

Equality Commission

FOR NORTHERN IRELAND

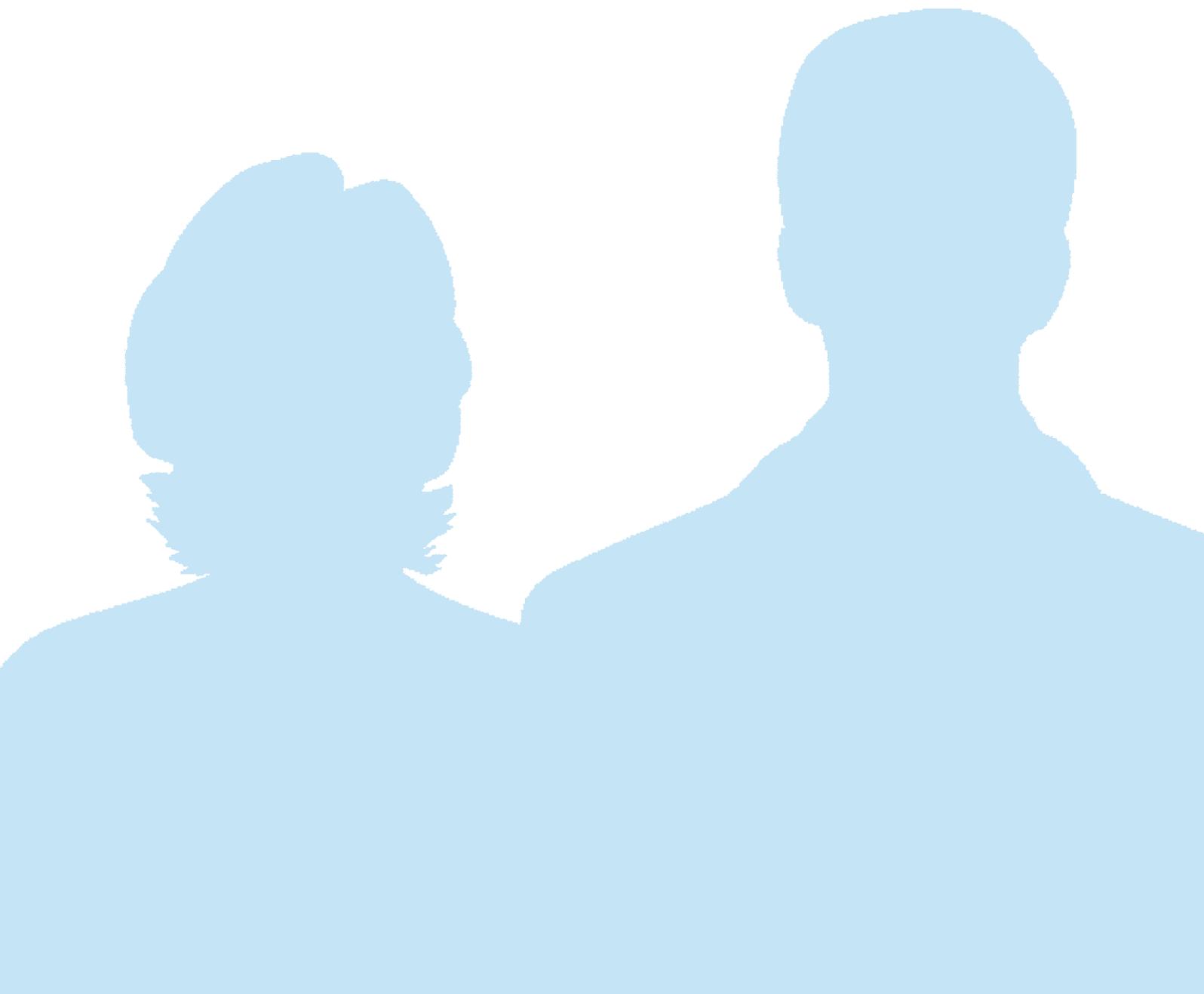
# Equal Pay Review Kit

**STEP BY STEP GUIDANCE**



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**STEP BY STEP GUIDANCE**



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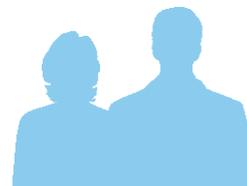
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# Acknowledgements

This equal pay review kit, is based upon the model developed by the Equal Opportunities Commission (GB). We are grateful for their permission to use it. We also thank EOC Wales and the Welsh Development Agency for contributions in respect of an approach to equal pay reviews for small organisations.

For helpful comments and support throughout the project, we would like to thank the Office of the First Minister and Deputy First Minister, NI Committee - Irish Congress of Trade Unions and the Labour Relations Agency.

Particular thanks are due to Lorraine Paddison, Peter Bennett and Sue Hastings of TMS Equality and Diversity Consultants.



# Equal Pay Review Kit

## Introduction

This Equal Pay Review Kit gives advice to employers and trade unions on good equal pay practice, in particular, how to carry out an equal pay review.

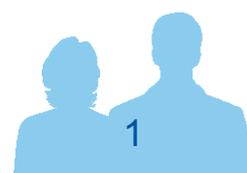
Pay is one of the key factors affecting motivation and relationships at work. It is important to develop pay arrangements that are right for the organisation and which reward employees fairly. Providing equal pay for equal work is central to the concept of rewarding people fairly for what they do.

Most employers and trade unions are firmly committed to equal pay - yet few organisations have reviewed their pay systems to ensure they are paying men and women equally for equal work. One of the barriers facing those organisations keen to undertake an equal pay review has been not knowing how to do so. The purpose of the Commission's Equal Pay Review Kit is to provide employers and trade unions with this 'know how'. The Kit builds on our earlier Code of Practice on Equal Pay. It comprises:

**Section One** sets out a brief description of each of the five steps in the Equal Pay Review Model. The paragraphs on the left of each page set out what you need to do and the boxed areas focus on some considerations of how and why you would do this, along with specific issues you should watch.

**Section Two** contains guidance notes on the following aspects of the review - the legal framework; data required; statistical analyses; job evaluation; estimating equal value; reviewing policies and practices.

Together the **model** and the **guidance notes** comprise the **Equal Pay Review Kit**.



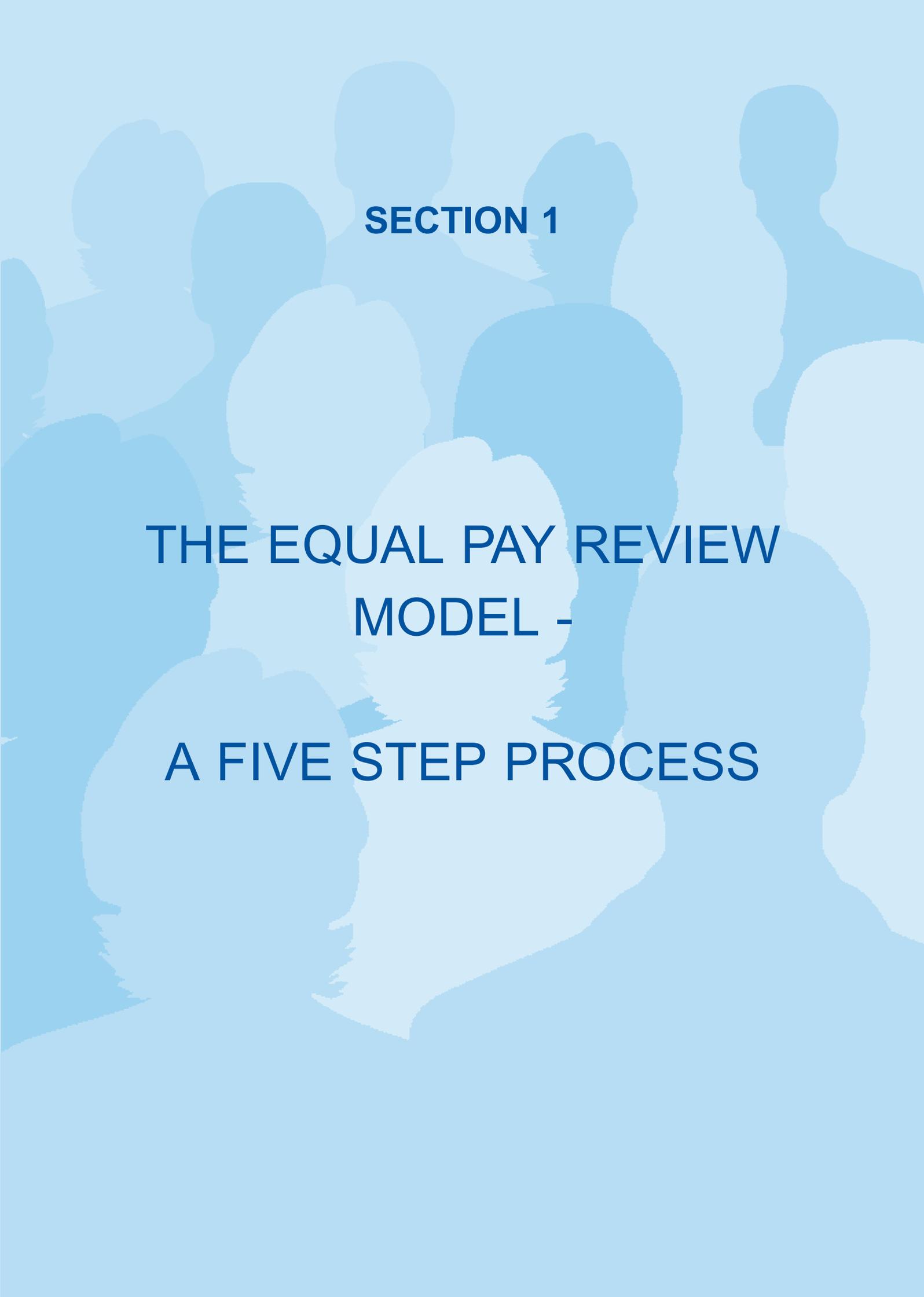
**Section Three** contains guidance for small organisations on conducting equal pay reviews. As the principles are the same irrespective of size of the organisation, small organisations are advised to read sections one and two before turning to section three.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be given by the courts. While employers are not required by statute to carry out an equal pay review, only an equal pay review can ensure that an organisation is providing equal pay.

It is important that employees know how their pay is arrived at. This is more likely to be achieved if the pay system is accepted both by employees, their trade union representatives and by the managers who operate the system. Employers should therefore aim to secure the involvement of employees and their representatives, and all levels of management, when carrying out an equal pay review.

Pay systems can be complex. We hope this Kit will give employers and trade unions the tools and confidence to work together to finally close the gender pay gap.





**SECTION 1**

**THE EQUAL PAY REVIEW  
MODEL -**

**A FIVE STEP PROCESS**

## **What is an equal pay review?**

An equal pay review involves comparing the pay of women and men doing equal work, investigating the causes of any gender pay gaps and closing any gaps that cannot be satisfactorily explained on grounds other than sex.

An equal pay review is concerned with an important, but narrow, aspect of sex discrimination in employment – unequal pay for equal work. It does not directly address other aspects of inequality, such as glass ceilings, but such aspects – which may well contribute to the overall gender pay gap – may be highlighted by the review.

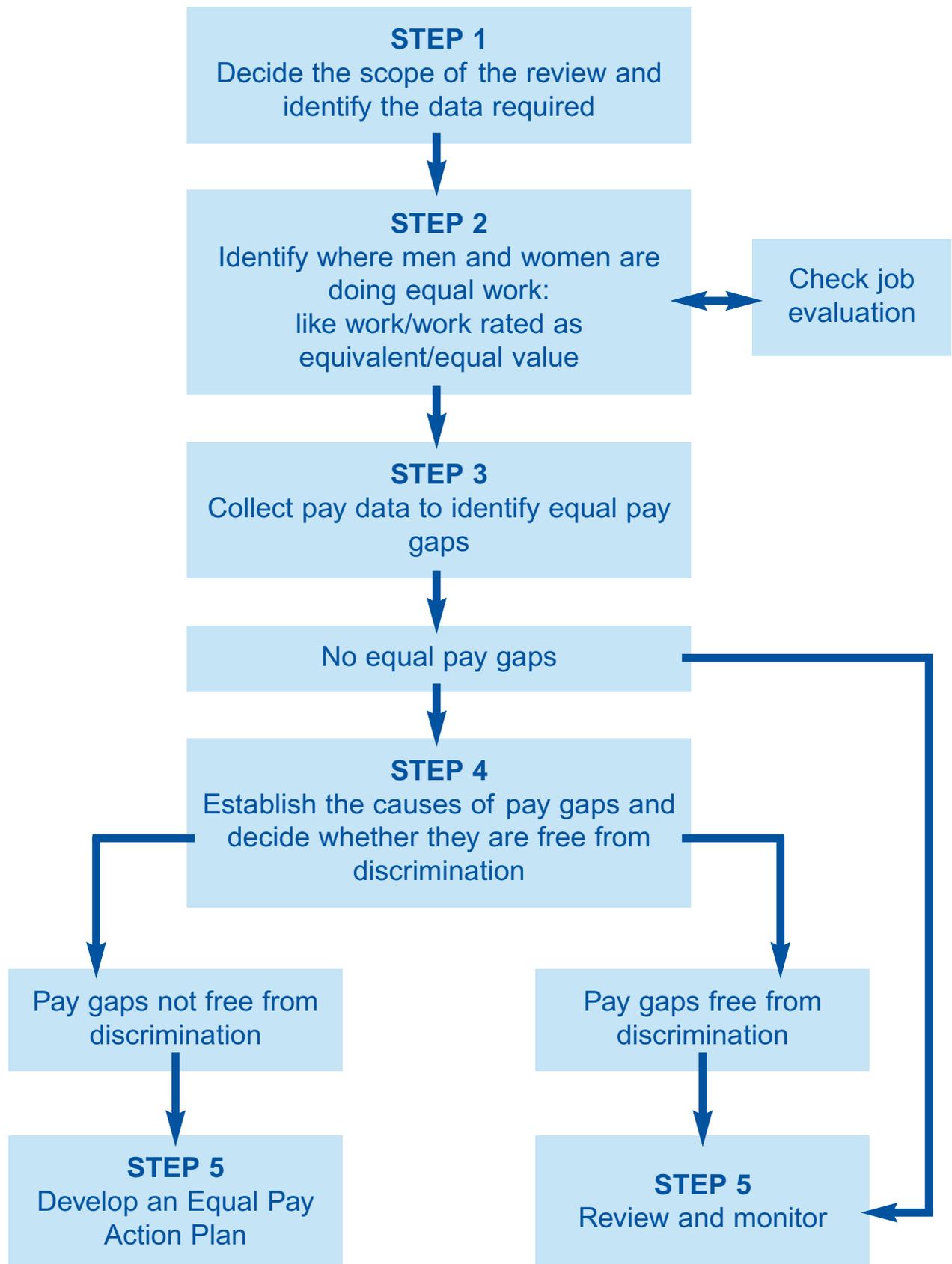
An equal pay review is not simply a data collection exercise. It entails a commitment to put right any gender pay inequalities and this means that the review must have the involvement and support of managers with the authority to deliver the necessary changes. It is also important to involve the workforce to maximise the validity of the review and success of subsequent action taken.

## **What are the essential features of an equal pay review?**

Whatever kind of equal pay review process is used, the essential features are the same (whatever the size of the organisation):

- Comparing the pay of men and women doing equal work
- Explaining any equal pay gaps
- Closing those pay gaps that cannot satisfactorily be explained on grounds other than sex

## The Equal Pay Review Model - A Five Step Process



## Step 1: Deciding the scope of the review and identifying the information required

### What will be the scope of the review?

The equal pay review kit deals with the gap between men's pay and women's pay, but you may also want to look at, for example, community background, ethnicity, disability or age. Before deciding to do so it will be helpful to consider the quality of the information available, about the religious, ethnic or disability status of the workforce and whether this is adequate for the purposes of carrying out a wider review

#### Scoping the review watch points

An equal pay review is concerned with an important, but narrow, aspect of sex discrimination in employment – the pay of women compared to men doing equal work (or vice versa). It does not deal with comparisons on the grounds of, for example, community background, ethnicity, disability, or age, but as a matter of good practice, employers may also want to look at these.

In scoping the review it may be helpful to bear in mind the principle of transparency. Carrying out an equal pay review will help to ensure employees understand how their pay is made up.

### Scope of the review for designated public authorities

Public bodies designated under S.75 of the Northern Ireland Act 1998 are required to screen their policies, which will include pay policies, to determine their impact across nine equality groups.

In relation to the screening of policies on pay, it is anticipated that these would be subject to an Equality Impact Assessment. It is recommended that any approach to conducting an Equal Pay Review should be compliant with the

requirements for conducting an Equality Impact Assessment. This means that the scope of the Equality Impact Assessment will be wider than a gender pay review covering the nine groups and longer, to include consulting on the scheme and publishing the results of the Equality Impact Assessment.

### **You need to decide which employees are going to be included.**

It is advisable to include all those employees who are in the same employment.

In larger organisations for practical reasons you may decide to carry out the review in stages, but you need to be aware that this increases the risk of an equal pay claim being made.

#### **Scoping the review watch point**

Deciding to exclude certain groups of employees will result in only a partial exercise and could increase the risk of an equal pay claim being taken.

### **Who should be involved?**

- **The project team**

In larger organisations an equal pay review can be a substantial exercise. You may need to set up a project team. It is also advisable to agree on a timetable and set targets for progress.

An equal pay review requires different types of input from people with different perspectives. You will need knowledge and understanding of the pay and grading arrangements; of any job evaluation schemes; of the payroll and personnel systems and of how to get information from these. It is also useful to have some insight into how all of these have developed over time. Sensitivity to equality issues such as men and women being segregated into different types of work is also helpful.



- **Trade unions and the workforce**

Organisations need to consider when and how they are going to involve trade unions or other employee representatives. Involving partners is important for several reasons:

- Employees and their representatives may be able to contribute valuable information, which managers could be unaware of, about the operation of the existing system and the likely effect of a new one.
- Time, trouble and expense can be saved, especially by reducing the risk of any disagreement at a later stage, particularly if the outcome of the review is likely to affect existing pay differentials.
- Employees will have more opportunity to understand the new system and the reasons for any changes. This will help to ensure that pay systems are transparent and easy to understand.
- In organisations where an independent trade union is recognised, the employer is required to disclose to that union any information necessary for collective bargaining, and this is likely to include information about pay systems.

- **Experts**

You may also wish to consider whether to bring in expertise from outside of the organisation. The Labour Relations Agency, offer practical, independent and impartial help to help bring pay systems up to date.<sup>2</sup>

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<sup>2</sup> Sources of further help and reading are given at page 127

## What information will be needed?

Organisations will need to collect and compare two broad types of information about each employee included in the review:

- All the various elements of their pay.
- The personal characteristics of each employee i.e. whether male or female; what qualifications they have; their grade or pay band, what hours they work and when they work these; their length of service and so on.

The information required will vary depending upon the type of organisation and on the particular pay and grading system<sup>3</sup>

### Information watch point

If you have difficulty in getting the necessary information together then this may be an indication that your pay systems do not meet the requirement for transparency.

