



PROMOTING  
**GROWTH AND  
SHARED PROSPERITY**  
IN THE UK

REPORT

Noreena Hertz

November 2011  
© IPPR 2011

# WOMEN AND BANKS

## ARE FEMALE CUSTOMERS FACING DISCRIMINATION?

## ABOUT THE AUTHORS

**Professor Noreena Hertz** of the Duisenberg School of Finance, Amsterdam, is a trustee of IPPR and a member of IPPR's Promoting Growth and Shared Prosperity panel.

## ACKNOWLEDGMENTS

I would like to thank all the women who shared their stories with me during the preparation of this paper as well as the many others whose brave testimonies inspired similar research in the past.

I would also like to thank all the research assistants who worked on drafts of this paper. In this regard, I would like to thank in particular Ellie Abdali, Linda Demiraj, Mariam Kemple, Heather McRobie, Lis Vikman and Amy Watson.

I would like also like to thank the various academics and experts working in this area whose insights and comments guided me during the process.

Finally I would like to thank Duisenberg School of Finance for making this research possible and IPPR for hosting this particular piece of work.

## ABOUT IPPR

IPPR, the Institute for Public Policy Research, is the UK's leading progressive thinktank. We produce rigorous research and innovative policy ideas for a fair, democratic and sustainable world.

We are open and independent in how we work, and with offices in London and the North of England, IPPR spans a full range of local and national policy debates. Our international partnerships extend IPPR's influence and reputation across the world.

IPPR  
4th Floor  
14 Buckingham Street  
London WC2N 6DF  
T: +44 (0)20 7470 6100  
E: [info@ippr.org](mailto:info@ippr.org)  
[www.ippr.org](http://www.ippr.org)  
Registered charity no. 800065

This paper was first published in November 2011. © 2011  
The contents and opinions expressed in this paper are those of the author(s) only.

## ABOUT PROMOTING GROWTH AND SHARED PROSPERITY

This major programme of work aims to identify public policies that will promote the economic growth needed to return the UK to full employment and ensure that the benefits of future prosperity are more equally shared.

For more information, see:  
<http://www.ippr.org/research-projects/44/7144/promoting-growth-and-shared-prosperity-in-the-uk>

IDEAS to  
CHANGE LIVES

# CONTENTS

<b>Executive summary</b> .....	<b>2</b>
<b>1. Introduction</b> .....	<b>3</b>
Methodology .....	4
Research materials .....	4
<b>2. Women, entrepreneurship and the economy</b> .....	<b>6</b>
<b>3. Women and mortgages</b> .....	<b>11</b>
The case of subprime mortgages in the US .....	11
Discrimination against mothers seeking mortgages in the US .....	12
Discrimination against mothers seeking mortgages in the UK .....	13
<b>4. Analysis and recommendations</b> .....	<b>17</b>
<b>5. Concluding thoughts</b> .....	<b>20</b>
<b>Bibliography</b> .....	<b>21</b>
<b>Appendix: Summary of human rights obligations</b> .....	<b>27</b>

# EXECUTIVE SUMMARY

This paper asks whether women in the UK, Europe and America are being discriminated against by banks, as customers.

While certain aspects of banks' behaviour – subprime lending, governance structures, oversight mechanisms and so on – have been interrogated in the wake of the 2008–09 financial crisis, how banks treated and continue to treat women customers is a subject that has received little attention.

The findings of this research, however, point to the need to shine the spotlight on banks' practices in this area. Key findings include:

- 1. Evidence in the UK of banks discriminating against pregnant women and women on maternity leave seeking mortgages**  
This seems to be an ongoing industry-wide practice, with a number of leading UK high street banks named.  
The UK findings correspond to recent similar findings in the United States on the basis of which the US Department of Housing and Urban Development has launched an inquiry. This paper calls for a similar investigation to take place in the UK.
- 2. Evidence in Europe of banks discriminating against women entrepreneurs**  
Research suggests women are being asked for more collateral than men for loans, being charged higher interest rates and being refused loans more frequently than men.  
Given prime minister David Cameron's emphasis on entrepreneurship as the 'only strategy' by which the UK economy can grow, and the importance of access to credit from banks for entrepreneurs to thrive, this paper calls for an investigation into banks' treatment of female entrepreneurs and for banks to publish their lending decisions by gender in a transparent fashion. This is to ensure that women are able to fully participate in the economic recovery, especially given the current context – one in which cuts in the public sector have led to the highest level of female unemployment in the UK for 20 years, and entrepreneurship may be a lifeline.
- 3. Evidence of gender stereotyping by bank loan officers internationally**  
Examples of this include women entrepreneurs being questioned significantly more often than male applicants whether they have undertaken sufficient research into their business, and pregnant women being assumed by lending officers not to return to work after having a child.  
This paper calls for banks to investigate whether their lending officers are consciously or unconsciously negatively stereotyping women, and where such practices are taking place to instigate measures to address this.

Given the evidence laid out in this paper, the UK government has a legal obligation (under the terms of the United Nations Convention on the Elimination of all forms of Discrimination against Women and the Equality Act 2010) to investigate the claim that banks may be discriminating against women.

Moreover, if it is found that women are indeed being discriminated against in the UK – something the research within this paper would suggest is very likely – the government is obliged by law to act upon such knowledge by prosecuting the banks involved, ensuring remedies to the victims involved, and enacting legislation and policies that proactively address the causes of this form of discrimination in order to eliminate it for good.

# 1. INTRODUCTION

This paper examines whether banks are discriminating against female customers. The investigation focuses on two distinct groups of women: entrepreneurs and home purchasers.

Cases of discrimination *are found* within the academic literature and within more recent empirical evidence.

Moreover, social media analysis conducted for the purposes of this paper in the UK reveals evidence of an apparent subcategory of women home purchasers currently *being discriminated against by banks – pregnant women and women on maternity leave*. Evidence of this has recently been found in the US too.

These findings have serious ethical and legal implications.

The principle of equality before the law (including non-discrimination on the basis of sex) is a *jus cogens* – a principle of international law that is universal and non-derogable. It applies to all states and supersedes all other laws.<sup>1</sup> Not only are states prevented from directly discriminating against their citizens through laws and regulations, human rights legislation also obliges states to protect their citizens from discrimination against non-state actors, such as banks.<sup>2</sup> Indeed, article 13 of the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) obliges states to ‘eliminate discrimination against women in ... areas of economic and social life’, including ensuring equal access to ‘bank loans, mortgages and other forms of financial credit’.<sup>3</sup>

Furthermore, states must exercise ‘due diligence’ to combat human rights violations within their jurisdictions – this involves the obligation to investigate, prosecute, punish and remedy human rights abuses.<sup>4</sup>

It follows that governments of countries where discrimination is mooted, are under an obligation to investigate the claims within this paper: that banks may be discriminating against women.

Many countries have additional domestic legislation pertaining to discrimination that would also make it an imperative to investigate these claims. In the UK, for example, the Equality Act 2010 outlaws direct and indirect discrimination on the basis of, among other things, sex, pregnancy and maternity.

---

1 In Advisory Opinion OC-18/03 of the Inter-American Court of Human Rights on the legal status and rights of undocumented migrants (17 September 2003) it was stated that ‘the principle of equality before the law, equal protection before the law and non-discrimination belongs to *jus cogens* because the whole legal structure of national and international public order rests on it and it is a fundamental principle that permeates all laws.’ (para 101)

2 This includes the United Nations International Covenant on Civil and Political Rights (ICCPR, 1966) that has been ratified by the US and UK, the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) that has been signed by the US (although not ratified) and ratified by the UK and the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW, 1979) that has been ratified by the UK.

3 The Committee on Economic, Social and Cultural Rights has stated in its General Comment 16 (2005) that ‘state parties have an obligation to monitor and regulate the conduct of non-state actors to ensure that they do not violate the equal right of men and women to enjoy economic, social and cultural rights’ (para 20); CEDAW Recommendation 28 (2010) explains that states are obliged to regulate the activities of private actors including areas such as ‘banking and housing’ (para 13).

4 The due diligence standard was first recognised in the case *Valasquez Rodriguez v Honduras*, Inter-American Court of Human Rights (Ser C) No 4 (1988). The standard was subsequently incorporated into the framework of women’s human rights with General Recommendation 19 (1992) of the CEDAW Committee stating that states ‘may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights’.

If it is found that women are indeed being discriminated against – something the research within this paper would suggest is very likely – governments in countries where this is taking place are obliged by law to act upon such knowledge by prosecuting the banks involved, ensuring remedies to the victims involved, and enacting legislation and policies that proactively address the causes of this form of discrimination in order to eliminate it for good.

Please see the appendix to this paper for a summary of human rights obligations.

### Methodology

The purpose of this study is to examine whether women in the developed world are being discriminated against by banks, as customers.

Understanding whether this is currently happening is particularly important given that women are now bearing the brunt of the post-2008 economic downturn – in the UK, the number of women out of work as of August 2011 was 1.05 million, the highest level since 1988<sup>5</sup> – but also given that the 2008 crisis was in many ways a crisis perpetrated by male bankers (McDowell 2010).

