

# Achieving Equal Pay in the Workplace

Your Guide to Changing Policy and Practice

## Questions for Your Employer

To start negotiations or bargain on equal pay, trade union reps need to understand whether employees are being treated unequally and they must be able to demonstrate how this is happening. This means the questions you ask your employer must be carefully framed to get the answers that are most useful to your talks with management.

It is important to be precise about information that is being requested.

Remember that organisations can turn down a request if your question will lead to data disclosure identifying individuals. This is a challenge, because very often it is minorities in organisations who experience pay inequalities.

If you are a rep for a trade union that is recognised in your workplace, you will have the right to request this information for the purposes of collective bargaining under the [ACAS Code of Practice \(www.acas.org.uk/acas-code-of-practice-on-disclosure-of-information-to-trade-unions-for-collective-bargaining\)](http://www.acas.org.uk/acas-code-of-practice-on-disclosure-of-information-to-trade-unions-for-collective-bargaining).

If you are requesting this information from a public authority and they do not supply it you can issue them with a Freedom Of Information request ([www.gov.uk/make-a-freedom-of-information-request](http://www.gov.uk/make-a-freedom-of-information-request)).

Remember that an organisation must process an FOI request within a given time scale.

Sometimes organisations can refuse FOI requests because it asks for information that is either ambiguous or the request cannot be processed in the expected time scale. **This is why you need to select your questions carefully.**

The [ACAS guidance \(www.acas.org.uk/equal-pay/preventing-equal-pay-issues\)](http://www.acas.org.uk/equal-pay/preventing-equal-pay-issues) on submitting requests for information about pay has good advice on how to go about identifying information to help your equal pay negotiation. There is a three-step guide to help you formulate questions that will provide you with meaningful data. These steps include: identify comparators; identify how comparators are doing equal work to you; ask further questions about how pay is determined and what differences in work explains any pay differentials. You can also see the EHRC Statutory Code of Practice (also in the 'Useful Links ([www.equalpayatwork.org.uk/toolkit/useful-links-9/](http://www.equalpayatwork.org.uk/toolkit/useful-links-9/))' Section).

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We have developed a set of questions to help reps understand if there is pay inequality in the organisation. The answers will help in discussions with the employer about the changes that may be needed to resolve inequality and will help focus any campaign for change. Many of the questions relate to specific policies: pay, recruitment, maternity/paternity/carers' leave and so on. You can make real change in your organisation by changing policies and then making sure those changes are put into practise.

[Create a survey for an employer in our member hub](#)

You can mix and match between the questions – don't feel you have to ask them all. They are designed to help you build a picture rather than cover everything.



It may be useful first to build a picture of the employer. Do they operate in the public sector or private sector, for example? This is important as public sector employers like local councils or the NHS recognise trade unions and generally have standard pay, terms and conditions. They also tend to use job evaluation systems to ensure equal pay for work of equal value. Large private sector employers in retail, banking and finance, transport and communications, for example, may also use a job evaluation system. However, employers in both the public and private sectors that pay equally may still have a gender pay gap for the reasons outlined in Section 1. These questions will help you understand the extent to which this is the case.

## Preliminary Questions: Finding out about your workplace

Start by considering:

1. How is pay determined in your organisation?

- a. By collective bargaining;
- b. By individual negotiation;
- c. A combination, with senior staff not covered by collective bargaining; or
- d. There is no negotiation on pay.

2. Is there a recognised union in your workplace?

3. Does your organisation use job evaluation?

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Job evaluation is a way to work out the relative importance of different jobs in an organisation and devise pay arrangements to match this. ACAS provides some good information about what job evaluation is and how it works.

4. Does the organisation have an equal pay policy? If no, why not? If yes, how often is the policy reviewed?

5. Have there been any settlements of equal pay claims or potential equal pay claims?

**If your organisation recognises trade unions, uses job evaluation and has an equal pay policy, there is less likely to be an issue with equal pay.**



## Gender Pay Gaps

Gender pay reporting is a legal requirement for organisations that have over 250 employees. Keep in mind that, under UK law, an organisation is not currently required to address a gender pay gap; they only have to report it.

The following questions have been designed to help you understand how gender discrimination may be shaping pay inequalities even if there is equal pay for work of equal value in the organisation.

If the organisation has over 250 employees, did they submit a gender pay report this year?

Are previous gender pay gap reports available? If so, for how many years? What is the trend in the pay gap, e.g. is it reducing or increasing?

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Did the most recent report include an action plan with targets and dates attached?

If the employer has not undertaken a gender pay gap report, why not? Are they willing to do so?

What steps does the organisation take to reduce their gender pay gap if they have identified one?

Has the organisation ever undertaken an equal pay audit?

Has the organisation ever undertaken an Equality Impact Assessment (EIA)? If so, what was the purpose (e.g. as part of a redundancy consultation) and what were the results? Was the EIA carried out in collaboration with the union/s?

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Are there parts of your organisation that are male dominated or female dominated? Are there departments or grades that are dominated by men or women?