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<sup>3</sup> A full specification is given in Guidance Note 2: Data required for pay reviews at page 31. Advice for small organisations is contained in Section 3 at page 107.



## Step 2: Identify where men and women are doing equal work

You will need to carry out one or more of the following checks: **Like work**; **Work rated as equivalent**; **Work of equal value**.<sup>4</sup>

These checks determine where men and women are doing equal work. This is the foundation of an equal pay review.

### Check 1: Like work

**Like work** is where men and women are doing work which is the same or broadly similar

Men and women are likely to be doing like work where they have the same job title, or where, even if their job titles differ, they do the same, or broadly similar work.

#### Like work watch points

Job titles can be misleading. You need to look at what the employees actually do. Minor differences can be ignored.

### Check 2: Work rated as equivalent

**Work rated as equivalent** is where men and women have had their jobs rated as equivalent under an analytical job evaluation scheme.

#### Work rated as equivalent watch points

Employers who use analytical job evaluation schemes need to check that their scheme has been designed and implemented in such a way that it does not discriminate on grounds of sex<sup>5</sup>. Employers who use bought-in job

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<sup>4</sup> Advice on carrying out these checks in small organisations is contained in Section 3 at page 107.

<sup>5</sup> Further guidance can be found in Guidance Note 4: Job evaluation schemes free of sex bias at page 47.

evaluation schemes should ask their supplier if the scheme meets this standard.

Men and women are likely to be doing work rated as equivalent where they have similar, but not necessarily the same, job evaluation scores and are in the same grade.

Look carefully at jobs just above and below grade boundaries as these could easily be regarded as rated as equivalent, even though they are in different grades.

### Check 3: Equal value

Work of **equal value** is work that is different but which is of equal value in terms of the demands of the job. 'Demands' mean the skills, knowledge mental and physical effort and responsibilities that the job requires.

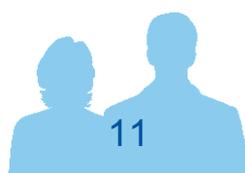
#### Equal value watch points

The most reliable way of assessing whether jobs are of equal value is to use an analytical job evaluation scheme specifically designed and introduced to take account of equal value considerations and of the types of jobs being done by your workforce. Ideally the scheme should cover all employees.

Employers who do not use analytical job evaluation need to find an alternative means of checking whether men and women are doing work of equal value<sup>6</sup>. It is important to recognise that these alternative estimates of equal value are not as reliable as analytical job evaluation, and that the organisation is therefore still vulnerable to equal pay claims.

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<sup>6</sup> Further guidance can be found in Guidance Note 5: Assessing equal value at page 79.



## Which checks apply to your organisation?

### **Organisations with no job evaluation scheme should check:**

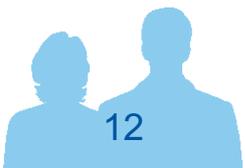
- Like work
- Equal value

### **Organisations with one or more job evaluation schemes should check:**

- Whether the scheme has been designed with equal value in mind
- Like work
- Work rated as equivalent
- Equal value.

### **Organisations with a single job evaluation scheme covering all employees should check:**

- Whether the scheme has been designed with equal value in mind
- Work rated as equivalent
- Like work



## Step 3: Collecting and comparing pay data to identify any significant equal pay gaps

Once you have determined where women and men are doing equal work, you need to collect and compare pay information to identify any significant gaps between men's pay and women's pay. This is done by<sup>7</sup>:

1. Calculating average basic pay and total average earnings.
2. Comparing access to and amounts received of each element of pay.

Unless there is a genuine reason for the difference in pay, that has nothing to do with the sex of the jobholder, women and men doing equal work are entitled to equal pay.

### 1: Calculating and comparing average basic pay and average total earnings.

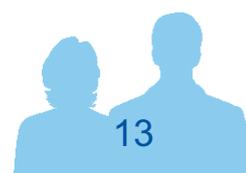
To ensure comparisons are consistent, when calculating average basic pay and average total earnings for men and women separately, you should do so either on an hourly basis or on a full-time salary basis (grossing up, or down, for those who work fewer, or more, hours - excluding overtime - per week than the norm).

#### Comparing pay watch points

Averages are a useful step in identifying gaps between men's and women's pay, but be aware that averages can conceal important differences between individuals. Women and men doing equal work are entitled to equal pay however large or small the size of the pay gap between them.

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<sup>7</sup> Advice on carrying out these calculations in small organisations is contained in Section 3 page 107.



You should review the pay comparisons to establish any gender pay gaps, and decide if any pay gaps are significant and need further investigation.

As it may not be practical to investigate every single pay gap, particularly in very large organisations, as a general guide, any differences of 5% or more, or patterns of differences of 3% or more will require exploration and explanation.

If any of the checks reveal either:

- **Significant differences**<sup>8</sup> between the basic pay or total earnings of men and women performing equal work (differences of 5% or more), or
- **Patterns of basic pay difference** e.g. women consistently earning less than men for equal work at most, or all, grades or levels in the organisation (differences of 3% or more)

then further investigation is needed.<sup>9</sup>

It is advisable to record all the significant or patterned pay differences that have been identified. **Step 4** explores the reasons for those differences and whether they can be explained on grounds other than sex.

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<sup>8</sup> There is no legal guidance on what constitutes a significant difference but techniques of statistical analysis suggest that a 5% or greater difference can be regarded as significant, wherever it occurs. A pattern of differences of 3% or more should also merit further investigation.

<sup>9</sup> Further guidance is given in Guidance Note 3: Statistical analyses, at page 39, which describes some different types of statistical analyses that might be appropriate to your pay data.

## 2: Comparing access to and amounts received of each element of pay for men and women doing equal work

For each element of pay received by men or women doing equal work calculate:

1. The proportion of men and women who receive this element.
2. The average amount of each pay element received by men and women.

This analysis will show:

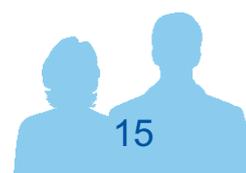
- If men and women have differential access to the various pay elements
- If men and women receive unequal pay in respect of any of the pay elements.

If the Step 3 analysis has shown significant gaps between the pay of men and women doing equal work then it will be necessary to work through Step 4.

If the analysis does not show significant gaps, it is still good practice to examine the payment system in detail.<sup>10</sup>

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<sup>10</sup> Further guidance is given in the checklists in Guidance Note 6: Reviewing your pay system, policies and practices at page 85.



## Step 4: Establishing the causes of any significant pay gaps and assessing the justifications for them

1. Find out which aspects of the pay system are contributing to the gaps between men's and women's pay and why<sup>11</sup>.
2. Find out if there is a genuine reason for the difference in pay that has nothing to do with the sex of the jobholder.

Once this has been done you will be able to decide whether a particular pay policy, practice or pay element is discriminatory and whether the resultant pay gaps need to be closed. The process will also help build an Equal Pay Action Plan.

### What should be checked

All aspects of the pay system – policies, practices and pay elements.

These need to be checked from a variety of standpoints: design; implementation; impact. It is how pay policies and practices actually affect pay that matters – not the intention behind them.

You should check the pay policies and practices that determine basic pay and influence all the elements of pay that make up total earnings. Examples might be starting pay, pay progression, performance pay, rules on eligibility for allowance, levels of allowances paid and so on.

You should also check their impact on the various elements of pay – basic pay, bonuses, shift pay, allowances and so on.

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<sup>11</sup> Guidance Note 6: Reviewing your payment system contains a series of checklists to help do this. A simpler list for small organisations is contained in Section 3 at page 107.

## Assessing the reasons

Once it has been established where gaps between men's and women's pay are occurring, you need to assess whether the reasons for them are satisfactory.

### Assessing the reasons watch point

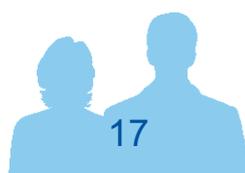
The question of what amounts to a satisfactory explanation of the pay gap is a complex area dependent on the detailed and individual circumstances of each organisation, as well as on equal pay case law.

If there is any doubt, you should seek legal advice.

## The next step

You can now decide whether:

- the pay policies and practices are operating free of sex bias
- the pay policies and practices are causing sex based pay inequalities and need changing
- there is a need to close any pay gaps.



## Step 5: Developing an Equal Pay Action Plan or reviewing and monitoring

What happens next depends upon whether any gaps between men's and women's pay were found for which there was no satisfactory explanation.

- 1. Developing an Equal Pay Action Plan** is for organisations with gaps between men's and women's pay for which there is no satisfactory explanation.
- 2. Reviewing and monitoring** is for organisations with no gaps between men's and women's pay

### Developing an Equal Pay Action Plan

The Plan should include arrangements to:

Provide equal pay.

If there are gaps between men's and women's pay for which there is no genuine reason employers will need to provide equal pay for current and future employees

Change the pay policies and practices that contribute to unequal pay.

There is considerable merit in employers and trade unions developing a jointly agreed action plan that will deliver equal pay in the shortest time possible.

There is no legal guidance on what amounts to a reasonable period of time within which to phase in equal pay, yet for practical reasons it may not be possible to introduce equal pay for equal work immediately. Employers need to be aware that in the interim they are

vulnerable to equal pay claims. The action plan should make clear what timescale the organisation has in mind, and how it is going to compensate employees who may be entitled to equal pay.

The organisation should stick to the timescale set out in the action plan.

It may need to manage factors such as costs and the possible dissatisfaction of employees who perceive a loss of status, or the erosion of differentials whilst equal pay is being provided.

## Introduce an Equal Pay Policy

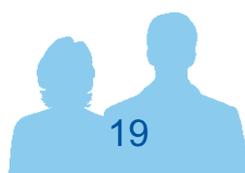
It can be helpful to agree a policy that commits the organisation to providing equal pay with clear accountabilities, regular monitoring and adequate resources for Equal Pay Reviews.

## Introduce ongoing monitoring of pay outcomes by gender

There is a need to decide how you are going to involve trade unions and employees in the ongoing equal pay review process.

Pay systems need to be reviewed regularly, to check existing and, in particular, any proposed changes to pay systems before they are implemented.

You may also wish to examine other employment practices identified during the review. These might include gender segregation by job type and seniority, approaches to training and development.



## Reviewing and Monitoring

Introducing an Equal Pay Policy and ongoing monitoring of pay outcomes by gender, as set out above, will help ensure your pay system is, and remains, free from sex bias.





## SECTION 2

# GUIDANCE NOTES



## The legal framework

### Introduction

This guidance note is a brief overview of the legal framework. Whilst every effort has been made to ensure that the advice given here is accurate, only the Courts or Tribunals can give authoritative interpretations of the law.

More detailed guidance on the law can be found in the Equality **Commission's Code of Practice on Equal Pay**<sup>1</sup>.

The principle that a woman is entitled to equal pay for equal work is set out in European Union and domestic legislation. The Northern Ireland legislation has to be read in the context of European law. A woman bringing an equal pay claim will usually do so under the domestic legislation, but in some circumstances she can claim under European law.

**The Equal Pay Act (Northern Ireland) 1970** applies equally to men and women but as pay inequality mostly affects women workers we assume here that a woman is claiming equal pay with a man.

Whilst not directly covered by the Equal Pay Act 1970, it is unlawful to discriminate in employment, including pay and terms and conditions of employment, on the grounds of religious belief, political opinion, race, disability and from December 2003 sexual orientation. The relevant legislation is: -

- Fair Employment and Treatment (NI) Order 1998;
- Race Relations (NI) Order 1997;
- Disability Discrimination Act 1995;
- Employment Equality (Sexual Orientation) Regulations (NI) 2003

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<sup>1</sup> Code of Practice on Equal Pay Equality Commission for Northern Ireland 1999

For further information contact the Equality Commission.

It is also illegal to discriminate in pay, against part-time workers and fixed term workers. For details on the relevant regulations and other legislation impacting on pay, contact the Labour Relations Agency.

## **The Equal Pay Act**

The Equal Pay Act provides for equal pay between women and men who are employed on

- Like work
- Work rated as equivalent
- Work of equal value

These are known as equal work.

### **Like work**

Like work is where the work done by both the woman and the man with whom she is claiming equal pay is the same or broadly similar, and any differences which do exist are not of any practical importance.

### **Work rated as equivalent**

Work rated as equivalent is where the jobs being done by the woman and the man with whom she is claiming equal pay have been rated under a non-discriminatory job evaluation scheme as being equivalent; that is, they have been rated as having the same number of points, or falling within the same job evaluation grade range of points.

### **Work of equal value**

Work of equal value is where the work done by both the woman and the man with whom she is claiming equal pay is different but considered to be of equal value or worth. This can be measured by comparing the jobs under headings such as effort, skill and decision-making.

Comparing jobs on the basis of equal value means that jobs that are entirely different in their nature can be used as the basis for equal pay claims. Job comparisons can be made both within a particular pay/grading structure and between different structures.

## **Pay**

The Equal Pay Act covers not only pay itself, but all contractual terms and conditions. This includes sickness benefits, pension rights, holiday entitlements and company cars. The woman can compare any term in her contract with the equivalent term in her comparator's contract. The comparison is made on a term-by-term basis and not on the basis of the contract as a whole.

## **The scope of the Equal Pay Act**

The Equal Pay Act applies to:

- All employees, (including apprentices and those working from home) whether on full-time, part-time, casual or temporary contracts, regardless of length of service.
- Other workers (e.g. self employed) whose contracts require personal performance of the work.
- Employment carried out wholly or mainly in Great Britain
- Employment carried out on ships registered in Northern Ireland or UK registered aircraft operated by someone based in Northern Ireland unless the employee works wholly outside Northern Ireland.

## **Comparators**

In order to claim equal pay a woman must identify a male comparator. The comparator can be a man who is currently employed by her employer, but he can also be the predecessor or successor to her post. A woman can claim equal pay with more than one comparator. The employer has no say in her choice of comparator.



## Same employment

A woman can compare her work with that of a man working 'in the same employment'. That is, the woman and her comparator are working for:

- The same employer at the same workplace
- The same employer, but at a different workplace where 'common' terms and conditions apply
- For an associated employer, for example, where a woman compares herself with a man on 'common' terms and conditions in her employer's parent company
- In the public sector European law also allows comparison to be made between workers "*in the same establishment or service*" where 'common' terms and conditions apply. There is no clear definition of "same establishment or service". This is a developing area on which specific legal advice should be sought.

## The burden of proof

The woman bringing an equal pay claim has to make out a prima facie case, i.e. she has to show that on the face of it she is receiving less pay than a man in the same employment who is doing equal work. It is then up to her employer to concede or disprove her claims.

## Equal pay questionnaire.

The Employment (NI) Order 2003, will enact amendments to the Equal Pay Act (NI) 1970 to allow for the introduction of an Equal Pay Questionnaire, intended to help people who believe they may not have received equal pay to obtain information from their employers to find out whether this is the case and, if so, why. The goal is to help resolve disputes over alleged sex discrimination in pay at an early stage and where this proves impossible to provide clear information for consideration by a tribunal. The questions and replies will be admissible as evidence and if the employer, deliberately or without

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<sup>2</sup> Northern Ireland includes the territorial waters adjacent to it and certain areas designated by the Department of Economic Development in relation to employment in the off-shore resource exploration industries.

reasonable excuse fails to answer the questions within a prescribed time period, or answers them in an evasive or equivocal fashion, a tribunal may draw any inference they consider just and equitable.

## **The employer's defence**

An employer can pay a man more than a woman for doing equal work, but only if the reason for doing so is due to a material factor other than sex.

This means that once a woman has established that she is doing equal work but receives less pay than her male comparator, the employer needs to be able to provide a genuine reason why she is paid less, and to show that this reason is not tainted by sex discrimination.

There is no such thing as an automatic or blanket defence. Factors such as market forces and skills and experience have been successful in some cases but have failed in others. However, any defence relied on in the course of a claim will have to be

- Significant;
- The real reason for the difference;
- Not connected with the sex of the people doing the job.

If a pay policy or practice causes a disparate impact between women and men, then the factor involved which is put forward as a defence must also be objectively justified. This means that an employer must be able to demonstrate that the reasons behind the differences in pay between comparable groups of women and men are not associated with the gender of the job holders but:

- Are necessary to meet real business objectives;
- Do in fact lead to the objectives being met; and
- That there is no less discriminatory way of meeting the objectives.



Both the material factor defence and the objective justification test are essentially explanations for how the difference in pay arises. Employers need to conduct a careful balancing exercise when formulating policies that will impact on one sex more than the other.

## **Job evaluation**

A job evaluation scheme can provide an initial defence to an equal pay claim, where all the following apply:

- It is analytical (that is, factor based)
- It is non-discriminatory in both design and implementation;
- A single scheme covers both applicant and comparator jobs;
- The jobs in question have actually been analysed and evaluated under the scheme and the evaluation is still valid.

**Guidance Note 4: job evaluation checklist** helps you to assess whether a job evaluation scheme is likely to meet these standards.

## **Transparency**

Pay systems should be clear and easy to understand, both in respect of basic pay and of all other components. A transparent pay system is one where employees understand not only their rate of pay but also the components of their individual pay packets and how each component contributes to total earnings in any pay period. If a pay system totally lacks transparency the burden of proof is on the employer to show that pay practices are not discriminatory.

## **Employee involvement**

In implementing equal pay, consultation is likely to increase understanding and acceptance of any changes required. Involving recognised trade unions or other worker representatives' helps to ensure that pay systems meet the legal requirement for transparency.

## Equal pay reviews

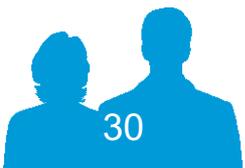
There is no legal requirement for employers to carry out an equal pay review or to introduce an equal pay policy but doing so will help to ensure transparency and to protect against equal pay claims.

The 5-step process in the Equality Commission's Equal Pay Review Model applies to all organisations irrespective of size. Simpler pay arrangements typical of small organisations would make the process more straightforward<sup>3</sup>.

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<sup>3</sup> See Section 3 at page 107 for a step-by-step guide to equal pay reviews for small organisations.





## Data required for pay reviews

### Introduction

In order to carry out an equal pay review you will need to collate and analyse a range of data about your employees and what they are paid. The checklist below indicates the data required. It includes some explanatory notes and indicates for which step in the 5-step equal pay review process the data are needed.

A simplified approach to collecting and comparing pay information in very small organisations is given in Guidance Note 7. However, the principles regarding the information to be collected and compared are the same, whatever the size of the organisation.

You will see that some data relates to individuals e.g. their gender, date of joining your organisation and current grade. The remainder relates to their pay e.g. current basic pay and other elements of pay, including performance pay and other bonuses. ***We strongly recommend you set up your data collection exercise to cover the whole range of data outlined below which applies in your organisation.***

Most organisations with computerised payroll and personnel/HR systems will hold this data on one or other of their systems. However it is likely that this particular range of data will not have been brought together before. So, early in your proposed equal pay review you will need to show the checklist to your colleagues in payroll and HR systems for them to identify which system holds the data and how it can be brought together. Don't be daunted by this process – and don't be put off by any initial negative reactions! Once they get involved, many payroll and HR systems specialists get quite animated about the task and will use various techniques e.g. spreadsheets or databases, to collate and analyse the required information. You can also ask your software provider to assist with software so as to enable you to bring the information together.

