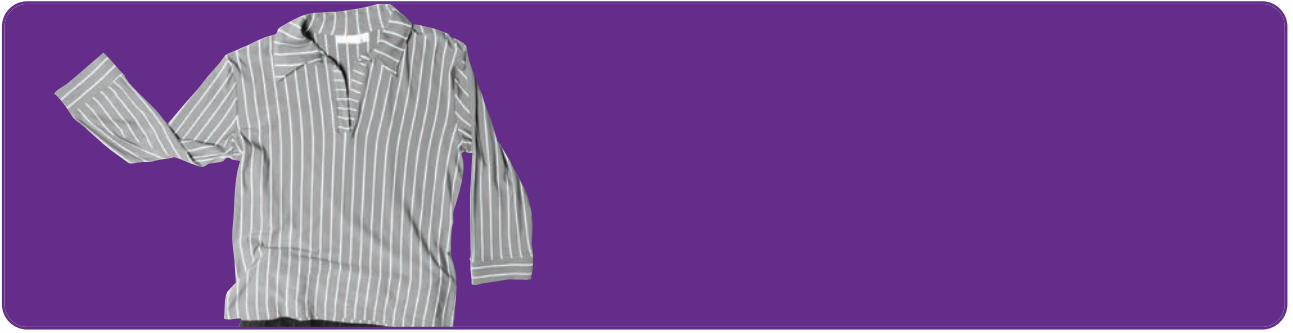




PUBLIC SECTOR EQUALITY DUTY

Guidance for publishing information
on gender and employment,
equal pay, and occupational segregation



FOREWORD

The gender pay gap in Scotland currently sits at 11% for full-time work, and 32% for part-time work. This gap between men's and women's pay is not only an issue for women in Scotland but also for public and private sector employers, and Scotland's economy.

Barriers to women's and men's participation in stereotypically gendered occupations, and to women achieving the most senior posts, mean that employers cannot be assured that they are recruiting the most skilled and talented individuals to specific areas of their organisation. Scotland's economy is losing the skills and talent of women who seek underemployment in part-time work in an effort to balance their work with caring responsibilities.

Employers who proactively address gender equality issues reap the benefits of a more productive, loyal, motivated, and innovative workforce who are more in touch with the needs of service users. Action on equalities, therefore, has the potential to drive excellence in service delivery.

The public sector equality duty places a requirement on public sector employers to be proactive in addressing gender pay gaps and assess the different impacts on women and men of employment policy and practice. The public sector equality duty is about achieving real positive outcomes for men and women across Scotland and we believe that this guidance will support employers to take significant steps to narrow the gender pay gap.

Professor Ailsa McKay
Chair, Close the Gap Partnership



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INTRODUCTION

WHAT IS THIS GUIDANCE FOR?

This guidance provides information to help Scottish public authorities meet the public sector equality duty, and particularly the requirement to publish gender pay gap information, and a statement on equal pay, including information on occupational segregation.

This guidance complements that published by the Equality and Human Rights Commission, especially *Employee information and the public sector equality duty: A guide for public authorities (Scotland)*, which can be found at:

<http://www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities/>

This guide is a practical explanation of what authorities can, and should, do to ensure that they are meeting the public sector equality duty. It does not have legal standing like a statutory Code of Practice, which can be used as evidence in legal proceedings under the act.

Steps that employers must take to meet the public sector equality duty will appear in blue boxes throughout this guidance.

LEGAL DISCLAIMER

While every effort has been made to ensure that the explanations given here are accurate, only the courts or tribunals can give authoritative interpretations of the law.

WHO IS THIS GUIDANCE FOR?

This guide has been developed for public authorities who are covered by the specific public sector equality duties, as contained in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

Listed bodies include all Scottish Government departments, local authorities, universities, colleges, health boards, police forces, fire and rescue services, and non-departmental public bodies that have been established in Scotland. A complete list of bodies covered by the specific duties can be found in Schedule 2 of the regulations.

This guide will also be useful for authorities who are only covered by the general duty, as the advice within may help them to meet the requirements of the public sector equality duty.

It may also be of interest to all those who are stakeholders in the work of public authorities, including trade unions, equality organisations, voluntary sector bodies, service users, and people who belong to groups protected by the Equality Act.

WHAT IS THE PUBLIC SECTOR EQUALITY DUTY?

The public sector equality duty replaces the previous public sector equality duties: the Race Equality Duty (2002), the Disability Equality Duty (2006), and the Gender Equality Duty (2007). Like its predecessor duties, it requires public authorities to take a proactive and organised approach to tackling institutional discrimination, and aims to mainstream equality into public bodies in practical ways.

The public sector equality duty covers the following protected characteristics: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The public sector equality duty also covers marriage and civil partnership, with regard to eliminating unlawful discrimination in employment.

As with predecessor duties, the public sector equality duty has a **general duty** which sets out requirements for all public authorities and those bodies exercising a public function, and **specific duties**, which place additional requirements on listed public authorities.

For clarity, a ‘public function’ is one defined in the Human Rights Act 1998, and private and voluntary sector organisations carrying out such a function must meet the requirements of the general duty in respect of that function.