Women's lack of access to banking loans is a worldwide problem – globally, women own less than 10 per cent of available credit (WCSDG 2004). However, the focus of this study has been limited to North America and Europe rather than emerging countries. This is because a significant body of literature on banks denying credit to women customers in developing countries already exists,<sup>6</sup> and because in many developing countries governments are not only aware of the problem but also already have instigated programmes aimed at improving women's access to credit.<sup>7</sup> This is something still lacking in many of the countries that this paper focuses on.

All data used in this study originates from 2000 onwards. This is to ensure that evidence is current enough to suggest an ongoing problem. However, literature used as background or to help in the analysis may precede 2000.

### Research materials

Investigating discrimination against women is a patchwork effort that necessitates the pulling together of a variety of sources so as to capture all available data. This paper draws together key academic literature and policy papers on this subject since 2000, recent legal cases and newspaper reports, and primary research derived from social media and websites, and interviews.

Social media conversations that were 'listened in on' include discussion threads on sites such as Mumsnet and moneysupermarket.co.uk, where it was expected that women might be disclosing and discussing instances of discrimination. Observed conversations took place between 2009 and 2011, and focused on instances where mortgages were being discussed. Women disclosing an experience of discrimination were then contacted. Of that number, 25 per cent replied and more detailed, semi-structured interviews were carried out with these women.

---

5 'The number of women now out of work is 1.05 million, the highest since the spring of 1988' (Stewart 2011); see also UKWBG 2011, TUC 2009.

6 See for example Jamali 2009, Agier and Szafarz 2011 and Nyamu 1999

7 See for example Pruitt 2009, United Nations 2005 and 2009, Agier and Szafarz 2011

It should be noted that this method of research – ‘listening in’ on online conversations – is very new. While it offers advantages over traditional survey data, in terms of providing direct access to groups of people with shared concerns, there are potential methodological issues that need to be made explicit. For example:

1. as identities are anonymous online, it is possible that one person posts comments under different names and so is double-counted
2. it is also impossible from the data alone to determine with accuracy how representative the sample is
3. personal stories posted online may be partial.

The process of direct contact and subsequent interview was designed to address points one and three.

## 2. WOMEN, ENTREPRENEURSHIP AND THE ECONOMY

Women are now bearing the brunt of the economic downturn that has followed the financial crisis of 2008–09. In the UK, the number of women claiming jobseeker's allowance in June 2011 increased by 9,500 compared to May 2011 to reach 493,900, the highest figure since August 1996. In the three months to May 2011, there was a 28 per cent increase in the number of women made redundant, compared to a 3.8 per cent increase among men (ONS 2011). In the US, the Bureau of Labor Statistics has recently reported that of the 1.3 million jobs created in the last 12 months, 90 per cent went to men – women gained just 149,000 jobs (Blackburn 2011).<sup>8</sup>

In such times, the ability to start one's own business can be a lifeline. This is especially true in those countries, such as the UK, where despite a lack of jobs the governments is issuing a clear message that women – and especially lone mothers – should go out to work, and will be penalised financially if they do not secure employment (UKWBG 2010).<sup>9</sup>

Moreover, the contribution that entrepreneurs can make to the economy at a time such as this is critical. In the US, almost all net new jobs are being created by firms less than five years old (Stangler and Litan 2009). In the UK, over the period 2004–06 two-thirds of all the job growth was in self-employment. Indeed, David Cameron recently identified entrepreneurship as the 'only strategy' by which the UK economy can grow (quoted in Wheeler 2011). Similarly, President Obama has argued that 'entrepreneurs embody the promise of America' (White House 2011).

Ensuring women are able to be part of this entrepreneur-led recovery rather than the passive recipients of fiscal austerity is essential. But while women entrepreneurs<sup>10</sup> are an increasingly significant force in the economy – in the US, female-owned businesses generate almost a trillion dollars in revenues every year and employ more than seven million workers (EC 2011) – and despite the fact that entrepreneurship offers a vehicle for women to achieve economic parity, there are still far fewer female-owned than male-owned businesses. In the US, only 30 per cent of businesses are majority-owned by women (Gatewood et al 2004) – in the UK, this figure is just 27 per cent; in Ireland, only 15 per cent; in Northern Ireland, 16 per cent (Henry and Kennedy 2003). This is despite the fact that studies of women entrepreneurs suggest that they can outperform their male counterparts: in the US, female-led high-tech start-ups have lower failure rates and a greater capital efficiency than male-led start-ups (Wilkinson 2010), and the average venture-backed tech company run by a woman is started with one-third less capital yet has annual revenues that are 12 per cent higher than those run by male counterparts.

**'If you look behind these particular statistics you should be expecting more start-ups to be started by women. Why is it only a third?'**

Anita

---

8 Moreover, the National Organization for Women has warned that the budget cuts agreed in August 2011's US debt ceiling negotiations will disproportionately impact on women's economic security, with low- to middle-income families bearing the brunt of deficit reduction strategies (NOW 2011).

9 Lone parents – of whom nine out of 10 are women – are now expected to look for work when their youngest child goes to school, at which point they will switch from income support (which does not require you to look for a job) to jobseekers' allowance (which does). After a year of unemployment, lone parents unable to find a job will have their housing benefit cut by 10 per cent (UKWBG 2010).

10 The European Commission's 'Best Project' defines a female entrepreneur as 'a woman who has created a business in which she has a majority shareholding and who takes an active interest in the decision-making, risk-taking and day-to-day management' (cited in DGEI 2008).



The impact of increasing the number of female entrepreneurs would not only be meaningful for the women themselves but significant for the economy. It is estimated that 150,000 new UK businesses could emerge each year if women started businesses at the same rate as men (WET 2009),<sup>11</sup> which would help to create thousands of new jobs.

Yet women are stymied from starting or growing their businesses because they find it especially hard to access requisite capital. Indeed, access to credit is one of the greatest and most prevalent challenges female entrepreneurs face – especially accessing credit from banks (Gatewood et al 2004, EC 2000, CEEDR 2001). Without bank financing, women business-owners may have to resort to other, more costly forms of financing, or forgo financing altogether (Orser et al 2000).

The ability to access credit clearly impacts upon women's ability to successfully start and grow businesses (Magri 2008, Nykvist 2008). Even where borrowing constraints have little effect on entry (because the entrepreneur starts the firm at a smaller-than-optimal size) they can still have a very large effect on firm growth and survival (Quadrini 2008, Weeks 2007). Businesses with relatively lower start-up capitalisation have a greater likelihood of business failure (Coate and Tennyson 1992, Headd 2003), while receiving bank funding at start-up can materially affect future sales levels (Haynes and Helms 2000).

So not having access to sufficient credit is a problem – and it's a problem women face. But it's not just that women find it hard to access credit from banks: they find it *harder than men* to do so. This is widespread. Evidence of female entrepreneurs being less well financed than male counterparts comes from the Netherlands (Verheul and Thurik 2001), Norway (Alsos et al 2006), Italy (Alesina et al 2008), the US (Blanchflower 2008, Cavalluzzo and Wolken 2002) and the UK (Small Business Service 2006). In the UK, for example, while obtaining finance was an obstacle for 15.5 per cent of all small firms, it was an obstacle for 16.2 per cent of women-led enterprises. This 'gendered financing gap' is to our collective detriment.

**'If women entrepreneurs in the US started with the same capital as male entrepreneurs, they would add a whopping six million jobs to the economy within five years – two million of those in the first year alone.'**

Pinelli 2009

The reasons why women are able to access less capital than men are not always easy to disentangle, especially as data sources tend to be relatively small,<sup>12</sup> and different studies ask different questions of their sample of women entrepreneurs.

But many researchers claim that this is essentially a demand rather than supply-side problem. Much is made of women's supposed propensity to 'not put themselves forward for loans' (Sena et al 2010)<sup>13,14</sup> and their supposed choice to start their business with reduced

---

11 And when men and women have equal start-up capital they grow at the same pace (Watkins and Watkins 1986).

12 For example, Cavalluzzi and Wolken (2002) ran into the issue of small sample size in their study on minorities and women.

13 Treichel and Scott (2006) find that even after controlling for important business characteristics, women-owned businesses are significantly less likely to apply for a bank loan. This relationship was consistent over the three time periods studied. The lower likelihood of women-owned businesses applying for bank loans may be related to the belief held by women-owned businesses that they might face discrimination in the lending process. Concern for discrimination may prevent women-owned businesses from applying for bank loans.

14 Some reports cite female 'risk aversion' as an alternative (non-discriminatory) explanation for lower demand for bank loans by female-owned firms: see for example Barber and Odean 2001, Jianakoplos and Bernasek 1998.

financial debt (Carter and Shaw 2006), as well as their purported reluctance to assume the burden of business debt and engage in fast-paced business growth (Carter and Shaw 2006, Bird and Brush 2002). Reasons for these attitudes are supposed to include women's 'fear of loan denial' (Robb 2002), 'perceiving themselves to be less creditworthy', 'having a lower appetite for risk' (Watson and Robinson 2003), 'perceiving financial barriers that do not exist', and 'lack of self-confidence' (Scott and Roper 2009). Whether these factors exist at all, and if so to what extent is hard to gauge. Even if they are prevalent, how freely women make these choices is a question that warrants further investigation.