You may find that your organisation simply does not hold some items of information on its computerised systems. Do as much as you can without it. If it proves crucial at some stage in your analysis, explore whether there are other ways of collecting the data (or consider doing a sample spot check e.g. from manual records).

Once your data have been brought together **Guidance Note 3: Statistical analyses** gives you advice on the statistical analyses required.

### Data needed for equal pay reviews

**Steps 2 and 3** of the **Equal Pay Review Model** ask you to identify equal work and calculate the average basic pay and total earnings of men and women who are doing equal work. For these steps you will need data for each employee covering both a) job and personal characteristics and b) pay:

#### a) Job and personal characteristics

Data	Comments
<ul style="list-style-type: none"> <li>• Gender</li> <li>• Full or part-time</li> </ul>	<p>You may wish to broaden your review to include other aspects of diversity such as community background, ethnicity, disability, or age.</p>
<p><b>For like work:</b></p> <ul style="list-style-type: none"> <li>• Job title</li> </ul>	<p>Bear in mind that job titles are not necessarily reliable indicators of job content.</p>
<p><b>For work rated as equivalent (if you use Job Evaluation - JE):</b> JE score and/or job grade or pay band or pay zone for the job.</p>	<p>You need these if you use JE to allocate jobs to job grades, pay bands, or pay zones.</p>



<p><b>To indicate which work may be of equal value</b></p> <ul style="list-style-type: none"> <li>• Job evaluation score</li> <li>• Job grade or band</li> <li>• Skill/competence level or profile</li> <li>• Job family level or position, generic job type</li> </ul>	<p>What you need here will depend on which equal value checks you carry out. (See Guidance Note 5: estimating equal value)</p> <p>Job evaluation scores needed for equal value check 1 (for organisations with two or more job evaluation schemes covering between them all or nearly all employees), and check 2 (for organisations with a number of separate grading -and pay - structures, at least one of which is based on job evaluation).</p> <p>Job grades or bands needed for equal value check 3 (for organisations with a single grading or banding structure based on a single set of criteria).</p> <p>Skill/competence levels or profiles needed for equal value check 4 (for organisations with no formal grading structure, or more than one formal structure).</p> <p>Job family level or positions, or generic job types needed for equal value check 5 (for organisations with no job evaluation, but with clear job families or other occupational group hierarchies).</p>
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## b) Pay information for employees covered by the review

Data	Comments
<ul style="list-style-type: none"> <li>Basic pay</li> </ul>	<p>Basic pay is the pay received by an employee for doing the job before any additional pay elements are added on.</p>
<ul style="list-style-type: none"> <li>Standard or normal hours of work</li> </ul>	<p>The hours for which basic pay is set. You need to identify part-time employees separately. Because hours of work vary even between full-time employees, most analysis is based on average hourly earnings</p>
<ul style="list-style-type: none"> <li>Total earnings</li> </ul>	<p>Total earnings = basic pay plus any additional pay arising from any other pay elements. Because total earnings include variable pay elements they should be calculated over an appropriate time period, such as the last year or year to date.</p>
<ul style="list-style-type: none"> <li>Additional hours worked</li> </ul>	<p>Hours additional to standard or normal hours, but worked in the same time period as that used to calculate total earnings. They are required to calculate hourly total earnings</p>
<ul style="list-style-type: none"> <li>Department or other location indicator</li> </ul>	<p>This will depend on how you propose to analyse the data e.g. by department, location, business unit.</p>

Step 3 of the **Equal Pay Review Model** also asks you to compare access to and amounts received of each element of pay in addition to basic pay. So, as well as the data outlined above, you will also need the additional data listed below for the employees covered by your review – *where it applies* in your organisation.



In addition, for step 4 of the **Equal Pay Review Model** you are likely to need data on the following:-

### **Length of service**

- In job/grade/band or equal work category
- In the organisation

### **Starting salary**

- On joining organisation
- At recruitment or promotion or assimilation into current job/grade/ band/ equal work category

### **Performance pay (if applicable)**

- Performance assessment
- Performance pay

### **Competence pay (if applicable)**

- Competence, experience or skills rating received
- Competence, experience or skill payments

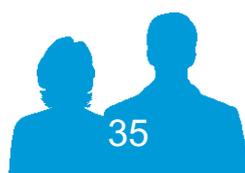
### **Working pattern payments pay (if applicable)**

- May include shift pay
- Pay for unsocial hours
- Being on-call, standby or similar
- Overtime or other working pattern payments

### **Bonus pay (if applicable)**

Include any bonuses received

Pay protection



## **Other payments and allowances (if applicable)**

May include items such as allowances for

- Working conditions
- Attendance
- Responsibility.

## **All other benefits/elements of pay (if applicable)**

Include all other items such as

- Holiday entitlement
- pensions
- company cars
- loans.

The Model recommends monitoring all these elements of pay (plus basic pay and total earnings) by gender for equal work on a regular basis, particularly where they are significant components of pay in your organisation. If applicable to your organisation, you will need data on each of these elements of pay over an appropriate recent time period. The Commission has also produced a series of guidance notes on issues such as starting pay, bonus pay and performance pay. These explain how discrimination in pay can arise and what you can do to tackle it.

How much of the data listed you need to collect will depend upon your payment system e.g. whether you provide performance pay or not, rather than on the size of your organisation. In practice smaller organisations may have simpler payment systems which will reduce the range of data to be collected.



Women and men doing equal work are entitled to equal pay however large or small the size of the pay gap between them. As it may not be practical to investigate every single pay gap, particularly in large organisations, as a general guide, any differences of 5% or more in basic pay, total earnings or individual elements of pay by gender, or patterns of differences of 3% or more will require exploration and explanation.

Whatever approach to data collection you adopt, you may find it useful to set up a standard equal pay report facility or create an ongoing equal pay database. This will allow you to regularly carry out checks on equal pay, and will make the ongoing monitoring recommended in the **Equality Commission's Equal Pay Review Model** easier to achieve.





## Statistical analyses

### Introduction

It describes some different types of statistical analysis that might be appropriate to an organisation's pay data<sup>1</sup>. These range from relatively simple averages to more sophisticated analyses using scatter graphs and lines of best fit. You will need to decide what is appropriate and practicable in your organisation. Guidance for small organisations is given in Section 3.

The analyses include the initial comparison of average pay and earnings for men and women doing equal work (**Step 3** of the **Commission's Equal Pay Review Model**). They also include examples of initial, but more focussed, analysis you might undertake in order to explore the reasons for possible equal pay gaps, or as a result of discovering such gaps from your Step 3 pay and earnings comparisons. You will have drawn up the full data specification for your organisation using **Guidance Note 2: the data required for equal pay reviews**.

Whilst the advice given here relates to equal pay reviews that compare the pay of women and men you can also use these techniques to look at other aspects of diversity, such as community background, ethnicity, disability, age, seniority, working pattern. If your analyses show that there is a tendency for people from one group to be favoured over another, you will then be able to find out why this happening.

### Mean

In order provide an overview of the difference in pay it is useful to calculate an average. The 'mean' is the most common form of average, and is calculated by summing individual salaries and dividing by the number of employees. However, you should bear in mind that a mean is a blunt instrument. Means are unduly influenced by extreme values and in certain circumstances can become unrepresentative.

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<sup>1</sup> The guidance given here draws heavily upon material included in the Cabinet Office guidance to departments and agencies on conducting equal pay reviews.

### **Some suggested pay analyses using means:**

- Mean salary by gender for each equal work comparison;
- Mean total earnings by gender for each equal work comparison
- Mean salary of men and women on entry to a grade/band or job;
- Mean salary of men and women on promotion to a grade/band or job;
- Mean salary of men and women on assimilation to a grade/band or job;
- Mean amount of performance pay awarded for each equal work comparison;
- Mean amount of bonus/overtime pay/other pay elements or benefit actually received for each equal work comparison;
- Mean amount of incremental pay increases by men and women by grade or job.

### **Some questions to consider:**

- Are the mean salaries/amount of other pay elements received by men and women equal for each equal work comparison?
- Are the mean salaries received by men and women on promotion, on entry, and on assimilation equal?
- Are the mean amount of pay awards received by men and women equal?

Given the limitations in using an average to compare differences in salaries/benefits, it is often more useful to examine the distribution of salaries etc. The remainder of this guidance note outlines some useful techniques for doing this.



## Frequency tables

Frequency tables illustrate how many people fit into each category. They can be used to tabulate categorical data (such as gender and grade) and continuous data (such as basic salary). They can be used to look at the spread of people in your organisation by grade/band or by equal work category and this can help you decide at what level further analyses should be undertaken. A frequency count alone is not always a very good summary of the data. To compare two groups of people you should convert the counts of employees into percentages:

### Example – frequency table of employees by grade

By Numbers	Department 1		Department 2	
	Men	Women	Men	Women
Grade				
1	257	135	1,425	562
2	554	272	3,763	1,851
3	323	252	2,209	1,672
4	289	324	1,356	1,500
5	86	134	384	656
6	130	142	473	837

By Percentages	Department 1		Department 2	
	Men	Women	Men	Women
Grade				
1	15.7	10.7	14.8	7.9
2	33.8	21.6	39.2	26.2
3	19.7	20.0	23.0	23.6
4	17.6	25.7	14.1	21.2
5	5.2	10.6	4.0	9.3
6	7.9	11.3	4.9	11.8
Total %	100	100	100	100

In the example above Department 2 shows how a frequency table can highlight the fact that there are large numbers of employees in each grade and that it may therefore be more meaningful to split the data into smaller groups.



### **Suggested analyses using frequency tables:**

- Numbers and percentage distribution of employees by gender and grade;
- Number and percentage distribution of salary bands by gender and grade;
- Number and percentage distribution of performance/competence payments by grade and gender;
- Proportion of men and women progressing through pay bands;
- Number and percentage of employees receiving certain bonuses/benefits/allowances/overtime by gender and grade or pay band;
- Number and percentage of employees affected by pay protection/red-circling by gender and grade or pay band;

### **Some questions to consider:**

- Is the distribution of salaries for men and women similar?
- Are there staff with particularly high or low salaries? If so, do you know why?
- Is the distribution of performance payments for men and women in each grade or pay band similar?
- Is the proportion of men and women receiving certain bonuses/benefits/allowances/overtime similar?

## Median, percentiles and measures of spread

Another technique to summarise data is to calculate the median, quartiles and percentiles.

When you calculate the median, you find the number that splits your data into two equal parts. Half the cases have values smaller than the median and the other half have values larger than the median. The median is often used instead of the mean to describe average salaries because it is not influenced by extreme values. One of the key differences between the mean and the median values is that any outliers influence the mean much more than the median.

You can also compute values that summarise your data in more detail. These are called percentiles and they represent the percentage of cases with values below and after them. Twenty-five per cent of the cases have values smaller than the 25th percentile, and seventy-five per cent of cases have values larger than the 25th percentile. The median is also called the 50th percentile.

There are a number of ways to calculate percentiles (of, for example, salaries) using IT packages:

- i) You can rank your employees in order of salary. From this you can identify the salary of people at specific points in the ordered salaries.
- ii) Many computer packages will have an automatic function to calculate quartiles/percentiles.

Calculating a measure of spread is useful so that you can see how much the data varies within each group, for example the range of salaries will provide an indication of how widely salaries are spread. The interquartile range is the distance between the 75th and 25th percentile values.



## **Suggested analyses using medians, percentiles and measures of spread**

The analyses suggested in the paragraphs on the mean will be applicable here.

## **Scatter plots/scatter graphs and best-fit lines**

A scatter plot (or scatter graph) is a tool that enables you to look at the relationship between a pair of variables; for example, basic salary and length of service in grade/pay band. A scatter plot is simple to understand but conveys much information about the data. For example, when examining the relationship between basic salary and length of time in grade/pay band you will want to know if it is similar for different groups of employees. A scatter plot can identify each point with a marker that indicates what group it is in.

A scatter plot is useful to identify those employees who have unusual salaries within a job or grade. A scatter plot instantly gives an idea of where individuals or groups of individuals have unusual salaries. Where the graph shows that salaries are inconsistent, it might be necessary to undertake further research into any special factors or considerations that might apply.

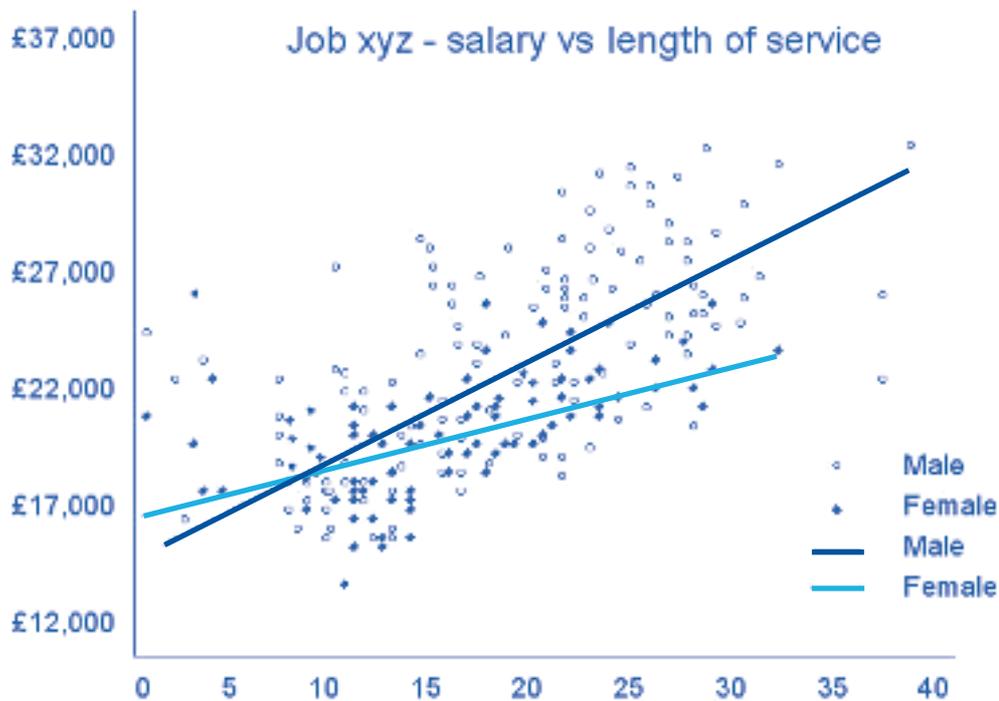
To give more meaning to the scatter plot, a line of best fit can be added to the graph. A best-fit line (sometimes called a regression line) is a straight line that best summarises all the cases. Computer packages often enable you add the line of best fit.

## **Suggested analyses using scatter plots and lines of best fit:**

- Scatter plot of basic salary by length of time in grade, separately for each grade or pay band or equal work group; separately for certain job types;
- Scatter plot of gross salary by length of time in grade/band equal work group: separately for each grade or pay band or equal work group; separately for certain job types.



An example scatter plot is given below.

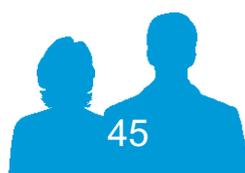


### Some questions to consider:

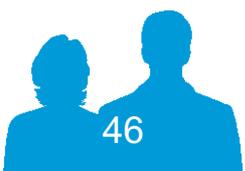
- How widely are the points scattered for a given length of time in grade or pay band? Do you know why the points are scattered widely?
- Are there individuals or groups of individuals with unusually high or low salaries for their length of time in grade/band? What do you know about these individuals?

The analyses described above can be carried out in any organisation, including small organisations. They also have the advantage of producing results that can easily be shared with managers who make decisions that affect pay.

The analyses can be carried out in most spreadsheet packages, such as MS Excel.



Whatever approach to analysing the data you adopt, you may find it useful to set up a standard equal pay report facility or create an ongoing equal pay database. This will allow you to regularly carry out checks on equal pay, and will make the ongoing monitoring recommended in the Model easier to achieve.



## Job evaluation schemes free of sex bias

This guidance is for employers who are already using job evaluation or who are considering introducing it. It can also be used by trade unions in preparation for their involvement in the job evaluation process. The guidance can be used in conjunction with the Commission's Equal Pay Review Model or on its own.

The first part of this guidance is a series of checklists on:

- The design of a job evaluation scheme
- The implementation of a job evaluation scheme
- The maintenance, review, and monitoring of a job evaluation scheme
- Where organisations use more than one job evaluation scheme, the relationship between the schemes

The checklists help you identify whether the job evaluation scheme you use, or wish to introduce, is non-discriminatory.

The second part of this guidance looks in detail at:

- The legal background
- The types of job evaluation scheme
- Key features of analytical job evaluation schemes – the role of steering groups, job descriptions, factors and factor weighting

Each section concludes with a summary of key points. The guidance draws attention to some of the practices that may (often unwittingly) introduce or perpetuate sex discrimination. It gives you good practice advice on how to ensure that a job evaluation scheme is free of sex bias.

The guide assumes that you have a working knowledge of job evaluation, but the following prior reading is recommended:

- ACAS Advisory Booklet *Job Evaluation: An Introduction*
- The Equality Commission's and the European Commission's **Codes of Practice on Equal Pay**

## The checklists

The aim of the checklists is to help you to ensure that the job evaluation scheme or schemes that you are using, or are intending to use, does not either directly or indirectly discriminate on grounds of sex. **You should complete the checklists for each job evaluation scheme used in your organisation. It is important to answer all of the questions in order to check each aspect of the scheme for sex bias.** If you do not know the answers to some of the questions, for example, about the background, or detailed design of, the scheme, you should seek the information from those who were involved, for instance, senior human resources staff, earlier generations of job evaluation panel members and longstanding trade union representatives. You may also need to contact the consultants who implemented the scheme or the external supplier.

As a job evaluation scheme is a public policy, public authorities will need to conduct an equality impact assessment, in accordance with section 75 of the Northern Ireland Act, 1998 and the detailed procedure set out in schedule 9 of the Act. Use of the Equal Pay Review Model and the following checklists will enable public authorities to identify any differential impact in relation to gender. They will also need to carry out the consultation required by the schedule 9 procedure with their employees and to publish the results.

## Checklist I: Background information

### 1.1. What is the scheme called?

### 1.2. Which groups of employees are covered by the scheme?

Excluding groups of jobs from a job evaluation scheme may perpetuate sex bias, especially if the groups excluded are composed predominantly of employees of one sex. Discrimination in the grading and pay of the jobs of female employees often occurs or is perpetuated by their separation into a different grading structure based on a different job evaluation scheme, or none at all. Incorporating female jobs within the same job evaluation scheme as the male jobs, provided that the job evaluation scheme is not discriminatory, will help you to achieve equal pay for equal work.

