



Gender Pay Gap Review Panel

Gender Pay Gap in Jersey

Witness: Advocate V. Milner

Wednesday, 6th February 2019

Panel:

Deputy L.M.C. Doublet of St. Saviour (Chairman)
Deputy K.F. Morel of St. Lawrence (Vice-Chairman)
Senator K.L. Moore

Witness:

Advocate V. Milner

[10:03]

Deputy L.M.C. Doublet of St. Saviour (Chairman):

We are the Gender Pay Gap Scrutiny Review Panel. I am Deputy Louise Doublet and the chair of the panel. I will let the rest of my panel introduce themselves.

Deputy K.F. Morel of St Lawrence (Vice-Chairman):

Deputy Kirsten Morel, vice-chair of the panel.

Senator K.L. Moore:

I am Senator Kristina Moore. I am a member of the panel.

Deputy L.M.C. Doublet:

We have our officer with us today. Could you introduce yourself and your role, please?

Advocate V. Milner:

Advocate Vicky Milner, Callington Chambers. I am historically an English-qualified barrister and I am now a Jersey-qualified advocate. I founded Callington Chambers in 2013.

Deputy L.M.C. Doublet:

Thank you for giving up your time to be here today. Welcome to members of the public and media. Could everyone make sure their phones are switched off, please, before we begin? Usually we have Ministers in front of us and we are holding them to account, but obviously today we are just gaining information from you. You have already provided us with a substantial written submission on the subject of a potential gender pay gap in Jersey. Thank you for that. We are going to be asking you some similar questions so maybe to elicit some of the information that is already in written form and to build on that as well. Just to begin, in your submission we ask the question: do you think there is a gender pay gap in Jersey? Could you answer the question for the record now, please?

Advocate V. Milner:

Yes, I think there is a gender pay gap in Jersey in certain sectors. That does not apply universally. There are certain sectors that I work with, such as the H.R. (human resources) profession, where you can see that it is the reverse of what we would look at in a law firm, for example, where [in the case of the H.R. profession] it is heavily dominated by women, with fewer men. When you are looking at access to senior positions, and pay arising from access to senior positions, it is not something which is universal necessarily, but certainly you do find in certain sectors that there is less access to senior positions for women than for men. It depends exactly what one means. It depends on the industry that you are looking at. But overall, I would say yes.

Deputy L.M.C. Doublet:

So the definition that the panel have taken, we are going with the U.K. (United Kingdom) definition that has been used in the legislation. We see the definition of a gender pay gap as being the average pay of men versus the average pay of women in any given sector or company. Is that how you understand as well?

Advocate V. Milner:

Yes.

Deputy L.M.C. Doublet:

Could you talk a little bit more about the legal sector? Because you mentioned in your submission in terms of the cohorts going through and qualifying, you mentioned some statistics: 67 per cent were female lawyers qualifying and 32.5 per cent were male. Can you just talk a bit more about that and how that plays out as people go through their careers?

Advocate V. Milner:

I brought some statistical information with me. Is it okay if I refer to that?

Deputy L.M.C. Doublet:

Please do, yes. Please feel free to make notes and refer to anything you need to.

Advocate V. Milner:

I do not have statistical information in relation to Jersey and men and women in Jersey, and their qualifications. So the comments that I make in relation to Jersey and the profession are based on my impression and understanding rather than hard data. I have taken some information which relates to the U.K. and I think that is relevant because a very high proportion of our profession have either undertaken degree courses or legal professional qualifications in the U.K. and also, to a large extent, our legal system looks to the U.K. in certain areas. I think that there is relevance. From the U.K., according to a body called the H.E.S.A. (Higher Education Statistics Agency), which provides information about higher education, there are statistics about student enrolment in law degrees. I obtained some information from their website for the period 2012 to 2017. What this demonstrates is that in relation to enrolment in higher education for legal qualifications there has been a consistent trend over that 5-year period for increasing numbers of women to be qualifying in legal subjects. In the year 2012/2013, the female/male balance undertaking legal qualifications at higher education level was roughly 60 per cent female and 40 per cent male. During that 5-year period, that steadily increased so that to the 2016/2017 year that figure had increased to 62 per cent female and the balance being male. So you have a significantly higher figure of women undertaking legal qualifications at higher education level than you have men. Recent statistics for the Law Society of England and Wales also reflect that. They did some research of undergraduates and graduates in law for the 2017/2018 year. They found that the gender balance in terms of U.K. students accepted on to courses for law were 68.8 per cent women and 31.2 per cent men.

