to the demands of the work, in relation to effort, skill and decision-making.

Equal Pay (Information and Claims) Bill 2020. Available at:

<https://bills.parliament.uk/bills/2793> (Accessed: 06 May 2021). Introduced as a Private Members Bill (under the Ten-Minute Rule). The Bill originated in the House of Commons session 2019-2021 and had its first reading in the Commons in October 2020. The second reading has yet to be scheduled.

European Communities Act 1972 c.68. Available at:

<https://www.legislation.gov.uk/ukpga/1972/68/contents> (Accessed: 06 May 2021). As per section 2 (1) EEC law automatically became part of British domestic law. In addition, section 2 (4) stated that courts must interpret domestic legislation in line with EEC provisions and could not enact contrary requirements.

European Union (Withdrawal Agreement) Act 2020 c.1. Available at:

<https://www.legislation.gov.uk/ukpga/2020/1/contents/enacted> (Accessed: 06 May 2021). The Act was revised from the earlier European Union (Withdrawal Agreement) Bill 2019-20 and no longer includes Clause 34 and schedule 4 that protected existing EU workers' rights. A political declaration was instead agreed confirming a non-regression principle.

Financial Services Act 1986 c.60. Available at:

<https://www.legislation.gov.uk/ukpga/1986/60/contents> (Accessed: 06 May 2021).

Promoted competition and was central to the deregulation of the finance sector.

Flexible Working (Procedural Requirements) Regulations 2002 (SI 2002/3207). Available at: <https://www.legislation.gov.uk/uksi/2002/3207/contents/made> (Accessed: 06 May 2021). Introduced a statutory *right to request* so that employees can request a flexible working contract variation.

Minimum Wage Act 1998 c.39. Available at:

<https://www.legislation.gov.uk/ukpga/1998/39/contents> (Accessed: 06 May 2021).

Maternity and Paternity Leave Regulations 1999 (SI 1999/3312). Available at: <https://www.legislation.gov.uk/uksi/1999/3312/contents/made> (Accessed: 06 May 2021).

Part-Time Workers Regulations 2000 (SI 2000/1551). Available at: <https://www.legislation.gov.uk/uksi/2000/1551/contents/made> (Accessed: 06 May 2021). Established the prevention of less favourable treatment for part-time workers, with reference to a male comparator. Any differential treatment can be justified if the reasons are *legitimate, necessary and appropriate*.

Race Relations Act 1965 c.73. Available at: <https://www.legislation.gov.uk/ukpga/1965/73/enacted> (Accessed: 06 May 2021).

Sex Discrimination Act 1975 c.65. Available at: <https://www.legislation.gov.uk/ukpga/1975/65/enacted> (Accessed: 06 May 2021). Offered protection from discrimination on grounds of sex or marital status. Part 11 covered discrimination in the field of employment where less favourable treatment was deemed unlawful. Part VI established the duties of the Equal Opportunities Commission.

Sex Discrimination Act 1986 c.59. Available at: <https://www.legislation.gov.uk/ukpga/1986/59/contents/enacted> (Accessed: 06 May 2021).

Shared Parental Leave Regulations 2014 (SI 2014/3050). Available at: <https://www.legislation.gov.uk/uksi/2014/3050/contents/made> (Accessed: 06 May 2021). Introduced the right for parents to share up to 52 weeks leave and 37 weeks pay. The mother has to curtail her maternity leave to access the entitlement. The current rate of Shared Parental Pay is the same as Statutory Maternity Pay, except that during the first six weeks, SMP is paid at 90% of whatever the mother has earned (with no maximum).

Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order 2012 (SI 2012/989). Available at: <https://www.legislation.gov.uk/ukdsi/2012/9780111519974/contents> (Accessed: 06 May 2021). Extended the qualifying period for unfair dismissal claims from one to two years.

European Law

Charter of Fundamental Rights 2000. Official Journal C 364, 18.12.2000, p.1-22.

Available at: https://www.europarl.europa.eu/charter/pdf/text_en.pdf (Accessed: 06 May 2021). Chapter III concerned Equality pp.13-14.

Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women. Official Journal L 45, 19.2.75, p.19-20. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31975L0117> (Accessed: 06 May 2021).

Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. Official Journal L 39, 14.2.76, p.40-42. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31976L0207> (Accessed: 06 May 2021).

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. Official Journal L 348, 28.11.92, p.1. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31992L0085> (Accessed: 06 May 2021).

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave. Official Journal L 145, 19.6.96, p.4-9. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31996L0034> (Accessed: 06 May 2021).

Council Directive 97/81/EC of 15 December 1997 concerning the framework agreement on part-time work. Official Journal L14, 20.1.98, p.9-14. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31997L0081> (Accessed: 06 May 2021).

Council Directive 2010/18/EU of 8 March 2010 implementing the revised framework agreement on parental leave. Official Journal L 68, 18.03.2010, p. 13-20. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0018> (Accessed: 06 May 2021).

Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (2012). COM/2012/0614. Available at: <https://eur->

[lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52012PC0614](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52012PC0614) (Accessed: 06 May 2021).

Treaty of Amsterdam Amending the Treaty on European Union, The Treaties Establishing the European Communities and Related Acts (1999). Official Journal C 340, 10.11.97, pp.1-144. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A11997D%2FTXT> (Accessed: 06 May 2021).

Treaty Establishing the European Community, Rome Treaty (1957) 25 March. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Axy0023> (Accessed: 06 May 2021). Article 119 of the treaty required each Member State to, 'ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work.'