Clearly, you should only exclude groups of employees from a scheme for justifiable and non-discriminatory reasons. Employers and trade unions should appreciate that problems can be created if bargaining units are used as the sole basis for the scope of jobs to be covered, since this can often be discriminatory. Claims for equal pay for work of equal value can be brought where separate schemes or collective bargaining arrangements are used to justify differences in pay between the sexes, or where members of one sex are left out of a job evaluation scheme.

### 1.3. When was the job evaluation scheme introduced?

Older schemes are likely to have been developed without an understanding of the implicit or hidden forms of sex discrimination. If your scheme has been in use for several years you should review it to ensure that it does not discriminate on grounds of sex.

### 1.4. Has the scheme been reviewed to ensure that it complies with good equal opportunities principles and practices?

You should review your schemes regularly to check that they do not unwittingly discriminate against female employees.



## **1.5. Is the job evaluation scheme transparent?**

If a pay system, or any part of it, is characterised by a total lack of transparency, the burden of proof is on the employer to show that the pay practice is not discriminatory. In respect of job evaluation, 'transparent' means that information about the design and implementation of the scheme should be available to employees in a readily understandable form.

## **1.6. Was the job evaluation scheme:**

**(a) Developed in-house?**

**(b) Modified from an external supplier's framework?**

**(c) Bought 'off the shelf' from an external supplier?**

If the scheme was either developed in-house or modified from the framework provided by an external supplier you should be able to use the checklists to test whether the scheme is non-discriminatory. If it was bought "off the shelf" you will need to assure yourself that that supplier has reviewed the principles and practices of their scheme, in accordance with the guidance given here. You will also need to use the checklists to check out the way in which you are implementing the scheme.

## **1.7. Is the job evaluation scheme computerised?**

Increasingly, the process of job evaluation is being computerised so that, for example, information on jobs is inputted onto computers in the form of answers to pre-formulated questions and a score for the job is then given. Schemes that are computerised are often quicker to implement and they are not inherently discriminatory. However, any computerised system will reflect the nature of the information it analyses. Therefore, it is important to ensure that your computerised scheme gathers comprehensive information about jobs and is based on factors that are non-discriminatory. At the benchmarking stage, an evaluation of the benchmark jobs should be made using both the computerised scheme and written job descriptions or completed job questionnaires. A comparison of the two exercises should then be undertaken to check for sex bias.

## Checklist 2: The design of the scheme

### 2.1. Is the scheme analytical?

A job evaluation scheme must be analytical for it to be accepted by the courts as an appropriate method for determining whether jobs are, or are not, equivalent. The employer (rather than the supplier or consultant) must show that the scheme is analytical. (See pages 56-57)

### 2.2. Does the scheme's factor plan fairly measure all significant features of all the jobs it covers?

In particular, does the factor plan fairly measure all the significant features of jobs typically undertaken by women, for example, interpersonal skills, manual dexterity, responsibilities for customers, clients or members of the public?

A job evaluation scheme must be based on factors that fairly value all the main demands of the jobs covered by the scheme, irrespective of whether men or women perform them. Factors that tend to favour workers of one sex (e.g. physical effort) can be included, as long as the scheme also includes factors that tend to favour the other sex (e.g. manual dexterity).

To check whether a scheme factor plan fairly measures all significant demands of jobs **either**:

- Analyse job information (job descriptions, person specifications) from a sample of typically male and female jobs, listing the main job features and compare them with the scheme factors. If there are job features not covered by the factors, you should consider whether these factors are more common in jobs typically carried out by one gender or the other; **or**
- Check the scheme factors against a list of frequently overlooked factors and a list of factors that favour typically male or female jobs.



If the scheme factors favour predominantly one sex, then this may indicate that factors favouring the other sex have been omitted. (See pages 64-66)

### **2.3. Do the factor levels in the job evaluation scheme reflect measurable steps in demand within the jobs covered by the scheme?**

Factor levels should reflect significant and measurable differences in levels of demand, which are appropriately reflected in the scoring/weighting systems. (See page 68)

### **2.4. Is the rationale for the scheme's scoring and weighting system documented?**

A weighting and scoring system should not introduce bias towards predominantly male or female jobs. Check this by comparing the rank order resulting from simply adding up raw scores (1 point per level per factor) with that resulting from applying the scheme's weighting and scoring systems. If the differences in position in the two rank orders affect jobs of predominantly one sex, then this indicates the introduction of bias through the weighting and/or scoring system. Any use of 'felt fair' ranking as a basis for generating weighing should be carefully checked for bias, as it may tend to perpetuate any discriminatory features in the existing hierarchy. (See pages 67-68)

## **Checklist 3: Implementation of the scheme**

### **3.1. When jobs are evaluated or re-evaluated, are jobholders involved in completion of a job questionnaire or equivalent job information document?**

Jobholders know more about the demands of their jobs than anyone else, although they may need help in explaining them<sup>1</sup>. Completion of Job Questionnaires by line managers or personnel staff, without jobholder involvement, can result in job demands being omitted or understated. (See pages 61-63)

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<sup>1</sup> Working Time Analysts: How to Prepare a Job Evaluation Job Description: Lampeter, 1989



### **3.2. Are job analysts used to assist jobholders to complete job questionnaires or equivalent job information documents?**

It is good job evaluation practice to use trained Job Analysts to assist jobholders to provide the information required by the scheme and to a consistently high standard, as this helps to prevent inconsistent and potentially biased evaluations.

### **3.3. Have the job analysts been trained in equality issues and the avoidance of sex bias?**

Job Analysts should understand how sex bias can occur in the information collection process and be trained to avoid it.

### **3.4. Does the job questionnaire or equivalent job information document follow the job evaluation scheme factor plan? That is does it use all of the same headings?**

Job information documents that follow the job evaluation scheme factors are easier to evaluate and help avoid evaluators making assumptions about job demands, which can result in them being omitted or undervalued in the evaluation process. (See pages 61-63)

### **3.5. Are jobs evaluated or re-evaluated by a job evaluation panel or committee?**

Evaluation by only 1 or 2 people (e.g. line manager, personnel officer) can result in biased outcomes. This risk is reduced through evaluation by a panel with broad knowledge of jobs across the organisation. (See pages 59-61)

### **3.6. Are job evaluation panel members representative of the main areas of work and gender composition of the workgroups being evaluated?**

The more representative the evaluators the greater should be their combined understanding of job demands across the workgroup.



### **3.7. Are panel members trained in equality issues and the avoidance of sex bias?**

Training in the avoidance of sex bias in the evaluation process helps both to prevent it occurring and ensure that the exercise is seen as fair. (See pages 59-61)

### **3.8 Are evaluation rationales or records, including the reason for each factor assessment, maintained for each job evaluated or re-evaluated?**

It is good job evaluation practice to maintain detailed evaluation records, for a number of reasons:

- They allow evaluators to check back on their decision making process and thus help ensure consistent evaluations;
- They allow the reasons for evaluations to be explained to jobholders, for example, those considering appealing;
- They provide information to appeal panel members on what information was taken into account in the initial evaluation;
- They provide contemporary evidence for any evaluations subject to subsequent legal challenge.

### **3.9. Has the impact of evaluations, re-evaluations and appeals on male and female dominated jobs been monitored?**

You can do this by comparing the rank order implicit in the pre-evaluation pay structure with that resulting from the evaluation exercise (and any subsequent re-evaluations and appeals) and identifying the gender dominance, if any, of jobs which have moved up or down the rank order. If the pre-evaluation pay structure was biased against "female" job characteristics, then upward moves would be disproportionately among female dominated jobs. Otherwise, one would

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<sup>2</sup> The need for a scheme to be analytical was confirmed by the Court of Appeal in Bromley et al v Quick (1988 IRLR 249)

expect moves to be roughly proportionate to the gender composition of the workforce.

### **3.10. Have all distinct jobs within the relevant employee group been analysed and evaluated?**

In legal terms, jobs that have not been analysed and evaluated fall outside the scope of the 'job evaluation study'<sup>2</sup>. So the holder of a job which has not been analysed and evaluated (or whose job has changed to the extent that the original evaluation no longer applies) could take an equal pay claim. The job evaluation scheme would not then provide a defence to the claim.

## **Checklist 4: For organisations with more than one job evaluation scheme**

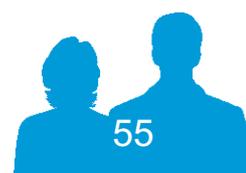
### **4.1. Are all of your employees covered by one of the job evaluation schemes in use in your organisation?**

It is possible for employees outside the scope of any job evaluation scheme to make an equal pay claim comparing their work with that of employees within the scope of the scheme. It is also possible for a jobholder in one scheme to claim equal pay with a jobholder in a different job evaluation scheme. In such cases, the job evaluation scheme (s) do not provide a defence to the claim.

### **4.2. Have you made any comparisons between the demands (and pay) of jobs covered by different job evaluation schemes?**

You can do this in either of two ways:

- (1) By evaluating a small number of jobs from scheme A, which are closest in nature to jobs in scheme B, using both schemes; and vice versa; then comparing the results and relative pay levels.
- (2) By undertaking 'equal value' checks (see Guidance Note 5: estimating equal value) on a sample of predominantly male and female jobs from each scheme, to test for vulnerability to equal pay claims.



If you have answered "No" to any of the above Checklist questions, then your organisation's job evaluation system(s) could be vulnerable to challenge. The risk is increased, the larger your number of "No" responses.

## The legal background to job evaluation

1. The Equal Pay Act (Northern Ireland), 1970, gives job evaluation schemes two roles:

- a) A woman can claim equal pay on the ground that a scheme has rated her job, although different, as equivalent to that of a man (*a work rated as equivalent claim*)

Where a woman wishes to claim equal pay on the ground that a job evaluation scheme has rated her job as equivalent to that of a man, the Act states that the evaluation should have been made

*"In terms of the demands made on a worker under various headings (for instance, effort, skill, decision) the jobs to be done by all or any of the employees in an undertaking or group of undertakings...."*

The Act requires the job evaluation scheme to be analytical<sup>3</sup>.

- b) An employer can defend a claim for *equal pay for work of equal value* if a non-discriminatory analytical job evaluation scheme rates the woman's job as lower in value than her male comparator's job. An analytical job evaluation scheme evaluates jobs according to the demands made on the jobholders (see paragraph 10). If you use an analytical job evaluation scheme you need to check that the scheme has been designed and implemented in such a way that it does not discriminate on grounds of sex. It is for the employer, and not the job evaluation supplier or consultant, to show that the scheme is non-discriminatory.

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<sup>3</sup> Bromley and others v Quick (1988 IRLR 249).

2. The Equal Pay Act (Northern Ireland) states that a job evaluation scheme will be discriminatory if it is made on a system which discriminates on grounds of sex where a difference or coincidence between values set by that system on different demands under the same or different headings is not justifiable, irrespective of the sex of the person on whom these demands are made.
3. This means, for example, that a woman may argue that instead of "mental concentration" (in her job) being awarded fewer points than "physical effort" (in a man's job), it should have received the same or more points. Similarly, she may argue that the "physical effort" (in his job) has been overrated compared with the skill her job requires for "manual dexterity". Even where she has received the same or more points than a man under a particular heading, she may still argue that the demands of her job under this heading have been underrated.
4. A study will also be discriminatory if it fails to include, or properly take into account, a demand that is an important element in the woman's job (e.g. caring demands in a job that involves looking after sick or elderly people). A study will also be discriminatory if it gives an unjustifiably heavy weighting to demands that are more typical of the man's job.

#### **Key points on the legal background:**

- A woman can claim equal pay on the ground that a scheme has rated her job, although different, as equivalent to that of a man.
- An employer can defend an equal value claim if a non-discriminatory analytical job evaluation scheme has rated the woman's job as lower in value than that of her male comparator.
- A scheme will be discriminatory if it does not properly assess the demands of the woman's job as compared to the assessment made of the demands of her male comparator's job.



## Types of Job Evaluation Schemes

5. Job Evaluation is a method of comparing different jobs to provide a basis for a grading and pay structure. The aim is to evaluate the job, not the jobholder, but to some extent any assessment of a job's total demands relative to another will always be subjective. Moreover, job evaluation is in large part a mechanism to establish agreed differentials within organisations. There are two basic types of job evaluation schemes, "non-analytical" and "analytical".

### Non-analytical schemes

6. In a non-analytical scheme whole jobs are compared with each other, without any attempt to break the jobs down and analyse them under their various demands or components. Non-analytical schemes are particularly prone to sex discrimination because where whole jobs are being compared (rather than scores on components of jobs), judgements made by the evaluators can have little objective basis other than the traditional value of the job.
7. Examples of non-analytical schemes include job ranking and paired comparisons. These consist almost entirely of drawing up a list of jobs in rank order (the "felt-fair" order for the organisation). **A non-analytical job evaluation scheme does not provide a defence against an equal value claim.**
8. The rationale for a non-analytical job evaluation scheme is that it produces a hierarchy of jobs that approximates to the "felt-fair" ranking of these jobs in the minds of the people working in the organisation. But in many cases the fact that the jobholders in a particular job are predominantly male or predominantly female influences the placing of that job within the overall rank order.
9. A non-analytical job evaluation scheme can perpetuate a situation in which the jobs most frequently performed by women are regarded as having less value than those mostly performed by

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<sup>4</sup> The Employment Appeal Tribunal has held that red circling cannot be used as a defence if past sex discrimination is the cause of the difference in pay (Snoxell and Davies v Vauxhall Motors Ltd, 1977).

men. Examples of this would be where different job titles are applied to workers of different sexes who are in fact doing the same work, or where a "male" job which has become deskilled is still regarded as skilled, even though it is now equivalent to "female" semi or unskilled jobs.

## **Analytical schemes**

10. In an analytical job evaluation scheme jobs are broken down into components or demands, known as factors, and scores are awarded for each factor. The final total gives the overall rank order of jobs. An analytical job evaluation scheme can provide a defence against an equal pay claim, but only if it can be demonstrated that it is free of sex bias. As there are several points in the job evaluation process at which a sex bias can occur, those responsible for the JES need to ensure that this does not happen.

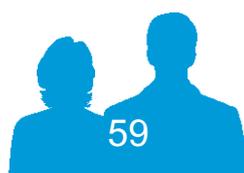
### **Key points on types of job evaluation scheme:**

- The aim is to evaluate the job, not the job holder
- For a job evaluation scheme to provide an employer with a defence against an equal value claim it must be a non-discriminatory analytical scheme
- An analytical scheme breaks the jobs down into components or demands, known as factors

## **Key features of job evaluation schemes**

### **Steering Groups**

11. Steering Groups or Project Teams overseeing the design and implementation of a scheme are the main way to ensure that employees and staff representatives participate in the scheme on a representative, structured, and clearly understood basis. Involving employees helps to gain acceptance for the scheme and promotes transparency in the ensuing pay structure



12. Often there are a number of groups actively participating in a job evaluation exercise. These can include:
  - A Steering Group/Project Team responsible for the determination of policy issues
  - An Evaluation Panel which undertakes the evaluations
  - An Appeals Committee which handles appeals against the results of the original evaluations
  - A Maintenance Panel which assesses the impact of changes in job content, evaluates new jobs that did not previously exist, and periodically reviews the overall operation of the scheme.
13. Sometimes there will also be one or more groups of people responsible for collecting information on job content, analysing the information, and writing job descriptions. If a scheme is computerised fewer panels may be involved, although it will still be necessary to establish a quality assurance or moderation panel to review the results for consistency. It is good practice to include in all of these groups a representative sample of people from the spread of jobs covered by a scheme. A fair representation of women in all job evaluation groups and discussions reduces the likelihood of sex bias.
14. In addition to any other training that you provide, you should ensure that all the members of all the overseeing groups receive training in how sex bias in job evaluation can arise. This will enable them to understand how their actions and decisions could produce such discrimination.
15. Chairs of committees, and especially of job evaluation groups, can be very influential in determining the outcome of the groups' considerations. It is therefore important that you select chairs (of all groups concerned with a job evaluation scheme), not just for their knowledge of job evaluation and their acceptability to the various parties involved, but also because they are unbiased and concerned to ensure that the scheme is free of sex bias. The Labour Relations Agency may be able to help with this.



16. Employees should be given regular progress reports on the job evaluation process. This will help you to detect problems as early as possible and to avoid disputes over the outcome.
17. You should keep minutes and records so that they can be made available in the event of appeals and, should sex discrimination be alleged, at industrial tribunal hearings.

### **Key points on key features of job evaluation schemes:**

- Involving employees helps to gain acceptance for the scheme and promotes transparency in the ensuing pay structure
- Ensuring that women are represented on the various panels helps to avoid sex bias
- Members of all the overseeing groups should receive training in how sex bias in job evaluation can arise
- Minutes and records should be kept

## **Job analysis**

### **Job descriptions**

18. Job descriptions written to an agreed format enable the jobs to be assessed according to a common standard. You will need to provide forms or guidance notes to the people writing job descriptions. The notes should contain a comprehensive list of the elements of the jobs to be assessed. This will help to avoid the possibility of unconscious bias coming into the evaluations at the job description stage. Job descriptions should contain at least the following information:
  - Job title
  - Relationships at work (e.g. the kind and degree of supervision received; the kind and degree of supervision given; the nature and extent of co-operation with other workers)



- A short summary of the primary functions of the job
  - A description of specific duties of the job showing approximate percentage of time spent on each and the extent of discretion or responsibility in relation to each
  - The job requirements. These should be listed under the components or factors to be used for the subsequent job evaluation procedure (e.g. skill, responsibility, mental effort, physical effort). If sub-factors are to be used in the job evaluation procedure, these too should be indicated at the job description stage.
19. If the format for preparing job descriptions differs significantly from the above, you should consider carefully whether the omissions or the additions are likely to result in aspects of jobs more commonly performed by women being underrated relative to those of jobs more commonly carried out by men.
  20. The person or people given responsibility for the preparation of job descriptions should be trained both in the skills involved in preparing job descriptions generally, and in the importance of ensuring that these do not omit aspects of women's jobs nor over-emphasise those job characteristics which are not found in jobs usually performed by women.
  21. The preparation of the job description involves at least three people: the worker who does the job, or a representative worker; that person's supervisor or manager, and the job analyst or person responsible for the procedures. Close involvement of workers in the preparation of descriptions of their own jobs means that the job descriptions will benefit from their detailed knowledge of the job, and help to ensure that important aspects of it are not overlooked. Involvement of the manager or supervisor is essential because of their responsibility for stating what is required of the job. The job analyst is important at this stage in detecting any bias in the descriptions of women's jobs and advising the manager accordingly.

## Job titles

22. There is a long history of using different titles for the jobs of men and women who are doing essentially the same work. Different job titles often denote a pay difference based not on the content of the work done, but on sex discrimination. You should look carefully at job titles which are applied to jobs predominantly done by one sex and which have a counterpart applied to jobs predominantly done by the other sex. If they do not reflect a genuine difference in the nature of the work done you should change them and apply the same title to both jobs.