Deputy L.M.C. Doublet:

So it is still going up?

Advocate V. Milner:

It is still going up. That is a pattern that I think has been true over many years and is definitely true now. It is not a drop in the ocean. The reason I think that that is interesting and important is when information ... I am going to digress slightly, if I may, but when information about the gender pay review was published in the *Jersey Evening Post*, one of the statements that I saw was that this was ridiculous because there are many professions, including risky professions, where there is a risk of injury or a risk to life where those professions are heavily dominated by men and yet we do not

complain about that and that, therefore, this was a nonsensical discussion to be having. From my perspective, what is important about this discussion is that where you have professions where you have different kinds of people who would like to progress within the profession and they have the ability, the skills and/or the qualifications to progress everybody should be given the fair opportunity to progress. What is interesting in the legal profession, both in the U.K. and I believe in Jersey, is that here you have higher proportions of women than men entering into the businesses and yet they drop out and do not make it through to the senior levels. So this is not an industry, in fact, where we see women not being in the profession to start off with, it is a profession where high numbers of women enter but do not make it to partnership level. That is interesting because obviously it means that there is something preventing them from progressing.

Deputy K.F. Morel:

Do we know whether women are leaving the profession before they reach senior levels or they are being stopped, so they are staying within the profession but just at junior levels? Do we have any information on that?

Advocate V. Milner:

I do not have any statistical information about that in Jersey. Obviously, what you see in many professions is that... around childbearing age... you see high numbers of women entering the legal profession and then perhaps between the ages of, say, 25 and 35 or 40 often there will be women who will take time out to rear children. That then has knock-on implications for their career including that when they then return to the workplace, they may find the type of work or the type of working conditions that are typical for a law firm to be ones that are not compatible with their lifestyles or if they said: "I am going to do this, I am going to make it work, I wish to progress" it can then be very difficult because there may be nobody to look up to. So there may be a dearth of role models. You may also have a situation where people want to enter those high levels, but their voices are not ... perhaps because of a dearth of role models, there is either a perception or a reality that their voices are not heard in the same way as those of their male peers. I think that women move out of the sectors at a range of points but that once you have that impact of people dropping out and it then being hard to get back in again, that then has an ongoing or rolling effect because each step above that then gets exponentially harder because you have less and less women. I think it is a very complex thing. I do not think it is easy to fix. I would not suggest at all, in fact I think it would be untrue generally to suggest that this is because of deliberate measures to prevent women progressing. In fact, I think it is the opposite. Most law firms today would recognise it, that there are fewer women at the top and would like more women to progress. But there are barriers and I do not think the profession necessarily has all of the resources perhaps available to make sure that those barriers are properly addressed.

Deputy K.F. Morel:

Do we know what the average age for becoming a partner is in a law firm?

Advocate V. Milner:

I do not know that, but I would suggest from mid to late-30s to 50. There is going to be quite a wide range within different businesses. But I would say late-30s to early to mid-40s generally.

Senator K.L. Moore:

In your submission, you helpfully remind us of some of the smaller firms that have recently set up in the Island and mostly with women at the helm. You use that as an example of women not being less entrepreneurial than men, which is absolutely true. But it could also be said that one of the motivations behind these new businesses is that they prefer to set a new standard in terms of the culture within those businesses and the ability to set their own standards. Would you agree?

Advocate V. Milner:

I think that in terms of the businesses that I mentioned in my letter, I was there looking specifically at new law firms which had been started by women or women-led or women-led to a large extent.

[10:15]

I think it is important to realise that many new law firms have been starting in Jersey in the past 10 or 15 years. This is a real trend and there are lots of firms being started by men and lots of firms being started by women and some being started by both. Yes, I think that anybody who starts a new business can choose to set the ethos or terms that they think appropriate, including in terms of addressing things like work-life balance. Yes, I think it will give that opportunity and I think many people who found businesses will have that at the forefront of their minds.

Deputy K.F. Morel:

Could I ask specifically whether you think the view that there may be obstacles to reaching partner in existing firms may have been a reason for some women to set up their own firms; indeed would that have been a reason ... I am sure there are many why you are starting your own firm, but would that be one of your reasons?