Treaty on the Functioning of the European Union (2008). Official Journal C 115, 9.5.2008, pp.1-388. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX:C2008/115/01> (Accessed: 06 May 2021).

Appendix 2: Case digest

This gives a full case reference and summary outline of all the cases referred to in the thesis.

Abdulla v Birmingham CC [2012] UKSC 47

A landmark ruling following the claims of 174 women who worked for Birmingham City Council. Their claims for equal value extended the time limit for equal pay and led to a settlement in excess of £750 million.

Ahmed v BBC [2020] 1 WLUK 16

The case concerned an equal pay claim brought by Samira Ahmed against the BBC, citing Jeremy Vine as comparator. Like work was established, there were no grounds for a market forces defence and the claim was upheld.

Asda Stores Ltd v Brierley [2021] UKSC 10

The Supreme Court upheld the judgement that shopfloor workers could use the terms and conditions of distribution employees as a valid comparison, for the purposes of equal pay. While the establishments were separate, it was held that the respondent applied common terms and conditions. The case involves thousands of workers and is ongoing, with the next stage due to establish the equal value test and whether ASDA can rely on a material factor defence.

Audit Commission v Haq [2012] EWCA Civ 1621

The case appealed against an EAT decision involving indirect discrimination and pay protection. The appointment of men whose pay had been the subject of protection, onto higher rates of pay was found to be indirectly discriminatory with no objective justification. In giving the lead judgement, LJ Mummery noted the difficulty of equal pay claims, given their high cost, unpredictable and complex nature.

Bahl v Law Society [2004] EWCA Civ 1070

The case concerned a sex and race discrimination claim during which the Court of Appeal insisted that each claim be dealt with and proven separately.

Bilka-Kaufhaus GmbH v Karin Weber von Hartz [1986] 2 CMLR 701 (ECJ) Case 170/84

A fundamental case on part-time work which outlined the three-part test for indirect discrimination material factor defence. The claimant was refused benefits under an occupational pension scheme as a result of her part-time status. While indirectly discriminatory as disproportionately affecting predominately female staff, the company could claim intention to limit part-time workers from an objectively justified factor, but this would be up to the national court to decide. The test for objective justification was established, finding that it must be objective and genuine to the need of the enterprise, suitable for obtaining the objective pursued, and necessary.

British Coal Corp v Smith [1996] 3 All ER 97

A multi-party litigation case involving female canteen workers and cleaners who cited male surface mineworkers as comparators. The claim was upheld as separate wage structures were not found to be 'genuine material factor' defence. The women were not limited to choosing a comparator from their own establishment; the broadly similar terms and conditions were sufficient to enable the claim.

Capita Customer Management Ltd v Mr M Ali [2018] 4 WLUK 83

The EAT decided that offering enhanced maternity pay and only statutory shared parental pay was not discriminatory. It stated that maternity leave is for the health and wellbeing of the mother and so cannot serve as a comparator for Shared Parental Leave.

Chandler v American Airlines Inc (5 July 2011 ET)

The case concerned restrictions on working hours. While Lady Smith's *Hacking* comments were noted, the tribunal found in the alternative, that women are still more

likely than men to be primary child carers, and so the restrictions were indirectly discriminatory.

Cooper v House of Fraser (Stores) Ltd [2012] EqLR 991 (ET).

The provision, criterion and practice of full-time working was found to put women at a disadvantage in *Cooper*, and as such indirect discrimination was established.

The case did not support the reasoning of Lady Smith in *Hacking*. The tribunal

questioned the Employment Appeal Tribunal's reasoning [finding it] controversial to say the least ... both from statistics and from our own observations of how society operates, [it is] still women who in the main have the burden of care.

Dekker v Stichting Vormingscentrum Voor Jonge Volwassen Plus [1992] ICR 325 (ECJ)

Case 177/88

Referred to the ECJ by the Dutch court, the case considered Council Directive 76/207/EEC on the principle of equal treatment with reference to pregnant women. As only women could be dismissed on grounds of pregnancy then this was held to be direct discrimination with no need for a hypothetical comparator.

Defrenne v Sabena [1976] 2 CMLR 98 (ECJ) Case 43/75

Female cabin crew claimants challenged the requirement for female staff to retire at 40. The Treaty of Rome was found to have horizontal direct effect and as such could be enforced regardless of whether Member States had domestic legislation to that effect. While the original inclusion in the Treaty was based on economic grounds and competitive advantage, this case asserted the importance of the social aim of provision.

Dietz v Stichting [1997] 1 CMLR 199 (ECJ) Case 435/93

The case was brought by part-time workers who had been denied access to an occupational pension scheme. It was found they were able to rely on Article 119 and could claim retroactively.

Douglas Harvey Barber v Guardian Royal Exchange Assurance Group [1991] 1 QB 344

The case highlighted an age condition in an occupational pension scheme, which upon redundancy treated men and women differently, as women were able to claim earlier. Referred to the ECJ, the case had implications for how pension schemes were considered as 'pay'. Ultimately the Court precluded pension schemes from having different requirements for men and women, finding the equal pay provision should also apply to occupational pension schemes.

Dugdale and others v Kraft Foods Ltd [1977] ICR 48

The case considered claimants doing slightly different work, by virtue of a night shift requirement. It was held that where work is broadly similar then pay should be equal, except with the addition of a night work payment.