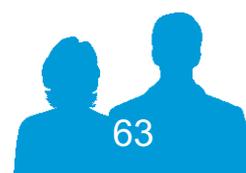
**Table One: Examples of job titles that can result in discrimination**

Male Job Title	Female Job Title
Salesman	Shop Assistant
Assistant Manager	Manager's Assistant
Technician	Operator
Office Manager	Typing Supervisor
Tailor	Seamstress
Personal Assistant	Secretary
Administrator	Secretary
Chef	Cook

These different job titles can of course also be applied to jobs that are in fact different. Sex discrimination occurs where these titles are applied to the **same, or very similar, job and** result in different pay rates.

### Key points on job analysis:

- Job descriptions should enable jobs to be assessed according to a common standard
- The job requirements should be listed under the factors to be used to assess the jobs



- The people responsible for the preparation of the job descriptions should be trained in the importance of ensuring that these do not omit aspects of women's jobs nor over-emphasise those job characteristics which are missing from jobs typically performed by women.
- Different job titles should reflect differences in the work being done.

## Factors

23. Factors are clearly identifiable aspects of jobs that can be defined and measured and which provide you with the basis for assessing and comparing the relative overall worth of different jobs. Examples of factors are "responsibility for people", "knowledge", "communication skills", "physical demands", "emotional demands", "mental skills" and "initiative". Except in very broad terms, there is no standard set of factors applicable to all jobs. Clearly factor choice is crucial since the final rank order of jobs is most heavily affected by the selection of factors.
24. The exclusion of a factor that is important for a job will result in it being undervalued relative to other jobs. This is particularly important if factors are excluded which occur in predominantly female jobs as this will result in these jobs being placed unfairly at the bottom of a grading structure. "Working conditions" and "physical strength" are often included in schemes covering manual workers; both these factors will appear in jobs performed by men. On the other hand, factors associated with work done by women, for example, "manual dexterity", "caring skills" and "working with people", may not be used as factors at all. It is essential that you choose factors representative of the whole range of work being evaluated.
25. The example in Table Two shows the impact of a biased set of factors.

**Table Two: an example of how biased factors can produce biased rankings for two jobs**

<b>Factors</b>	<b>Maintenance Engineer</b>	<b>Company Nurse</b>
<b><i>Skill</i></b>		
Experience in job	10	1
Training	5	7
<b><i>Responsibility</i></b>		
For money	0	0
Equipment and Machinery	8	8
For safety	3	6
For work done by others	3	0
<b><i>Effort</i></b>		
Lifting Equipment	4	2
Strength required	7	2
Sustained physical pressure	5	1
<b><i>Conditions</i></b>		
Physical environment	6	0
Working position	6	0
Hazards	7	0
	<b>64</b>	<b>27</b>

Note: each factor is scored on a scale from 1 to 10. For simplicity no weights have been applied.

26. This set of factors is discriminatory because it contains many characteristics of the “male” job and very few of the “female” job. Also, some of the characteristics of the male job are duplicated; for example, "strength required" to some extent duplicates "sustained physical effort", with the result that a high score on one would be associated with a high score on the other. The same is true of "lifting requirement" and "strength required". Note also that the difference in scores on the factor "experience in job" completely outweighs the more significant difference in the factor "training".



27. The example in Table Three shows how choosing a set of factors that incorporates all the important and relevant differentiating characteristics of the jobs to which the scheme is going to be applied produces a more equitable outcome.

**Table Three: an example of how a different choice of factors produces a more equitable outcome.**

<b>Factors</b>	<b>Maintenance Fitter</b>	<b>Company Nurse</b>
Basic knowledge	6	8
Complexity of task	6	7
Training	5	7
Responsibility for People	3	8
Responsibility for Materials and Equipment	8	6
Mental Effort	5	6
Visual Attention	6	6
Physical Activity	8	5
Working Conditions	6	1
<b>Total</b>	<b>53</b>	<b>54</b>

Note: each factor is scored on a scale from 1 to 10. For simplicity no weights have been added.

28. You should also check the factor scores of the jobs performed predominantly by female employees: if there are a lot of low scores or if the set of factors makes no provision for scoring aspects of the female jobs, then the set of factors is discriminatory and you should change them.

### **Factor definition**

29. Where large numbers of jobs are involved, factors are inevitably generic, so it is essential that you provide definitions of the meaning and scope of each factor. You should look closely at the definitions to ensure that sex bias does not occur. For example, a definition of "working conditions" which included shift work could discriminate against women, as could a definition of "experience"



which included length of service. For the purposes of job evaluation, if the job could be learned in two months then the fact that a jobholder has twenty years service is not relevant. If "numeracy" is a factor a proper definition will help to avoid subjective judgments, for example, that women are less numerate than men.

### **Key points on factors:**

- There is no standard set of factors applicable to all jobs
- Factors should be representative of the whole range of work being evaluated, irrespective of whether this is being done by men or by women.
- Definitions of each factor should be provided

### **Weighting**

30. When you have identified the important components of the jobs in your organisation and have converted these into job factors with scales for measuring those factors, you will find that they are not all equally important. It is normal practice to apply weightings to the factor scores so as to reflect the relative importance of the various factors. A very important factor may be weighted as high as 20%, whilst a much less important factor may be only weighted 5%.
31. As deciding what the weightings should be is a highly subjective process, it is easy for sex discrimination to appear at this stage. You need to bear in mind that in the event of any challenge, the employer would have to justify the particular set of weightings by reference to the importance of the factors to the organisation as a whole.
32. You should not give extreme weights (either very high or very low) to factors that are exclusively found in jobs performed predominantly by one sex. You should ensure that an analysis showing the percentage of total points (after weighting) attributable to each factor is compiled. This will highlight factors with heavy weightings and provide you with a comparison between factors. You



can then look again at the factors with the heaviest and the lightest weightings to check that these are not likely to penalise the jobs of one sex.

## Numbers of levels

33. Individual factors often have a number of levels within each factor. For example, "initiative" could have five levels ranging from the lowest, defined as "following detailed instructions under close supervision", to the highest, defined as "working within overall policy and having very wide discretion over a broad range of activities with minimal managerial direction". Levels should represent clear and recognisable steps in demand, as equal in distance apart as possible.
34. If each level is equally scored e.g. 8 levels = 80 points, 5 levels = 50 points, then the number of levels applied to each job is a form of implicit weighting. In order to avoid sex bias in the number of levels you need to ensure that factors characteristic of "male" jobs do not have more levels than those factors characteristic of "female" jobs.

## Scoring

35. Scoring is the method of attaching values to the various levels within each factor so that a total score for each factor and therefore for the overall job can be calculated. The method of scoring for each factor should be reasonably similar; otherwise factors with the same or similar numbers of levels can result in widely differing scores. For example, a factor of "responsibility for financial resources" may have five levels with scores increasing by multiples of five giving a maximum score of 25. However, the factor of "responsibility for caring" could also have five levels but with scores increasing in multiples of 3, giving a maximum score of 15. The effect of this is that a form of implicit weighting has been applied to the "responsibility for financial resources factor". You need to ensure that factors characteristic of male dominated jobs do not have a wider dispersion of scores than factors characteristic of female dominated jobs.

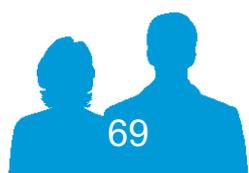


## Benchmark jobs

36. Most job evaluation schemes involve the selection of benchmark jobs. These are jobs that are used as a standard because they are considered to be typical of a grade or group of jobs. The selection of benchmark jobs should represent the spread of work done in the organisation as a whole.
37. If you employ only a small number of female staff you will need to ensure that you include a representative sample of the "female" jobs. This will ensure that the scheme takes account of job elements particular to the "female" jobs, rather than continuing to rely on evaluating the jobs of female employees against a factor plan appropriate primarily to work done predominantly by men.

## Key points on weighting and benchmarking:

- Weightings are used to reflect the importance of the factors to the organisation
- Very high or very low weightings should not be given to factors that are found in jobs done predominantly by one sex
- Numbers of factor levels are a form of weighting
- The way in which factors are scored can also be a form of weighting
- Weightings should not unduly favour the characteristics of work done predominantly by one sex
- The selection of benchmark jobs should represent the spread of work done in the organisation as a whole and should include a representative sample of "female" jobs.



## Implementing a job evaluation scheme

### Selecting grade boundaries

38. The main determinant of the relationship between the rank order of jobs resulting from a job evaluation exercise and the new wage/salary structure is the positioning of the evaluation scheme grade boundaries. Sometimes you will find that there are only a few points between jobs usually performed by men and similar jobs usually performed by women. When the grades are allocated, the cut-off mark in the points scale should not be placed so as to segregate scores and thereby create male and female grades. Doing so would mean that grade differentials would occur leading to biased pay and status differentials. You should select the grade boundaries on the basis of the objective evidence provided by the evaluation, irrespective of the sex of the jobholders.
39. You can check that the positioning of the grade boundaries has not contributed to discrimination against female employees by answering the following questions:
- Which jobs did you use to determine grade boundaries - was it all jobs, benchmark jobs, or average results for clusters of similar jobs?
  - Do the grade boundaries occur at clear points breaks in the scores? If not, why not and can you justify the boundaries without reference to either the sex of the jobholders or to the previous grading/pay structures?
  - If there are no clear points breaks in the job scores, can you justify the points chosen for the grade boundaries, for example, by the even size of grades or some other systematic and non-discriminatory principle?

- What if any, is the gender dominance of the jobs falling immediately below the immediately above each grade boundary? If jobs immediately above a grade boundary are carried out predominantly by men and/or those immediately below the grade boundary are carried out predominantly by women, can you justify the positioning of the boundary without reference to either the sex of the relevant jobholders or to the previous pay/grading structure?
- Are there grades that are comprised only of jobholders of one sex (either male or female)? If so, can you justify this by reference to the demands of the relevant jobs and how they were assessed under the job evaluation scheme?

### **The rank order**

40. Unless the previous grading structure genuinely represented equal pay for work of equal value, a job evaluation exercise carried out according to equal opportunities and equal value principles is unlikely to reproduce the previous rank order of jobs. Such an exercise will almost certainly result in changes to the rank order of jobs within the population covered by the exercise. Other things being equal, jobs undertaken predominantly by women are likely to move up the rank order relative to jobs undertaken predominantly by men.
41. This does not mean that jobs undertaken mainly by women should not move down the relative rank order, or that those undertaken predominantly by men cannot move up the relative rank order, but that where this happens it should be justified by reference to changes in the demands of the relevant jobs, as measured by the job evaluation scheme, by comparison with the previous organisational hierarchy.
42. You can check the position by comparing the rank order resulting from the job evaluation exercise with that implied by the previous grading structure, with analyses of the two rank orders by sex. The rank order should be of individual employees as job titles can disguise differences in ranking between "male" and "female" jobs. The rank order should be based on all employees, not just the benchmark jobs.



43. If your previous grading structure was also based on an analytical job evaluation exercise, this is a straightforward comparison of rank positions of jobs. If your previous grading structure was not based on analytical job evaluation then you will have to compare the new rank order with the grouped rank order implied by the old grades, that is, by assuming that all jobs from each old grade shared an equal position in the old overall rank order. In either situation, you need to look at the following aspects:

- How many jobs have changed their relative position in the rank order? How many of these are predominantly male jobs? And how many predominantly female jobs? How many are of mixed gender?
- Where the number and proportion of jobs which have changed their relative position in the rank order is very small, implying a very similar rank order to the previous one, you will need to re-check every aspect of the design and implementation of the job evaluation scheme to ensure that the exercise does meet equal opportunities and equal value principles.
- How many jobs have moved up the relative rank order? How many of these are predominantly male jobs? How many are predominantly female jobs? How many are of mixed gender?
- Where predominantly male jobs have moved up the relative rank order, can you justify this by reference to an increase in job demands since jobs were last reviewed, for instance, through an increase in responsibilities resulting from a re-organisation or re-distribution of work? If not, you need to review the scheme design (including any hidden weighting) and application process.
- How many jobs have moved down the relative rank order? How many of these are predominantly male jobs? How many are predominantly female jobs? How many are of mixed gender?
- Where predominantly female jobs have moved down the relative rank order, can you justify this by reference to a decrease in job demands since jobs were last reviewed, for instance, through a



decrease in responsibilities resulting from a re-organisation or re-distribution of work? If not review the scheme design (including any hidden weighting) and application process.

For public authorities, the above checks will contribute to the first and second steps (data collection and analysis) of a gender equality impact assessment of the job evaluation exercises, as set out in schedule 9 of the Northern Ireland Act, 1998. However, public authorities will also need to undertake the remaining stages of the procedure, for example, consulting on the scheme and publishing the results of the equality impact assessment.

### **Red-circle cases**

44. Once the evaluation of the jobs has been completed you will almost certainly find anomalies in your payment system. Some of the existing rates of pay may be above the rates newly set for the grades appropriate to those particular jobs. "Red-circling" means that you allow the jobholders to maintain their current pay terms and condition, but when they leave the particular job it reverts to its evaluated rate. Alternatively, you can phase the jobholders' pay into line with the rest of the grade by withholding or restricting future wage increases.
45. Red circling should not be used in such a way that it amounts to sex discrimination. If red-circling results in men receiving a higher rate than women doing the same or broadly similar work, or work of equal value, this may give rise to an equal pay claim. In any cases brought before them Tribunals will have to make a careful study of the circumstances of each case, taking into account the length of time the red-circle has been in operation, whether the initial reason for the pay discrepancy remains justifiable, whether the employer acted in accordance with good industrial relations practices, and whether their actions were based upon any direct or indirect sex discrimination.
46. The answers to the following questions will help you to decide whether your organisation is at risk of an equal pay claim:



- How many jobholders have had their wages/salaries red-circled or personally protected?
- How many of these are men and how many are women?
- If the proportions of men and women are significantly different can you justify this in terms of the features of the job evaluation scheme and job demands?
- In particular, if the numbers and proportions of men whose wages/salaries are red-circled or personally protected in the new salary structure is significantly greater than the numbers and proportions of women, can you demonstrate that the red-circling is not a means of evading paying the higher rates to women?

### **Checking for consistency or 'sore-thumbing'**

47. The evaluators should not regard their evaluations as finalised until they have checked all of their evaluations for consistency. It is helpful to check for consistency as you go along, as this avoids the final check being too onerous. At this point it is good practice for the Steering Group to 'sore-thumb' the results i.e. to identify queries about factor evaluations or position in the ranking and to refer these back to the evaluation panel for checking. Beyond that, the only revisions to scores should be as the result of appeals.

### **Appeals**

48. It is normal practice to have a formal appeals procedure to deal with those cases where the employees believe their job has been unfairly evaluated. A representative committee is usually set up, and it is important that this committee should be trained both in job evaluation and in the avoidance of sex bias. You should ensure that the members of the Appeals Committee do not condone sex discrimination, and that the chair is someone with an interest in ensuring both fair evaluations and the elimination of sex discrimination. You should inform all employees that care has been taken to ensure that the job evaluation procedure has not discriminated against employees of either sex. You should also let employees know that they can use the appeals procedure if they



feel that they have been wrongly graded because of their sex or if they feel that the scheme has resulted in sex discrimination in some way.

## Changes in grading

49. Changes in grading as a result of a job evaluation exercise should reflect all elements of the remuneration package. Relevant questions here are:

- How many women have moved to a higher grade but not a higher salary?
- How many women have moved to a higher grade but receive less in terms of bonus and monetary and non-monetary benefits than men on the same grade?
- Have steps been agreed to eliminate the pay differential for equivalently rated jobs? If not, can the differences be clearly justified by non-sex based reasons?

Not all pay structures are based on grades. Where pay is directly linked to the evaluation result then it is important to check there is a perceptible difference in job size.

## Non-implementation

50. If a job evaluation scheme has been completed but not implemented, for whatever reason, then employees whose jobs have been rated as of equivalent value to employees of the opposite sex are entitled to equal pay<sup>5</sup>.

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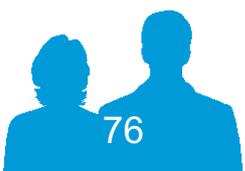
<sup>5</sup> O'Brien v. Sim Chem Ltd, 1980 House of Lords.



## Maintaining and monitoring a job evaluation scheme

### Maintenance of a job evaluation scheme

51. The regular maintenance of a scheme is mainly concerned with claims for re-grading, reassessments due to changes in job content and the grading of new jobs. You should take care to ensure that when you re-grade jobs the jobs mostly done by men are not re-graded in such a way as to restore the previously biased differentials that had placed those jobs higher than jobs mostly done by women.
52. If you do need to revise evaluations of jobs after the initial evaluation phase, most probably on account of new job information, you should ask the following questions:
  - In how many jobs have the original assessments been revised? How many of these are jobs carried out mainly by women? How many of these are jobs carried out mainly by men? How many are carried out by both men and women? Where there is a significant difference in the numbers and proportions, can you justify this?
  - In how many jobs have the original assessments been revised upwards? How many of these are jobs carried out mainly by women? How many of these are jobs carried out mainly by men? How many are carried out by both men and women? If more men's than women's jobs are involved in these upward revisions can you justify this without reference to either the sex of the jobholders or the previous grading/pay structures?
  - In how many jobs have the original assessments been revised downwards? How many of these are jobs carried out mainly by women? How many of these are jobs carried out mainly by men? How many are carried out by both men and women? If more women's than men's jobs are involved in these downward revisions can you justify this without reference to either the sex of the jobholders or the previous grading/pay structures?



## Monitoring the results of a scheme

53. The outcome of a new job evaluation scheme should be monitored to check for sex bias, and periodic reviews of existing schemes should also take place to ensure that discrimination does not creep in. Basic data will be required. This should include the number of employees by gender, job-title, grade and salary for both the new structure and the old. If a review of this data indicates that there are gender imbalances then you will need more detailed information in order to identify where the problem lies.





## Estimating equal value

### Introduction

It describes some options for estimating equal value in the absence of a single job evaluation scheme covering all the employees in an equal pay review. It supports Step 2 of the Model.

Whilst every effort has been made to ensure that the advice given here is accurate, only the Courts or Tribunals can give authoritative interpretations of the law.

The most reliable and objective approach to determining equal value is to use a single job evaluation scheme designed and implemented to take account of equal value considerations and your specific job population. Such a system will assess the demands of jobs under headings such as effort, skill, decision and responsibility.

Those organisations, which *do* operate a single job evaluation system covering all employees, can rely on their 'work rated as equivalent' checks, perhaps supported by selected 'like work' checks. They will also need to undertake an equality review of the design and implementation of the job evaluation scheme – see **Guidance Note 4: Job evaluation checklist**.

Those organisations, which do *not* operate a single job evaluation scheme covering all employees, should seriously consider introducing such a scheme.

Where it is judged impractical to introduce a single job evaluation scheme, you will need to estimate equal value between jobs not covered by the same job evaluation scheme. This could vary from a small number of, for example, senior managers not covered by an existing scheme, to all employees where there is no job evaluation at all.

A number of possible methods for estimating equal value are offered below. It should be noted, however, that none will be an acceptable alternative for a rigorous job evaluation-based approach to assessing equal value.