Advocate V. Milner:

I think people generally who go out to start new firms will often do it because they have not reached a partnership level for one reason or another. So there is often going to be a range of reasons. It may be because they want to specialise in something which they feel they can do better independently, or it may be because they are not reaching levels or other criteria which are important

for them. So it could be because of work-life balance. It could be because of partnership. It could be for different reasons. I think certainly that we see women leaving firms because they know there will come a point at which they cannot progress, when there is a glass ceiling. I think that is definitely a cause of this flow of women out of law firms at certain levels. I think it is one of the reasons. Law firms are inherently very traditional places so the view of what success looks like is a very traditional view and one might say it is a very narrow view, being very largely ... it might be considered perfectly legitimate potentially... which is that success is measured by profitability of a business and businesses are intended to be profitable. They [businesses] are not there just to be charities so there is nothing wrong with that necessarily. But I think that because you have that traditional view and traditional model it means that in order to progress you are going to have to meet ... often success will be measured solely on whether people are meeting X financial target. Although it is commonly said that other factors will be taken into account, the reality is that they [other factors] are either actually not weighed in the balance at all or they are far less weighted. So I think that there can be a block if you are working in an area which brings in less financial income, that will be a block to partnership, or it may be a block to partnership. That will be regardless of the extent to which a person in a role carries out management functions or business development functions, for example. You can do a lot of business development and then that can be good for the firm and help the firm be profitable but if that does not lead to profitability for your business area immediately ...

Deputy K.F. Morel:

If you are not booking fees, basically.

Advocate V. Milner:

If you are not booking the fees because you are not working in commercial litigation or trusts, for example, or another area which is highly valued by the business, then no matter how positively that is viewed it is not necessarily ... or in some circumstances it might be said that that is not going to be taken into consideration for certain key decisions such as promotion to partnership.

Deputy L.M.C. Doublet:

Can I just go back to the figures that we were discussing? I just almost wanted to maybe rule something out. This is a perception that we have observed coming up in the focus groups in terms of the capability of men and women. Of the men and women that are coming through as law graduates, do you see any difference in their levels of capability and attainment between the men and women; either in data or anecdotally?

Advocate V. Milner:

No.

Deputy L.M.C. Doublet:

You are saying that the women and the men are equally as capable?

Advocate V. Milner:

Yes. But there will be differences at an individual level in terms of their skills, their interest and everything else. Obviously, I have worked through the legal profession myself. I have seen my peers. I have regularly worked with students so at each of the firms in Jersey where I have worked, I have personally worked within the areas where they mentored and supported students coming through the system. I have sat with male and female students and people who are doing their Jersey advocates exams, so people who are qualifying in Jersey, and I do not ... the only comment that I would make on that is that percentage-wise the number of students that I have worked with in the businesses I think I have worked directly with more female students than male students. The ones who have stood out among those have definitely been female students. My own personal experience is that there is no obvious gender balance but that certainly I have seen some outstanding female students. But I have worked with and supported students, trainees, Jersey people qualifying, and obviously I have been in that boat myself as well.

Deputy L.M.C. Doublet:

So capability, you do not think that is the reason for women not progressing?

Advocate V. Milner:

No, not at all. But it does depend on how you define "capability". That brings potentially into question some interesting discussions around what might classically be regarded as male or female traits in terms of things like confidence in public speaking, confidence in pushing oneself forward, confidence in confrontational situations and confidence to be certain that one is right, which I guess that is just confidence. There are areas, litigation is an obvious one where it is a business which is often about confrontation. It is about public speaking. It is about pushing yourself forward. It is about believing that you are right. There may be, and I think it is very difficult, I am not a scientist so I cannot say if this is a nature or nurture thing. Culturally I think there is a perception, which I think has some validity that men, including younger men, may be more confident or may present as more confident and so there may be a question about whether there may be a perception that they are better suited to certain roles or find it easier to access those roles. But I think that when you take into account the underlying capability of the students and the excellence of some of the students that I have seen, I would have no doubt at all that with appropriate support the female students could do equally as well as the male students. That is not necessarily more support. It is not necessarily about more resources. But I think sometimes because of the cultural norms in which we have developed there are going to be different expectations and those then have to be addressed because it may skew things.

Deputy L.M.C. Doublet:

I want to come back to an issue of confidence and support. Just to pick up on the students that are coming through and almost again to rule something out. Do you think that women coming through have less ambition to get to partner level or would you say that the levels of ambition in terms of career direction is similar between the men and women coming through as graduates?

Advocate V. Milner:

I think at the entry level, graduate and when people are starting off, I think it is the same; absolutely the same.

Deputy L.M.C. Doublet:

You do not think that having less ambition or already deciding early on that they want to give up work to have babies is a reason for women not progressing?

