

Achieving Equal Pay in the Workplace

Your Guide to Changing Policy and Practice

Introduction

What is Equal Pay?

It is unlawful for an employer to discriminate between men and women in the same employment doing equal work in relation to their contractual terms, including pay^[i].

However, there is plenty of evidence that for some people unequal pay is a reality of working life.

The right to no less favourable contractual terms than a valid comparator of the opposite sex is set out in the Equality Act 2010 and the [Equality and Human Rights Commission \(EHRC\) statutory code of practice on equal pay](http://www.equalityhumanrights.com/en/publication-download/equal-pay-statutory-code-practice) (www.equalityhumanrights.com/en/publication-download/equal-pay-statutory-code-practice) .

It is also helpfully summarised by [ACAS](http://www.acas.org.uk/equal-pay) (www.acas.org.uk/equal-pay) .

Equal pay law applies to pay and terms and conditions of employment, including:

- Basic salary
- Basic wages
- Pension
- Working hours
- Annual leave allowance • Holiday pay
- Overtime pay
- Redundancy pay
- Sick pay
- Performance-related pay
- Bonuses
- Benefits, for example health insurance or a company car

Equal pay law covers employees, workers, apprentices, agency workers, full time, part time or temporary workers and self-employed people who are hired personally to do work for someone.

Two jobs can be classed as equal work, even if the roles seem different. For example, a clerical job and a warehouse job might be classed as equal work because the level of skill required for each is similar.

Work counts as equal if it is:

- ‘**Like work**’ – work where the job and skills are the same or similar;
- ‘**Work rated as equivalent**’ – work that has been rated as equivalent, using a job evaluation system^[ii]; or
- ‘**Work of equal value**’ – work that is not similar but is of equal value. This could be because the level of skill,

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training, responsibility or demands of the working conditions are of equal value.

In some circumstances, it is legal for men and women doing equal work to be paid differently, for example when the person receiving higher pay is located in a high-cost area like London. This is often referred to as a 'London weighting'. The employer must be able to demonstrate that the pay difference has nothing to do with whether the higher paid individual is a man or a woman and every case depends on the individual circumstances.

Employers can pay everyone the same rate for the same work but still pay women less on average than men.

"...in 2020, nine out of 10 women in this country work in companies or organisations that pay them less on average than their male counterparts."

– MP Stella Creasy, 'Equal Pay and Claims Bill', October 2020

The difference between men and women's average earnings is known as the gender pay gap. UK organisations with 250 or more employees are legally obliged to [publish](https://gender-pay-gap.service.gov.uk/) (<https://gender-pay-gap.service.gov.uk/>) gender pay gap data for their organisation under the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017.

According to the Office of National Statistics, the gender pay gap for all employees in the UK was 15.5% in 2020.



Having a gender pay gap is not in itself illegal. However, a pay gap may indicate that there are equality issues that need to be addressed. For example, there could be stereotyping, prejudice or bias in recruitment & selection processes that result in more women being appointed to low-paid roles.

Wider society also influences equality of pay between men and women. Some jobs predominantly done by women have historically been paid lower salaries, caring roles for example. The concept of "comparable worth" is sometimes included in discussions about equal pay. This is the idea that jobs which are equal in their value to the organisation should be equally compensated, whether the work content of those jobs is similar or not.

While equal pay law currently only requires men and women to be paid the same if they are doing equal work, people may also be disadvantaged in the workplace because of their ethnicity, disability or their sexuality. Some face a double or a triple disadvantage; if they are a woman who is Black and has a disability, for example. When a person has more than one protected characteristic, they might be described as having 'intersectional' characteristics. It is useful to keep this 'intersectionality' in mind to fully understand and address pay inequality in the workplace.

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[i] When talking about equal pay and the gender pay gap, it is common for many organisations to fall into a binary of male and female. Part of the reason for this is that the current legislation, and by extension a lot of the information we have about the extent and causes of unequal pay in our economy, maintains this binary. Do try and make sure that you are sensitive to the fact that this language excludes the experiences of people who do not identify as either gender, as well as the specific experiences of people who have transitioned, and support them to achieve better representation both nationally and in your workplace.

[ii] Job evaluation is a way to work out the relative importance of different jobs in an organisation and devise pay arrangements to match this. See [ACAS job evaluation advice \(www.acas.org.uk/job-evaluation-considerations-and-risks-advice-booklet\)](http://www.acas.org.uk/job-evaluation-considerations-and-risks-advice-booklet) for details.

Who is This Toolkit For?

The toolkit has been put together to help workers determine whether there is a problem with equal pay in their workplace and to signpost them to where they can get help to resolve the issue. It has been developed by trade unions and academics with support from lawyers and HR specialists.

It supports trade union representatives to negotiate with their employer around specific workplace practices and make adjustments to existing policies such as pay, recruitment, family leave, flexible working and so on; as well as explaining why it is important to carry out 'horizontal' pay audits and how to undertake one.