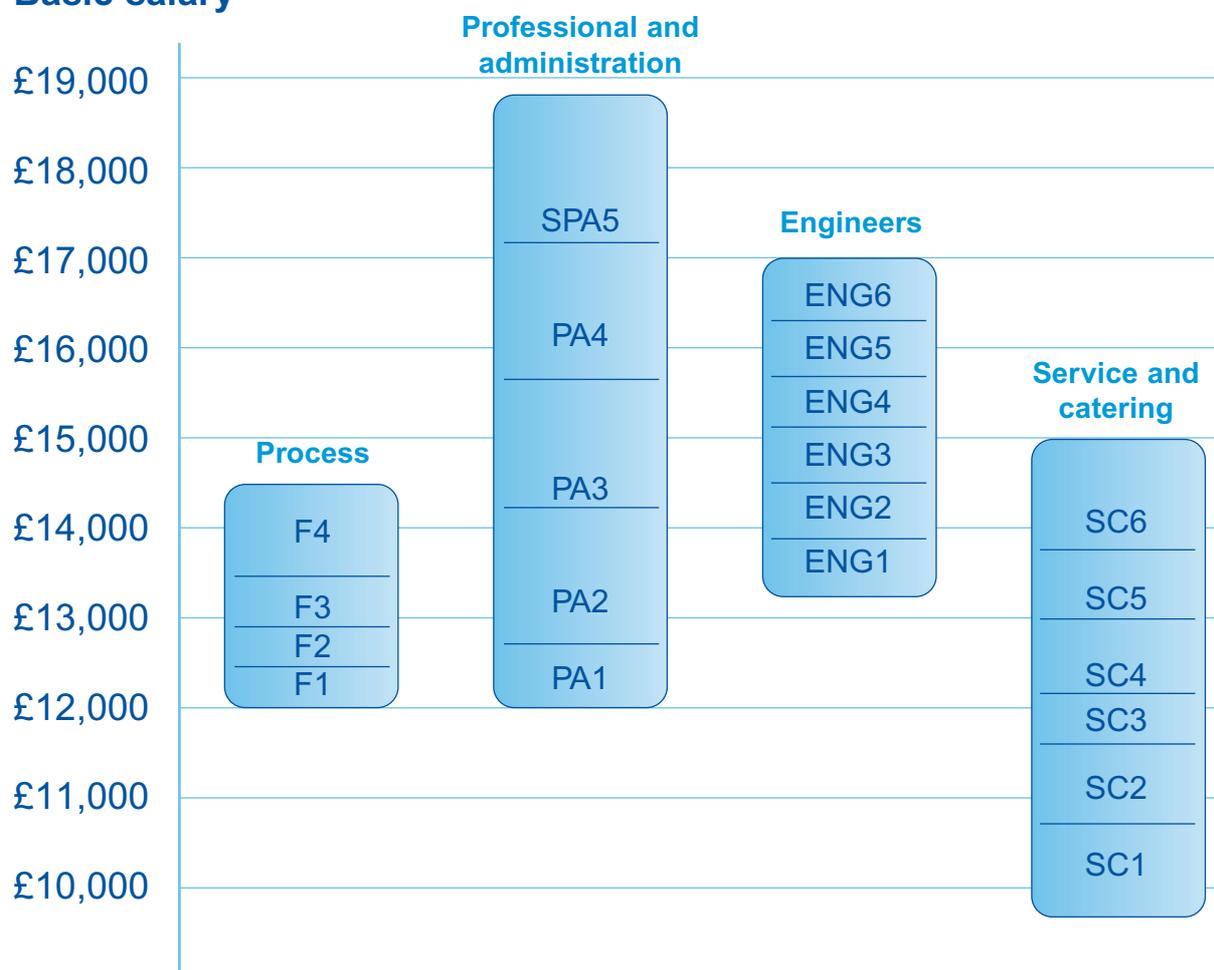
To help identify sample jobs for any of these methods for estimating equal value:

- you may first find it helpful to set out your pay structures or pay rates on a chart (see example overleaf);
- choose jobs which are predominantly performed by either men or women rather than mixed gender jobs;
- identify likely vulnerabilities – jobs performed mainly by women (or men), which you suspect may be under (or over) valued, compared to those performed mainly by employees of the opposite gender. For example, the jobs at the lower levels in the Service and Catering structure may be undervalued in relation to the lower level process or admin jobs.



## Payment structure

### Basic salary



Possible methods for estimating equal value include:

#### A. If you use some job evaluation

##### Equal Value Check 1:

**for organisations with two or more job evaluation schemes covering between them all or nearly all employees.**

In order to establish equal value across the schemes, use the more/most generic job evaluation scheme to evaluate a sample of jobs covered by the other scheme(s). You can cross-check the relative results, by using one or more of the other schemes.



So, if in the pay structure example above, there are three separate job evaluation schemes covering the process, professional and administrative, and service and catering groups, it would be possible to use, say, the professional and administrative JE scheme to evaluate a sample of jobs from each of the process and service and catering groups. The results could be checked by evaluating the sample jobs and selected jobs from the professional and administrative structure on, for instance, the service and catering JE scheme.

### **Equal Value Check 2:**

**for organisations with a number of separate grading (and pay) structures, at least one of which is based on job evaluation.**

In order to establish equal value across grading structures, you can use your job evaluation scheme to evaluate a number of jobs outside its normal remit. You may need to adapt the scheme to accommodate your sample jobs (e.g. by adding levels to the top or bottom for some factors, or adding factors to take account of the demands of the broader job population).

In the above example, you could use the professional and administrative JE scheme to evaluate a sample of male dominated engineering jobs. If only the process grading structure was JE based, then it would still be possible to use that scheme to evaluate a sample of jobs from each of the other three groups. In this case, it might be necessary to add levels to existing factors to accommodate, for instance, higher levels of responsibility for supervision/management of other employees, or to include a factor to measure financial or budgetary responsibilities.

### **B. If you have no job evaluation**

#### **Equal Value Check 3:**

**for organisations with a single grading or banding structure based on a single set of criteria.**

Estimate equal value by using your grades based on job profiles or a classification system.



## NOTE:

- (1) This method assumes that your grading criteria (profiles, grading definitions, classification system) are non-discriminatory. You will need to check this later, possibly by applying the relevant questions from the Job Evaluation Checklist – see Guidance Note 4.
- (2) This method is only appropriate where there is only one set of grading criteria. If you have different criteria for different job groups (e.g. for legal staff or research staff, distinct from the criteria for professional and administrative staff), even within the same grading/pay structure, then you will need to adopt an alternative method from those below.

### **Equal Value Check 4:**

**for organisations with no formal grading structure, or more than one formal structure.**

Estimate equal value by using levels in a competence framework (either NVQs or an in-house system). If you do not have a formal competence framework, you can still estimate equal value by aligning your sample of jobs by broad skill level, as defined in the chart on page in Section 3 Guidance for Small businesses.

So, in the pay structure example above, if NVQ training and assessment systems have been introduced for process and engineering staff, it would be possible to compare the pay of jobs in the two groups at NVQ levels 1, 2, 3 and so on. Even if NVQs have not yet been introduced for the professional and administrative and service and catering groups, it would still be possible to use the chart to identify jobs at each level and to compare them with jobs in those groups which do use NVQs.

### **Equal Value Check 5:**

**for organisations with no job evaluation, but with clear job families or other occupational group hierarchies.**



Estimate equal value by matching those in equivalent positions in different job families or occupational hierarchies. For example, you could use categories, such as senior managers, department managers, team leaders, specialists with equivalent qualification levels, process workers, and clerks. Make sure your categories are not gender specific.

So, in the pay structure example above, you could use this method to estimate equal value between the engineering and professional and administrative groups by comparing the jobs of, for instance,

- the basic professional level from the engineers, and accountants (or solicitors or surveyors) from the professional and administrative group;
- the senior professional level of the same job groups;
- the section or department managers for the engineers, on the one hand, and accountants or surveyors, on the other.

### **Equal Value Check 6:**

**for any organisations for which none of the previous checks are appropriate.**

Identify a number of male and female employees' jobs within your organisation for equal value 'spot checks'. The jobs where you suspect possible equal value vulnerabilities, those performed by large numbers of men and women, those performed by low paid workers... Then apply an equal value 'spot check' to estimate whether the jobs are equal in value. The equal value 'spot check' should involve a systematic assessment of the demands of the jobs under headings such as effort, skill, decision, and responsibility.

So, in the pay structure example above, if process grade F1 is male dominated and service and catering grade SC1 is female dominated, then sample jobs could be selected from each group. Or, if service and catering grade SC4, includes qualified cooks, who are mainly women, and Engineering grade 2 includes male dominated craft jobs, then jobs from each could be selected for 'spot checks'.



## Reviewing your payment systems, policies and practices

### Introduction

This guidance note contains a number of checklists to enable employers and trade union representatives to check the design, implementation, impact and review of pay policies and practices. The process supports Steps 4 and 5 of the model. A simpler checklist for small organisations is included in Section 3.

If your Step 3 analyses identified a significant pay gap between men and women doing equal work, you need to establish in which elements of pay the gaps are occurring (basic pay, performance pay, amount of overtime etc.). You also need to establish what pay practice is causing the gap (starting pay, performance assessments, differences in acceptance of overtime opportunities between men and women etc). You can then assess whether the gap is justifiable and, if not, plan to close it.

As pay arrangements vary widely, some checklists, or parts of them, do not apply to every organisation. They do, however, provide general guidance and detailed tips on how to review pay systems in detail in most situations to establish the cause of pay gaps and where they are occurring.

If you have not identified pay gaps, the process will help ensure your current and future pay policies and practices reflect equal pay principles.

The first checklist covers general equal pay issues arising from pay structures. Others deal with particular pay policies and practices which may lead to pay gaps.

The checklists are:

- Checklist 1: Overall pay structures
- Checklist 2: Pay on entry, pay protection, mechanisms for pay progression
- Checklist 3: Performance related pay schemes
- Checklist 4: Market factors
- Checklist 5: Benefits
- Checklist 6: Working time payments

## Checklist 1: Overall pay structures

### Introduction

This section is about the equal pay considerations associated with the overall design of pay structures, such as whether grades are used, how job hierarchies are developed and whether job evaluation operates.

### **Equal pay considerations in respect of pay structures.**

Pay structures vary considerably. Those pay structures which group jobs into pay grades or bands have traditionally treated jobs in the same grade or band as being of broadly equal value, either because they have been evaluated with similar scores under a job evaluation scheme, or because they are simply regarded as equivalent.

However, recent years have seen a trend towards structures with fewer, broader grades or bands and greater use of performance pay and market factors. A single broad band or grade may contain jobs or roles of significantly different value. This, coupled with a wider use of other determinants of pay, and more complex methods of pay progression, lead to a number of equal pay questions addressed below. Applying an analytical, bias-free job evaluation system appropriate to the population under review is the best way to check the relative value of jobs within and between bands. Guidance on estimating equal value in the absence of analytical job evaluation is given in Guidance Note 5.

Any difference in the pay or earnings of men and women performing equal work requires explanation and justification

The checklist which follows will help you undertake a general equality proofing process of your pay structure. If you cannot answer 'yes' to any of the questions in the checklist you will need to check the pay structure to ensure it is free from gender based discrimination.

## Pay structures

You should answer the following questions **by checking pay practice**, rather than relying on your pay policy.

Design	Yes	No
Is everybody in the organisation covered by the same, single job-evaluated pay structure?	<input type="radio"/>	<input type="radio"/>
Is the job evaluation scheme analytical and free of sex bias? (see Guidance Note 4)	<input type="radio"/>	<input type="radio"/>
Were those involved in the design of the structure trained in equal pay principles?	<input type="radio"/>	<input type="radio"/>
Was the likely impact on men and women checked prior to implementation?	<input type="radio"/>	<input type="radio"/>
Do the grade boundaries reflect distinct differences in the relative value of jobs?	<input type="radio"/>	<input type="radio"/>
Is there an objective justification for the structure?	<input type="radio"/>	<input type="radio"/>



Implementation	Yes	No
Were those involved in the implementation of the pay structure representative of the workforce and trained in equal pay principles?	<input type="radio"/>	<input type="radio"/>
Is the structure transparent?	<input type="radio"/>	<input type="radio"/>
Has the structure been clearly communicated to staff?	<input type="radio"/>	<input type="radio"/>
Are men and women performing equal work receiving equal average basic pay and equal average total earnings?	<input type="radio"/>	<input type="radio"/>
Does your statistical analysis confirm that neither men nor women predominate at the tops and bottoms of grades?	<input type="radio"/>	<input type="radio"/>

## Checklist 2: Checklist for pay on entry, pay protection, pay progression.

### Introduction

The considerations in respect of possible sex inequality regarding pay on entry, pay protection and pay progression are similar, so one checklist is provided to cover pay policies and practices in these areas. You should apply the checks to pay on entry, pay protection and pay progression policies and practices. It is possible that you will need to ask other questions particular to your organisation.

Some of the considerations are as follows:

- **Joining a pay band**

Typically, employees will join a pay grade or job as a new recruit, a transferee, on promotion, on re-entry after a career break, or following a restructuring of a pay and grading system.



The 'entry' rate of pay on joining a job/grade may be determined using a set formula/rule or simply be an amount agreed by the parties. Where a formula is used, the impact should be tested to ensure that its operation is not favouring one gender over another. Where there is discretion over the entry rate of pay, the impact of decisions should also be checked by gender.

- **Pay protection arrangements**

'Red circling' is a widely-used pay protection technique for protecting the pay of an individual whose job is downgraded following, for example, an internal reorganisation, grading review or implementation of a new job evaluation scheme, or following a relocation.

The use of red circling, which maintains a difference in pay between men and women over more than a reasonable phase-in period of time will be difficult to justify. You should check that pay protection arrangements operate over a 'reasonable' period of time. There is no hard-and-fast guidance from industrial tribunals on what constitutes a reasonable time-scale.

- **Pay progression**

Differences in pay between men and women resulting from pay progression within a grade or job, whether by traditional increments or an alternative progression mechanism, may be objectively justified by the benefits to the organisation of increased experience ensuring greater expertise. But this justification erodes after an appropriate period of time.

Problems, however, may arise from the legacy of past incremental progression systems, which appear to lie at the root of some gender-based pay differences.

It is essential that any new pay progression arrangements are rigorously scrutinised both for their impact on men and women, and for the strength of the 'increased expertise and value' justification. The argument is likely to be stronger if progression is linked to the achievement of pre-determined criteria.



The checklists which follow will assist in identifying potential equal pay issues. If you answer 'no' (or you do not know the answer) to any of the questions in the checklists you will need to further investigate the pay data and pay practice to ensure that it is free from sex discrimination.

### Pay on entry, pay protection, pay progression.

You should answer the following questions by checking pay practice, rather than relying on your pay policy.

Design	Yes	No
Are there clear rules governing pay on entry, pay progression and pay protection?	<input type="radio"/>	<input type="radio"/>
Were those involved in the design of the rules trained in equal pay principles?	<input type="radio"/>	<input type="radio"/>
Were the rules checked for potential bias at the design stage?	<input type="radio"/>	<input type="radio"/>
Was the likely impact on men and women of the rules checked prior to implementation?	<input type="radio"/>	<input type="radio"/>
Was there an objective justification for the rules?	<input type="radio"/>	<input type="radio"/>

Implementation	Yes	No
Do the rules apply in principle to all employees?	<input type="radio"/>	<input type="radio"/>
Have those involved in the implementation of the rules been trained in equal pay principles?	<input type="radio"/>	<input type="radio"/>
Are the rules transparent and have they been communicated clearly?	<input type="radio"/>	<input type="radio"/>



Are the rules applied consistently and even-handedly in practice?	<input type="radio"/>	<input type="radio"/>
Where managerial discretion applies, are there clear guidelines on the exercise of discretion over starting salaries?	<input type="radio"/>	<input type="radio"/>
Is there a right of appeal against decisions?	<input type="radio"/>	<input type="radio"/>

<b>Impact</b>	<b>Yes</b>	<b>No</b>
Does your statistical analysis show that men and women performing equal work are treated equally regarding entry salaries, pay protection and pay progression?	<input type="radio"/>	<input type="radio"/>
If differences have been revealed, have you checked whether current pay practices are causing the pay gaps?	<input type="radio"/>	<input type="radio"/>
If differences have been revealed, have you checked whether historical pay practices are causing the pay gaps?	<input type="radio"/>	<input type="radio"/>

<b>Monitoring and review</b>	<b>Yes</b>	<b>No</b>
Do you regularly monitor and review entry salaries, pay protection and pay progression?	<input type="radio"/>	<input type="radio"/>
Do you regularly review the objective justification for your rules and practice on entry salaries, pay protection and pay progression to ensure they remain valid?	<input type="radio"/>	<input type="radio"/>
Do the rules and practice still meet standards of best equal pay practice?	<input type="radio"/>	<input type="radio"/>



## Checklist 3: Performance/competence-based and incentive pay systems

### Introduction

This section covers all forms of performance-related pay (PRP) systems, including those that have a competence-based element, and stand-alone competence-related pay schemes. It also deals separately with incentive-based pay systems, such as bonus arrangements.

There is some legal guidance on performance pay systems derived from the European Court of Justice (ECJ). It is generally accepted that the ECJ guidance applies to all forms of performance and competence related pay. The ECJ said that there is every reason to expect the performance of women to be as high as the performance of men.

The performance/competence measurement and pay system should therefore, all other things being equal, generally deliver the same performance payments to women as to men.

Issues of particular concern regarding equal pay in performance/competence based pay systems are:

- Groups of workers being excluded from the system or bonus arrangement
- Applying different performance/competence pay systems to different groups of employees
- Performance/competence criteria which are potentially indirectly discriminatory by, for example, being more characteristic of 'male' than 'female' behaviour.

The first part of the performance/competence pay checklist identifies those aspects of any performance/competence pay system where problems could arise. The remaining parts of the checklist deal with specific aspects of particular types of performance pay systems.

In order to work through this checklist you will need:

- Copies of the performance/competence appraisal/measurement guidance and instructions
- Analyses of performance/competence assessments, or equivalent, overall and by grade/band and gender
- Analyses of performance/competence payments, overall and by grade/band and gender.

The checklist which follows will assist in identifying potential equal pay issues. If you answer 'no' (or you do not know the answer) to any of the questions in the checklist you will need to further investigate the pay data and pay practice to ensure that it is free from sex discrimination.

### All performance/competence based pay systems

You should answer the following questions by checking pay practice, rather than relying on your pay policy.