Advocate V. Milner:

No. I think that may change, particularly when you are faced with different barriers and hurdles it may be a deterrent. If you think that: "There are no models, I am never going to achieve that position, there is no point continuing to strive for it", I think that may well have an impact and push people into different professions or different areas of profession.

Deputy L.M.C. Doublet:

Going back to, you mentioned confidence levels and different approaches and perhaps having appropriate support in place, what might that look like in an ideal world if you had an equal system in this particular progression that we are discussing? What might that look like, that support?

Advocate V. Milner:

I think the starting point, one of the most difficult ... there is lots of discussion about unconscious bias and I was looking at some commentary online about it just earlier. It is a hot topic, not everybody is going to agree on these things. My view is that as a starting point there needs to be more mature and adult reflection on personal biases and unconscious bias in terms of businesses becoming educated about what individuals' biases might be, particularly at the most senior levels. So, for example, it is a common thing among everybody, quite possibly myself included, looking at my business, to recruit people like yourself because it is ... we are all reassured by familiarity and the comfort of people who look like us. But that means inevitably you have a bias when it comes to sex, when it comes to race, when it comes to all sorts of things. I think that recognising it and understanding it is a very important starting point because the difficulty that you have is as soon as you open a discussion about this topic there will be a very defensive response and often quite an

angry response, which is: "We recruit only on merit or we promote only on merit." You see this in online comments, this quite vitriolic response about this being something which is made up by women or this is something made up by feminists and an unwillingness to engage and to discuss this topic. First, I think you need to have discussion and I think that that then enables you to look at structures. So it is to think about different students, different people, diversity generally and how you can enable your business to support people, whether it is in a racial context, a religious context, whether it is acknowledging that people have different religious requirements during a day. It is not about favouritism to other people, but it is about trying to start to develop a level playing field. So it is not about giving somebody more, but giving them the chance to come up to the same starting point and realising that that is not something static, but you have to continue to work on it.

Deputy K.F. Morel:

Have you seen firms in Jersey becoming conscious of their biases or trying to understand that side of the way they operate?

Advocate V. Milner:

In my letter, I pointed out that some of the largest law firms here have the most unequal partnership levels and I am aware that at least one firm is working actively to try to address that and try to figure out how they change it. One of the reasons I think this is such a beneficial discussion is because I think it does drive people to try and address how they change it. I think there is a recognition that there is a public perception that this is not healthy and that it needs to be addressed. I think some businesses are trying to change it and working quite hard to do that and having that mature discussion. Law firms are busy places where you have people working very hard to try and produce the results the business wants and that means you are always going to have a scale of priorities. I think in some cases it might fall low down in the scale of priorities. It is for that reason that I think regulatory bodies or supervisory bodies have quite an important function to play.

Senator K.L. Moore:

I was just going to interject there because you mention in your submission that you do not feel that it is necessarily the role of legislation to be the ultimate driver in this area. So what would you see as a positive driver of change, if it is not legislation?

Advocate V. Milner:

Legislation definitely has a role to play. I think that sometimes it is easy to make the assumption that that is the only way of doing it. In doing that, forgetting about everything that comes with legislation; the costs, the complexity, the legal risks that that might throw up and the fact that sometimes for everything you give you may take something away from somebody else. Before legislation is implemented, if that was an option, I would want to see independent research on the

issues. I would want to see the statistical evidence for any proposed change, including in terms of looking at the history and culture of the Island. There was some research done in the 1990s for the fair play in the workplace review, which ultimately led to the introduction of the Employment Law. [VM note: This work began in 1997 and consultation began in 1998. An article by Melanie Cavey entitled “Fair Play in the Workplace” was published by the Jersey Law Review in 1999.]

[10:30]