The toolkit also offers a starting point for trade union activists to start conversations with members about pay inequality in the workplace, to build a campaign and negotiate improvements.

If there are examples where workers are being paid unequally because of sex discrimination then they should be supported in filing equal pay claims. These examples are a clear indication that the structure of the organisation is flawed and needs to be altered so that everyone can have confidence that they are being paid equally and fairly.

Ideally, you would want to change the way that your organisation works so that paying people unequally due to sex discrimination would not be possible.

More than fifty years after the first law on equal pay was passed, too many women are still not paid on equal terms with men doing equal work. The gender pay gap is not closing fast enough and men continue to be paid more on average than women in too many workplaces.

This toolkit focuses on pay equality between men and women because there is currently a legal framework that employers are compelled to abide by and through which they can be challenged if they fail to pay equally. However, the tools can also be applied more broadly where inequality concerns race, disability and/or sexuality.

You can mix and match from the toolkit and adapt it to suit your individual circumstances or particular workplace.



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This toolkit is designed to help identify if there is a problem with equal pay in your workplace and to work through whether this is something you can resolve yourself or, if you need to get help, it sets out how you can do this with your trade union.

What is a Trade Union and why should I join one?

A trade union is a group of workers who come together to improve or maintain their pay and/ or conditions of employment.

Established unions have democratic structures and can provide support to workers in a particular workplace as well as campaigning on local or national issues to effect positive change. If there are already members of a union in your workplace,

find out which union they are a member of and join it. Only by working together can workers win improvements in the workplace. Also find out if a particular union is 'recognised' in your workplace as this may mean that an agreement between the union and the employer is already in place to facilitate collective bargaining.

Trade unions give agency to working people and help to redress the imbalance of power between employers and employees or workers. Acting collaboratively with other workers is the best way to effect change. If there is more than one union in your workplace, try to find out if specific groups of workers are members of a specific union. For example, in a hospital, doctors and nurses will often be members of a medical workers union, while administrative staff may be members of a clerical workers union.

If there are no union members in your workplace, or you still don't know which union to join, you can find out more about the right union for you via the [TUC Join a Union \(www.tuc.org.uk/join-a-union\)](http://www.tuc.org.uk/join-a-union) website.

It is your legal right to join a union, and an employer cannot discriminate against you for being a member of a trade union.

Union Stories: FDA

The FDA - the union for managers and professionals in public service - has supported equal pay for more than 80 years, first sending representatives to the Civil Service Equal Pay Committee in 1924.

In 1935 FDA's AGM passed a resolution committing the union to "equal salary scales for men and women Civil Servants employed in the same grades".

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Having phased out different pay scales in the civil service by 1961, much of the battle for equal pay involves claims of indirect discrimination. For example, FDA has argued since 2014 that HMRC's pay system indirectly discriminates against women, owing to the fact that length of service is used as a determinant of basic pay. Men employed by HMRC typically have longer service than women and are clustered disproportionately at or near the top of the pay ranges for the relevant grades.

In recent years the gender pay gap in the civil service has been narrowing (9.3% in 2020 to 8.8% in 2021) but the greatest pay gap is in the most senior positions. The average Senior Civil Service pay for men sits £2,250 above that for women.

The complexity of pay grades, pay minima and maxima, and the impact of delegated pay (each department negotiates separately on non-SCS pay) in the modern civil service means the fight for equal pay continues for FDA members. Where the union identifies pay inequality and can campaign, make legal claims, and fight for justice, it continues to do so.

[Read more on the FDA website \(www.fda.org.uk/home/Newsandmedia/Features/victoria-jones-equal-pay-unions.aspx\)](http://www.fda.org.uk/home/Newsandmedia/Features/victoria-jones-equal-pay-unions.aspx)

Union Stories: Pharmacists' Defence Association Union (2022)

The Pharmacists' Defence Association Union (PDAU) achieved its first recognition agreement in 2019 following protracted negotiations with Boots. Boots is the biggest employer of pharmacists working in community pharmacy, so it was a major achievement for the union to be able to negotiate the terms and conditions of its members employed by the company.

From the outset the PDAU has had two objectives in relation to pay. One is to ensure members' income maintains its purchasing power and the other is to ensure the pay system within the company is transparent, objective and complies with the Equality Act.

It has set up an Equality Committee with the company, which looks at wider equality issues, but supplemented this with a working group specifically looking at the pay system and whether it meets the test of being transparent, in the sense that any employee can know where they are within the pay system and whether this is determined by objective factors such as experience, qualifications, and expertise.

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Although there is a long way to go, trade union recognition has enabled these issues to be placed on the agenda and to be jointly progressed by the company and the union. Unfortunately, there are still areas where line manager discretion has a significant impact on an individual's pay and PDAU's work to inject a much greater degree of objectivity into this process continues, but the establishment of the working party and equalities subcommittee represented a key step towards achieving its aims.