How much is the highest paid man paid compared with the highest paid woman? How much is the lowest paid male worker paid compared with the lowest paid woman?

Is there a difference between who works part time and who works full time? Do more women work part time in a particular department or across the organisation?

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What is the average pay across different pay grades of the same work?

**To address more comprehensive or integrated equalities pay gap issues, you can also ask similar questions that look at other areas of inequality, for example:**

- Does the organisation record ethnicity data for employees?
- Does the organisation report ethnicity pay data?
- Does the organisation record disability data for employees?
- Does the organisation report disability pay data?
- Does the organisation record how gender and ethnicity impact pay grades, contractual arrangements, and working conditions?
- Does the organisation record how disability, age, and gender of employees impact pay differentials?

If not, why not?

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## Transparency of pay, rewards and promotions

**“Transparency creates accountability. Without transparency and accountability, bias is more likely to affect decision-making in ways that potentially disadvantage women or other under-represented groups.”**

– UK Government Equalities Office: The Behavioural Insights Team ‘How to improve gender equality’

In short, the more transparent an organisation is about who is paid what, the more likely it is that they are aware of pay equality issues and to be doing something to remedy them.

Does the organisation have a published pay structure that employees have access to?

If not, why not?

Is there more than one pay and grading system?

How does this work?

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If there is no published pay structure, how is the pay system structured and why?

- Do managers and employees understand the basics of how pay is determined in the organisation?
- Where there is a pay spine, do managers have discretion to determine the grade point in the case of new appointments or when someone is promoted?

Does the organisation's pay policy include a clause on equal pay? If so, what is it and who is responsible for its implementation?



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Does the organisation issue any bonuses/benefits/shares to employees? Are these bonuses available to all employees or are there any distinctions between, for example, full time and part time workers, permanently contracted and fixed term/zero hour contracted, or so called 'professional grades' and 'administrative grades'? If so, how does this system work and what does the organisation do to make sure it is transparent and fair? Would any employee understand how these bonuses are allocated?

Is there a promotion policy? Is there a temporary promotion (acting up) policy? How often are such policies reviewed? Does the promotions policy require a fair and competitive application and selection processes, informal 'expressions of interest, or something even less formal?

Are managers and employees aware of the promotions policy, including eligibility criteria?

What training do managers receive to support promotions in their workplace?

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How are managers monitored to ensure that they are supporting all employees who are eligible for promotion?

How are staff made aware of the opportunities for promotion?

How long does it take for women, Black, disabled or LGBT+ staff to be promoted compared to others?

What steps does the organisation take to ensure fairness and equality when awarding promotion or allocating bonuses and/or benefits?

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When was the pay policy last reviewed?

Does the organisation use discretionary pay systems (for example, merit pay and performance-related pay)? If so, how are these structured, what criteria are they based on and how are decisions arrived at?

How do employees move from one point/band on the pay spine to another and do they understand how to do this?

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Does the organisation use different pay, terms and conditions (for example, attendance allowances, overtime or unsocial hours payments) for different groups of employees? Are men or women dominant in these groups?

## Job Evaluation Systems

Job evaluation ([www.acas.org.uk/job-evaluation-considerations-and-risks-advice-booklet](http://www.acas.org.uk/job-evaluation-considerations-and-risks-advice-booklet)) systems are more commonly used in the public sector. The two main ones are the Local Government Single Status Scheme and the Agenda for Change in the NHS. Some private sector organisations also use job evaluation systems.

Job evaluation is a way to work out the relative importance of different jobs in an organisation and devise pay arrangements to match this.

If an employer operates a job evaluation scheme, they are less likely to have equal pay issues. However, if it is operated badly or becomes out of date, it may no longer be effective. The following questions will help you identify whether this is the case.

Does the organisation use a Job Evaluation Scheme?

Does the organisation have a job evaluation and grading policy? How often are these reviewed?

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How was the Job Evaluation Scheme developed?

Was the scheme agreed with the relevant Trade Unions?

How effective has this system been in making changes to job descriptions, roles, and responsibilities and ensuring that pay has been adjusted?

Is the methodology reviewed and, if so, how often?

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What leads to a job being re-matched or re-evaluated?

How is the financial impact of any changes to the grading system and points to pay scale determined so that any changes to role responsibilities are adequately incorporated within the grading scheme?

Does the organisation use market-based pay systems or supplements not underpinned by job evaluation?

## Recruitment

**Bias and inequality can creep into even the most transparent and equal pay systems and lead to unequal pay and the maintaining of the gender pay gap.**

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The following questions about recruitment processes will help you see if this is the case.

Does the organisation publish salaries when advertising jobs?

*This is, for prospective employees, the first step in pay transparency. Not publishing salaries in job adverts is symptomatic of an organisation which would hire a candidate and proceed to pay them as little as they might get away with. In such situations, women tend to lose out.*

Does the organisation require applicants for jobs to submit their previous salary on their application form?