Access	Yes	No
Are all groups of workers included in the performance/competence pay system or systems?	<input type="radio"/>	<input type="radio"/>
In particular, are part-time workers, temporary or casual staff, those on maternity leave or taking career breaks, or any other group which is likely to be predominantly female, included in the performance/competence pay system?	<input type="radio"/>	<input type="radio"/>
Does the same performance/competence pay scheme apply to different groups of workers with jobs of equal value?	<input type="radio"/>	<input type="radio"/>
Do men and women have equal access to opportunities to develop/acquire competencies and do they benefit equally from them?	<input type="radio"/>	<input type="radio"/>

<b>Design issues – the measurement of performance/competence</b>	<b>Yes</b>	<b>No</b>
Have all those involved in the design and development of performance/competence appraisal schemes been trained in gender awareness and the avoidance of bias?	<input type="radio"/>	<input type="radio"/>
Are the criteria/objectives that are rewarded by the performance/competence appraisal system objectively justified and have they been checked for potential gender bias?	<input type="radio"/>	<input type="radio"/>
Are performance/competence criteria which may favour attributes and roles perceived to be 'male' (e.g., assertion, leadership, decision making skills) and those perceived to be 'female' (e.g. co-operation, consultation, and other people-related features) included in a balanced way?	<input type="radio"/>	<input type="radio"/>
Do the performance/competence criteria/objectives avoid any which could be indirectly discriminatory, for example, those related to attendance, flexibility in hours of work?	<input type="radio"/>	<input type="radio"/>
Are performance/competence targets or objectives equally achievable in jobs typically done by women and men?	<input type="radio"/>	<input type="radio"/>

<b>Implementation</b>	<b>Yes</b>	<b>No</b>
Have all those involved in the implementation been trained in gender awareness and the avoidance of bias, as well as in the operation of the scheme?	<input type="radio"/>	<input type="radio"/>
Where managerial discretion applies, are there clear guidelines on the exercise of discretion over performance/competence appraisal and payments?	<input type="radio"/>	<input type="radio"/>



Is the performance/competence pay system transparent to all employees covered by it e.g. does each employee receive information about her or his individual performance ratings and how they convert into pay?	<input type="radio"/> <input type="radio"/>
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<b>Impact – performance pay outcomes</b>	<b>Yes</b>	<b>No</b>
Does the distribution of performance/competence assessments show that there may be gender bias between women and men employees within each grade?	<input type="radio"/>	<input type="radio"/>
Is the distribution of performance/competence payments broadly similar as between women and men within each grade?	<input type="radio"/>	<input type="radio"/>
Is the distribution of performance/competence payments broadly similar as between women and men across the organisation (within and between schemes)?	<input type="radio"/>	<input type="radio"/>
In a scheme where performance/competence payments are consolidated, do men and women undertaking equal work achieve equal earnings over time?	<input type="radio"/>	<input type="radio"/>
If differences have been revealed, have you checked whether historical practices are causing the pay gaps?	<input type="radio"/>	<input type="radio"/>
In a scheme where performance/competence payments are not consolidated, are the average and distributions of such payments similar as between men and women undertaking equal work?	<input type="radio"/>	<input type="radio"/>
If differences have been revealed, have you checked whether current practices are causing the pay gaps?	<input type="radio"/>	<input type="radio"/>

<p>If differences have been revealed, have you checked whether historical practices are causing the pay gaps?</p>	<input type="radio"/>	<input type="radio"/>
<p>Can any differences in pay between men and women, which are attributed to performance/competence, be objectively justified?</p>	<input type="radio"/>	<input type="radio"/>
<p>Is the treatment of non-consolidated performance/competence payments for pension purposes the same or similar as between men and women undertaking equal work?</p>	<input type="radio"/>	<input type="radio"/>

<b>Monitoring and review</b>	<b>Yes</b>	<b>No</b>
<p>Are performance/competence objectives/targets/assessments/ratings regularly monitored by gender and by full/part-time etc.?</p>	<input type="radio"/>	<input type="radio"/>
<p>Are performance/competence payments regularly monitored by gender and by full/part-time etc.?</p>	<input type="radio"/>	<input type="radio"/>
<p>Have schemes been checked for their impact on women who have taken maternity leave?</p>	<input type="radio"/>	<input type="radio"/>
<p>Is the exercise of managerial discretion within the performance/competence assessment and pay system monitored by gender?</p>	<input type="radio"/>	<input type="radio"/>

Incentive based productivity/bonus schemes	Yes	No
Is the base point for the measurement of productivity/bonus demonstrably at an equivalent level for work generally undertaken by women as for work generally undertaken by men?	<input type="radio"/>	<input type="radio"/>
If the base point is not demonstrably equivalent, have adjustments been made to the measurement system to take account of this?	<input type="radio"/>	<input type="radio"/>
Do the measurement steps above the base point represent equivalent levels of additional effort (mental and/or physical) for work generally undertaken by women and work generally undertaken by men?	<input type="radio"/>	<input type="radio"/>
Does the system for converting productivity into bonus or other payment result in equivalent pro-rata payments for full-time and part-time staff where appropriate?	<input type="radio"/>	<input type="radio"/>
Does the system for converting productivity into bonus or other payment result in broadly similar payments for women and men?	<input type="radio"/>	<input type="radio"/>
Are the average payments to women over a suitable period equal to the average payments for men?	<input type="radio"/>	<input type="radio"/>
If differences have been revealed, have you checked whether current practices are causing the pay gaps?	<input type="radio"/>	<input type="radio"/>
If differences have been revealed, have you checked whether historical practices are causing the pay gaps?	<input type="radio"/>	<input type="radio"/>
Can any differences in pay between men and women, which are attributed to performance/competence, be objectively justified?	<input type="radio"/>	<input type="radio"/>



If you cannot answer 'yes' to any of the questions (or you do not know) you will need to investigate the practice to ensure it is free of gender discrimination.

## Checklist 4: Market factors

### Introduction

Most pay systems are influenced to some extent by rates of pay in the external labour market. In a growing number of payment systems they are the main determinant of pay.

Differences in labour market rates can be a defence to an equal pay claim, but only in specific circumstances where it can be shown:

- That market factors were genuinely taken into account when setting the higher comparator rates, and not simply put forward as a post hoc justification for the pay difference
- That the market factors are still relevant at the date of any claim; and
- That market factors account for the whole of the differences attributed to them. If not, the courts must determine what proportion of the difference is accounted for by market factors. Hence the need to consider market supplements as additions to base rates.

This is a complex area, but issues of particular concern regarding equal pay in market based pay systems include:

- Over-reliance on data from sex segregated jobs in the wider labour market
- Internal and external jobs are not accurately matched for 'size'
- Failure to ensure that a representative sample of male and female jobs from organisations of a comparable size is included in the database
- Existing market premia cannot be justified and/or outdated market premia continue to be paid.



The checklist which follows will assist in identifying potential equal pay issues. If you answer 'no' (or you do not know the answer) to any of the questions in the checklist you will need to further investigate the pay data and pay practice to ensure that it is free from sex discrimination.

Market factors checklist	Yes	No
Can you clearly identify an appropriate external market(s) for the jobs within the pay systems?	<input type="radio"/>	<input type="radio"/>
Do you apply the same principles and guidance for using market rates in pay determination to all internal jobs?	<input type="radio"/>	<input type="radio"/>
Is there an even distribution of male and female jobs in your external labour market database?	<input type="radio"/>	<input type="radio"/>
Have you asked your provider of market comparisons/databases for confirmation that the process has been 'equality proofed'?	<input type="radio"/>	<input type="radio"/>
If you use a job evaluation scheme for internal and external matching for market purposes has it been audited for sex bias (see separate Guidance Note).	<input type="radio"/>	<input type="radio"/>
Have those involved in preparing market rate data, advising on its use and applying this to pay determination been trained/given guidance in avoiding gender bias?	<input type="radio"/>	<input type="radio"/>
Is there clear and objective justification for pay rates which are determined by market comparisons?	<input type="radio"/>	<input type="radio"/>
Are market rate additions checked regularly to ensure that they are still justified?	<input type="radio"/>	<input type="radio"/>



## Checklist 5: Benefits

### Introduction

Employers may provide a range of benefits as part of remuneration packages.

Under the Sex Discrimination (Northern Ireland) Order it may be discriminatory not to apply some benefits equally across the whole workforce if this results in a lower proportion of one gender not receiving the benefit (for example, only offering childcare assistance to women). In terms of equal pay law, each element of the pay package must be treated separately. As part of the Equal Pay Review process, each benefit must therefore be examined separately for equal pay problems.

Issues of particular concern regarding gender equality in benefits include:

- unequal access - for example the exclusion of part-time workers from a benefit where the majority of part-time workers are women
- providing different levels of benefit to different categories of employee
- providing different levels of benefit according to length of service.

The benefits checklist which follows provides a format which can be adapted to analyse the benefits provided by your own organisation.

The checklist will assist in identifying potential equal pay issues. If you answer 'no' (or you do not know) the answer to any of the questions in the checklist you will need to further investigate the pay data and pay practice to ensure that it is free from sex discrimination.



Benefits	Where men and women are doing equal work							
	Are the proportions of men and women receiving the benefit equal?		Is their average payment/benefit equal?		Can the benefit still be objectively justified?		Does the benefit meet current standards of best equality practice?	
<b>Personal security</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
Occupational pension	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sick Pay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Private health insurance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Financial assistance</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
Interest-free loans	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgage assistance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Season-ticket loans	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Fees to professional bodies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Childcare allowances	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



<b>Leave</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
Holidays	<input type="radio"/>							
Special paid leave	<input type="radio"/>							
Career breaks	<input type="radio"/>							
<b>Cars</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
Company cars	<input type="radio"/>							
Private petrol	<input type="radio"/>							
Car allowances	<input type="radio"/>							
Car parking	<input type="radio"/>							
<b>Other benefits</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
Clothing allowances / uniforms	<input type="radio"/>							
Mobile phones	<input type="radio"/>							
Subsidised meals	<input type="radio"/>							
Flexible working	<input type="radio"/>							

For certain benefits, you should also check whether all categories of staff regardless of equal work have access. Unequal access might indicate sex discrimination. An example would be childcare allowances.



## Checklist 6: Working time payments

### Introduction

In some pay systems, pay includes a number of elements which are paid as work-related premia in addition to basic pay. These might include:

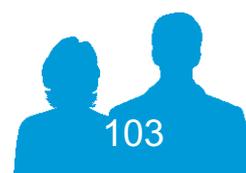
- Working time premia, such as overtime, shift pay, on-call payments
- Working conditions allowances, such as 'dirty money'
- Miscellaneous payments, such as travel-time payments.

Recent trends in pay and flexible working have led to many employers reducing the number and range of these additional payments. Where they continue, it is often in long-established, traditional pay systems which may be more prone to discrimination.

Equal pay problems with work-related premia primarily arise from unequal access, for example, where:

- Predominantly female jobs are excluded from the premium payments, or have restricted access to them
- Overtime is restricted to certain grades or jobs, or allocated on a discretionary basis
- Working conditions allowances are paid to those in male dominated jobs as a result of past collective agreements or 'industrial muscle'

If jobs of equal value do not receive equal premia payments/allowances there may be an equal pay problem, if you cannot objectively justify the difference. If the exclusion or restricted access to work-related premia is itself discriminatory on grounds of gender, it is not necessary for the jobs to be of equal value for a case of gender discrimination in pay to be made.



Objectively justifying differential access or payments can present a considerable challenge to employers.

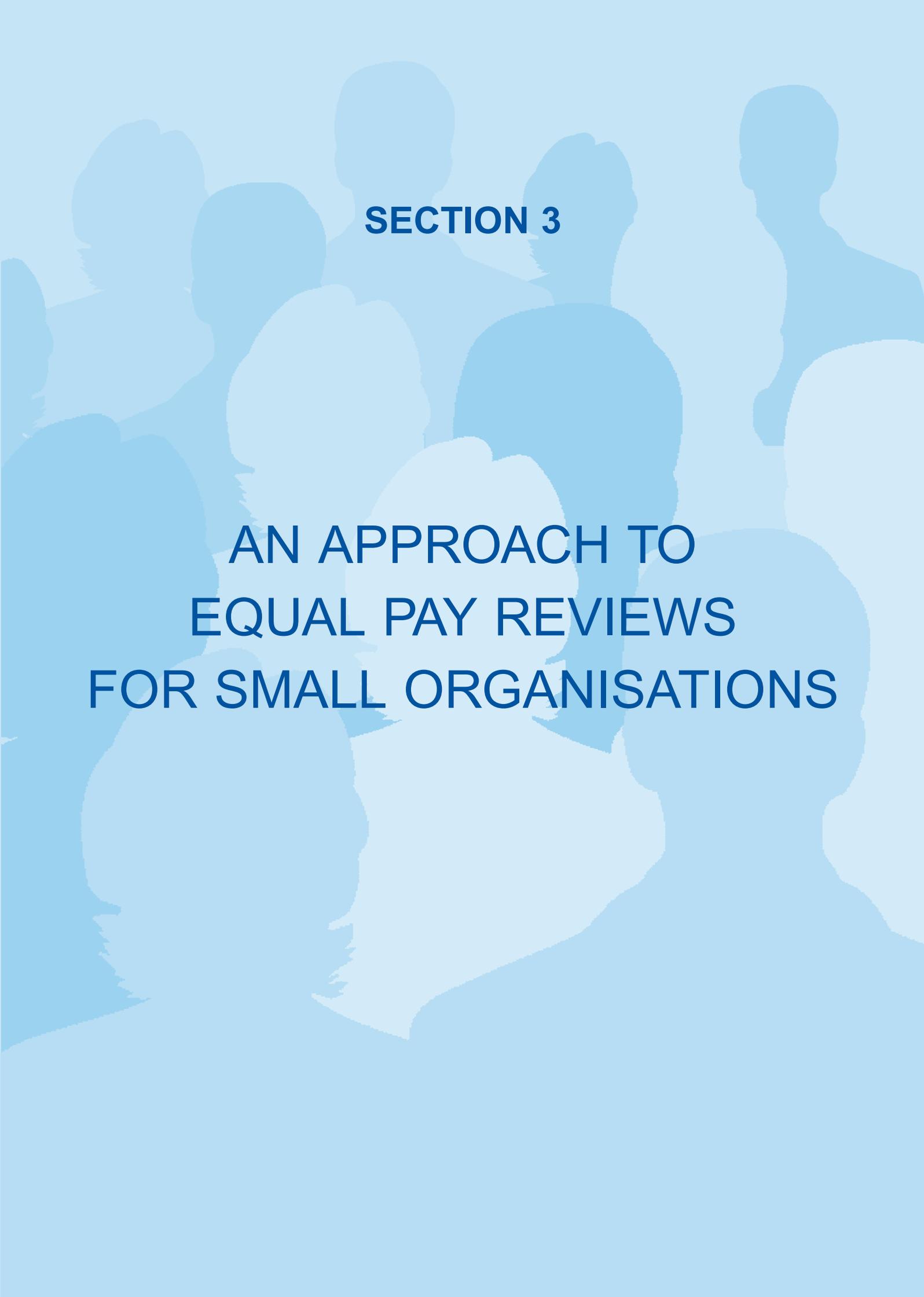
The general format of the work-related premia checklist which follows may be adapted to analyse whatever work-related premia operate in your own pay system.

The checklist will assist in identifying potential equal pay issues. If you answer 'no' (or you do not know the answer) to any of the questions in the checklist you will need to further investigate the pay data and pay practice to ensure that it is free from sex discrimination.

### Working time payments

Where men and women are doing equal work	Do men and women have equal access to payments?		Can the benefit still be objectively justified?		Is their average payment equal?	
	Yes	No	Yes	No	Yes	No
<b>Personal security</b>						
Overtime (Monday to Friday)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Shift pay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unsociable hours payments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Night duty payments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
On-call payments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Time in lieu of overtime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Travelling time payments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

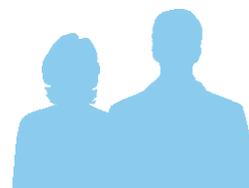




**SECTION 3**

**AN APPROACH TO  
EQUAL PAY REVIEWS  
FOR SMALL ORGANISATIONS**





## An approach to equal pay reviews for small organisations

The steps in an equal pay review are essentially the same whatever the size of the organisation, so small organisations should read through the 5 step model in the Commission's Equal Review Kit. However, the task of collecting and comparing pay information in a small organisation is likely to be a considerably simpler task than for large organisations. This section outlines how small organisations can carry out an equal pay review. First you need to identify which jobs in your organisation use similar levels of skills and knowledge

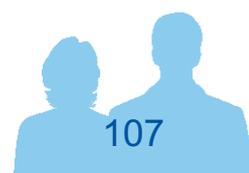
### **Identifying jobs using similar levels of skills and knowledge**

If you do not use job evaluation (and very few small firms do) then you need to go through the steps outlined here to identify jobs in your organisation which require similar levels of effort, skill, knowledge and responsibility. These are:

Jobs which involve the same or similar work. Don't rely on the job title, as job titles can be misleading. Differences in jobs with the same titles may have arisen over time, or people doing the same or similar work may have different job titles.

#### Example: Similar work

A female cook and a male chef may be doing similar work, even though their job titles are different. They may both have to plan menus, prepare food, and meet nutritional and health and safety standards. The level of effort, skills, knowledge and responsibility they need is therefore likely to be similar.



Groups of jobs which involve the same broad types of tasks and duties are likely to require similar levels of effort, skills, knowledge and responsibility. Examples of such distinct job groups are,

- Managers
- Supervisors
- Technicians
- Clerical staff
- Machine operators
- Craft workers
- Sales staff

Example: Same broad types of tasks and duties

A female office manager and a male supervisor in production may both be involved in allocating and checking work, providing technical advice and assistance, motivating staff, and making sure standards, such as timekeeping and attendance, are met. Even though they work in different areas, their jobs are likely to require similar level of skills, knowledge and responsibility.

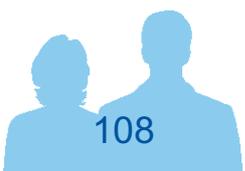
Jobs which involve different types of work may involve similar levels of effort, skills, knowledge and responsibility. For example,

- A cook and a joiner or a painter
- A sewing machinist and an upholsterer
- A warehouse worker and a clerical worker.

Example: Different types of work with similar levels of skills and knowledge

A male warehouse worker and a female clerical worker may both need:

- Knowledge of internal company procedures,
- Dexterity for handling goods or using keyboards
- Interpersonal skills for dealing with customer queries



Even though their work tasks are different, the level of skills and knowledge they require may be similar.

Don't just compare jobs within broad functions such as production or administration. Look across the whole business, comparing, for example, production jobs with administration jobs to see if they involve similar levels of effort, skill, knowledge and responsibility.

You may find it useful to begin by drawing up brief job descriptions. A job description sets out the main duties and responsibilities of a job and the skills and knowledge needed.

A simple skills and knowledge classification system will help you to identify whether jobs involving different types of work have similar levels of skills and knowledge. See Annex 1 for how to do this.

Once you have identified which jobs involve similar levels of knowledge and skills, you then need to compare their pay.

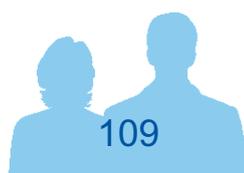
## Collecting and comparing pay information

### Collect pay information

You will need to collect information on **basic pay**, **total earnings** and other **work related benefits**. Equal pay applies not just to wages and salaries but also to any other benefits you provide for your employees. This information should be in your payroll records.

### Total earnings include

- Basic pay and
- Any additions to basic pay, such as
- Overtime earnings
- Shift pay
- Performance bonuses
- Commission, or
- Any other payments.