Dixon v Rees [1994] ICR 39 and ***Hopkins v Shepherd and Partners*** [1994] ICR 39

These two appeals were brought regarding dismissals of pregnant women. The first was dismissed as the employer had found a replacement that they didn't want to lose. The second was also dismissed for reasons not related to the pregnancy but for business convenience. The EAT found that in both cases there was no evidence that a man would not have been treated in the same way. While Dekker and Webb were considered, with regard to the need for a male comparator, it was found that it was still open to the tribunal to consider how a man would have been treated.

Electrolux v Hutchinson [1977] ICR 252

The case considered what is 'like work' and whether contractual differences have any practical difference. The contractual requirement for overtime night and Sunday working for male employees was found, in reality, to be of no practical difference. The EAT held that there must be a 'genuine material difference' with opportunity to transfer from one grade to the other. The employers appeal was dismissed and the claim upheld.

Enderby v Frenchay [1991] 1 CMLR 626

Speech therapists brought an equal value pay claim against male comparators working in pharmacy and clinical psychology. The separate Whitley Council collective bargaining agreements covering the different groups of staff were found not to be discriminatory in themselves, though the resulting pay systems were. The case took over ten years to resolve.

EC v UK [1982] ECR 2601 (ECJ) Case 61/81

The European Commission brought the case against the UK who had failed to implement Directive 75/117 concerning equal value. The Equal Value Amendment was passed soon after.

Garland v British Rail Engineering Ltd [1983] 2 AC 751

The case concerned a discounted travel benefit that male employees retained the right to after retirement for themselves and their families, whereas women only retained the right for themselves. Reference was made to the ECJ to see whether Article 119 applied. The court held that it did.

Glasgow City Council v Fox Cross Claimants [2014] CSIH 27

The case reversed the ET judgement and held that the respondents were associated employers. As a result, the female claimants whose employment had transferred were able to compare their pay with men still working for Glasgow City Council.

GMB v Allen [2008] EWCA Civ 810

The case was brought against GMB concerning the role the union had in collectively negotiating discriminatory pay protection agreements, favouring male members. The tribunal's indirect discrimination finding was upheld, but GMB's actions in persuading female claimants to accept the agreement were found to be a proportionate means of achieving a legitimate aim.

Hacking & Paterson v Wilson [2010] 5 WLUK 723

The case concerned a request to return to work from maternity leave on a part-time basis. Lady Smith determined that society had changed. While this alone did not strike out the claim, she stated a woman's decision to work part-time, following maternity leave, 'is a matter of choice rather than necessity' (para 28). However, subsequent cases have not supported Lady Smith's reasoning.

Handels-OG Kontorfunktionaerernes Forbund I Danmark (acting for Herz) v. Dansk Arbejdsgiverforening (acting for Aldi Marked K/S) [1991] IRLR 31 (ECJ) Case 179/88

The Herz judgement was given on the same day as *Dekker* and also considered Directive 76/207. The case reiterated the *Dekker* approach that treating women differently as a result of pregnancy is discrimination. The case itself concerned sick leave which was taken after maternity leave had expired and as a result it was found that the dismissal was fair.

Handley v. H. Mono Ltd. [1979] ICR 147

The case concerned the lower rate of pay for part-time workers. It was found that the lower rate of pay for part-time workers was a material difference based on something other than sex. It was stressed that women who worked forty hours per week would be paid at the same rate as men.

Hayes v Malleable Working Men's Club and Institute [1985] ICR 703

The case found that SDA75 could be applied for pregnant workers in analogous circumstances. The *Turley* case was not followed, although the minority *Turley* judgement, comparing pregnancy to the case of a sick man, was applied.

HBJ Claimants v Glasgow City Council [2017] CSIH 56

The case concerned a job evaluation scheme that was used to implement the Single

Status workforce agreement to bring staff and manual workers under one pay scheme. The scheme used had not been subject to peer review, did not follow the EOC advice and was held to be invalid.

Hewage v Grampian Health Board [2012] UKSC 37

The case concerned a constructive dismissal and sex and race discrimination claim. While the claimant was not required to split the race and sex elements of the discrimination claim, the court did not go as far as overturning the *Bahl* approach.

Iske v P&O European Ferries (Dover) Ltd [1997] IRLR 401

The case found that no comparator was needed with a sick man for a pregnancy discrimination claim. The EAT referred to *Dekker* and *Webb* and found the claimant had suffered unlawful discrimination. As a pregnant female seafarer, she was not offered shore-based work, as per company policy.

Jenkins v Kingsgate [1981] 1 WLR 1485

The court held that the difference in pay for part-time and full-time employees was legitimate as motivated by the companies' desire to reduce absenteeism and ensure full use of their machinery. The equal pay claim was therefore not upheld.

Lawrence & Ors v Regent Office Care Limited [2003]

The comparison for equal pay was not upheld as there was no one body responsible for the inequality and therefore in a position to restore equal pay.

Macarthy v Smith [1980] 2 CMLR 205

The case considered whether the fact that the claimant was not employed contemporaneously with the comparator could be held as defence against an equal pay claim. The claimant had been paid £10 less and employed four months after the male comparator. The case was referred to the ECJ who found that as there was only a short gap between the claimant and comparator's employment that equal pay could be

required. The case also considered the question of part-time work, but found it was up to the national court to decide whether the difference was justified.

Macken v BNP Paribas London Branch [2019] 2208142/2017 and 2205586/2018 (ET) (Unreported).