*Previous salary information may be used to determine a new starting salary. For successful female job applicants, this practice therefore continues the undervaluing and pay inequality of their previous job into their new role. A job advert should therefore have an attached salary value, and previous salary information should not be sought in application forms. In fact, inquiring about previous salaries is banned in some US states, such as New York.*

Does the organisation use the practise of 'managerial discretion' over starting salaries?

*Where managers can negotiate on the starting salary, research shows (<https://ideas.repec.org/p/udt/wpgobi/201804.html>) that women are offered lower starting salaries than men on average.*

What steps does the organisation take to reduce bias, unconscious or otherwise, during the recruitment process? Does the HR department anonymise applications by removing names, dates of birth or addresses before applications are subjected to selection for interview?

Does the organisation offer posts at pro-rata grades in advertisements?

*This signals the employer's flexibility and commitment to openness in hiring staff whose working pattern will not conform to a full time 8am-5pm 'norm.'*

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How often does the organisation monitor and review its recruitment process for any evidence of bias?

*A good employer will regularly review the process for potential bias. Doing this can prevent bias and reduce discrimination.*

Does the organisation include a link to the pay structure and pay progression criteria (the way pay rises are awarded) in their induction for new employees?

*This helps break the stigma of talking about pay. If people are reluctant to talk openly about pay, women are more likely to lose out.*

Does the organisation send out an offer letter confirming the salary for the role and other contractual details? What specific information is included in this letter and when is this letter sent out?

*This should happen as soon as possible and employees have a right to receive an offer letter within two months of being verbally offered the job. The absence of a written contract increases vulnerability.*

## Part time and flexible working arrangements



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Women are the largest group of workers in part time work and/or some form of flexible work arrangements that can lead to pay inequality. Asking questions about who can work flexibly can help uncover pay inequality.

What is the process for dealing with part time or flexible working arrangements?

How many requests for part time and flexible working have there been in the last 5 years?

How many were accepted and how many rejected?

How does the organisation support employees on part time contracts (for example with access to opportunities for training and career development? Or promotion and transfer opportunities, benefits and bonuses compared to their full time colleagues?

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## Family Leave (Maternity, Paternity and Adoption Leave)

TUC research ([www.tuc.org.uk/research-analysis/reports/forced-out-cost-getting-childcare-wrong](http://www.tuc.org.uk/research-analysis/reports/forced-out-cost-getting-childcare-wrong)) shows that 54,000 women a year are forced out of work due to pregnancy and maternity discrimination. Good family leave packages have been shown to make a difference to women returning to work, getting promoted and being paid fairly. The questions below are helpful to tease out possible reasons for pay inequality and pay gaps related to family leave.

- Do women in the workplace know what they are entitled to, and do they have access to the organisation's maternity policy?
- As a minimum, are all statutory entitlements for family leave, pay and rights in place and operating correctly?

What percentage of women who take maternity leave return to work for the company?

- Can family leave – including maternity and paternity leave – be taken more flexibly than statutory entitlements?

How are calculations made for family leave and pay for term-time workers and those on annualised contracts?

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- Do workers feel supported when they return to work after family leave, including with regard to flexible working requests, breastfeeding and childcare?
- Does the organisation have menopause and/or period policies to support employees?

## Union Stories

### Unite

RBS worker Lucy Williams discovered that she was being paid £31,610 less each year than her male counterpart for doing the exact same job with equivalent experience. Conversations with her colleagues led her to believe that she wasn't receiving the same holiday entitlement either.

She raised the issue with her management but they dismissed her concerns and tried to 'fob her off' with the promise of increases 'next year'. But the pay gap continued to widen, with her male colleague receiving further pay rises. She filed an official grievance and was made redundant 5 months later, but she didn't back down. Even when, supported by Unite, Lucy was offered £150,000 if she 'kept quiet' about the issue she refused to back down.

"There are far too many women who are forced to back down. I was told I was mad for refusing. But I would rather have gone to tribunal than be silenced" she said.

Thanks to her perseverance and Unite's support, RBS dropped the 'gagging clause' and she won her claim.

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Even though it was an ‘exhausting’ process, Lucy said: “I advise anyone to join a union. Unite has a proud tradition of standing up for those who are treated unfairly and fighting for what is right – things would not have ended as they did for me had I not been supported by Unite. There’s strength in numbers.” She also said: “I also urge women to have courage, and ask if they are being paid correctly and in line with the Equal Pay Act. If not, raise a grievance. Don’t let them fob you off. Take it as far as you can.”

Read more on the Unite Live website (<https://unitelive.org/rbs-worker-public-unequal-pay/>)

## NASUWT

A staff restructuring exercise at a secondary school saw our female member (a Head of Department – Science) lose her TLR payment. She accepted it and did not appeal the decision at the time as she believed there must have been a fundamental restructuring to her role but not the other Head of Department positions. Other male Heads of Department kept their TLRs. Four years later the female member retired.

When the employer advertised the retired member’s role the TLR had been reinstated in line with the other Head of Departments (all male). When this was questioned no real explanation was forthcoming.

The NASUWT supported the member by lodging an Equal Pay claim at the Tribunal and an out of court settlement was eventually reached with the employee.