Nevertheless, even if we accept that women are less likely to put themselves forward for loans than men, banks may still be discriminating against women entrepreneurs:

- if those women who do put themselves forward for loans are treated worse than male counterparts
- if banks dissuade women with similar business characteristics to men from applying for loans, or
- if the terms banks offer to the women are worse than the terms they granted male counterparts.

It is important to compare 'like with like' so as to be able to ascertain whether differences in outcomes are due to gender or instead to firm characteristics, such as size,<sup>15</sup> age or industry, all of which impact upon how a bank would treat a potential lender.<sup>16</sup>

Discrimination in this paper is defined in line with UK law, which recognises two forms of discrimination: direct and indirect. **Direct discrimination** occurs when A treats B less favourably than A treats others because of a protected characteristic of B, such as race, colour, nationality or sex. If banks treat female and male entrepreneurs with similar business characteristics differently this would be classed as direct discrimination. **Indirect discrimination** is when A applies to B a requirement or condition or practice which, because of the protected characteristic of B, B would be less likely than others to be able to meet. If banks routinely deny loans to businesses based on characteristics that are disproportionately seen in female-led businesses this might be classed as indirect discrimination. This understanding of discrimination is in line with international human rights law, which defines 'discrimination against women' to include 'any distinction, exclusion or restriction made on the basis of sex which has the *effect or purpose* [that is, direct or indirect] of impairing or nullifying the recognition, enjoyment or exercise by women ... of human rights' (United Nations 1979: art 1).

15 See Carter and Shaw 2006. Coleman (2000) attributed women's lesser use of bank debt to the lower average size of women owned businesses, concluding that bankers, rather than discriminating against women, 'discriminate on the basis of firm size, preferring to lend to larger and, one would assume, more established firms. This preference may put women at a disadvantage given that [their firms] are half the size of men-owned firms on average.'

If women's businesses are smaller, this may be a problem in and of itself and needs to be addressed by government agencies, as smaller businesses typically have greater difficulty in securing bank loans (Fabowale et al 1995, Storey 2004) and pay higher interest (Brau 2002) than larger businesses.

16 Should the characteristics of women's firms be significantly different to those of men, and should these characteristics be the reason banks are not lending to women business-owners, this might suggest a different form of discrimination is in play: indirect discrimination (see boxed text). That is, a bank's policy of not lending to beauty salons, for example, could constitute indirect discrimination, as these businesses are disproportionately owned by women.

Even controlling for size and other business characteristics, evidence of discriminatory practices is indeed found.

Muravyev et al (2009) conducted a study of 14,108 firms in 34 countries (300–600 firms per country), a quarter of which were in developing countries, the rest in developed countries, primarily Europe. It was found that the majority of women-owned businesses needing bank loans did not get them, either because their applications were rejected or because they were discouraged from applying, and that male entrepreneurs were 5 per cent more likely to get a loan for their business from banks than women. The study controlled for size and age of firms as well as sector, and the findings were true of the more financially developed countries in the sample as well as the less. These findings are supported by earlier studies that found evidence that women-owned businesses face discrimination when it comes to loan approvals, such as a Canadian study (Marleau 1995) which reported that female business-owners were 20 per cent more likely to be denied loans than men.

Where women are approved for loans this is often because they have had to provide greater collateral than male counterparts. In a 2008 study of 200 Italian banks, evidence was found of more women than men being asked to post a guarantee when they obtain a loan (Alesina et al 2008). None of these female-owned firms were intrinsically riskier than the male-owned ones. This finding is echoed in a French study which found evidence of a higher demand for collateral placed on female entrepreneurs seeking loans to start up businesses compared to male counterparts (Orhan 2001). Again, this resonates with earlier findings such as Coleman's (2000) work, which found that women-owned service firms were more likely to put up collateral than men-owned service firms, and an earlier Canadian study by Riding and Swift (1990).

**'When a female borrower has a male guarantor, she pays substantially less, but when a female borrower has a female guarantor, she pays a lot more!'**

Alesina et al 2008

The discrimination here is compounded: not only is the requirement for higher collateral from women discriminatory in the simple sense of treating women worse than men, but women tend to have less collateral than men in the first place. As a result, they are disproportionately excluded.

Even where they do receive a loan, often having to provide greater collateral, evidence exists that women also often have to pay higher interest rates than men. In the Muravyev et al study (2009), regression estimates imply that female-owned firms pay interest rates that are, on average, 0.5 percentage points higher than for male-owned firms. The 2008 Italian study found robust evidence that women pay higher interest rates than men (Alesina et al 2008), even after controlling for a large number of characteristics of the type of business, the borrower and the structure of the credit market.

And this result is not driven by women using a different type of bank: the same banks charged different rates to male and female borrowers. Evidence from the UK Survey of SME Finances indicates that female entrepreneurs were charged higher interest rates on approved loans than men – 2.9 versus 1.9 percentage points over base respectively (Fraser 2005: 18), again for similarly sized firms. These results were robust when controlling for business and loan characteristics. Coleman (2000) found that women-

owned firms paid higher interest rates than men for their most recent loans. International analysis of 400,000 entrepreneurs in 41 countries (developing and developed) suggests that women pay around 20 basis points more than men (Llussá 2009). This is despite the fact that female-owned businesses were found to go bankrupt less frequently than businesses owned by men and had a slightly better credit history. These findings concerning interest rate disparity are supported by earlier studies such as Bates (1997).

Although there are potentially geographic differences, and the way that women are treated worse than men differs from case to case, what is clear is that even when controlling for size, age and sector there are significant instances of banks discriminating against women entrepreneurs simply because they are women. Moreover, most of the studies which claim that no discrimination exists only considered one or two potential manifestations of discrimination.<sup>17</sup> Other forms could therefore have existed and been missed.

Critically, it is also important to question whether the different approach to smaller businesses constitutes indirect discrimination against women – with women entrepreneurs being disproportionately denied loans on the basis of a criterion (business size) that they are less likely than male counterparts to fulfill.

That banks may be discriminating against women should not be inconceivable. Significant research exists of banks discriminating against minorities (for example, Blanchflower et al 2003). Studies of loan officers reveal that women are asked more often than men to prove that they have done enough research into their business (Carter et al 2007). Earlier research indicates that characteristics attributed to ‘successful’ entrepreneurs are more commonly ascribed to men than to women (Buttner and Rosen 1988). Indeed, stereotyping impacts upon decisions regardless of validity. A recent study of female chief financial officers disputes any suggestion that women perform less well in business than men – acquisitions made by female CFOs have returns approximately 2 per cent higher than those made by male CFOs (Huang and Kisgen 2009).

Moreover, if lenders were less inclined to lend to women on the grounds of the *types* of businesses that women tend to have, then we would expect that in non-business contexts men and women would be treated equally. But as the following section shows, it is not just women entrepreneurs who face instances of discrimination. So too does another group of women – women home purchasers.

---

17 Carter et al 2007 looks at terms and approval once loans are applied for, but does not cover factors that stop women from applying (such as an expectation of discrimination). Sena et al 2010 does look at factors that lead to potential borrowers applying or not, but does not cover approvals or terms once the application takes place.

### 3. WOMEN AND MORTGAGES

There is by now a significant body of evidence revealing discriminatory lending to women home purchasers by lending institutions. Most centres on the practice of ‘subprime’ lending in the United States.<sup>18</sup>

#### The case of subprime mortgages in the US

By the time the financial crisis struck in 2007, subprime mortgages had become a major part of the US mortgage market, accounting for 20 per cent of total originations in 2006 (Kregel 2008), up from 5 per cent in 1994. Subprime loans were supposed to be loans provided to borrowers who did not meet the credit standards for borrowers in the prime market. They were generally more expensive than traditional loans, bearing higher interest rates. A category of these – subprime mortgages – were offered to borrowers supposed to have inadequate income or credit histories to qualify for regular housing loans. Again, interest rates were higher than for normal loans.

As with women entrepreneurs, it turns out that women home purchasers were also offered worse terms than male counterparts by their banks. Women were disproportionately granted the higher interest, worse termed subprime loans.<sup>19</sup> While women borrowers composed 30 per cent of all outstanding loans they held nearly 39 per cent of subprime loans; women were 32 per cent more likely to receive subprime mortgages than men; and women were 41 per cent more likely than men to receive higher-cost subprime loans, bearing interest rates more than 5 percentage points higher than comparable US Treasury notes (Fishbein and Woodall 2006).

