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Employment, Industrial Relations and Social Affairs

# STEERING COMMITTEE FOR EQUAL OPPORTUNITIES IN BROADCASTING

## Recommendations for the promotion of equal opportunities

1986 - 1991

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EQUAL OPPORTUNITIES IN  
BROADCASTING**

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promotion of equal  
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Brussels

Commission of the European Communities  
Equal Opportunities Unit - DG V.B.4

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ESTABLISHMENT OF BASIC MECHANISMS TO PROMOTE  
EQUAL OPPORTUNITIES

1st meeting: 11 February 1986

1. Normally, any organisation wishing to ensure equal employment opportunities for existing and future staff members should engage in two stages of policy development. The first should be the adoption of an equal opportunities policy - a permanent policy to guarantee non-discrimination in recruitment, training and promotion practices. The second should be acceptance, where necessary, of a positive action policy or programme, - a temporary measure designed to correct existing imbalances by actively seeking out members of under-represented groups through recruitment, training and promotion activities aimed at increasing their numbers.

2. Equal opportunities policy will usually be developed and promulgated at senior management or Board level. A senior executive or Board member should be given responsibility to ensure that this policy is effectively communicated throughout the organisation, in terms both of its general principles and of its specific implications for departmental heads, line managers and supervisors. This responsibility will not generally be discharged by the ad hoc dissemination of a staff circular or memorandum. Effective communication will normally entail not simply sustained public highlighting of the issue at senior management level, but a visible commitment to active pursuit of the policy. For example, it can be made clear that decisions on merit awards and promotion among middle management and supervisory staff will take into account their record in the implementation of equal opportunities policy.

3. The development of detailed procedures and guidelines for policy implementation will normally depend on consultation with a range of organisational constituents. This may be assisted by the establishment of an Equal Opportunities Committee, or its equivalent, comprising representatives from management, personnel and training departments, trades unions, women's groups or committees (in organisations where these exist), and perhaps national equality commissions or bodies. Apart from the formulation of policy and of implementation measures, the main tasks of the Committee should be to coordinate work towards equality promotion within the organisation, to initiate and inspire activities for this purpose, to collect and pass on ideas, to ensure that the issue is kept alive, to monitor and receive reports on implementation rates, and to bring to the attention of the organisation developments in the same field in the wider community. To be effective, such a Committee should meet no less than quarterly, and should report at least annually to the Board of its parent organisation.

4. Members of the Equal Opportunities Committee will be individuals with an interest in equality issues, but whose primary responsibility within the organisation is to work at their full-time jobs. To ensure that the Committee's decisions are implemented, and to carry forward the necessary practical work, a permanent full-time post at middle management level should be created or utilised for the appointment of an Equality Officer. This person should be responsible for a thorough analysis of the organisation's workforce and of its recruitment, training and promotion procedures. On the basis of these analyses, the

Equality Officer should develop specific proposals for policy implementation, over a clearly stated time scale, and should advise the organisation - through the Committee - as to the necessity of proceeding to a second stage of policy development in the form of a temporary positive action programme. The precise organisational location of such an Officer will depend on many factors, although the Personnel Department will ordinarily be an appropriate base. Existing experience shows that a person in such a position takes on an extremely difficult and often isolated role. It is therefore of the utmost importance that the Equality Officer should have clearly defined managerial authority, a straightforward reporting route to the highest echelons of the organisation, the public support of senior management, and the visible moral and practical back-up of the Equal Opportunities Committee.

## TRAINING AND CAREER DEVELOPMENT

2nd meeting: 28 January 1987

1. Training policy should be reviewed to ensure that current emphases do not mean that women are disadvantaged. For example, organisations which devote a large proportion of resources to technical training should consider ways of enabling women to benefit from this (see recommendation 3 below). Where necessary, new policies should be formulated with a view to fostering women's mobility from traditionally female-dominated, and low-paid, jobs.
2. Given the very high proportion of women in secretarial and clerical functions, training projects should be established to encourage qualified secretaries to advance into middle and higher-level administration.
3. Basic technical and production familiarisation courses, aimed primarily at women, should be organised on a regular basis so that women are in a better position to compete for formal training opportunities in these areas.
4. Planned systems of internal job rotation and voluntary attachment schemes should be created or reviewed to emphasise the aim of allowing women and men to gain experience of work in areas where their sex is under-represented.
5. Equality issues should be incorporated into all management training activities.
6. Supervisors and department heads should encourage staff to discuss career aspirations and training needs with them before making a formal application for training, for departmental transfer or for attachment.
7. Career planning and development seminars or workshops should be organised for women employees. For junior staff these should include an element of confidence-building and the development of communication skills, as well as discussion of possible career goals and paths. Seminars for middle-level and supervisory staff should centre on relevant training for senior management positions.
8. Attention should be paid to the situation of individual "pioneer" staff who move into job categories where their sex has previously been under- or unrepresented. If they are not to be lost through drop-out, these staff may need special support and counselling from, for example, personnel or staff relations departments to help them deal with the special pressures which they may face due to their minority status.

## WORKING CONDITIONS

3rd meeting: 10 December 1987

### Part-time Work:

1. Organisations should review the rights and benefits available to part-time employees to ensure equivalence with those enjoyed by full-time workers; for example, the right to contribute to company pension schemes, to unpaid leave for the purpose of child-rearing, to increments and over-time payments, to training and promotion, should in principle be available to all employees, regardless of the number of hours they work. Any existing disparities, together with their implications, should be clearly explained to those considering part-time conditions of service.
2. Within practical limits, organisations should facilitate the movement of staff between part-time and full-time employment. For example, where it does not demonstrably conflict with the interests of the organisation, employees who wish to switch from full-time workers who wish to switch to longer working hours should be given special consideration when applying for vacancies, in cases where two or more candidates are equally suitable.