The tribunal upheld the allegations of sexual discrimination and victimisation. A senior employee at BNP Paribas, the claimant was subject to underpayment in relation to a male colleague and mistreatment amounting to victimisation in the workplace.

Magorrian v Eastern Health and Social Services Board [1998] All ER (EC) 38

The case concerned occupational pensions and part-time rights. The exclusion of part-time nurses from certain pension rights was found to be indirect discrimination. The claim also considered backpay, which was previously limited to two years. It was held that national laws of this kind should not be applied. This ultimately extended the right to compensation in equal pay cases.

Middlesbrough Borough Council v Surtees [2008] EWCA Civ 885

The case concerned a Council pay protection scheme that had been implemented to protect typically male workers after regrading. Female claimants highlighted their lack of protection from the red circling arrangements, adding to the historical pay inequities revealed by the job evaluation scheme.

North Yorkshire CC v Ratcliffe [1995] ICR 833

An equal value case concerning compulsory competitive tendering brought by a group of catering assistants. While they had established equal value with male comparators, when the service was put out to tender, they were not afforded equal treatment with men on equivalent work. The women were dismissed as redundant and re-employed on lower rates of pay than those of their equal value male employees. The case proved to be an importance catalyst for the Single Status agreement in local government.

O'Reilly v BBC 2200423 (19 November 2010 ET)

The former Countryfile presenter claimed sex and age discrimination. While the tribunal acknowledged and accepted intersectional discrimination as a possibility, the claim was ultimately progressed under the characteristic of age.

Pimlico Plumbers Ltd v Smith [2018] UKSC 29

The case concerned the employment status of the claimant. The supreme court dismissed the appeal finding that he was a 'limb b' worker and could pursue his claims for unlawful deductions, holiday pay and disability discrimination as such in the tribunal.

Practice Statement (HL: Judicial Precedent) [1966] 1 WLR 1234

The statement was made with reference to the British common law system which provides for an 'orderly development of legal rules'. However, this gave the House of Lords the ability to depart from its previous decisions when 'it is right to do so'.

R (on the application of Essex CC) v Secretary of State for Education [2012] EWHC 1460

The case concerned a decision to reduce funding for schools and nurseries, given that it had failed to take due consideration for the disproportionate impact of the decision. The case confirmed that the Public Sector Equality Duty is a rigorous and important requirement.

R (on the application of UNISON) v Lord Chancellor [2017] UKSC 51

The case held that fees for employment tribunals are unlawful because they impede access to justice and defy the rule of law.

Redcar and Cleveland Borough Council v Bainbridge [2008] EWCA Civ 885

The case was brought by female catering and care workers who compared their terms

and conditions and the absence of bonuses and allowances, with those paid to male refuse workers. While separate collective bargaining agreements had led to these differences in pay, it was held that this was not a valid material factor defence. The pay protection afforded when the Green Book was implemented meant that old indirect discrimination, while recognised, was being allowed to continue.

Roberts v Hopwood [1925] AC 578

The local council was not required to increase the wages of female employees to bring them in line with male employees. It was held that the law did not require equal pay.

Shields v E Coomes Holdings Ltd [1978] 1 WLR 1408

The case was brought by a female betting shop employee who was being paid less than her male colleague. It was found that there is no difference in the work if the difference does not actually arise in the performance of the job. The security function he was employed for was not required in the store, so the contractual obligation was irrelevant to the difference in pay.

Snell v Network rail [2016] 8 WLUK 348

The case considered an employer's policy to give enhanced shared parental pay to mothers and primary adopters, but not partners and secondary adopters. The tribunal held that the policy amounted to sex discrimination.

Tantum v Travers Smith Braithwaite Service [2013] 5 WLUK 437

Upon making their decision in this case and in support of its findings, the tribunal also required the employer to implement diversity training for all of the company's staff.

Turley v. Alders Department Stores [1980] ICR 66

The case concerned a claim of pregnancy discrimination and less favourable treatment,

but the claim was not upheld given the impossibility of finding a pregnant male comparator. The minority judgement of Justice Smith introduced the idea of a sick man as a potential comparator, though this was not accepted.

Uber BV v Aslam [2018] EWCA Civ 2748

The case concerned the employment status of Uber drivers. The case appealed to the Supreme court to establish whether workers are limb b, a third category potentially establishing the right to minimum wage.

Uber v Aslam [2021] UKSC 5

The case confirmed that Uber drivers are to be considered workers and not independent contractors. The judgement is significant, not just for the drivers it represented and their subsequent entitlement to minimum wage and holiday pay, but for the wider question of worker status in the gig economy.

Van Gend en Loos v Nederlandse Administratie der Belastingen [1963] ECR 1 (ECJ) Case 26/62

A landmark ECJ case, this held that articles which are clear, precise and unconditional, so as not to require further measures of implementation, are directly applicable and can be relied upon within Member States.

Walker v Co-operative Group Ltd [2020] EWCA Civ 1075

Equal value claim with Co-op asserting a material factor defence, citing various factors unrelated to gender. Despite the EAT upholding *Walker's* claim that the material factor defence had expired, the Court of Appeal overturned this finding. *Walker* was also held liable for Co-op's costs of £20,000.