**‘People try things with women that they just don’t try with men.’**

Ruthell<sup>20</sup>

As was the case regarding women entrepreneurs, attempts to make this a demand rather than a supply-side problem – to blame the borrower, or claim women are worse credit risks or earn too little – are unconvincing. Rather than of being worse credit risks, it turns out that on average women have slightly higher credit scores than men – average scores, according to credit-rating company Experian of 682 compared to 675 – and have similar credit usage rates (Fishbein and Woodall 2006). Even where men and women had roughly the same credit score, women were 32 per cent more likely to be given subprime loans than men (ibid).<sup>21</sup> Moreover, women were disproportionately sold subprime mortgages even when they could have qualified for lower-cost loans (Brown 2010). Even women in metropolitan areas making more than double the median income were sold subprime mortgages (Sarto 2010, Sen 2010).

Again, the problem seems to lie with the lenders, the suppliers of credit. And again it seems that discrimination is at play, discriminatory behaviour that would seem to be in breach of equality legislation. In one case, *US v Delta Funding Corporation*, the lender’s policies and practices constituted discrimination on the basis of race and sex in violation of the Fair Housing Act and the Equal Credit Opportunity Act.<sup>22</sup> Several other lenders have

---

18 See for example Fishbein and Woodall 2006, Sarto 2010, NCRC et al 2006

19 See note 18 above

20 Quoted at [http://www.theinvestigativefund.org/investigations/economiccrisis/1203/in\\_subprime\\_fallout\\_women\\_take\\_a\\_heavy\\_hit](http://www.theinvestigativefund.org/investigations/economiccrisis/1203/in_subprime_fallout_women_take_a_heavy_hit)

21 Cited at <http://gbr.pepperdine.edu/2010/08/women-the-recession-and-the-impending-economic-recovery/>

22 United States District Court for the Eastern District of New York, 2000: <http://www.justice.gov/crt/about/hce/documents/deltacomp.php>.

Legislative breaches are summarised at para 20:

Discrimination on the basis of race and sex in making available residential real estate-related transactions in

now settled court cases against them for allegedly subjecting female borrowers to worse interest rates and higher points than similarly situated male borrowers.<sup>23</sup>

However, the case of subprime discrimination is not only one of discrimination by lenders against women home purchasers. Recent research in the US as well as my own in the UK identifies a subset of women seeking mortgages who are singled out for discriminatory lending practices by lenders: pregnant women and women on maternity leave.

### Discrimination against mothers seeking mortgages in the US

There are reportedly now over 200 cases in the US of women whose mortgage loan applications were turned down when the bank found out they were pregnant or on maternity leave (Bernard 2010).<sup>24</sup> Other cases involve lenders telling mothers-to-be and new mothers not to apply for loans once they know them to be pregnant.

Take the case of Elizabeth Budde, a 34-year-old oncologist in Kenmore, Washington. Dr Budde was initially approved a mortgage by Cornerstone Mortgage. She was informed via email that she was approved for a loan, but that email prompted an 'out of office' reply from her work account which said she was on maternity leave. The next day she received a second email, this time denying her loan approval.

Not all cases follow exactly the same lines. There is the case of a woman in Pennsylvania who was asked about her 'family planning' when applying for a home mortgage (Sherwin and Leveille 2010). Others involve lenders calculating how much they will lend and what payments will be on the basis of a woman's lower (temporary) maternity income rather than her regular income (ibid, Zant 2009), or lenders insisting that pregnant women or women who have just given birth must be back at work before they can get a loan (Rogers 2009).

**'To qualify for our mortgage, Wells Fargo told us we had to write a "motivational letter" explaining why we wanted the house, and discussing, among other things, our family planning.'**

Linda<sup>25</sup>

What all these cases have in common is that they are discriminatory – women are being targeted just because they are women – and that they are most likely unlawful.<sup>26</sup> The

---

violation of section 805 of the Fair Housing Act;  
Discrimination against applicants with respect to credit transactions, on the basis of race and sex in violation of the Equal Credit Opportunity Act.

23 See [http://ww2.gazette.net/stories/05112009/businew165411\\_32543.shtml](http://ww2.gazette.net/stories/05112009/businew165411_32543.shtml) concerning the case of First Mariner Bank of Baltimore.

24 MomsRising, a group that advocates for equitable treatment of mothers, has received 200 reports of alleged discrimination from credit applicants because they were on or scheduled to begin maternity leave. See [http://www.washingtonpost.com/realestate/pregnancy-maternity-leave-vex-lenders/2011/06/06/AGYm2wOH\\_story.html](http://www.washingtonpost.com/realestate/pregnancy-maternity-leave-vex-lenders/2011/06/06/AGYm2wOH_story.html)

25 Quoted at <http://abcnews.go.com/Business/wells-fargo-mortgage-loan-application-raises-questions/story?id=11488296>

26 Such practices are likely to be in breach of the Fair Housing Act, which prohibits discriminatory lending based on sex, disability and family status, including pregnancy or simply having children, among other things. (See [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/FHLaws/yourrights](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights) for an explanation of the Act.)

It's against human rights law in New York to discriminate based solely on a medical condition, such as a pregnancy, said New York State Division of Human Rights deputy commissioner for external relations James Mulvaney. State law mirrors the Fair Housing Act prohibition against discrimination in lending based on gender or familial status, including pregnancy. However, Mulvaney said that while a lender's fear of the would-be borrower not going back to work is not enough to issue a denial but that doesn't give the borrower

mortgage company involved in Dr Budde's case has now settled the case,<sup>27</sup> while the Department of Housing and Urban Development is currently investigating several similar complaints from prospective borrowers involving other lenders.<sup>28</sup>

Such discriminatory behaviour towards pregnant women and women on maternity leave is not just confined to the US, however. My research has uncovered numerous cases of mortgage lenders discriminating against pregnant women and women on maternity leave in the UK as well.

### Discrimination against mothers seeking mortgages in the UK

My UK research is based on self-reported incidences of discrimination by lenders on social media sites, predominately mumsnet.com and moneysupermarket.co.uk. Where possible, I contacted the mothers after reading their posts and asked follow-up questions. I am basing my analysis on 20 such case studies of women experiencing discrimination between January 2009 and July 2011.

The UK cases I have identified follow a similar pattern to those in the US. Within the sample are cases of women who were refused mortgages when the lender found out that they were pregnant, women being told that their salaries wouldn't be taken into account for mortgages now that they were pregnant – in some cases, even before they had taken any maternity leave at all – and of women already on maternity leave being told that their usual salaries would not be considered for their application, even when the women in question were significant wage earners.

**'I just felt so angry that I could be discriminated against in this way.'**

Caroline

Like in the US, this doesn't seem to be a problem perpetuated by any particular lender. Participants in my research identified a range of banks and major lenders, many of them household names.<sup>29</sup> And again, as in the US cases, it is likely that such behaviour by these banks is unlawful.

In one example, Alison was told by one major lender that they wouldn't even consider including any portion of her salary, even though the existing mortgage was in her sole name and her full-time salary was three times that of her husband. Nancy, who was dealing with a popular high-street bank, was told that her salary wouldn't be taken into

---

blanket protection to not be working. The US Department of Housing and Urban Development (HUD) stressed that a pregnant woman must still demonstrate her intention to return to work and meet income and credit requirements to qualify for a loan.

27 'A mortgage company has agreed to settle a federal complaint that accused it of discriminating against women on maternity leave. The company will set aside \$750,000 to compensate any women who may have been affected, while paying at least one woman \$15,000 (Bernard 2011).

28 And it's not just lenders who are engaging in discriminatory practices. The US Department of Justice is currently suing the Mortgage Guaranty Insurance Corporation (MGIC), the nation's largest mortgage insurance company, and two of its underwriters, Elgina Cunningham and Kelly Kane, for violating the Fair Housing Act by requiring women on paid maternity leave to return to work before the company would insure their mortgages. In one of the cases the department is pursuing, a Pennsylvania family was denied their application for mortgage insurance unless and until the wife returned to work from maternity leave. According to the HUD's complaint, MGIC wrote an email on or about 26 July 2010 summarising the status of the family's loan: 'rec'd updated bank statements along with email from Borrower that states she is on maternity leave ... notifying her that we cannot proceed until borrower is back to work full-time.' See <http://www.realestaterama.com/2011/06/01/hud-acts-against-pregnancy-discrimination-in-home-mortgages-ID09205.html>

29 It should be noted that the banks named were named in social media fora by women and/or in further correspondence with the author. The author has not been in contact with the banks directly.

account because she was on maternity leave, even though she earned significantly more than her husband.