### Flexible Working Time:

3. In areas where irregular working hours are necessary, for example the production and technical categories, organisations should consider devolving responsibility for the arrangement of working time to defined groups of staff, leaving the group to decide exactly how production requirements are to be fulfilled.
4. Wherever possible, and particularly in areas where regular working hours are the norm, organisations should introduce working arrangements which offer appropriate flexibility in both the number and the disposition of hours worked daily and weekly. Such schemes should, however, limit the number of hours which may be worked at a single stretch so as to avoid the possibility of extra stress and tiredness among staff.
5. Organisations should consider, within a framework worked out in agreement with the relevant trades unions, the possibility of job-sharing arrangements for employees who request them. Such arrangements should contain safeguards to protect job-sharers and employers in cases where there is a change in the circumstances on which the job-sharing arrangement is based.
6. The existence of part-time work, flexible working arrangements and job-sharing possibilities should be widely publicised and brought to

the attention of all employees; staff and management should be encouraged to regard work carried out under these arrangements as normal, and equivalent in status to regular full-time employment.

**Maternity Leave and Parental Leave:**

7. Organisations should exercise maximum flexibility in the disposition of maternity leave, wherever possible allowing the employee to decide how the agreed period of leave is to be distributed before and after the birth.

8. Most organisations now give full normal throughout the complete period of maternity leave and, in principle, others should aim for this. UK organisations should note that qualifying rules - covering the length of time a member of staff must be in employment before becoming eligible for maternity pay - do not apply in any other broadcasting organisations throughout the European Community.

9. Most broadcasting organisations in the Community grant paid paternity leave, ranging from two days to two weeks. All organisations should review their policy in this areas, in order to maximise the provision of paid leave to fathers on the birth of a child.

10. Organisations should consider the introduction of other statutory provisions - for example, the right to paid leave on the adoption of a child and in the case of family illness, and the right to extended unpaid leave to care for young children - which help employees combine professional responsibilities with family commitments.

11. In calculating benefits based on length of service, some organisations treat any periods of unpaid leave or of part-time work - when these have been taken to care for a child or for other compelling family reasons - as full-time service. The introduction of such a system should be investigated by all organisations.

12. When such an arrangement can be accommodated within the needs of the service, employment contracts should be devised to enable employees with young children to take leave during school holiday periods. For example, such a contract might be based on a reduced number of weekly hours but designed so that the employee could work full-time for most of the year, saving the extra time for school holidays.

13. The reintegration of employees who have resigned to care for a child or for other compelling domestic reasons should be facilitated whenever possible. Consideration should be given to measures ranging from guarantee re-entry to the organisation on certain conditions; to consideration of the ex-employee as an internal applicant for a job vacancies; to the establishment of mechanisms to keep the employee in touch with developments in the organisation; to encouraging the employee, when appropriate, to attend training courses or to take up short-time work assignments with the organisation.



14. Personnel officers and company literature should repeatedly stress that leave and other working arrangements devised to meet employees' responsibilities as parents are intended for both male and female employees. In cases where both parents work for the organisation, if an application for extended leave is made, the applicant's partner should be encouraged to consider sharing the requested leave period.

#### **Childcare Facilities:**

15. The possibility of on-site childcare facilities should be further explored by organisations where they do not presently exist. Consideration should be given to facilities not simply for pre-school children but also for those attending school, particularly during holiday periods. Opening times of crèches and similar facilities should, as far as possible, take account of the working hours of broadcasting staff.

16. If, for practical reasons, it is decided that on-site facilities are impossible, organisations should revise their benefits schemes to include financial assistance - particularly for low-income parents - for alternative childcare arrangements.

17. Organisations with on-site crèche facilities should consider measures - such as a sliding scale of tariffs, or financial assistance for low-income employees - to ensure that low-income users are not eliminated.

18. The establishment of parent support groups should be encouraged within the organisation, to function as information and contact networks, to reduce the stress and guilt often provoked by juggling the demands of family and job, and to help promote an equitable sharing of childcare between women and men.

#### **Working Environment:**

19. Organisations should issue a policy statement on sexual harassment, bringing attention to the disciplinary measures which it may provoke. More open discussion of sexual harassment as real and a potential problem should be encouraged. A mechanism should be created to enable any employee who is victim to sexual harassment, in even mild forms, to discuss the problem in complete confidence and without fear that this may lead to repercussions of either a personal or a professional nature.

20. Priority should be given to the creation of a working culture or environment in which women feel confident that any expression of their aspirations, dissatisfactions and needs - whether in relation to working conditions, job prospects, professional or personal relationships - will be treated seriously and with respect within the organisation. This presupposes an awareness that equal opportunities will not be the automatic result of good intentions, but must be worked for at all levels of organisational philosophy, policy and practice.

## ATTITUDE CHANGE AND SENSITISATION

4th meeting: 21st October 1988

### I. Basic Principles:

1. Attitudes, feelings and values are at the heart of the problems addressed by equal opportunities policies. They are also central to the degree of success with such policies can be implemented. Action plans and programmes should take account of this fact by incorporating measures aimed at informing, raising awareness and breaking down resistance to change among staff at all levels and in all sectors.
2. It should be recognised that equality programmes which give little or no priority to attitude change - for example, as is currently the case in the work of the Dutch Broadcasting Emancipation Committee - cannot expect to achieve fundamental or lasting change.
3. Senior managers should acknowledge and maximise their special capacity to influence the opinions and behaviour of staff by regularly, publicly and unambiguously demonstrating their commitment to the pursuit of equal opportunities. Senior management should make clear that the issue is taken seriously by applauding and rewarding efforts to promote the organisation's goals in this matter, and by unequivocally condemning sexist behaviour of any kind.
4. One means of ensuring that entrenched attitudes do not block the development of equal opportunities is to require measurable change within individual departments. Managers should be involved in discussing and setting objectives aimed at achieving balanced female-male staffing ratios at all levels within their units, and should be asked to report regularly on progress towards meeting those objectives.
5. Traditional beliefs and attitudes are likely to be particularly ingrained in occupational sectors which are heavily dominated by one sex or the other. Special attention should be given to the sensitisation of staff in these job categories, through carefully targeted information and training seminars.