That is obviously about [20] or more years ago. I think it was roughly around that time. I think the expenditure on that sort of review would be appropriate and that might lead to legislative change, but I think it is just being very conscious that you need to take care around legislation. But in terms of other measures, if one looks at the financial services sector, for example, by comparison, the J.F.S.C. (Jersey Financial Services Commission) plays a really key role in ensuring the proper regulation of financial services organisations and in terms of emphasising the importance of good governance. It does that through a whole range of measures, through regulatory enforcement measures, but also through other approaches. So, for example, in relation to [technology and security issues] a couple of years ago we saw a letter, a “Dear C.E.O. (Chief Executive Officer)” letter, which was sent out to all financial services firms saying: “Cybersecurity is a massive issue. We expect businesses to address this.” That came to everybody’s attention. It was clear that the J.F.S.C. had put down a marker in relation to that issue and expected certain standards to be met. Obviously, corporate governance is something which is key to financial services and is set out in various codes of practices. For law firms, we have the Law Society and they play a very important role here. I think that the Law Society over years implements changes. So, for example, in response to an issue concerning lack of continuing education in some law firms, they introduced to Jersey relatively recently a continuing professional development requirement. So we all have now to do a minimum of 15 hours C.P.D. (continuing professional development) per annum and to record that and to show what it is, and we can be challenged on the information we provide about that by the Law Society. So the Law Society has measures and lawyers have to comply with them, failing which they could be disciplined. For me, I think that an option is to ask regulators to address these issues and to set out standards to explain what the expectations are and why and to show that any policies are based on evidence and proper analysis rather than a nice-to-have-type approach.

Senator K.L. Moore:

To effect proper analysis, we need hard data and you mentioned earlier that there is a lack of hard data. For example, that is an area where it would be possible to legislate that there are returns, as they have done in the U.K. with companies employing over 250 people. Would that be a legitimate avenue, in your view?

Advocate V. Milner:

Most businesses in Jersey are small businesses. I think some data is required. I think the question is what data you request and what uses are made of the data. So certainly in the U.K. we have seen, now that requirement is in place, at least all sorts of reporting about law firms, some of which is fair, some of which may be unfair. So I think that the production of data is essential. I am not saying that the data does not exist necessarily so, for example, there may be data held by people like the Institute of Law or the Law Society, which would be useful in this context, and could be requested from them. So I think the possibility of requiring disclosure is one route. My view would be, and perhaps I would say this, that this is a subject which would be useful to have ... rather than being driven from externally but to ask bodies like the Law Society to say: "This is our proposal. This is the thinking. What would the response from your members be?" Because it might be they would say: "This is straightforward. This is perfectly easy to do. We can provide that data." It might be that they would say it was difficult. Obviously, the easier that these things are made and the less time-consuming and/or costly it is the less of a burden it is, the more people may be willing to participate.

Deputy L.M.C. Doublet:

You mentioned "unconscious bias" before, so do you think one possible solution might be just to help firms with that by providing some guidance or training to assist with those conversations and that process?

Advocate V. Milner:

It might. I have some scepticism because the very people who ... I can imagine that that will be training that all the junior people would be sent on. Often the most entrenched thinking may be from some of the most senior people, and looking at the demographics that we are discussing I think that that is difficult. But certainly, again, the Law Society could promote it and say our expectations are X. So I think that there are possibly a range of measures or a package of measures which could be looked at or discussed, both in order to supply data and in order to address these issues and look at how firms deal with them. One of the difficulties that you have is if a business is highly successful it is going to be a big challenge to say: "You are going to have to do things differently" which they are going to see as interfering with the day-to-day running of the business. But you do have to start somewhere. But I think that consultation is important in that discussion. If you can get people to buy into it, to understand that particularly there may be financial benefits for a business of changing how they work and that it may improve the long-term sustainability of the business if they have different people at different levels, particularly bearing in mind some of the research that is done on this. Then I think that is an easier sell than just to say: "You must have diversity training" which I think one of the problems with imposing that sort of measure is it can make problems worse by driving it underground rather than enabling proper discussion.

Deputy L.M.C. Doublet:

You mentioned this research in your submissions. Is there anything particular that you would like to highlight in terms of the benefits to companies having diversity?

Advocate V. Milner:

I would refer back to the points that I set out there. But I think one of the key things in terms of sustainability in law firms and the success of the legal industry in Jersey is that bearing in mind the high proportion of female graduates that are now coming through, if we want to get those we have to show that there are places for those young women to progress and that these senior positions are open to them. If we do not make it plain that Jersey has those positions to offer either they will not come, or they will come but then they will leave once they reach a certain level. So you are losing a talent pool that you have already invested in, so it is lost money.

Deputy K.F. Morel:

Can I just explore that? There is one stat, because I found the same thing, that you put in here which is from your informal data gathering by looking at websites, and I did exactly the same thing. Among our largest law firms, the Jersey offices have an average of one female partner to every 7½ male partners. We have discussed why that might be the case in terms of the earning focus, but I just wanted to look at that a little bit more and wonder, you have written in your submission: "Women often choose to work in or are encouraged to work in teams which undertake less remunerative but emotionally rewarding work such as family, legal aid or employment law." I wanted to explore that a little bit and try to understand whether you think in your experience that comes from selection bias within the law firms themselves or whether it comes from preferences that women who you have seen make these choices, they choose to work in family or other less remunerative areas. So whether it is driven by the law firms or driven by the people themselves, the candidates themselves.