Nor did lenders seem to care that a woman clearly stated that she intended to return to work after a period of maternity leave. Helen, a corporate lawyer of 12 years, who applied six months into a 12-month maternity leave period to extend her mortgage so that she could move house was told by the lender (the same as in Alison's case) that they couldn't consider her salary 'in case she didn't return to work'. This is despite her having informed them that she fully intended to return to work – as indeed she eventually did. In her case, Nancy was told by the bank that they could not take her salary into account because 'they could not be sure that she was going to go back and may therefore default'.<sup>30</sup>

This gender stereotyping – the presumption that women will take on the role of primary family care-giver and so not return to work once their maternity leave has ended – is not borne out by the evidence. Most mothers work. On average, British women return to work after taking six months' maternity leave (House of Commons 2007, Smeaton and Marsh 2006). Women who have a mortgage cite this as a reason for returning to work quickly (Smeaton and Marsh 2006). In the US, most working mothers work full-time: 74 per cent in 2009 (Parker 2009). While of the 68 per cent of British mothers who work, only 38 per cent are employed part-time (ONS 2008), although another third take advantage of flexi-time possibilities in the workplace. Moreover, while it is true that in some cases women's incomes do fall after they give birth, this is by no means a universal truth. Instead, whether or not a woman's income falls after giving birth typically depends on her socioeconomic status and education. Certain groups such as single mothers see their incomes rise by 50 per cent between the ages of 25 and 30 (ONS 2005).<sup>31</sup>

**'I found it really insulting that they thought I would be so stupid as to take out a mortgage and then leave my job if I needed my job to be able to pay.'**

Nancy

By denying women mortgages on the basis of stereotypical assumptions, banks are treating women unfavourably on the basis of sex and/or maternity which, under the Equality Act, amounts to direct discrimination.

A parallel can be drawn here with the recent European Union case on sex discrimination in the context of insurance. The judgment held that it is unlawful for insurance companies to use sex as a determinant for its premiums and benefits – male drivers cannot be charged higher costs due to their sex even if male drivers as a whole are deemed to be a riskier group than female counterparts.<sup>32</sup> The implication of the case is that individuals should not be unfairly treated based upon generalised assumptions about groups with which they share an innate characteristic, such as sex. It should also be noted that, through international human rights law, the UK government is under a legal duty to eliminate

30 All names of women have been changed to protect their identity. Bank responses are as recalled by the women from their conversations with lenders.

31 Longitudinal research has found that the assumption that women's earnings are negatively affected by childrearing holds quite strongly for women with lower levels of educational attainment (in the form of qualifications), for instance, for whom earnings can be halved after childbirth. However, women with higher educational qualifications do not suffer in the same way. See Joshi 1999 and Davies et al 2000.

32 *Association belge des Consommateurs Test-Achats ASBC and Others v Conseil des Ministres*, Court of Justice of the European Union, Case C-236/09



prejudices and practices based on ‘stereotyped roles for men and women’ and investigate allegations of such practices with due diligence (United Nations 1979: art 5(a)).

**‘I have never come against discrimination like this before, it was as if I had gone back in time.’**

Kate

I discovered another category of cases which merit a separate discussion. In one example, Stephanie was rejected by the lender (the same serial offender as was involved in the cases of Alison and Helen) because her income would ‘drop too low while on maternity leave’; another bank told her the same thing when she later applied there.

While at first glance such lending decisions by banks might be considered admissible – banks could claim that they are basing these decisions on the women’s ability to pay, and maternity pay involves a temporary reduction in salary, as opposed to any of the protected characteristics of sex, pregnancy or maternity – it should be questioned whether men with pregnant partners would be asked similar questions regarding future cuts to household income due to parenthood. If they are not, the situation does indeed become discriminatory.

**‘It really made me feel like a second-class citizen, they were not interested in my financial planning at all.’**

Hannah

Take one bank’s explanation of why Rebecca was denied a mortgage. Apparently it was because ‘having a baby is an unquantifiable expense’ meaning that Rebecca would be ‘unable to work out if she could afford it’. This may sound acceptable until one asks whether this would ever be given as the reason to deny a man a mortgage application. Indeed, there are no cases that I have managed to find of men expecting babies being denied mortgages. This is despite the fact that, like mothers, fathers too can have their working lives affected by a child: on the birth of a child, 71 per cent of fathers make some adjustment in the length, timing and regularity of hours worked, some even change jobs (Smeaton and Marsh 2006).

The bank’s behaviour in this case therefore seems to be direct discrimination. They treat Rebecca worse because she is the mother of the baby rather than the father. It’s as if the lender assumed that only the mother expected the baby, whereas of course the father did too. (The bank was not in any way unique in this regard: other lenders also made similar assumptions.) The reality is that no one can calculate with complete certainty future expenses and anyone, regardless of gender, can resign from their job at any time once their mortgage has been approved. In fact, this is precisely what Nancy’s husband did once their application had been approved (with a different lender) – Nancy told me: ‘For the record, my husband left his job and set up his own company two months after our mortgage was approved.’ Nancy herself is still employed.

It is worthwhile making a broader point here regarding the system of parental leave in the UK and the impact this has on women’s ability to access mortgages after childbirth. Although the current government plans to increase the amount of paternity leave that a man can take, the fact is that the vast majority of parental leave available to parents accrues solely to the mother. Not only does this make the assumption that women will be the primary care provider for their children but, with childcare being expensive and

parents often needing to take the maximum amount of parental leave available, the system also pushes families to make this assumption a reality. As a result, women will disproportionately be affected by a bank's decision to judge a person's ability to pay their mortgage on their maternity or paternity salary, as they will be more likely than men to take longer periods of parental leave. This is an instance of structural sex discrimination that violates human rights to which the UK has signed up to. For example, CEDAW requires states to recognise 'maternity as a social function' with the 'upbringing and development' of children a 'common responsibility of men and women' (United Nations 1979: art 5(b)).

## 4. ANALYSIS AND RECOMMENDATIONS

Taken individually, each of these three cases – banks discriminating against women entrepreneurs, banks discriminating against women borrowers through subprime loans and mortgages, and banks discriminating against pregnant women and women on maternity leave – is disturbing. Each suggests evidence of discriminatory behaviour towards a particular group of women, based on biases against women simply because they are women.

**‘I was so angry and frustrated with the unfairness, more on the principle of the issue and how it could impact other women as well.’**

Caroline

Taking all three together it is hard not to conclude that the research suggests a pattern of widespread institutionalised discrimination by lenders against women borrowers, one that is manifest in a number of ways and may be more or less severe in different countries, but which up until now has not been systematically investigated. This is the first piece of research to train a focus on pregnant women and women on maternity leave.

That banks could today be discriminating in a variety of ways against women should not come as a complete shock. The president of the American Bankers Association stated in 1973 that ‘banks along with the rest of the credit industry do in fact discriminate against women’ (cited in Peterson 1981). And indeed banks have historically discriminated against women: in the US, banks deemed single women to be poor credit risks up until the 1968 Fair Housing Act, and until 1974 – when the Equal Credit Opportunity Act became law – demanded that women have a co-signor to become mortgage borrowers. In the UK, bank managers were, prior to the Sex Discrimination Act 1975, legally able to turn down a woman’s loan request for the reason that they did not believe women were a good risk, and did just that (Hertz 1986).

In the absence of clear legislation and commitment to enforce it, discrimination is the default. To begin to fill this void, I propose the following measures.

### **1. Make lenders aware of biases and stereotyping**

While it is possible that the discrimination that we are seeing is structural – more a consequence of bank policy and procedure rather than the state of mind of an individual loan officer – gender stereotyping on the part of lenders is undoubtedly playing a significant role (Carter et al 2007). Mental maps are undoubtedly underpinning such decisions that are built upon a series of stereotypes and assumptions which overlap and reinforce each other, and reflect wider societal norms. As noted above, Buttner and Rosen (1988) found that characteristics of successful entrepreneurs were more frequently attributed to men than to women by bank loan officers, which suggests that gender stereotypes may influence bank lending. Stevenson (1986) found that women have been denied access to capital because they have traditionally and historically been confined to domestic roles. Carter et al (2007) found evidence of loan officers who were more likely to question female applicants whether they had undertaken sufficient research into their business than male applicants. Orhan (2001) found evidence of women being denied loans because ‘women may not fit the “stereotype” entrepreneur profile: assertive, competitive, self-confident, experienced’. A recent University of Utah study found similar biases among MBA students: when 222 MBA students were asked to evaluate start-ups led by male founders versus female ones they evaluated the women led ones as less attractive investments than the male-led alternatives, despite the firms’ financial situations being identical (Wuebker and Bigelow 2011).

Acknowledging and then challenging these stereotypes is a necessary first step for banks themselves. As Cook and Cusack (2010) state: 'Naming a gender stereotype, identifying its form and exposing its harm are critical to making it recognisable and therefore legally cognisable.'

## **2. Make the reporting of lending decisions by gender mandatory**

Potentially at play here is a lack of transparency about lending practices. Banks do not have to report their lending decisions by gender – which means that such patterns may not even be known by the lenders themselves, let alone actively interrogated or addressed. Demanding that banks reveal gender breakdowns of lending ratios – applicants-to-approvals or interest rates charged for women versus men – would potentially affect decisions made.<sup>33</sup> In the US, the Federal Reserve has created a screen for race-based pricing disparities.<sup>34</sup> It should create a similar schema for gender-based ones, and other countries should be expected to follow suit, with banks that are now fully or partially state-owned being asked to take the lead.