### II. Elements of a Sensitisation Strategy:

6. Attitudinal barriers to the employment and career development of women may exist among various groups of staff. The process of sensitisation should revolve around communication of ideas and information tailored to the particular sphere of action within which each group operates. Five major groups are identified below, with some of the main points which should be directed to each within the framework of a sensitisation strategy.

## **7. Senior Managers:**

7.1 Should be given full information about the organisation's equal opportunities policy and its implications, together with a clear explanation of its relationship to national legislation and to provisions for positive action.

7.2 Need to be convinced that it is in the company's interest for jobs to go to the right, talented staff; that the evidence shows talent is not determined by gender; that preconceptions about men's and women's abilities may lead to talent being missed; that there are therefore good business reasons for ensuring an effective equal opportunities policy.

7.3 Should be persuaded that a balanced mix of both sexes in all jobs and at all levels is likely to increase creativity, provide new approaches to problem-solving and result in a healthier working environment.

7.4 Must be encouraged to examine their own attitudes to women, both in the work-place and in general; and to explore the extent to which their own background and family circumstances affect their view of women's suitability for certain jobs, particularly in senior management; need to recognise that women are often the family breadwinners.

7.5 Need to understand the reticence which many women feel about their professional competence, however talented they may be; must accept responsibility for actively seeking out potential female candidates and encouraging them to apply for appropriate jobs.

7.6 Must seriously confront the issue of family responsibilities and its implications for women; must make all possible practical provisions - e.g. in working conditions, training arrangements - to prevent women from being penalised as a result of having children.

7.7 Must be convinced that the implementation of equal opportunities policy involves long-term commitment and hard work; that things are not changing quickly and that there is a great deal more to be done.

## **8. Line Managers, Supervisors and Personnel Department**

All of the above and, in addition:

8.1 Must be given training in good management practice, including counselling skills, appraisal skills and sensitivity to the situation of women in areas of work which traditionally have been perceived as "male".

8.2 Must be given training in non-discriminatory recruitment and selection techniques.

8.3 Must be given an opportunity to explore their attitudes to the role of women in senior management and other traditionally male preserves,

and an opportunity to express their feelings about perceived risks involved in promoting women.

8.4 Should be encouraged to set indicative targets for the appointment and promotion of women within their particular departments.

#### **9. Male Colleagues:**

9.1 Must be given full information about national legislation, together with a clear explanation of company policy on equal opportunities and their individual responsibilities towards its implementation.

9.2 Should be given an opportunity to explore and express their perceptions of "masculinity" and "femininity", their concerns about working with female colleagues, and their feelings about women in senior positions; should be encouraged to consider the benefits of working in an environment with a balanced mix of women and men.

9.3 Must be made aware of and sensitive to the particular problems - such as sexual harassment - encountered by women in the workplace.

9.4 Should be encouraged to speak out and to challenge sexist remarks or behaviour.

#### **10. Trades Unions**

All of the above (9.1 to 9.4) and, in addition:

10.1 Should consider the extent to which the environment, composition and procedural arrangements of the union itself encourages or discourages the participation of women.

10.2 Must be made aware of issues - e.g. working conditions, equal pay for work of equal value - which are likely to be of special concern to women in collective bargaining negotiations.

#### **11. Women Themselves:**

11.1 Must be given full information about their rights within the framework of existing national legislation and of the company's equal opportunities policy.

11.2 Should have access to specialist career counselling and planning advice, particularly in terms of how to combine domestic responsibilities with professional success.

11.3 Need to explore and express their perceptions of themselves as female professionals, and the nature of their professional relationships with men and with other women; need to explore and understand the extent to which they acquiesce in accepting certain roles, behaviours and jobs as "female" and "male".

11.4 Should be given access to self-development and assertiveness training; need to understand that one failure does not equal permanent defeat.

11.5 Must be given an opportunity to explore and express their attitudes to power and responsibility, and their feelings about women in senior positions.

### **III. Attitudes in the Wider Community:**

12. Recruitment and training departments should establish regular contact with educational institutions, so as to inform young people about career options and the qualifications needed for particular jobs in radio and television. The aim should be to change traditional perceptions among students and teachers about "male" and "female" occupations in broadcasting.

13. Production departments should ensure that programme content reinforces the image of the organisation as an advocate of equality of opportunity. Balance should be sought in the choice of female and male experts and presenters. Senior production staff should evaluate programme ideas and treatments in terms of their harmony with the concept of social equality between women and men.

### **IV. Dissemination of Information:**

14. It should be recognised that the wide and free circulation of information is a sine qua non of awareness-raising and attitude change. Senior managers should see to it that all relevant documentation on the subject of equal opportunities receives the widest possible distribution and that, in particular, it reaches managers responsible for recruitment and promotion decisions. This should apply to these recommendations themselves, and to other documents of the Steering Committee for Equal Opportunities in Broadcasting.

## RECRUITMENT AND SELECTION

6th meeting: 22nd September 1989

An equitable balance in the distribution of women and men in all job categories and at all levels is the fundamental aim of equal opportunities policy. Such a balance is a must for the development of a fully creative and healthy organisational environment. Existing imbalances will be most effectively redressed if tackled in two stages: In the first, priority should be given to attaining a fair ratio of women and men within the organisation as a whole, and to recruiting women to jobs presently dominated by men. Once this has been achieved, the second stage is to encourage more men into job categories currently dominated by women. Most organisations being still at the first of these two stages, the following steps are recommended.

1. Goals and targets, to be achieved over a medium-term period, should be developed with the aim of redressing imbalances in the deployment of women and men in the workforce. Individual managers should be involved in the setting of these goals and targets, and should be responsible for the implementation of measures needed to achieve them. Progress should be closely monitored and an annual report should be made.