Advocate V. Milner:

I think it is both. It is part of the picture of lack of role models at senior level within specific departments as well as within businesses. For example, if you are looking at... classically it might be a mergers and acquisitions team or another commercial law team where you are working under very high pressure, often late at night, and there is a very competitive ... I had a conversation with somebody about a transaction: "We are going to complete at 3.00 a.m." I said: "Why? Why do you not complete at 10.00 a.m. tomorrow or bring it forward a day and do it 10.00 a.m. the day before?" They said because [they are working with] international law firms or international businesses sometimes, so that could be understandable for there to be timing reasons around it, but another might be because there is a perception that that is the way the best law firms operate. So there is a perception that the best law firms operate around the clock and to be seen to be closing deals in

the middle of the night shows that you are successful. That starts to become either simply unattractive on a lifestyle basis for many people or it may be completely incompatible if somebody is the primary child carer within their family. It is not possible to do that if you have a small child. So then you may have women who will then move out of that sort of team because they think: "Actually I can get a job which perhaps pays less in another team, but I will not have those hours." So there may be both aspects of personal choice, combined with the culture of the team in question, combined with the lack of senior female role models within the team in question. There is a whole combination of pressures, most of which are not written down or evident [in terms of] how people work.

Senator K.L. Moore:

That is a really interesting point though because if you look at a similar profession, say accountancy, do you get the impressions that we are having to talk anecdotally and, to an extent, that things might be slightly different in that profession as opposed to legal?

Advocate V. Milner:

Yes, I get the impression that women are more able to rise to the top in accountancy. I do not have the same direct experience of it or knowledge of it because it is not my profession. But certainly within the financial services sector in accountancy firms I think that there are some of the same issues but there seems to be more flexibility in terms of people rising up. The more aggressive a business is I think the fewer women it is potentially likely to have, I think quite often. When I say "aggressive", I mean in terms of having a culture of the work hard/play hard culture, the late nights, the intensive working, the absolute focus on fee income, all of those I think may be part of driving a gender balance in one direction. What is interesting, of course, about a lot of those behaviours is that they may be riskier behaviours in terms of health for individuals and in terms of financial risk for the business. That having a more level gender playing field in some of those businesses might reduce risk and make them more profitable and more sustainable.

Deputy L.M.C. Doublet:

We were talking about mothers and fathers, and you have mentioned how a mother might not be able to work until 3.00 a.m. because she is the child carer. We have new legislation in Jersey, and there is a further tranche coming, to make equal parental leave. Do you see that there will be a culture change in Jersey where men will be caring for children more so it might even out a bit more in the workplace as well?

Advocate V. Milner:

I think just to start off I would like to say that there are many fantastic dads who have primary childcare responsibility, so this is not about being a mum or a dad as much as being a person with

primary childcare responsibility. I think that the percentages mean that more women tend to have primary childcare responsibility than dads. But it is about that issue. The shared parental leave situation is very interesting. It seems that in the U.K. where they have similar measures it is not driving the behavioural changes that were expected. Again, I think that comes back to culture and background. So I think there are countries where they have long histories of ... so, for example, look at the Nordic countries of Sweden or Finland where they have different rates of tax, it is a heavily public sector-funded jurisdiction. There are different expectations around leave and parental leave. Certainly in the U.K. in very highly competitive, highly pressured firms, my understanding is that it is not necessarily considered the good thing to do if you wish to proceed to take all the parental leave to which you might be entitled. So a cultural change is not something that happens overnight, and I think that introducing parental leave entitlements alone is unlikely to be enough. I think that you need to be careful about how you implement these, not to make issues worse and just drive them underground. But I think also it is part of a part of any package that would have to be looked at.

Deputy L.M.C. Doublet:

I know that some U.K. firms offer much better maternity packages, do you think that firms should move towards offering the same to men and women?

[10:45]

So that then perhaps when it comes to employing somebody, they are not going to know which person is going to be taking the leave.