## **3. Launch an investigation into discrimination**

Once cases of discrimination are identified, there must be a willingness on the part of authorities both to investigate these and also to seek others out. In the US, a governmental investigation was initiated after the reports in 2010 that banks were denying mortgages to pregnant women and women on maternity leave. In light of my preliminary findings presented here, a similar investigation is needed in the UK.

Undoubtedly, cases of direct discrimination are easier to prove than those of indirect discrimination. However, the governmental inquiry should also investigate such instances. In part this would act as an awareness-building exercise, so that banks can better understand how their policies might inadvertently affect women – even if discrimination itself is difficult to prove, simply mentioning the possibility of indirect discrimination will be a warning signal to some and could work to force change. It is also important because specific policy recommendations would result from the identification of widespread cases of indirect discrimination.

## **4. Prove willing to prosecute**

Banks must also recognise that when discrimination is at play governments will prosecute. The US government has by now taken a number of lenders to court for discriminatory lending practices against women. The US Department of Justice has filed several lawsuits against lenders for unfair lending over the past decade. We need similar action elsewhere too. For, in the absence of prosecutions, banks may well feel that they can continue such behaviour unchallenged. Lenders must see that regulators will take the necessary steps to ferret out unlawful discriminatory treatment.

In the case of banks that were partly or fully nationalised in the wake of the 2008–09 financial crisis, it is possible that additional legal obligations may hold. In the UK, the government now owns a significant stake in Lloyds Banking Group and Royal Bank of

---

<sup>33</sup> More generally, dissatisfaction has been expressed with the failure of banks to provide greater transparency about their lending practices, and there have been calls for the establishment of a more robust system to monitor this. The Bank of England has consulted on the introduction of statutory monitoring for banks' lending practices, which would include more detailed categories of information on lending by monetary financial institutions to the private sector (to individuals and non-financial businesses). See EEF 2011, Bank of England 2010.

<sup>34</sup> See <http://www.ffiec.gov/hmda/>.

Scotland, and fully owns Northern Rock.<sup>35</sup> It is possible that it could be argued that these banks should have to adhere to the Public Sector Equality Duty, as the Bank of England does.<sup>36</sup> Were this to be so, they would, broadly speaking, have a responsibility to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. They would also need to take steps to meet the needs of people from protected groups where these are different to those of other groups, and remove or minimise disadvantages suffered by people due to their protected characteristics. ‘Pregnancy and maternity’ and ‘sex’ are all protected characteristics (EHRC 2011: 4–5). Were this legislation to apply to them, banks could also be required to conduct equality impact assessments, a form of statutory monitoring, which would require them to amend their practices if they were found to negatively impact on particular social groups with protected characteristics (EHRC 2009).

## 5. Encourage women to come forward

Women need to be encouraged not only to come forward with their stories but also to take action. At present, cases may not be being brought because women feel that if they do they will hurt their own reputation, either when it comes to subsequent attempts to earn and/or borrow money or in their lives more generally. Participating in my research, Helen wrote that the reason she did not want to go public with her experiences was because she ‘didn’t want to be considered a troublemaker’. That the negative ramifications of filing a discrimination suit constitute a reason women do not press charges is something we have also seen in discrimination cases in the workplace.

But cases can also not be being brought for other reasons, such as a feeling by women that their case is too difficult or complex to prove or a lack of awareness that what they are experiencing is discrimination. Under its obligation to fulfil human rights, the government has a responsibility to raise awareness among women as to what their rights are and how to claim these through the courts.<sup>37</sup>

And funds need to be available to enable women to take on such cases. One of my respondents, Alison, wrote: ‘I tried to contact a few legal aid solicitors’ but was told ‘they do not take “consumer” cases and will only pursue discrimination in employment.’ The difficult question remains: who will fund such cases, especially at a time when cuts in legal aid are being planned?<sup>38</sup>

## 6. Provide guidance to banks

Finally, there is, at present, no guidance to banks on how to provide mortgage services to pregnant women and women on maternity leave. The Financial Services Authority – the UK’s financial regulator – has issued no guidelines on this issue and its handbook makes no mention of pregnancy or maternity at all. This needs to be addressed in order to stop the somewhat ad hoc and arbitrary treatment by lenders of women that we have seen in the cases discussed here, and to prevent unwittingly discriminatory decisions being made.

---

35 The UK government owns 43 per cent of Lloyds Banking Group – which remains in the private sector – and has 83 per cent economic ownership of the Royal Bank of Scotland, owning 68 per cent of ordinary shares, but the bank itself remains nominally independent of the government. Northern Rock was nationalised in February 2008.

36 According to the Equality Act 2010: sch 19: <http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/Schedule-19>

37 The Beijing Declaration and Platform for Action written at the Fourth United Nations World Conference on Women (1995), of which both the US and UK are signatories, states that governments should ‘develop a comprehensive human rights education programme to raise awareness among women of their human rights and raise awareness among others of the human rights of women’ (para 230(f)).

38 Whereas a person with disposable assets of less than £8,000 currently qualifies for legal aid, there are plans to reduce this amount to £1,000. Such changes will undoubtedly have an impact on the number of discrimination cases that are able to go to court.

## 5. CONCLUDING THOUGHTS

Taken together, the evidence of discrimination against businesswomen by banks and the unfair and unlawful denial of fair access to mortgages on the basis of pregnancy or maternity leave paints a bleak picture of present day gender inequality in access to credit and financial services. It is a picture that seems to be based on stereotypes about women as inevitable primary care-givers to children and secondary earners and one which plays into discursive norms of the undervaluing of women.<sup>39</sup> Banks are effectively forcing women back into the reproductive sphere and the home.

Moreover, it seems that there may be *increasing* evidence of discrimination against women by banks in their capacity as lenders, that banks may be misusing the mechanisms of stricter 'quality control' on lending introduced in the wake of the financial crisis to justify discriminatory decisions. The very mechanisms designed to ensure better treatment of lenders by banks may actually be being used as cover for worse treatment of a particular group – women.

If this is indeed the case, such tighter lending practices towards women must be stamped out immediately. For if banks are tightening the credit lines for women at this time they risk making a group within society who are already disproportionately suffering from the recession – women – even worse off, and bereft of even more opportunities. This cannot be allowed to happen, as the consequences of limiting women's access to credit and finance, at home or in business, are negative not only for women themselves but for the societies and economies in which they live and work.

My hope in writing this paper is that such discrimination that exists is stamped out and that banks and government take note, that the spotlight is put on the lending practices of banks towards women, the scale of the problem is investigated, and that appropriate action is taken by regulators, governments, women who have been discriminated against and, of course, by banks themselves. And I hope that I have made clear in this paper how stringent are the legal obligations upon banks and governments to do just that.

In conducting this research, I was also made aware of how much more work is needed on this subject. A literature review of the current academic work on gender discrimination by banks highlighted a complete lack of scholarly work on the issue of banks discriminating against pregnant women and women on maternity leave. My final hope, therefore, is that with this piece of work I have gone some way towards addressing that gap – and that others will swiftly follow.

---

<sup>39</sup> Worryingly, these sentiments have recently been echoed within the UK government with Steve Hilton, senior adviser to David Cameron, stating that maternity leave should be abolished – implying that motherhood and employment are mutually exclusive activities.

## Bibliography

- Agier I and Szafarz A (2011) *Credit to Women Entrepreneurs: The Curse of the Trustworthier Sex*, working paper CEB 11-005, Brussels: Universite Libre de Bruxelles
- Alesina A, Lotti F and Mistrulli P (2008) *Do Women Pay More for Credit? Evidence from Italy*, NBER working paper no 14202, Cambridge, MA: National Bureau of Economic Research. <http://www.nber.org/papers/w14202>
- Alsos G, Isaksen E and Ljunggren E (2006) 'New Venture Financing and Subsequent Business Growth in Men-and Women-Led Businesses', *Entrepreneurship Theory and Practice*, 30: 667–686
- Bank of England (2010) *Consultation: Proposal for Statutory Collection of 'Bank Lending Monitoring' Data*. <http://www.bankofengland.co.uk/statistics/Reporters/snotice/PDF/2010/Documents/Consultation300710.pdf>
- Barber B and Odean T (2001) 'Boys will be boys: Gender, overconfidence, and common stock investment', *Quarterly Journal of Economics*, 116(1): 261–292
- Bates T (1997) 'Unequal access: Financial institution lending to black- and white-owned small-business start-ups', *Journal of Urban Affairs*, 19: 487–495
- Bernard T (2010) 'Seeking A Mortgage? Don't Get Pregnant', *New York Times*, 19 July 2010. [http://www.nytimes.com/2010/07/20/your-money/mortgages/20mortgage.html?\\_r=1](http://www.nytimes.com/2010/07/20/your-money/mortgages/20mortgage.html?_r=1)
- Bernard T (2011) 'Mortgage Company Settles Maternity Leave Case', *New York Times*, 31 May 2011. <http://www.nytimes.com/2011/06/01/your-money/mortgages/01mortgage.html>
- Bird B and Brush C (2002) 'A gendered perspective on organization creation', *Entrepreneurship Theory and Practice*, 26(3): 41–65
- Blackburn B (2011) 'Women Lag Behind Men in Economic Recovery', ABC News, 21 March 2011. <http://abcnews.go.com/US/unemployment-recession-men-return-work-women-left-economic/story?id=13185406>
- Blanchflower D (2008) *Minority self-employment in the United States and the impact of affirmative action programs*, NBER working paper no 13972. <http://www.nber.org/papers/w13972>
- Blanchflower D, Levine P and Zimmerman D (2003) 'Discrimination in the small-business credit market', *Review of Economics and Statistics*, 85: 930–943
- Brau J (2002) 'Do banks price owner-manager agency costs? An examination of small business borrowing', *Journal of Small Business Management*, 140(4): 273–286
- Brown C (2010) *Women and Subprime Lending: An Essay Advocating Self-Regulation of the Mortgage Lending Industry*, UNC Legal Studies research paper no 1939839, Chapel Hill, NC: School of Law, University of North Carolina. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1939839](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1939839)
- Buttner E and Rosen B (1988) 'Bank loan officers' perceptions of the characteristics of men, women, and successful entrepreneurs', *Journal of Business Venturing*, 3(3): 249–258
- Carter S and Shaw E (2006) *Women's Business Ownership: Recent Research and Policy Developments*, London: Department for Trade and Industry
- Carter S, Shaw E, Lam W and Wilson F (2007) 'Gender, Entrepreneurship and Bank Lending: The Criteria and Processes Used By Bank Loan Officers in Assessing Applications', *Entrepreneurship Theory and Practice*, 31(3): 427–444