2. In order to achieve their goals and targets, organisations may adopt positive action measures\*. In stage one, these include:

2.1 Specifically encouraging job applications from women for vacancies in fields in which they are significantly under-represented.

2.2 Aiming to ensure an equal balance of women and men on the initial short-list of candidates for vacancies in job areas where women are under-represented.

2.3 Among candidates of the same or similar qualifications or suitability, giving special consideration or even preference to female applicants.

2.4 Wherever practical, for vacancies in job areas where women are under-represented, responding to the request of unsuccessful internal female candidates for feedback which explains why their candidacy was unsuccessful and suggests how they might improve their chances of appointment to future similar vacancies.

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\* Positive action measures of the kinds listed here are compatible with the principle of equality guaranteed by Council Directive 76/207/EEC on equal treatment, and therefore with national measures designed to implement this Directive. Article 2(4) of the Directive authorises Member States to permit "positive discrimination" in favour of women (by way of legislation). For example, national legislation in the Netherlands permits positive action and preferential treatment only to benefit women (and not men). In Denmark, national legislation permits such positive action measures only by special exemption (which has already been obtained by Danmarks radio).

3. Organisations should be alert to various selection procedures and conditions which may constitute direct or indirect discrimination against women, and which are thus likely to be illegal. These include:

3.1 Methods (such as direct appointments or reliance on spontaneous enquiries) which restrict the field of potential candidates. Except in cases which can be clearly justified, organisations should strive to ensure that all job vacancies - irrespective of category or level - are advertised either internally or externally, and preferably both.

3.2 The imposition of age limits. These should be avoided unless they can be clearly justified.

3.3 Job advertisements, job descriptions and entry criteria which discourage applications from women. Attention should be paid to both the wording and the placement of advertisements; the professional qualifications and/or experience required of applicants should be clearly justified by the job in question.

3.4 The seeking of personal information which is irrelevant to a consideration of the applicant's suitability for the job. Unless arising from explicit selection criteria (for example, an assessment of the candidate's human or personal qualities), questions designed to obtain such information should not be included in job application forms and should be avoided in interview and selection panels.

3.5 Reliance on sources of young and trainee recruits (e.g. from schools, colleges, universities) which result in an unduly small proportion of women in the pool of potential candidates. Organisations which maintain direct links with educational and training institutions should aim for maximum diversity in such contacts so as to ensure an equitable balance in their intake of new and trainee staff.

4. Organisations which depend heavily on the personal interview in the selection process should:

4.1 Consider the advantages of using more objective methods, such as written and practical tests, wherever possible.

4.2 Ensure that interview panels are properly briefed on how to avoid overt and inadvertent discrimination.

5. The composition of all selection committees (whether convened to assess candidates on the basis of written tests or through personal interviews) should, as far as possible, reflect an equitable balance of women and men. All-male or all-female committees and panels should be regarded as acceptable only in exceptional circumstances, which should be clearly justified.

6. Statistics should be kept so that the number of women and men who apply, are shortlisted, and are appointed to every vacancy within the organisation can be monitored.



THE PROTECTION OF THE DIGNITY  
OF MEN AND WOMEN AT WORK

8th meeting: 14 October 1991

The Commission Recommendation and Code of Practice on the protection of the dignity of women and men at work form the recommendations arising from the 8th meeting of the Steering Committee.

COMMISSION RECOMMENDATION

of 27 November 1991

on the protection of the dignity of women and men at work

(92/C 27/04)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the second indent of Article 155 thereof,

Whereas unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work, including the conduct of superiors and colleagues, is unacceptable and may, in certain circumstances, be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of 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 (\*), a view supported by case-law in some Member States;

Whereas, in accordance with the Council recommendation of 13 December 1984 on the promotion of positive action for women (\*), many Member States have carried out a variety of positive action measures and actions having a bearing, *inter alia*, on respect for the dignity of women at the workplace;

Whereas the European Parliament, in its resolution of 11 June 1986 on violence against women (\*), has called upon national governments, equal opportunities committees and trade unions to carry out concerted information campaigns to create a proper awareness of the individual rights of all members of the labour force;

Whereas the Advisory Committee on Equal Opportunities for Women and Men, in its opinion of 20 June 1988, has unanimously recommended that there should be a recommendation and code of conduct on sexual harassment in the workplace covering harassment of both sexes;

Whereas the Commission in its action programme relating to the implementation of the Community Charter of Basic Social Rights for workers undertook to examine the protection of workers and their dignity at work, having regard to the reports and recommendations prepared on various aspects of implementation of Community law (\*);

Whereas the Council, in its resolution of 29 May 1990 on the protection of the dignity of women and men at work (\*), affirms that conduct based on sex affecting the dignity of women and men at work, including conduct of superiors and colleagues, constitutes an intolerable violation of the dignity of workers or trainees, and calls on the Member States and the institutions and organs of the European Communities to develop positive measures designed to create a climate at work in which women and men respect one another's human integrity;

Whereas the Commission, in its Third Action Programme on Equal Opportunities for Women and Men, 1991 to 1995; and pursuant to paragraph 3 (2) of the said Council resolution of 29 May 1990, resolved to draw up a code of conduct on the protection of the dignity of women and men at work (\*), based on experience and best practice in the Member States, to provide guidance on initiating and pursuing positive measures designed to create a climate at work in which women and men respect one another's human integrity,

Whereas the European Parliament, on 22 October 1991, adopted a resolution on the protection of the dignity of women and men at work (\*);

(\* OJ No L 39, 14. 2. 1976, p. 40.

(\* OJ No L 331, 19. 12. 1984, p. 34

(\* OJ No C 176, 14. 7. 1986, p. 79.

(\* COM(89) 568 final, 29. 11. 1989. For example, 'The dignity of women at work: A report on the problem of sexual harassment in the Member States of the European Communities', October 1987, by Michael Rubenstein (ISBN 92-825-8764-9).

(\* OJ No C 157, 27. 6. 1990, p. 3.

(\* COM(90) 449 final, 6. 11. 1990.