Webb v EMO Air Cargo UK Ltd [1995] 1 WLR 1454

The case considered pregnancy, sex discrimination and unfair dismissal. It was found that no comparator was needed to establish discrimination of a pregnant woman. The case was referred to the ECJ which confirmed that discrimination by virtue of pregnancy was sex discrimination. In the particular instance of *Webb*, she was employed to cover another's leave and then stayed when she returned, having had a baby. Shortly thereafter she discovered that she too was pregnant. The company dismissed her as a result. The claim of direct discrimination was not upheld, but indirect discrimination was.

Willers v Gubay [2016] UKSC 43

The Supreme Court clarified a previously uncertain element of judicial precedent. The case demonstrated the development of the common law concerning whether the tort of civil malicious prosecution exists in civil proceedings.

Appendix 3: Banking sample

Categorisation and full list of organisations included in the banking sample.

Asset, Investment and Private Banks (9): Axa Investment Managers Ltd; Brown Shipley & Co. Ltd; C. Hoare & Co.; EFG Private Bank Ltd; ICBC Standard Bank Plc; Investec Bank Plc; Joh. Berenberg, Gossler & Co London Branch; RBC Europe Ltd, and Schroder & Co. Ltd.

Building Societies (9): Coventry BS; Cumberland BS; Leeds BS; Nationwide BS; Newcastle BS; Principality BS; Skipton BS; West Bromwich BS, and Yorkshire BS.

Currency, Payment and Credit Organisations (3): First Rate Exchange Services Ltd; Vanquis Bank Ltd, and Visa Europe Services LLC.

Global UK and European Banks (15): Barclays Bank Plc; Barclays Bank UK Plc; Barclays Plc; BNP Paribas London Branch; Commerzbank; Coutts & Company; Credit Suisse International; Cynergy Bank Ltd; HSBC Bank Plc; HSBC Private Bank (UK) Ltd; HSBC UK Bank Plc; Lloyds Banking Group Plc; Lloyds Bank Plc; Royal Bank of Scotland Plc; Santander, and Standard Chartered Bank.

Global Asian and US Banks (11): Bank of America Merrill Lynch International; Bank of China (UK) Ltd; Citibank N.A.; JPMorgan Chase Bank, National Association; JP Morgan Ltd; JP Morgan Securities Plc; Mizuho Bank Ltd; Mizuho International Plc; MUFG Bank Ltd; Sumitomo Mitsui Banking Corporation Europe, and Wells Fargo Bank National Assoc.

Smaller Banks (15): AIB Group (UK) Plc; Aldermore Bank Plc; Atom Bank Plc; Bank of Ireland (UK) Plc; Clydesdale Bank Plc; Co-operative Bank Plc; Metro Bank Plc; Monzo Bank Ltd; Onesavings Bank Plc; Sainsburys Bank Plc; Secure Trust Bank Plc; Shawbrook Bank Ltd; Starling Bank Ltd; TSB Bank Plc, and Virgin Money Plc.

Appendix 4: Participant information sheet

Participant information sheet and consent form detailing the voluntary nature of the research, the ability to withdraw at any point and supervisory contacts.

INFORMATION SHEET

You are being invited to take part in a research study. Taking part in this research is entirely voluntary. Before you decide whether or not to take part it is important to understand why the research is being done and what it will involve.

Please take the time to read this information sheet carefully.

The information you provide will be used by the researcher for a thesis entitled,

'The Stalled Revolution: An examination of the efforts to eradicate the gender pay gap and the levers and resistance which impact upon them.'

This research seeks to evaluate the effectiveness of policy and legislation with regard to efforts to eradicate the gender wage gap. The research will focus on banking organisations. The researcher can be contacted via email r.f.m.lyons@sussex.ac.uk should you have any further questions.

This research will investigate the legal and organisational efforts to address and eradicate the gender pay gap and the factors which impact upon it. The research will be carried out over a six-month period from January to June 2019. It is a piece of interdisciplinary research that includes legal analysis, and a case study within the banking sector that uses both qualitative and quantitative methods to evaluate workplace policies and procedures. This involves analysis of the gender pay reporting data, as required by the Gender Pay Reporting Regulations, alongside interviews with HR and employees working within relevant organisations, policy officers and trade unions.

This study is being conducted by student researcher, Rachel Verdin with supervisory support from Prof Jacqueline O'Reilly (J.O-Reilly@sussex.ac.uk) and Prof Sue Millns (S.Millns@sussex.ac.uk), University of Sussex, who are happy to be contact via email should you have any questions.

The research is being funded by the University of Sussex School of Business and Management.

- Why have I been invited to take part and what will I do?

You have been invited to take part as a result of your employment within the banking industry, into research concerning the UK's gender wage gap. The research seeks to understand the gender pay gap within the banking sector. As such, the researcher is carrying out a series of interviews seeking input from personnel professionals within the organisation, trade union

organisers who have worked supporting members at the organisation, and employees working for the organisation.

The interview will take a maximum of 60 minutes and can be conducted in-person at your workplace, or at a suitable alternative public location, or via telephone / skype.

During the interview, you will be asked some questions about your experience of working within the industry, such as how pay and bonus is approached, your experience of recruitment and promotion, how accessible workplace policies are, and areas you perceive have been successful or those in need of development.

The interview will be audio recorded and transcribed at a later date. Common themes that emerge through the transcription and data analysis phase will then be used to evaluate the effectiveness of the measures that are currently in place, or being proposed, and to assess how individuals experience their pay and the mechanisms that may affect it at the workplace.

It is not anticipated that there are any risks to taking part in this research.