- Cavalluzzo K and Wolken J (2002) 'Small business loan turndowns, personal wealth and discrimination', finance and economics discussion series 2002-35, Washington, DC: Board of Governors of the Federal Reserve System
- Centre for Enterprise and Economic Development Research [CEEDR] (2001) *Young, Women, Ethnic Minority and Co-Entrepreneurs, final report*, Middlesex: Middlesex University
- Coate S and Tennyson S (1992) 'Labor Market Discrimination, Imperfect Information and Self-Employment', *Oxford Economic Papers*, 44(2): 272–288
- Coleman S (2000) 'Access to Capital and Terms of Credit: A Comparison of Men- and Women-Owned Small Businesses', *Journal of Small Business Management*, 38(3): 37–52
- Cook R and Cusack S (2010) *Gender stereotyping: transnational legal perspectives*, Philadelphia: University of Pennsylvania Press
- Davies H, Joshi H and Peronaci R (2000) 'Forgone income and motherhood: what do recent British data tell us?' *Population Studies*, 54(3): 293–305
- DG Enterprise and Innovation [DGEI] (2008) *Evaluation on policy: promotion of women innovators and entrepreneurs*, Brussels: European Commission
- EEF (2011) 'Industry growing impatient as bank lending targets don't go far enough', press release, undated. <http://www.eef.org.uk/policy-media/releases/uk/2011/Industry-growing-impatient-as-Bank-lending-targets-dont-go-far-enough.htm>
- Equality and Human Rights Commission [EHRC] (2009) *Equality Impact Assessment Guidance*. [http://www.equalityhumanrights.com/uploaded\\_files/eiaguidance.pdf](http://www.equalityhumanrights.com/uploaded_files/eiaguidance.pdf)
- Equality and Human Rights Commission [EHRC] (2011) *The Essential Guide to the Public Sector Equality Duty*. [http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/PSED/essential\\_guide\\_guidance.pdf](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/essential_guide_guidance.pdf)
- European Commission [EC] (2000) 'Benchmarking Enterprise Police, First Results from the Scoreboards', staff working document, Brussels: EC
- European Commission [EC] (2011) 'Female entrepreneurship, a key resource for Europe', *Enterprise and Industry* magazine online, 10 March 2011. [http://ec.europa.eu/enterprise/magazine/articles/smes-entrepreneurship/article\\_10986\\_en.htm](http://ec.europa.eu/enterprise/magazine/articles/smes-entrepreneurship/article_10986_en.htm)
- Fabowale L, Orser B and Riding A (1995) 'Gender, structural factors, and credit terms between Canadian small businesses and financial institutions', *Entrepreneurship Theory and Practice*, 19: 41–65
- Fishbein A and Woodall P (2006) *Women are Prime Targets for Subprime Lending: Women are Disproportionately Represented in High-Cost Mortgage Market*, Washington: Consumer Federation of America. <http://www.consumerfed.org/pdfs/WomenPrimeTargetsStudy120606.pdf>
- Fraser S (2005) *Finance for small and medium sized enterprises: A report on the 2004 UK survey of SME finances*, Coventry: SME Centre, University of Warwick
- Gatewood E, Brush C, Carter N, Greene P and Hart M (2004) *Women Entrepreneurs, Growth, and Implications for the Classroom*, Coleman Foundation white paper series, United States Association for Small Business and Entrepreneurship. [http://usasbe.org/knowledge/whitepapers/2004\\_Coleman\\_Gatewood-et-al.pdf](http://usasbe.org/knowledge/whitepapers/2004_Coleman_Gatewood-et-al.pdf)
- Haynes P and Helms M (2000) 'A Profile of the Growing Female Entrepreneur Segment', *Bank Marketing*, 32(5)



- Headd B (2003) 'Redefining Business Success: Distinguishing Between Closure and Failure', *Small Business Economics*, 21(1): 51–61
- Henry C and Kennedy S (2003) 'In search of a New Celtic Tiger – female entrepreneurship in Ireland' in Butler J (ed) *New Perspectives on Women Entrepreneurs*, Charlotte, NC: Information Age Publishing
- Hertz L (1986) *The Business Amazons*, London: Andre Deutsch
- House of Commons (2007) *Hansard*, written answers, 16 July 2007, col 50W. <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070716/text/70716w0011.htm>
- Huang J and Kisgen D (2009) *Gender and Corporate Finance*, working paper. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1263990](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1263990)
- Jamali D (2009) 'Constraints and Opportunities Facing Women Entrepreneurs in Developing Countries: A Relational Perspective', *Gender in Management: An International Journal*, 24(4): 232–251
- Jianakoplos N and Bernasek A (1998) 'Are women more risk averse?' *Economic Inquiry*, 36(4): 620–630
- Joshi H (1999) 'Who Bears the Cost of Britain's Children in the 1990s?' discussion paper 27/99, London: Birkbeck College
- Kregel J (2008) *Changes in the U.S. Financial System and the Subprime Crisis*, Levy Economics Institute working paper no 530. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1123937](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1123937)
- Llussá F (2009) *Financial Development, Gender and Entrepreneurship*, Massachusetts Institute of Technology Engineering Systems Division working paper no ESD-WP-2009-18, Cambridge, MA: MIT
- Magri S (2008) *Household Wealth and Entrepreneurship*, Bank of Italy working paper no 719, Rome: Bank of Italy. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1925361](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1925361)
- Marleau M (1995) *Double Standard: Financing Problems Faced by Women Business Owners*, Toronto: Canadian Federation of Independent Business
- McDowell L (2010) 'Capital Culture Revisited: Sex, Testosterone and the City', *International Journal of Urban and Regional Research*, 34: 652–658
- Muravyev A, Talavera O and Schäfer D (2009) 'Entrepreneurs' gender and financial constraints: Evidence from international data', *Journal of Comparative Economics*, 37(2): 270–286
- National Community Reinvestment Coalition [NCRC], The Opportunity Agenda, and Poverty and Race Research Action Council (2006) *Homeownership and Wealth Building Impeded: Continuing Lending Disparities for Minorities and Emerging Obstacles for Middle-Income Female and Borrowers of All Races*. <http://www.ncrc.org/images/stories/pdf/research/ncrc-oa-prrac%20report%204-06.pdf>
- National Organisation for Women (2011) 'Debt Ceiling A Blow to Women's Economic Security', press release, 1 August 2011. <http://now.org/press/08-11/08-01.html>
- Nyamu C (1999) 'Rural women in Kenya and the legitimacy of human rights discourse and institutions' in Quashigah E and Okafor O (eds) *Legitimate governance in Africa: international and domestic legal perspectives*, Martinus Nijhoff Publishers