(\* OJ No C 305, 25. 11. 1991.

Whereas the Economic and Social Committee, on 30 October 1991, adopted an opinion on the protection of the dignity of women and men at work <sup>(1)</sup>,

RECOMMENDS AS FOLLOWS:

*Article 1*

It is recommended that the Member States take action to promote awareness that conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work, including conduct of superiors and colleagues, is unacceptable if:

- (a) such conduct is unwanted, unreasonable and offensive to the recipient;
  - (b) a person's rejection of, or submission to, such conduct on the part of employers or workers (including superiors or colleagues) is used explicitly or implicitly as a basis for a decision which affects that person's access to vocational training, access to employment, continued employment, promotion, ~~salary or any other employment decisions;~~
- and/or
- (c) such conduct creates an intimidating, hostile or humiliating work environment for the recipient;

and that such conduct may, in certain circumstances, be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Directive 76/207/EEC

Done at Brussels, 27 November 1991

*Article 2*

It is recommended that Member States take action, in the public sector, to implement the Commission's Code of Practice on the protection of the dignity of women and men at work, annexed hereto. The action of the Member States, in thus initiating and pursuing positive measures designed to create a climate at work in which women and men respect one another's human integrity, should serve as an example to the private sector.

*Article 3*

It is recommended that Member States encourage employers and employee representatives to develop measures to implement the Commission's Code of Practice on the protection of the dignity of women and men at work.

*Article 4*

Member States shall inform the Commission within three years of the date of this recommendation of the measures taken to give effect to it, in order to allow the Commission to draw up a report on all such measures. The Commission shall, within this period, ensure the widest possible circulation of the Code of Practice. The report should examine the degree of awareness of the Code, its perceived effectiveness, its degree of application and the extent of its use in collective bargaining between the social partners.

*Article 5*

This recommendation is addressed to the Member States.

*For the Commission*  
Vasso PAPANDEOU  
*Member of the Commission*

<sup>(1)</sup> OJ No C 14, 20. 1. 1992.

## PROTECTING THE DIGNITY OF WOMEN AND MEN AT WORK

### A Code of Practice on measures to combat sexual harassment

#### 1. INTRODUCTION

This Code of Practice is issued in accordance with the resolution of the Council of Ministers on the protection of the dignity of women and men at work <sup>(1)</sup>, and to accompany the Commission's recommendation on this issue.

Its purpose is to give practical guidance to employers, trade unions, and employees on the protection of the dignity of women and men at work. The Code is intended to be applicable in both the public and the private sector and employers are encouraged to follow the recommendations contained in the Code in a way which is appropriate to the size and structure of their organization. It may be particularly relevant for small and medium-sized enterprises to adapt some of the practical steps to their specific needs.

The aim is to ensure that sexual harassment does not occur and, if it does occur, to ensure that adequate procedures are readily available to deal with the problem and prevent its recurrence. The Code thus seeks to encourage the development and implementation of policies and practices which establish working environments free of sexual harassment and in which women and men respect one another's human integrity.

The expert report carried out on behalf of the Commission found that sexual harassment is a serious problem for many working women in the European Community <sup>(2)</sup> and research in Member States has proven beyond doubt that sexual harassment at work is not an isolated phenomenon. On the contrary, it is clear that for millions of women in the European Community, sexual harassment is an unpleasant and unavoidable part of their working lives. Men too may suffer sexual harassment and should, of course, have the same rights as women to the protection of their dignity.

Some specific groups are particularly vulnerable to sexual harassment. Research in several Member States, which documents the link between the risk of sexual harassment and the recipient's perceived vulnerability, suggests that divorced and separated women, young women and new entrants to the labour market and those with irregular or precarious employment contracts, women in non-traditional jobs, women with disabilities, lesbians and women from racial minorities are disproportionately at risk. Gay men and young men are also vulnerable to harassment. It is undeniable that harassment on grounds of sexual orientation undermines the dignity at work of those affected and it is impossible to regard such harassment as appropriate workplace behaviour.

Sexual harassment pollutes the working environment and can have a devastating effect upon the health, confidence, morale and performance of those affected by it. The anxiety and stress produced by sexual harassment commonly leads to those subjected to it taking time off work due to sickness, being less efficient at work, or leaving their job to seek work elsewhere. Employees often suffer the adverse consequences of the harassment itself and short- and long-term damage to their employment prospects if they are forced to change jobs. Sexual harassment may also have a damaging impact on employees not themselves the object of unwanted behaviour but who are witness to it or have a knowledge of the unwanted behaviour.

There are also adverse consequences arising from sexual harassment for employers. It has a direct impact on the profitability of the enterprise where staff take sick leave or resign their posts because of sexual harassment, and on the economic efficiency of the enterprise where employees' productivity is reduced by having to work in a climate in which individuals' integrity is not respected.

In general terms, sexual harassment is an obstacle to the proper integration of women into the labour market and the Commission is committed to encouraging the development of comprehensive measures to improve such integration <sup>(3)</sup>.

<sup>(1)</sup> OJ No C 157, 27. 6. 1990, p. 3, point 3 (2). See Appendix 1.

<sup>(2)</sup> 'The dignity of women at work: A report on the problem of sexual harassment in the Member States of the European Communities', October 1987, by Michael Rubenstein (ISBN 92-825-8764-9).

<sup>(3)</sup> Third action programme on equal opportunities for women and men, 1991 to 1995, COM(90) 449, 6. 11. 1990.

## 2. DEFINITION

Sexual harassment means unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work<sup>(1)</sup>. This can include unwelcome physical, verbal or non-verbal conduct.

Thus, a range of behaviour may be considered to constitute sexual harassment. It is unacceptable if such conduct is unwanted, unreasonable and offensive to the recipient; a person's rejection of or submission to such conduct on the part of employers or workers (including superiors or colleagues) is used explicitly or implicitly as a basis for a decision which affects that person's access to vocational training or to employment, continued employment, promotion, salary or any other employment decisions; and/or such conduct creates an intimidating, hostile or humiliating working environment for the recipient<sup>(2)</sup>.