The benefits to this research are that it may assist in future sector specific policy making and sharing of best practice. It will also enhance understanding of the topic.

- **What will happen to the results and my personal information?**

All information personal to you will be kept completely confidential and only accessible by the researcher and supervisors. The interview recording and transcription will be stored on a double password protected computer. They will be saved for a period of five years and then destroyed. Your anonymity will be ensured as all personal information that may disclose your identity (name, job role, department, organisation etc), will be removed prior to writing up of the data. You will be ascribed a unique numeric identifier during the transcription process.

The results of this research will be written up to form part of a doctoral thesis and may be included in academic publications arising from this. If you would wish to see any findings from this research these can be provided upon request from September 2019.

- **Who has approved this study?**

This research has been approved by the Social Sciences Cross-Schools Research Ethics Committee and has undergone ethical review. The University of Sussex has insurance in place to cover its legal liabilities in respect of this study.

- **Declaration and Consent**

Please read this information carefully and then, if you wish to take part in the research, as it has been described here, the researcher will contact you for an initial conversation, prior to arranging an interview. It is up to you to decide if you wish to take part. If you decide to take part you are still free to withdraw at any time without giving a reason.

Thank you for taking the time to read this information sheet.



CONSENT FORM FOR PROJECT PARTICIPANTS DOING INDIVIDUAL INTERVIEWS

Title of Project: The Stalled Revolution: An examination of the efforts to eradicate the gender pay gap and the levers and resistance which impact upon them.

Name of Researcher and School: Rachel Verdin, School of Business & Management

C-REC Ref no: ER/RFML20/1

Please tick box

Y

N

- I consent to being interviewed by the researcher

☐
☐

- I agree to allowing the interview to be audio-recorded

☐
☐

- *I understand I can request a draft of preliminary findings from January 2020*

☐
☐

- *I consent to the use of anonymised quotes in publications from the research*

☐
☐

- *I understand that I can request a transcript of any data that I have provided for my approval before being included in the write up of the research*

☐
☐

- *I understand that in exceptional circumstances e.g. where the health, welfare and safety of myself or others is compromised by*

☐
☐

information I might disclose, the researcher will be legally required to pass this information onto an appropriate individual or agency.

- I understand that any information I provide is confidential, and that no information that I disclose will lead to the identification of any individual in the reports on the project, either by the researcher or by any other party ☐ ☐

- I have read the information sheet, had the opportunity to ask questions and I understand the principles, procedures and possible risks involved. ☐ ☐

- I consent to the processing of my personal information and data for the purposes of this research study. I understand that such information will be treated as strictly confidential and handled in accordance with the General Data Protection Regulation (GDPR) 2016. ☐ ☐

- I understand that my participation is voluntary, that I can choose not to participate in part or all of the project, and that I can withdraw at any stage of the project without being penalised or disadvantaged in any way nor do I have to give reasons for this. ☐ ☐

- I agree to take part in the above University of Sussex research project ☐ ☐

Name:

Signature

Date:

Appendix 5: Ethical Review certificate

Certificate of approval by the Social Sciences Cross-Schools Research Ethics Committee.



Social Sciences & Arts C-REC
c-recss@admin.susx.ac.uk

Certificate of Approval

Reference Number	ER/RFML20/1
Title Of Project	The Stalled Revolution: an examination of the efforts to eradicate the gender pay gap and the levers and resistance which impact upon them.
Principal Investigator (PI):	Rachel Verdin
Student	Rachel Verdin
Collaborators	
Duration Of Approval	5 months
Expected Start Date	07-Jan-2019
Date Of Approval	04-Sep-2018
Approval Expiry Date	03-Jun-2019
Approved By	Ana Pereira
Name of Authorised Signatory	Liz McDonnell
Date	04-Sep-2018

Appendix 6: Overview of interview participants and employing organisations

Participant	Seniority and organisation type	Children	Age range	Nationality
Jane	Senior in global European bank	Yes	50+	British
Greg	Trade union organiser in the sector	Not applicable	60+	British
Roy	Trade union organiser in the sector	Not applicable	50+	British
Sabina	Mid-level in hedge fund	No	30+	European
Kate	Senior HR in global UK bank	Yes	50+	British
Jean	Mid-level HR in building society	Not discussed	50+	British
Moiria	Trade union organiser in the sector	Not applicable	60+	British
Tali	Mid-level in global UK bank	No	20+	European
Sally	Senior in global UK bank	No	50+	British
Laila	Senior in global UK bank	No	20+	European
Faye	Cashier and union rep in global UK bank	Yes	50+	British
Hilary	Senior in global European bank	Yes	40+	British
Sophie	Senior in global UK bank	Yes	40+	British
Sue	Mid-level in global UK bank	Yes	40+	British
Yasmine	Mid-level in global UK bank	Yes	50+	British
Belinda	Cashier in global UK bank	Yes	50+	British
Jacqui	Mid-level in global UK bank	No	40+	British
Reshma	Mid-level in global payment firm	Yes	30+	Asian
Ella	Mid-level HR in global Asian bank	No	30+	British
Val	Mid-level in global Asian bank	No	20+	European
Jade	Senior HR in global investment management firm	Yes	30+	Australasian
Nia	Senior in global UK bank	No	50+	British
Alice	Senior in global UK bank	Yes	50+	British
Claire	Senior in global UK bank	Yes	40+	British
Krista	Senior in global UK bank	Yes	40+	European
Kaye	Senior in global UK bank	No	30+	British

Appendix 7: SIC code detail

Organisational pay reports are given a standard industrial classification (SIC) code which identifies the relevant business activity of the organisation.