Advocate V. Milner:

I do think that conceptually policies which promote families ... if what we are looking for, and I raise that as a question, because first we have to figure out what we are looking to achieve. But I think that measures which look to support families and support the health or well-being of the community are better than measures which target one particular gender. When I think about some family friendly work that would include, particularly in the coming years and decades, measures which [support] somebody who might be caring for an elderly parent, for example...I think that is all important...or an unwell spouse or partner. So I think getting away from it being male and female and more about benefit to the Island and looking after our population, I think that that change in approach should be useful. Not least because I think otherwise there can be an awful lot of emphasis on just people with children. I think that that can produce significant fairness for those people who, for whatever reason, are without children. But they will also have needs, whether it is in terms of their parents or perhaps nieces or nephews with whom they need to spend time or for whom they need to make particular family adjustments. So I think trying to look at what is the end goal that we are trying to achieve, which is a healthy economy, good businesses, and healthy

families and healthy children. I think it is a whole picture. One key piece of that is a question about childcare provision and support for people with younger children and support for people with disabilities. That is very important as well.

Senator K.L. Moore:

If we could go back to some other methods of maintaining and encouraging change. One would be pay transparency within companies and that being an enforced rule. What would your perception of that be please?

Advocate V. Milner:

I had a discussion with somebody at a non-law firm recently who said that their pay system was transparent, and it worked fine. It can be very constructive. As a general starting point, I think transparency is often good. One of the risks...anonymised data is generally going to be much more important than non-anonymised data...you need to get people to buy into this process. One of the problems is understanding what the data means because often you can get very superficial outcomes from it. You can end up comparing apples and pears and that obviously is a big part of the discussion about gender pay. Just to say women are earning less than men is not necessarily looking at the roles they are doing or why they might have chosen those roles which might be less remunerative. So, transparency is probably a necessary thing to an extent.

Senator K.L. Moore:

Yes. One of the reasons for asking and something that has been drawn out of one of our focus groups was an example of a woman who was doing exactly the same role as a man and in some respects had slightly more management responsibilities. She discovered at a later point that she was earning £6,000 less than her male colleague, which is why, really, we raise the issue of transparency to avoid those situations.

Advocate V. Milner:

Sometimes there may be arguably quite valid reasons for that, though, which might be that one person might have more qualifications than another. Sometimes you get pay increments for the longer you work in a business so there is an element of a loyalty reward from that. Again, the fact that one person gets more than another does not necessarily mean it is unfair. That is why I think that some caution is sometimes necessary, but you cannot really make any judgments until you have the data, or the quality of your judgments is going to be very different depending on the data that you are using, so you have to start somewhere.

Deputy K.F. Morel:

In your work, obviously your work brings you in contact with lots of different businesses across the Island and there are industries which tend to be dominated by one gender or another so, say, the construction industry is often dominated by men, the care industry is often dominated by women. If you have done work with any of those gender-dominated industries, have you found ... really I guess the question is: in those dominated by women, have you seen that women rise to the top in those industries? Or do you still see them as being run by men even though it is women who dominate the sector from an employee perspective?

Advocate V. Milner:

I think ... I do not have ... I am going to be somewhat cautious.

Deputy K.F. Morel:

This is anecdotal. It is your experience I am asking for.

Advocate V. Milner:

I am going to be somewhat cautious because I do not have the data for that. I think that there are some areas where you see some things which surprise you. So, for example, H.R. might be an example where you would know that the number of women within the profession significantly outweighs men, yet occasionally you will see key senior positions that are held by men and it just seems slightly surprising bearing in mind the proportions. So there does sometimes still seem to be a block, but I could not explain it [without more information]. I do not know whether or not that is actually correct, and I do not know why there might be that appearance. So, I think there can be. I have the impression that there may be a filtering out of women in many professions when it comes to getting to the very highest levels, even including those which have a very high proportion of women, but I have no statistical ...

Deputy K.F. Morel:

No, it is your experience I am asking for and your sense of it, your subjective response on it.

Advocate V. Milner:

Yes, I have no statistical basis for that.

Deputy K.F. Morel:

I appreciate that. Can I ask one more question, which is along that ... in your submission you mentioned the technology industry. I know while you do not work in the technology industry it is now of interest to you. Could you explain, first of all, do you find the technology industry in Jersey ... whether it has a gender balance or not and, if not, what you think the potential consequences of that are?