## Work related benefits include

- Holidays,
- Sick pay in addition to statutory sick pay,
- Contributions to a pension, or
- Any other form of benefit provided.

See Annex 2 for how to collect and compare pay information.

## Compare pay information

For each group of jobs which involve similar levels of skills and knowledge you should ask:

Are the basic hourly earnings the same for these jobs?	Yes <input type="radio"/>	No <input type="radio"/>
Are the total hourly earnings the same for these jobs?	Yes <input type="radio"/>	No <input type="radio"/>
Do these jobs all get the same type of work related benefits?	Yes <input type="radio"/>	No <input type="radio"/>
Is the amount of the work related benefit the same in each case for these jobs?	Yes <input type="radio"/>	No <input type="radio"/>

If the answer to any of these questions is 'No', you need to establish what is causing the difference and whether the differences are fair (see below). You should pay particular attention to the pay of men and women doing equal work because pay differences between them, which cannot be justified, may be against the law. If you find any differences that can't be justified you will need to make arrangements to provide equal pay.



## **Assess the reasons for the pay differences**

### **Identify the reasons**

If there are any pay differences in hourly pay or benefits between employees doing jobs which involve similar levels of effort, skill, knowledge and responsibility, you should find out why these exist. You may find for example that the starting pay is not always the same, or that part-time workers are paid less per hour than full time workers. See Annex 3 for a checklist of key questions.

### **Check whether the pay differences are fair**

If they are to be fair, differences in pay should be based on the specific requirements of the jobs and the real circumstances in which they are done.

Different levels of effort, skill, knowledge and responsibility can justify pay differences between jobs. If the job requirements are similar, pay differences between jobs may still be fair, provided that they are based on the real circumstances in which the jobs are done. See Annex 4 for a checklist of key questions.

If you cannot come up with clear evidence-based reasons for pay differences between employees who do jobs involving similar levels of effort, skill, knowledge and responsibility, pay in your business may not be fair.

### **Check whether the pay differences between men and women are against the law**

If you cannot come up with clear evidence-based reasons for pay differences between men and women who do jobs with similar requirements, you are likely to be vulnerable to an equal pay claim.

### **Change pay where it is not fair and equal**

If you have identified unfair pay differences between employees doing jobs with similar requirements, you should take action to deal with them.



To be a fair pay employer, if employees are underpaid in relation to the levels effort, skill, knowledge and responsibility required in their jobs, you should provide them with the same pay and benefits as employees doing work with similar requirements.

If you need to provide equal pay and benefits to male and female employees doing equal work you must do this immediately to avoid unlawful pay discrimination. If you do not deal quickly with equal pay differences between men and women, you may be vulnerable to an equal pay claim.

## **A policy on pay**

In the longer term a clear and consistent pay policy will help you make sure pay in your business remains fair. You may also find it helpful to consult your employees about your pay policy. Your policy could explain the principles for making sure that pay is fair and equal, for example:

- Pay will be based on the skills and knowledge required to fulfil the responsibilities of a job and carry out its key tasks
- Pay will not discriminate unfairly between men and women, people of different ethnic origin, non-disabled and disabled people, people from different community backgrounds...
- These pay principles will be applied consistently in relation to starting pay, pay increases, bonuses, performance payments and non-cash benefits
- The policy will be monitored and reviewed regularly and discussed with employees

## A skills and knowledge framework

When using a framework such as the one below, you should ignore minor differences between jobs and focus on what the jobholders actually do. Take account of the type of work involved and the effort, skill and knowledge required to do the jobs.

### Skills and knowledge framework<sup>1</sup>

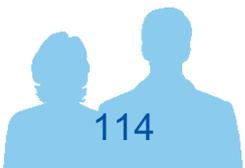
The definitions provide a general guide and are not intended to be prescriptive.

Levels	Definitions
Foundation skill and knowledge (Equivalent to NVQ Level 1)	The job involves a range of routine and predictable tasks, carried out under supervision.
Intermediate skill and knowledge (Equivalent to NVQ Level 2)	The job involves a range of tasks, carried out with limited supervision in a variety of contexts. Some tasks are complex or non-routine and there is some personal responsibility or autonomy. Working in a group or team may often be a requirement.

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<sup>1</sup> This framework is based on the framework used for National Vocational Qualifications (NVQ's)

<p>Advanced skill and knowledge (Equivalent to NVQ Level 3)</p>	<p>The job involves a defined occupation or a range of jobs where there is a broad range of varied tasks carried out in a wide variety of contexts. Most tasks are complex and non-routine, and there is considerable personal responsibility and autonomy. Supervision or guidance of others is often required.</p>
<p>High skill and knowledge (Equivalent to NVQ Level 4)</p>	<p>The job involves a broad range of complex, technical, or professional work tasks, carried out in a variety of contexts. There is a substantial degree of personal responsibility and autonomy. Responsibility for the work of others and the allocation of resources is often required.</p>
<p>Very high skill and knowledge (Equivalent to NVQ Level 5)</p>	<p>The job involves work at a professional level or equivalent, requiring the mastery of a range of relevant knowledge and the ability to apply it at this level. There is very substantial personal autonomy. Significant responsibility for the work of others and for the allocation of substantial resources is often required, as are personal accountabilities for analysis and diagnosis, design, planning, execution and evaluation.</p>



## How to collect and compare pay information

A useful method for collecting and comparing pay information is to build up a spreadsheet or table which shows all the relevant information. You need to put down the pay and work related benefits that each employee gets. Make sure you include in your spreadsheet all the benefits which you provide. Add extra columns as necessary.

You can build up the spreadsheet as follows:

1. Put down which employees do which jobs and whether the jobholder is male or female.
2. Put down each employee's level of skill and knowledge. Sort the spreadsheet so that all the jobs which involve similar levels of skill and knowledge are grouped together.
3. Work out the basic hourly pay of each employee . To work out basic hourly pay
  - a) Take an employee's basic pay for a typical week
  - b) Divide this by the standard hours worked by the employee in a week
4. Work out the average total hourly earnings for each employee. Total earnings may be greater than basic pay if additional pay is earned through overtime, shift pay, performance bonuses, commission payments or any other form of additional payment. Because these additional payments can vary from week to week, you need to calculate total hourly earnings over a period of time to get a representative average figure. To work out average total hourly earnings:

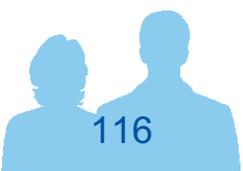
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<sup>2</sup> If your employees do not all work the same number of hours in a standard working week (for example, if you employ part-time and full time employees), then you will need to calculate basic hourly pay and total hourly earnings so that variations in hours between individual employees do not affect your check on whether pay is equal and fair.

- a) Take an employee's total earnings over an appropriate time period (for example, the last payroll period, or year to date)
  - b) Divide this by the number of weeks in the time period
  - c) And divide again by the standard hours worked by the employee in a week
5. Work out the additions to basic pay which contribute to how total earnings are made up. This will help you identify the reasons for any differences in total pay using checklist 1 (annex 3).
  - 6 Put down the work related benefits which each employee receives

If you build up your spreadsheet in this way you will be able to identify any differences in pay and benefits between employees doing jobs which involve similar levels of skills and knowledge. You can also add information to your spreadsheet about any additions to basic pay which affect total earnings.

An example of a spreadsheet built up in this way showing some worked examples are on the following pages. You can use Checklist 1 (Annex 3) to help you identify why any differences exist, and Checklist 2 (Annex 4) to help you identify whether they are fair differences.



## A spreadsheet for collecting and comparing pay information Working out basic hourly pay

Employee (or employee identification number)	Job	Gender	Levels of skill and knowledge (see Skills and Knowledge Framework in Annex 1)	Weekly basic pay	Standard hours worked in week	Basic hourly pay	S'sheet continues: 
Employee 1	Production worker	F	Intermediate skill and knowledge	£187.50	37.5	£5.00	
Employee 2	Production worker	M	Intermediate skill and knowledge	£112.50	25	£4.50	
Employee 3	Clerical worker	F	Intermediate skill and knowledge	£154.00	35	£4.40	
Employee 4	Production supervisor	M	Advanced skill and knowledge	£260.00	40	£6.50	
Employee 5	Office Administrator	F	Advanced skill and knowledge	£210.00	35	£6.00	

## Working out average total hourly earnings

Employee (or employee identification number)	Job	Gender	Levels of skill and knowledge (see Skills and Knowledge Framework in Annex 1)	Weekly basic pay	Standard hours worked in week	Basic hourly pay	S'sheet continues: ➡
Employee 1	Production worker	M	£890.00	4.0	37.5	£5.93	
Employee 2	Production worker	F	£474.00	4.0	25.00	£4.74	
Employee 3	Clerical worker	F	£616.00	4.0	35.00	£4.40	
Employee 4	Production supervisor	M	£1220.00	4.0	40.00	£7.63	
Employee 5	Office Administrator	F	£840.00	4.0	35.00	£6.00	
Etc							



## The make up of total earnings

Employee (or employee identification number)	Job	Gender	Examples of additions to basic pay which affect total earnings (4 week period)				Total earnings (4 week period)	S'sheet continues: ▶▶▶
			Overtime earnings	Shift pay	Performance bonuses	Commission payments		
Employee 1	Production worker	M	£100.00	N/A	£40.00	N/A	£890.00	
Employee 2	Production worker	F	None	N/A	£24.00	N/A	£474.00	
Employee 3	Clerical worker	F	N/A	N/A	N/A	N/A	£616.00	
Employee 4	Production supervisor	M	£130.00	N/A	£50.00	N/A	£1220.00	
Employee 5	Office Administrator	F	N/A	N/A	N/A	N/A	£840.00	
Etc								



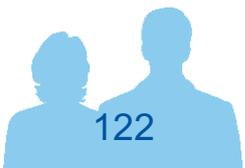
## Work related benefits

»»»	Employee (or employee identification number)	Job	Gender	Work related benefits				Other benefits
				Number of days holidays	Sick pay above SSP	Pension contributions	Child care allowances	
	Employee 1	Production worker	M	20	N/A	Yes	N/A	Christmas bonus
	Employee 2	Production worker	F	20	N/A	No	N/A	Christmas bonus
	Employee 3	Clerical worker	F	20	N/A	Yes	Yes	Christmas bonus
	Employee 4	Production supervisor	M	20	N/A	Yes	N/A	Christmas bonus
	Employee 5	Office Administrator	F	22	N/A	Yes	Yes	Christmas bonus

## What are the causes of pay differences?

<b>Differences in basic hourly pay</b>	<b>Yes</b>	<b>No</b>
Is this because:		
Women are paid less per hour men?	<input type="radio"/>	<input type="radio"/>
Part-time employees are paid less per hour than full-time employees?	<input type="radio"/>	<input type="radio"/>
Starting pay is not the same for everybody?	<input type="radio"/>	<input type="radio"/>
Pay increases are not the same for everybody?	<input type="radio"/>	<input type="radio"/>
Employees with longer service get higher pay?	<input type="radio"/>	<input type="radio"/>
Any other reason?	<input type="radio"/>	<input type="radio"/>
(Specify .....)	<input type="radio"/>	<input type="radio"/>
<b>Differences in total hourly pay</b>		
Is this because:		
Only male employees have access to bonus or performance pay?	<input type="radio"/>	<input type="radio"/>
Male employees get higher bonus or performance pay?	<input type="radio"/>	<input type="radio"/>
Where premium rates are paid for shift, overtime, or weekend or unsocial hours work, only male employees have access to this higher-rated work?	<input type="radio"/>	<input type="radio"/>
The eligibility requirements for higher-rated work disadvantage particular employees?	<input type="radio"/>	<input type="radio"/>
Only male employees receive additional pay for skills or training?	<input type="radio"/>	<input type="radio"/>
Any other reason?	<input type="radio"/>	<input type="radio"/>
(Specify .....)	<input type="radio"/>	<input type="radio"/>

Differences in work related benefits	Yes	No
Is this because:		
Everyone does not have the same work related benefits?	<input type="radio"/>	<input type="radio"/>
More men than women are covered by Sick pay?	<input type="radio"/>	<input type="radio"/>
Pensions?	<input type="radio"/>	<input type="radio"/>
Childcare provision?	<input type="radio"/>	<input type="radio"/>
Other work related benefits?	<input type="radio"/>	<input type="radio"/>
Any other reason?	<input type="radio"/>	<input type="radio"/>
(Specify .....)	<input type="radio"/>	<input type="radio"/>



## Are the pay differences fair and lawful?

The first column of this checklist identifies some of the more common explanations for pay differences. The second column sets out the evidence you need to be able to show that the reason is fair and objective.

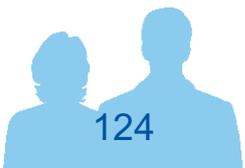
If you do not have this evidence – i.e. you answer ‘No’ in the third column, then the pay difference may not be fair. If this is a pay difference between men and women doing equal work, you may be vulnerable to an equal pay claim, and you should take immediate action to remove the pay difference.

If you do have this evidence make a note of it in the fourth column and keep this in your records

### Checklist: Are the pay differences fair?

(1) Apparent reason for pay differences	(2) Evidence required to justify this	(3) Do you have this evidence	(4) Details of the evidence or action proposed to with differences
<b>Skill shortages</b>	Can you show that you cannot <b>recruit and retain</b> employees in that job without the higher pay?	Yes  No	
<b>Employee has a higher level of skill and knowledge</b>	a) Can you show that this skill and knowledge is actually <b>used in the job?</b>	Yes  No	

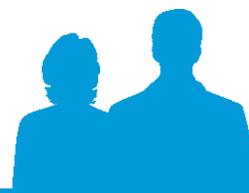
	b) Can you show that you have <b>taken account of all relevant types of skill and knowledge</b> , for example, interpersonal skills, manual dexterity, responsibilities for customers, clients or members of the public?	Yes No	
<b>Employee has more responsibility</b>	Is this responsibility actually <b>used in the job</b> ?	Yes No	
<b>Physical effort required</b>	a) Can you show that both <b>strength</b> and the <b>stamina</b> required by lighter repetitive work are being rewarded?  b) Can you show that you have also taken account of the mental effort (concentration) required for detailed work or work requiring sustained attention?	Yes No  Yes No	
<b>Longer service in their jobs</b>	Can you show that this reflects real differences in levels of skill and knowledge gained by experience of the work?	Yes No	



<b>Additional pay through overtime, shift pay, performance bonuses, commission and so on</b>	Can you show that it is necessary to pay these additional payments only to certain employees in order to meet your business objectives?	Yes  No	
<b>Variable bonus, performance or commission payments</b>	Can you show that there is a clear link between the performance and the additional pay received?	Yes  No	
<b>Only some employees get work related benefits</b>	Can you show that it is necessary to provide these benefits only to certain employees in order to meet your business objectives?	Yes  No	
<b>Some employees get higher work related benefits</b>	Can you show that it is necessary to provide these higher benefits only to certain employees in order to meet your business objectives?	Yes  No	







## Sources of Further Information

### Publications

**Shonfield D (ed):** Equal Pay Guide, Chartered Institute of Personnel and Development, London, 2001

**Equal Pay Task Force:** Just Pay, EOC Manchester, 2001 (available from [www.eoc.org.uk](http://www.eoc.org.uk))

**Neathey F:** Pay Structures and Gender in Northern Ireland, EOCNI, 1996

**Grimshaw D and Rubery J:** The Gender Pay Gap: a Research Review: EOC, Manchester 2001

**IDS:** Problems of Equal Pay: IDS, 2001

**Leslie S, Hastings S and Morris:** Equal Pay, a Practical Guide to the Law: The Law Society, London, 2003

**Palmer C, Moon G and Gill T:** Discrimination at Work: LAG, London, 2002

**Dignan T:** Gender and Pay in the Information Technology and Retail Sectors in Northern Ireland, Equality Commission for Northern Ireland, 2003

**TMS Equality and Diversity Consultants:** PayCheck: Auditing Pay Systems for Sex Bias, a Practical Guide: TMS Equality and Diversity Consultants, 1998

**Working Time Analysts:** How to Prepare a Job Evaluation Job Description: WTA, second ed. 1989



## USEFUL INTERNET ADDRESSES

### N.I. Sites

#### **[www.equalityni.org](http://www.equalityni.org)**

The site of the Equality Commission for Northern Ireland. It contains information on all areas of equality legislation within the Commission's remit, including sex discrimination and Equal Pay. Texts of publications are downloadable from this site.

#### **[www.lra.org.uk](http://www.lra.org.uk)**

The site of the Labour Relations Agency in Northern Ireland contains guidance on employment law.

#### **[www.delni.gov.uk](http://www.delni.gov.uk)**

The site of the Northern Ireland Department of Employment and Learning contains publications on employment rights and industrial tribunals as well as on education.

#### **[www.bitcni.org.uk](http://www.bitcni.org.uk)**

Northern Ireland's Business in the Community site. Includes details of the Northern Ireland Equal Pay Forum, which is organised jointly by BITC's "Opportunity Now" campaign and the Equality Commission.

### G.B. Sites

#### **[www.acas.co.uk](http://www.acas.co.uk)**

The Acas site contains basic guidance on pay systems and texts of leaflets which can be printed. Some publications can be ordered on-line.

#### **[www.cipd.co.uk](http://www.cipd.co.uk)**

The site of the Chartered Institute of Personnel and Development.

#### **[www.dataprotection.gov.uk](http://www.dataprotection.gov.uk)**

The site of the Office of the Information Commissioner.

#### **[www.dti.gov.uk](http://www.dti.gov.uk)**

The DTI site contains publications, fact sheets on employment rights and employment



**[www.eoc.org.uk](http://www.eoc.org.uk)**

The site of the Equality Opportunities (GB). It contains basic guidance for employers on how to put equality into practice and texts of leaflets which can be printed. Some publications can be ordered on-line.

**[www.eordirect.com](http://www.eordirect.com)**

The site of Equal Opportunities Review, which has an extensive database of articles on equal pay. Users can search the cases database for tribunal and court decisions.

**[www.e-reward.co.uk](http://www.e-reward.co.uk)**

The site offers advice, analysis and research on all aspects of compensation and benefits.

**[www.incomesdata.co.uk](http://www.incomesdata.co.uk)**

The site of Incomes Data Services, the independent organisation providing information on pay, pensions and employment.

**[www.irsemploymentreview.com](http://www.irsemploymentreview.com)**

The site of Industrial Relations Services, the independent organisation providing information on pay, pensions and employment.

**[www.link-hrsystems.com](http://www.link-hrsystems.com)**

Through Link's partnership with TMS Equality and Diversity Consultants, the Link Equal Pay Reviewer software forms a foundation for organisations to undertake a review. Following the 5 Steps model, it assists in the collation of data with easy to use tools for importing data from HR-IS systems.

**[www.womenandequalityunit.gov.uk/castleawards](http://www.womenandequalityunit.gov.uk/castleawards)**

The site of the DTI's Women and Equality Unit contains information on equal pay issues.

**The Equality Commission cannot accept responsibility for the content and accuracy of websites other than its own.**



For further information or advice on Equal Pay issues or if you would like to find out more about the Equality Commission and its work contact us at:-

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