For organisations with a Company Number, this is automatically populated with the SIC code held at Companies House. The GPRR note that the accuracy of this data is reliant on organisations keeping their Companies House record up to date. Where employers have entered multiple SIC codes, the pay reports use the first displayed code to classify industry. For public sector employers which do not have company numbers, this is manually assigned.

There are a wide range of codes which may define organisations that are relevant for this research; however, they may also be used by companies which are not.

As such the following SIC codes were used to populate the banking sample:

64110	Central banking
64191	Banks
64192	Building societies

For a full breakdown of the SIC list please visit:

<https://www.gov.uk/government/publications/standard-industrial-classification-of-economic-activities-sic>

(Accessed: 20 May 2021).

Appendix 8: Banking sample gaps

The following breakdown of median bonus and pay gaps relate to Chapter 5 Figure 5.3. The list has been sorted for both 2017-18 and 2019-20 according to size of bonus gap (smallest to largest) to enable comparison with the graph shown.

Employer	Median bonus gap 2017-18	Median pay gap 2017-18
CYNERGY BANK LIMITED	0.0	34.4
AIB GROUP (UK) PLC	0.0	16.6
STARLING BANK LIMITED	0.0	48.9
BANK OF IRELAND (UK) PLC	0.0	18.7
VISA EUROPE SERVICES LLC	9.9	14.0
NEWCASTLE BUILDING SOCIETY	10.1	16.9
BANK OF AMERICA MERRILL LYNCH INT. LIMITED	17.4	20.8
BANK OF CHINA (UK) LIMITED	19.2	27.2
ATOM BANK PLC	21.1	31.6
VANQUIS BANK LIMITED	23.8	12.2
METRO BANK PLC	24.0	13.5
LEEDS BUILDING SOCIETY	29.5	25.4
COVENTRY BUILDING SOCIETY	31.1	31.3
SKIPTON BUILDING SOCIETY	31.7	26.4
YORKSHIRE BUILDING SOCIETY	32.1	28.6
PRINCIPALITY BUILDING SOCIETY	32.2	31.5
COUTTS & COMPANY	33.7	24.4
THE ROYAL BANK OF SCOTLAND PLC	36.6	36.5
TSB BANK PLC	37.0	24.0
NATIONWIDE BUILDING SOCIETY	37.0	31.0
ALDERMORE BANK PLC	37.6	35.7
JPMORGAN CHASE BANK, NATIONAL ASSOC	38.0	23.0
C. HOARE & CO.	38.5	28.3
CLYDESDALE BANK PLC	39.0	36.0
COMMERZBANK AKTIENGESELLSCHAFT	39.0	33.9
SANTANDER UK PLC	40.5	29.1
VIRGIN MONEY PLC	40.7	38.4
HSBC PRIVATE BANK (UK) LIMITED	45.0	35.0
ICBC STANDARD BANK PLC	45.0	22.1
FIRST RATE EXCHANGE SERVICES LIMITED	46.0	40.0
BARCLAYS BANK UK PLC	46.9	14.2
MIZUHO INTERNATIONAL PLC	47.0	37.7
MONZO BANK LIMITED	47.0	48.0
CITIBANK N.A	49.1	24.1
MIZUHO BANK, LIMITED	49.6	33.3
WEST BROMWICH BUILDING SOCIETY	51.3	30.8

SECURE TRUST BANK PLC	51.5	58.0
MUFG BANK, LIMITED	53.1	30.8
LLOYDS BANKING GROUP PLC	53.1	32.8
CUMBERLAND BUILDING SOCIETY	54.0	27.0
STANDARD CHARTERED BANK	55.1	31.4
SHAWBROOK BANK LIMITED	57.9	42.2
JOH. BERENBERG, GOSSLER & CO KG LONDON	60.0	48.0
BNP PARIBAS LONDON BRANCH	60.0	32.2
LLOYDS BANK PLC	60.7	42.7
WELLS FARGO BANK, NATIONAL ASSOC	60.9	24.1
HSBC BANK PLC	61.0	29.0
INVESTEC BANK PLC	61.8	31.5
EFG PRIVATE BANK LIMITED	61.9	35.9
AXA INVESTMENT MANAGERS LIMITED	63.2	27.2
SUMITOMO MITSUI BANKING CORP EUROPE LIMITED	63.6	33.8
CREDIT AGRICOLE CIB	65.3	35.4
THE CO-OPERATIVE BANK PLC	65.3	22.6
BROWN SHIPLEY & CO. LIMITED	69.2	30.5
J.P. MORGAN SECURITIES PLC	73.0	46.0
BARCLAYS BANK PLC	73.3	43.5
ONESAVINGS BANK PLC	77.0	46.0
SCHRODER & CO. LIMITED	79.3	44.8
CREDIT SUISSE INTERNATIONAL	82.3	44.6
RBC EUROPE LIMITED	86.0	57.0
J.P. MORGAN LIMITED	89.0	54.0
SAINSBURY'S BANK PLC	91.3	45.3
BARCLAYS PLC	this entity not yet reporting	this entity not yet reporting
HSBC UK BANK PLC	this entity not yet reporting	this entity not yet reporting