Advocate V. Milner:

The technology industry is really interesting because it is very heavily male dominated. What I would say is that my perception is that senior people within the technology industry are very alive to it, are desperate to recruit women and would take any steps they could to recruit more women. So they are very aware that from the entry level point there is a massive disparity. They are alive to that and would like to change it. So, in fact, I think it presents very good opportunities for women because I think people wish to address ... people actively want to address that disparity. I think it is hugely problematic, particularly for somewhere like Jersey. If one thinks about things like programming and the data that is used for programming and how people ... who will be looking for the data and how they will be looking at it, the problem is that if all the people working within that industry who are drawing out the data and then putting it into the systems are of one sex, there is a high risk that the output might also be skewed by sex because of unconscious bias. This is something that we have seen; there have been a number of examples of this in the artificial intelligence arena, for example, where the data and programming which is being undertaken normally by white men then has an inbuilt skew in relation to certain races and/or genders. So I think there is that artificial intelligence angle, but I also think that in terms of Jersey's workforce it is very, very problematic because I think Jersey is not doing enough to educate its women in the workforce about technology and to help them address their fears or concerns about entering, participating differently in different industries. This can create huge problems later down the line, particularly when we see ... when you look at the employment figures, the Social Security employment figures, you see how these things curve at different age points. You see the curve for women leaving the workforce 5 or 10 years earlier than men, pre-retirement. I think it is around 50 or 55 you see a lot of women coming out of the workforce. I think my view is that a huge problem is that there is not enough being done to help people understand technology and engage with it in a meaningful way. I think that that ... really risks laying down problems for Jersey for the future, but also it means we have a huge unemployed ... all these people are losing their jobs when, in fact, at a stage when they are not yet going to be able to draw their pension, when they could be continuing to work if they were being better re-educated or being re-educated at all. So I think that we could have a more engaged and better and more sustainable workforce if we did more work on technology education for older people. This is not a school thing or not just a school thing.

Deputy L.M.C. Doublet:

Could that be due to caring responsibilities as well, because you mentioned caring for elderly parents?

Advocate V. Milner:

I think one of the problems with technology is that it moves very, very fast and a common fear for women that I have heard expressed to me is that having been out of the workforce for whether it is one year, 3 years, 5 years, and then coming back in, they find that all the technology has galloped ahead and then they feel very concerned that they are not going to be capable of doing a proper role. So they might choose a job which is less challenging because they are worried about failing, whereas, in fact, if there was more support to show them: "The people who are here are not really all over this either and we are going to support you to learn more," you could get much better value out of the workforce. You could have a more productive workforce.

Deputy L.M.C. Doublet:

So maintaining contact with the workplace when you are not working or accessing training when you are perhaps caring and trying to do that at the same time and keep your skills up?

Advocate V. Milner:

Yes. I mean, I think it is an area where I would like to see monitoring. If you are going to look at transparency, it would be what sort of retraining, reskilling, upskilling programmes are there; how are those supported within Jersey? That applies to the workforce as a whole. That is [both] a male thing and a female thing that lots of us now or as we get older are concerned about things that we do not know much about and find it difficult. We are scared about having to learn the new things, but it is something that I see particularly with women in redundancies in the financial services sector. I see large chunks of women in the workforce losing their jobs at a certain age.

Deputy L.M.C. Doublet:

I had one more area, which is a general question, to ask you about childcare provision in Jersey. How do you think that affects ... if it is mainly women who are going to be the primary carers, how does that affect women going back to work or progressing?

Advocate V. Milner:

So I have limited experience of this and so what I am going to say is anecdotal rather than based on my own direct experiences. But as I understand it, there is limited state childcare provision in Jersey, limited free childcare provision, and what childcare provision is available tends to be ... the not free stuff, the paid-for services, are very, very expensive. That means that for somebody to go back to work they are going to potentially end up losing money if they have to pay for childcare. So one of the ways of ... if you think that families should have systems where parents are going back to work at different points, then having better quality either free or affordable childcare seems to me to be a no-brainer, really. Really, there should be investment around that in the children's interests, in the parents' interests and in the interests of having a productive workforce.

Deputy L.M.C. Doublet:

Okay. Anything else?

Senator K.L. Moore:

No.

Deputy K.F. Morel:

I am fine, that is fine.

Deputy L.M.C. Doublet:

Okay. That is all the questions from us. Would you like to add anything before we finish?

Advocate V. Milner:

No, thank you. Just thank you very much for undertaking this work and for inviting me to be here today.

Deputy L.M.C. Doublet:

Thank you, once again, for your submission and for your time today and your answers to our questions. It has been very interesting, and we are very grateful for your attendance, so thank you.

Deputy K.F. Morel:

Thank you very much.

Senator K.L. Moore:

Thank you.

[10:58]