The essential characteristic of sexual harassment is that it is unwanted by the recipient, that it is for each individual to determine what behaviour is acceptable to them and what they regard as offensive. Sexual attention becomes sexual harassment if it is persisted in once it has been made clear that it is regarded by the recipient as offensive, although one incident of harassment may constitute sexual harassment if sufficiently serious. It is the unwanted nature of the conduct which distinguishes sexual harassment from friendly behaviour, which is welcome and mutual.

## 3. THE LAW AND EMPLOYERS' RESPONSIBILITIES

Conduct of a sexual nature or other based on sex affecting the dignity of women and men at work may be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of 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. This principle means that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status<sup>(2)</sup>.

In certain circumstances, and depending upon national law, sexual harassment may also be a criminal offence or may contravene other obligations imposed by the law, such as health and safety duties, or a duty, contractual or otherwise, to be a good employer. Since sexual harassment is a form of employee misconduct, employers have a responsibility to deal with it as they do with any other form of employee misconduct as well as to refrain from harassing employees themselves. Since sexual harassment is a risk to health and safety, employers have a responsibility to take steps to minimize the risk as they do with other hazards. Since sexual harassment often entails an abuse of power, employers may have a responsibility for the misuse of the authority they delegate.

This Code, however, focuses on sexual harassment as a problem of sex discrimination. Sexual harassment is sex discrimination because the gender of the recipient is the determining factor in who is harassed. Conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work in some Member States already has been found to contravene national equal treatment laws and employers have a responsibility to seek to ensure that the work environment is free from such conduct<sup>(1)</sup>.

As sexual harassment is often a function of women's status in the employment hierarchy, policies to deal with sexual harassment are likely to be most effective where they are linked to a broader policy to promote equal

<sup>(1)</sup> Council resolution on the protection of the dignity of women and men at work (OJ No C 157, 27. 6 1990, p. 3, point 1).

<sup>(2)</sup> OJ No L 39, 14. 2. 1976, p. 40, Article 2 (Appendix II)

<sup>(1)</sup> Council resolution on the protection of the dignity of women and men at work (OJ No C 157, 27. 6 1990, p. 3, point 2 (3) (a)).

opportunities and to improve the position of women. Advice on steps which can be taken generally to implement an equal opportunities policy is set out in the Commission's Guide to Positive Action (\*).

Similarly, a procedure to deal with complaints of sexual harassment should be regarded as only one component of a strategy to deal with the problem. The prime objective should be to change behaviour and attitudes, to seek to ensure the prevention of sexual harassment.

#### 4. COLLECTIVE BARGAINING

The majority of the recommendations contained in this Code are for action by employers, since employers have clear responsibilities to ensure the protection of the dignity of women and men at work.

Trade unions also have responsibilities to their members and they can and should play an important role in the prevention of sexual harassment in the workplace. It is recommended that the question of including appropriate clauses in agreements be examined in the context of the collective bargaining process, with the aim of achieving a work environment free from unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work and free from victimization of a complainant or of a person wishing to give, or giving, evidence in the event of a complaint.

#### 5. RECOMMENDATIONS TO EMPLOYERS

The policies and procedures recommended below should be adopted, where appropriate, after consultation or negotiation with trade unions or employee representatives. Experience suggests that strategies to create and maintain a working environment in which the dignity of employees is respected are most likely to be effective where they are jointly agreed.

It should be emphasized that a distinguishing characteristic of sexual harassment is that employees subjected to it often will be reluctant to complain. An absence of complaints about sexual harassment in a particular organization, therefore, does not necessarily mean an absence of sexual harassment. It may mean that the recipients of sexual harassment think that there is no

point in complaining because nothing will be done about it, or because it will be trivialized or the complainant subjected to ridicule, or because they fear reprisals. Implementing the preventative and procedural recommendations outlined below should facilitate the creation of a climate at work in which such concerns have no place.

#### A. Prevention

##### (i) Policy statements

As a first step in showing senior management's concern and their commitment to dealing with the problem of sexual harassment, employers should issue a policy statement which expressly states that all employees have a right to be treated with dignity, that sexual harassment at work will not be permitted or condoned and that employees have a right to complain about it should it occur.

It is recommended that the policy statement make clear what is considered inappropriate behaviour at work, and explain that such behaviour, in certain circumstances, may be unlawful. It is advisable for the statement to set out a positive duty on managers and supervisors to implement the policy and to take corrective action to ensure compliance with it. It should also place a positive duty on all employees to comply with the policy and to ensure that their colleagues are treated with respect and dignity.

In addition, it is recommended that the statement explain the procedure which should be followed by employees subjected to sexual harassment at work in order to obtain assistance and to whom they should complain; that it contain an undertaking that allegations of sexual harassment will be dealt with seriously, expeditiously and confidentially, and that employees will be protected against victimization or retaliation for bringing a complaint of sexual harassment. It should also specify that appropriate disciplinary measures will be taken against employees found guilty of sexual harassment.

##### (ii) Communicating the policy

Once the policy has been developed, it is important to ensure that it is communicated effectively to all employees, so that they are aware that they have a right to complain and to whom they should complain; that their complaint will be dealt with promptly and fairly; and that employees are made aware of the likely conse-

(\*) Positive action: Equal opportunities for women in employment — a guide, Office for Official Publications of the European Communities, 1988.

quences of engaging in sexual harassment. Such communication will highlight management's commitment to eliminating sexual harassment, thus enhancing a climate in which it will not occur.

### (iii) *Responsibility*

All employees have a responsibility to help to ensure a working environment in which the dignity of employees is respected and managers (including supervisors) have a particular duty to ensure that sexual harassment does not occur in work areas for which they are responsible. It is recommended that managers explain the organization's policy to their staff and take steps to positively promote the policy. Managers should also be responsive and supportive to any member of staff who complains about sexual harassment, provide full and clear advice on the procedure to be adopted, maintain confidentiality in any cases of sexual harassment and ensure that there is no further problem of sexual harassment or any victimization after a complaint has been resolved.