Employer	Median bonus gap 2019-20	Median pay gap 2019-20
AIB GROUP (UK) PLC	0	18.3
MONZO BANK LIMITED	0	20.4
BANK OF IRELAND (UK) PLC	0	7.4
TSB BANK PLC	13.8	23.7
BARCLAYS PLC	17	39.6
SKIPTON BUILDING SOCIETY	27.3	27
LEEDS BUILDING SOCIETY	28.8	29.7
VIRGIN MONEY PLC	31.3	30.4
ICBC STANDARD BANK PLC	31.3	22
JPMORGAN CHASE BANK, NATIONAL ASSOC	33.3	21.9

METRO BANK PLC	33.3	12.4
YORKSHIRE BUILDING SOCIETY	34.1	27.9
PRINCIPALITY BUILDING SOCIETY	34.3	28.3
ALDERMORE BANK PLC	34.5	35.4
COVENTRY BUILDING SOCIETY	34.6	33
C. HOARE & CO.	34.8	24.1
LLOYDS BANK PLC	37.7	40.5
NATIONWIDE BUILDING SOCIETY	38	30
VANQUIS BANK LIMITED	38.5	21.7
WEST BROMWICH BUILDING SOCIETY	39.5	29.9
BARCLAYS BANK UK PLC	41.5	14.5
LLOYDS BANKING GROUP PLC	41.8	33.5
SANTANDER UK PLC	44.3	26.6
HSBC UK BANK PLC	44.3	18.7
CLYDESDALE BANK PLC	44.6	37.7
MIZUHO BANK, LIMITED	45.5	33.7
STANDARD CHARTERED BANK	46	28.4
HSBC PRIVATE BANK (UK) LIMITED	47.6	35.1
THE CO-OPERATIVE BANK PLC	47.7	22.6
CYNERGY BANK LIMITED	48.6	29.6
SHAWBROOK BANK LIMITED	51	42.3
SECURE TRUST BANK PLC	53	52.1
MUFG BANK, LIMITED	55.4	27
MIZUHO INTERNATIONAL PLC	55.7	37.3
CREDIT SUISSE INTERNATIONAL	59.5	25.6
BARCLAYS BANK PLC	63.5	39.9
SUMITOMO MITSUI BANKING CORP EUROPE	63.6	30.1
ATOM BANK PLC	63.6	33.2
AXA INVESTMENT MANAGERS LIMITED	63.7	24.9
HSBC BANK PLC	69.3	50.8
J.P. MORGAN SECURITIES PLC	72.4	59
ONESAVINGS BANK PLC	73.1	37.6
BROWN SHIPLEY & CO. LIMITED	75	38.3
SCHRODER & CO. LIMITED	78	44
SAINSBURY'S BANK PLC	88.1	24.9
J.P. MORGAN LIMITED		
RBC EUROPE LIMITED		
JOH. BERENBERG, GOSSLER & CO. KG		
LONDON		
CUMBERLAND BUILDING SOCIETY		
EFG PRIVATE BANK LIMITED		
BNP PARIBAS LONDON BRANCH		
THE ROYAL BANK OF SCOTLAND PLC		
COMMERZBANK AKTIENGESELLSCHAFT		
CITIBANK N.A		
INVESTEC BANK PLC		
FIRST RATE EXCHANGE SERVICES LIMITED		

CREDIT AGRICOLE CIB
NEWCASTLE BUILDING SOCIETY
COUTTS & COMPANY
BANK OF CHINA (UK) LIMITED
STARLING BANK LIMITED
WELLS FARGO BANK, NATIONAL ASSOC
BANK OF AMERICA MERRILL LYNCH INT.
LIMITED
VISA EUROPE SERVICES LLC
(Those in red chose not to report in 2019-20)

Appendix 9: Abbreviations and acronyms

AFC: Agenda for Change

ASHE: Annual Survey of Hours and Earnings

ATM: Automated Teller Machine

Big four banks: refers to HSBC, Barclays, Lloyds and RBS

CAC: Central Arbitration Committee

CBI: Confederation of Business and Industry

EA02: Employment Act 2002

EAT: Employment Appeal Tribunal

ECA72: European Communities Act 1972

EEC: European Economic Community

ECJ: European Court of Justice

EHRC: Equality and Human Rights Commission

EIA: Equality Impact Assessments

EmPA78: Employment Protection Act 1978

EOC: Equal Opportunities Commission

EqA2010: Equality Act 2010

EqPA70: Equal Pay Act 1970

EqVA83: Equal Value Amendment 1983

ET: Employment Tribunal

EU: European Union

GDP: Gross Domestic Product

GED: Gender Equality Duty

GM: Gender Mainstreaming

GPG: Gender Pay Gap

GPRR: Gender Pay Reporting Regulations

ICB: Independent Commission on Banking

NMW98: National Minimum Wage Act 1998

NMW: National Minimum Wage

NLW: National Living Wage

OMC: Open Method of Communication

ONS: Office of National Statistics

PSED: Public Sector Equality Duty

PTWR00: Part-Time Workers Regulations 2000

RRA65: Race Relations Act 1965

SDA75: Sex Discrimination Act 1975

SDA86: Sex Discrimination Act 1986

SIC: Standard Industrial Classification

SSA: Single Status Agreement

SPL: Shared Parental Leave

STEM: Science, Technology, Engineering and Mathematics

ToR57: Treaty of Rome 1957

TFEU: Treaty on the Functioning of the European Union

TUC: Trades Union Congress

UKHLS: UK Household Longitudinal Study

WiFC: Women in Finance Charter