- Nykvist J (2008) 'Entrepreneurship and liquidity constraints: evidence from Sweden', *Scandinavian Journal of Economics*, 110(1): 23
- Office for National Statistics [ONS] (2005) 'Individual Incomes: Median total income, 2003/4, Family Resources Survey', Department for Work and Pensions
- Office for National Statistics [ONS] (2008) 'Focus on Gender', statistical release, September 2008. <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-51144>
- Office for National Statistics [ONS] (2011) 'Labour market statistics', July 2011. <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/lms-july-2011/labour-market-statistics.pdf>
- Orhan M (2001) 'Women Business Owners in France: The Issue of Financing Discrimination', *Journal of Small Business Management*, 39(1): 95–102
- Orser B, Hogarth-Scott S and Riding A (2000) 'Performance, Firm Size, and Management Problem Solving', *Journal of Small Business Management*, 38(4): 42–58
- Parker K (2009) *The Harried Life of the Working Mother*, Washington: Pew Research Center. <http://pewresearch.org/pubs/1360/working-women-conflicted-but-few-favor-return-to-traditional-roles>
- Peterson R (1981) 'An investigation of sex discrimination in commercial banks' direct consumer lending', *Bell Journal of Economics*, 12: 547–561
- Pinelli M (2009) 'Scaling Up: Women-Owned Businesses Can Recharge The Global Economy', *Forbes* magazine, 17 December 2009. <http://www.forbes.com/2009/12/17/job-growth-creation-forbes-woman-leadership-small-business.html>
- Pruitt L (2009) 'Migration, development and the promise of CEDAW for rural women', *Michigan Journal of International Law*, 30(3)
- Quadrini V (2008) 'Entrepreneurship in macroeconomics', *Annals of Finance*, 5(3–4): 295–311
- Riding A and Swift C (1990) 'Women Business Owners and Terms of Credit: Some Empirical Findings of the Canadian Experience', *Journal of Business Venturing*, 5(5): 327–340
- Robb A (2002) 'Entrepreneurial Performance by Women and Minorities: The Case of New Firms', *Journal of Developmental Entrepreneurship*, 7(4): 383–397
- Rogers A (2009) 'Do I Have To Skip My Maternity Leave To Buy A House?' CBSMoneywatch.com, 13 May 2009. <http://moneywatch.bnet.com/saving-money/blog/ask-agent/do-i-have-to-skip-my-maternity-leave-to-buy-a-home/404/>
- Sarto J (2010) 'The Disproportionate Representation of Women in Subprime Lending: Cause, Effect, and Remedies', *Women's Rights Law Reporter*, 31(2/3), 337
- Scott J and Roper S (2009) 'Perceived Financial Barriers and the Start-up Decision: An Econometric Analysis of Gender Differences Using GEM Data', *International Small Business Journal*, 27(2): 149–171
- Sen M (2010) *Quantifying Discrimination: the role of race and gender in the awarding of subprime mortgage loans*. <http://qssi.psu.edu/files/sen.pdf>
- Sena V, Scott J and Roper S (2010) 'Gender, borrowing patterns and self-employment: some evidence for England', *Small Business Economics*. <http://tees.openrepository.com/tees/bitstream/10149/108544/2/108554.pdf>

- Sherwin G and Leveille V (2010) 'What Does Birth Control and a Bank Loan Have In Common?' American Civil Liberties Union Blog of Rights, blogpost, 26 October 2010. <http://www.aclu.org/blog/reproductive-freedom-womens-rights/what-does-birth-control-have-do-your-mortgage>
- Small Business Service (2006) *Annual Small Businesses Survey 2004*, London: Department for Business Innovation and Skills, 06/390
- Smeaton D and Marsh A (2006) *Maternity and Paternity Rights and Benefits: Survey of Parents 2005*, Department of Trade and Industry Employment Relations research series
- Stangler D and Litan R (2009) *Where Will The Jobs Come From?* Kansas City: Kauffman. [www.kauffman.org/uploadedFiles/where\\_will\\_the\\_jobs\\_come\\_from.pdf](http://www.kauffman.org/uploadedFiles/where_will_the_jobs_come_from.pdf)
- Stevenson L (1986) 'Against all odds: The entrepreneurship of women', *Journal of Small Business Management*, 24(45): 30–37
- Storey D (2004) 'Racial and gender discrimination in the micro firms credit market? Evidence from Trinidad and Tobago', *Small Business Economics*, 23: 401–422
- Stewart H (2011) 'UK unemployment jumps as economy falters,' *Guardian*, 17 August 2011. <http://www.guardian.co.uk/business/2011/aug/17/uk-unemployment-jumps-economy>
- Trades Union Congress [TUC] (2009) *Women and the Recession: How will this recession affect women at work?* <http://www.tuc.org.uk/extras/womenandrecession.pdf>
- Treichel M and Scott J (2006) 'Women-Owned businesses and access to bank credit: Evidence from three surveys since 1987', *Venture Capital*, 8(1): 51–67
- UK Women's Budget Group [UKWBG] (2010) *A gender impact assessment of the Coalition Government budget*. [http://www.wbg.org.uk/documents/WBG\\_Emergency\\_Budget\\_Response\\_June\\_2010.pdf](http://www.wbg.org.uk/documents/WBG_Emergency_Budget_Response_June_2010.pdf)
- UK Women's Budget Group [UKWBG] (2011) *The Impact on Women of Budget 2011*. [http://wbg.org.uk/RRB\\_Reports\\_7\\_282363355.pdf](http://wbg.org.uk/RRB_Reports_7_282363355.pdf)
- United Nations (1979) *The Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)
- United Nations (2005) *Improvement of the situation of women in rural areas*, report of the UN Secretary General, A/60/165
- United Nations (2009) *Improvement of the situation of women in rural areas*, report of the UN Secretary General, A/64/190
- Verheul I and Thurik R (2001) 'Start-Up Capital: "Does Gender Matter?"', *Small Business Economics*, 16(4): 329–345
- Vinnicombe S, Sealy R, Graham J and Doldor E (2010) *The Female FTSE Board Report 2010: Opening up the Appointment Process*, Cranfield School of Management. <http://www.som.cranfield.ac.uk/som/dinamic-content/news/documents/FemaleFTSEReport2010.pdf>
- Watkins J and Watkins D (1986) 'The Female Entrepreneur: Her Background and Determinants of Business Choice – Some British Data', in Curran J, Stanworth J and Watkins D (eds) *The Survival of the Small Firm*, Aldershot: Gower
- Watson J and Robinson S (2003) 'Adjusting for risk in comparing the performance of male and female controlled SMEs', *Journal of Business Venturing*, 18(6): 773–788

- Weeks J (2007) 'Mapping the "Missing Middle": Determining the Desire and Dimensions of Second-Stage Women Business Owners', Womenable. [http://www.womenable.com/userfiles/downloads/ResearchinBrief\\_Missing\\_Middle.pdf](http://www.womenable.com/userfiles/downloads/ResearchinBrief_Missing_Middle.pdf)
- Wheeler B (2011) 'David Cameron says enterprise is the only hope for growth,' BBC News, 6 March 2011. <http://www.bbc.co.uk/news/uk-politics-12657524>
- White House, The (2011) 'Startup America', webpage. <http://www.whitehouse.gov/issues/startup-america>
- Wilkinson A (2010) 'Can Female Entrepreneurs Save The Economy?' The Economist, Ideas Economy blog, 10 September 2010. <http://ideas.economist.com/blog/can-female-entrepreneurs-save-economy>
- Women's Enterprise Taskforce [WET] (2009) *Greater Return On Women's Enterprise*. [http://www.womensenterprisetaskforce.co.uk/growe\\_report.html](http://www.womensenterprisetaskforce.co.uk/growe_report.html)
- World Commission on the Social Dimension of Globalisation [WCSDG] (2004) *A fair globalisation: creating opportunities for all*, Geneva: International Labour Organisation
- Wuebker R and Bigelow L (2011) *Is Demography Destiny? Experimental Evidence of Gender Bias During Investor Evaluations of Founding Teams*, working paper. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1733112](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1733112)
- Zant U (2009) 'Applying for a Mortgage While on Maternity Leave', Associated Content blog, 1 October 2009. [http://www.associatedcontent.com/article/2209015/applying\\_for\\_a\\_mortgage\\_while\\_on\\_maternity.html?cat=25](http://www.associatedcontent.com/article/2209015/applying_for_a_mortgage_while_on_maternity.html?cat=25)

## APPENDIX

### SUMMARY OF HUMAN RIGHTS OBLIGATIONS

The most recent Human Rights Council resolution on the subject of gender discrimination acknowledges that ‘women’s inequality before the law has resulted in the lack of opportunities for women in ... economic participation’ and disparities in ‘financial services, including loans’. States are obligated under various human rights documents to eliminate such inequality:

- **Non-discrimination:** All states are obligated under customary international laws to ensure their citizens enjoy their human rights without distinction of any kind, including sex
- **Non-state actors:** States are responsible for protecting their citizens from infringements of their human rights at the hands of private organisations, including banks
- **Duty to investigate:** States are obliged to investigate, prosecute, punish and remedy violations of human rights, including those related to gender discrimination
- **Addressing stereotypes:** Signatories to CEDAW (UK, not US) must ensure that they take ‘all appropriate measures’ (art 5) to modify social and cultural practices based on gender stereotypes
- **Addressing maternity:** Signatories to CEDAW (UK, not US) must take ‘all appropriate measures’ (art 5) to ensure the recognition of maternity as a social function, with parenthood being the common responsibility of men and women. Policies that create a de facto situation where women are presumed or essentially forced into taking on the role of primary care provider would be in violation of this article.

The obligations above make it imperative for the US and UK to ensure that the discriminatory treatment described in this paper is comprehensively investigated and addressed.