### (iv) *Training*

An important means of ensuring that sexual harassment does not occur and that, if it does occur, the problem is resolved efficiently is through the provision of training for managers and supervisors. Such training should aim to identify the factors which contribute to a working environment free of sexual harassment and to familiarize participants with their responsibilities under the employer's policy and any problems they are likely to encounter.

In addition, those playing an official role in any formal complaints procedure in respect of sexual harassment should receive specialist training, such as that outlined above.

It is also good practice to include information as to the organization's policy on sexual harassment and procedures for dealing with it as part of appropriate induction and training programmes

## B Procedures

The development of clear and precise procedures to deal with sexual harassment once it has occurred is of great importance. The procedures should ensure the resolution of problems in an efficient and effective manner. Practical guidance for employees on how to deal with sexual harassment when it occurs and with its aftermath

will make it more likely that it will be dealt with at an early stage. Such guidance should of course draw attention to an employee's legal rights and to any time limits within which they must be exercised.

### (i) *Resolving problems informally*

Most recipients of harassment simply want the harassment to stop. Both informal and formal methods of resolving problems should be available.

Employees should be advised that, if possible, they should attempt to resolve the problem informally in the first instance. In some cases, it may be possible and sufficient for the employee to explain clearly to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.

In circumstances where it is too difficult or embarrassing for an individual to do this on their own behalf, an alternative approach would be to seek support from, or for an initial approach to be made by, a sympathetic friend or confidential counsellor.

If the conduct continues or if it is not appropriate to resolve the problem informally, it should be raised through the formal complaints procedure.

### (ii) *Advice and assistance*

It is recommended that employers designate someone to provide advice and assistance to employees subjected to sexual harassment, where possible, with responsibilities to assist in the resolution of any problems, whether through informal or formal means. It may be helpful if the officer is designated with the agreement of the trade unions or employees, as this is likely to enhance their acceptability. Such officers could be selected from personnel departments or equal opportunities departments for example. In some organizations they are designated as 'confidential counsellors' or 'sympathetic friends'. Often such a role may be played by someone from the employee's trade union or women's support groups

Whatever the location of this responsibility in the organization, it is recommended that the designated officer receives appropriate training in the best means of resolving problems and in the detail of the organization's policy and procedures, so that they can perform their role effectively. It is also important that they are given adequate resources to carry out their function, and protection against victimization for assisting any recipient of sexual harassment.

(iii) *Complaints procedure*

It is recommended that, where the complainant regards attempts at informal resolution as inappropriate, where informal attempts at resolution have been refused, or where the outcome has been unsatisfactory, a formal procedure for resolving the complaint be provided. The procedure should give employees confidence that the organization will take allegations of sexual harassment seriously.

By its nature sexual harassment may make the normal channels of complaint difficult to use because of embarrassment, fears of not being taken seriously; fears of damage to reputation, fears of reprisal or the prospect of damaging the working environment. Therefore, a formal procedure should specify to whom the employee should bring a complaint, and it should also provide an alternative if in the particular circumstances the normal grievance procedure may not be suitable, for example because the alleged harasser is the employee's line manager. It is also advisable to make provision for employees to bring a complaint in the first instance to someone of their own sex, should they so choose.

It is good practice for employers to monitor and review complaints of sexual harassment and how they have been resolved, in order to ensure that their procedures are working effectively.

(iv) *Investigations*

It is important to ensure that internal investigations of any complaints are handled with sensitivity and with due respect for the rights of both the complainant and the alleged harasser. The investigation should be seen to be independent and objective. Those carrying out the investigation should not be connected with the allegation in any way, and every effort should be made to resolve complaints speedily — grievances should be handled promptly and the procedure should set a time limit within which complaints will be processed, with due regard for any time limits set by national legislation for initiating a complaint through the legal system.

It is recommended as good practice that both the complainant and the alleged harasser have the right to be accompanied and/or represented, perhaps by a representative of their trade union or a friend or colleague; that the alleged harasser be given full details of the nature of the complaint and the opportunity to respond, and that strict confidentiality be maintained throughout any investigation into an allegation. Where it is necessary to interview witnesses, the importance of confidentiality should be emphasized.

It must be recognized that recounting the experience of sexual harassment is difficult and can damage the employee's dignity. Therefore, a complainant should not be required repeatedly to recount the events complained of where this is unnecessary.

The investigation should focus on the facts of the complaint and it is advisable for the employer to keep a complete record of all meetings and investigations.

(v) *Disciplinary offence*

It is recommended that violations of the organization's policy protecting the dignity of employees at work should be treated as a disciplinary offence and the disciplinary rules should make clear what is regarded as inappropriate behaviour at work. It is also good practice to ensure that the range of penalties to which offenders will be liable for violating the rule is clearly stated and also to make it clear that it will be considered a disciplinary offence to victimize or retaliate against an employee for bringing a complaint of sexual harassment in good faith.

Where a complaint is upheld and it is determined that it is necessary to relocate or transfer one party, consideration should be given, wherever practicable, to allowing the complainant to choose whether he or she wishes to remain in their post or be transferred to another location. No element of penalty should be seen to attach to a complainant whose complaint is upheld and in addition, where a complaint is upheld, the employer should monitor the situation to ensure that the harassment has stopped.

Even where a complaint is not upheld, for example because the evidence is regarded as inconclusive, consideration should be given to transferring or re-scheduling the work of one of the employees concerned rather than requiring them to continue to work together against the wishes of either party.

## 6. RECOMMENDATIONS TO TRADE UNIONS

Sexual harassment is a trade union issue as well as an issue for employers. It is recommended as good practice that trade unions formulate and issue clear policy statements on sexual harassment and take steps to raise awareness of the problem of sexual harassment in the workplace, in order to help create a climate in which it is



neither condoned or ignored. For example, trade unions could aim to give all officers and representatives training on equality issues, including dealing with sexual harassment and include such information in union-sponsored or approved training courses, as well as information on the union's policy. Trade unions should consider declaring that sexual harassment is inappropriate behaviour and educating members and officials about its consequences is recommended as good practice.

Trade unions should also raise the issue of sexual harassment with employers and encourage the adoption of adequate policies and procedures to protect the dignity of women and men at work in the organization. It is advisable for trade unions to inform members of their right not to be sexually harassed at work and provide members with clear guidance as to what to do if they are sexually harassed, including guidance on any relevant legal rights.

Where complaints arise, it is important for trade unions to treat them seriously and sympathetically and ensure that the complainant has an opportunity of representation if a complaint is to be pursued. It is important to create an environment in which members feel able to raise such complaints knowing they will receive a sympathetic and supportive response from local union representatives. Trade unions could consider designating specially trained officials to advise and counsel members with complaints of sexual harassment and act on their behalf if required. This will provide a focal point for support. It is also a good idea to ensure that there are sufficient female representatives to support women subjected to sexual harassment.

It is recommended too, where the trade union is representing both the complainant and the alleged harasser for the purpose of the complaints procedure, that it be made clear that the union is not condoning offensive

behaviour by providing representation. In any event, the same official should not represent both parties.

It is good practice to advise members that keeping a record of incidents by the harassed worker will assist in bringing any formal or informal action to a more effective conclusion, that the union wishes to be informed of any incident of sexual harassment and that such information will be kept confidential. It is also good practice for the union to monitor and review the union's record in responding to complaints and in representing alleged harassers and the harassed, in order to ensure its responses are effective.

## 7. EMPLOYEES' RESPONSIBILITIES

Employees have a clear role to play in helping to create a climate at work in which sexual harassment is unacceptable. They can contribute to preventing sexual harassment through an awareness and sensitivity towards the issue and by ensuring that standards of conduct for themselves and for colleagues do not cause offence.

Employees can do much to discourage sexual harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffer such treatment and are considering making a complaint.

Employees who are themselves recipients of harassment should, where practicable, tell the harasser that the behaviour is unwanted and unacceptable. Once the offender understands clearly that the behaviour is unwelcome, this may be enough to put an end to it. If the behaviour is persisted in, employees should inform management and/or their employee representative through the appropriate channels and request assistance in stopping the harassment, whether through informal or formal means.

EQUAL OPPORTUNITIES FOR SHORT TERM CONTRACT AND  
FREELANCE WORKERS IN BROADCASTING

9th meeting: 19 May 1992

1. Equal opportunities policies should be worded in such a way as to make it clear that they apply to all staff, including short term contract, temporary, casual and freelance workers.

Positive action programmes to promote equal opportunities should be extended to cover short term and temporary staff, as well as casual and freelance workers if possible.

2. Organisations should monitor as closely as possible the use of short term, temporary, casual and freelance staff, including male/female breakdown, methods of recruitment, working conditions, areas of employment, training needs, and hours worked.

Where women form a higher proportion of temporary than permanent staff, organisations should seek to discover why this is the case.

3. Each contract should properly reflect the nature of the work performed by the worker it covers. Short term contracts should be used to cover temporary requirements, and not for work of a permanent nature.

4. All permanent vacancies should be advertised. Where appropriate, special consideration should be given to the recruitment of existing short term contract, temporary, casual and freelance staff. Monitoring procedures should be introduced to examine the impact of such recruitment on the male/female balance of the workforce.

In particular, women working on a short term, temporary, casual or freelance basis in sectors where women are under-represented should be encouraged to apply for permanent vacancies.

5. Selection procedures for both permanent positions and renewable short term contracts should be examined to ensure that women are not being overlooked, or subjected to discrimination, whether intentional or not.

If appropriate, women in casual, freelance or temporary positions should be informed of and encouraged to apply for posts offering securer patterns of employment.

6. All members of staff with the authority to engage freelance, casual, temporary or short term contract staff should be made aware of the importance of creating equal opportunities for women in all job sectors.

7. Organisations should urgently examine the training needs of temporary staff, and how to ensure an adequate supply of skilled staff to meet the industry's future needs. Training plans for short term, temporary, freelance and casual staff should be developed, on a company, joint, industry-wide or national basis.

8. Rights and benefits enjoyed by permanent staff, including paid maternity/parental leave, childcare, paid sick leave, time off to care for dependants, and promotions opportunities should be extended to short term contract and temporary staff, and where possible to casual

and freelance workers.

9. Staff employed on short term contracts should be given written notice, in advance, of whether their contracts are to be renewed or not. In the case of renewal, staff should be notified in good time, and breaks in service should be kept to a minimum in order to avoid the stress caused by insecurity and loss of income.

10. Companies using independent producers and outside contractors should seek to raise awareness of equal opportunities among them, where possible by introducing a system of contract compliance with clauses committing the contractor to equal opportunities policies.

11. Options for part time working, job sharing, or maximum flexibility in working hours, should be offered to permanent staff, to ensure that women are not forced into temporary employment in order to accommodate family responsibilities.

Working hours for both permanent and temporary staff should be kept to a level that can be reconciled with home life.

12. National legislation, including qualifying periods for rights and benefits, should be examined to see whether statutory provisions can be improved upon.

13. Employers should recognise the right of all temporary staff to be represented through trade unions and workers' organisations.

They should seek to provide short term, temporary, casual and freelance workers with the maximum amount of information about their entitlements and conditions of work.

#### 14. Trade unions

Trade unions and other organisations representing the permanent workforce should organise and consult fully with short term contract, temporary, casual and freelance staff, and specifically with women in these categories, so that they can keep employers informed about their conditions of work, their views, and their interest.

Workers' representatives should seek to provide short term, temporary, casual and freelance workers with the maximum amount of information about their entitlements and conditions of work.