General duty

The general equality duty requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation, and other prohibited conduct;
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

Information about implementing the general duty, including principles from case law on the previous duties, can be found in the Equality and Human Rights Commission guidance, *Essential guide to the public sector equality duty: A guide for public authorities (Scotland)*.

Specific duties

The specific duties in Scotland were created by secondary legislation in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. They came into force on 27 May 2012.

The overall purpose of the specific duties in Scotland is to ensure that those authorities listed in the regulations are able to meet the general duty. This guidance sets out what employers must do to meet the specific duties. It focuses principally on gender and employment. It should be noted that different specific duties apply to public authorities in Wales, and different specific duties again apply to public authorities in England.

Compliance

The Equality and Human Rights Commission is the regulator of compliance with the public sector equality duty. Other audit bodies and regulators also have a role to play in ensuring compliance with the full range of anti-discrimination law.

WHAT WILL EMPLOYERS NEED TO DO TO COMPLY WITH THE SPECIFIC DUTIES?

To meet the requirements of the specific duties, public authorities must undertake a range of actions. These are:

- Report on mainstreaming the equality duty.
- Publish equality outcomes and report on progress in delivering these.
- Assess and review policies and practices.
- Gather information on the composition of its employees, and on recruitment, development, and retention of people. This annual information should be disaggregated by protected characteristic, and then published and used to inform action on equalities.
- Publish gender pay gap information.
- Publish statements on equal pay.
- Consider award criteria and conditions in relation to public procurement.
- Conduct equality impact assessment on an ongoing basis.
- Publish information in a manner that is accessible to the public.

This document sets out what authorities must do to meet the requirements of the public sector equality duty with regard to equal pay, and the causes of the gender pay gap. This includes:

- Publishing employment information (as it relates to equal pay);
- Publishing gender pay gap information; and
- Publishing a statement on equal pay.

Further reading on what the duty requires can be found in the Equality and Human Rights Commission publication *Essential guide to the public sector equality duty: A guide for public authorities (Scotland)*. The EHRC has also published guidance on setting equality outcomes, using evidence, involvement of groups with protected characteristics, equality impact assessment, and mainstreaming.

TIMETABLE

The general duty came into force on 5 April 2011. The specific duties came into force in Scotland on 27 May 2012.

The reporting requirements of the public sector equality duty are different from those required by the predecessor Gender Equality Duty, Disability Equality Duty, and Race Equality Duty. There is no longer a requirement to produce an equality scheme, but public bodies do have to set and publish equality outcomes, publish employment data, publish equality impact assessments on an ongoing basis, and periodically report on mainstreaming, their gender pay gap, and progress towards pay equality.

	Gender	Race	Disability
Gather employment information	Immediately	Immediately	Immediately
Publish employment information in a 'mainstreaming report'	30 April 2013, and then every two years.	30 April 2013, and then every two years.	30 April 2013, and then every two years.
Publish equality outcomes and report progress	30 April 2013, with a report on progress every two years, and a refresh of outcomes every four years.	30 April 2013, with a report on progress every two years, and a refresh of outcomes every four years.	30 April 2013, with a report on progress every two years, and a refresh of outcomes every four years.
Publish gender pay gap information*	30 April 2013, and then every two years.	-	-
Publish a statement on equal pay*	30 April 2013, and then every four years.*	30 April 2017, and then every four years.*	30 April 2017, and then every four years.*

*The requirement to publish gender pay gap information, and a statement on equal pay, only applies to organisations with 150 employees.

The dates in the table above refer to those public authorities who have 150 or more employees at the point of implementation of the public sector equality duty.

ORGANISATIONS WITH MORE THAN 150 STAFF

Employers only need to publish their first set of gender pay gap information, and their first equal pay statement no later than 30 April in the year in which they employ 150 or more people. If staff numbers fall below 150 in any year, there is no requirement to report employment information for that year. For the purpose of meeting the publication requirement of the specific duties, ‘year’ refers to the period between reports, for example 1 May 2013 to 30 April 2014. The actual data may be gathered over a different time period if that would align with the organisation’s planning period. For example, it may be helpful to analyse data on staffing over one financial year.

Publication schedule	
Year	Report(s) to be produced
2012	None
2013	<ul style="list-style-type: none"> • First gender pay gap information • First equal pay statement (gender only) • First publication of mainstreaming report • First publication of employment data • First publication of equality outcomes
2014	None
2015	<ul style="list-style-type: none"> • Second gender pay gap information • First report of progress against equality outcomes • Second publication of mainstreaming report • Second publication of employment data
2016	None
2017	<ul style="list-style-type: none"> • Second equal pay statement (gender) • First equal pay statement (race and disability) • Third gender pay gap information • Second report of progress against equality outcomes • Second publication of equality outcomes • Third publication of employment data
2018	None
2019	<ul style="list-style-type: none"> • Fourth gender pay gap information • Third report on progress against equality outcomes • Fourth publication of mainstreaming report • Fourth publication of employment data
2020	None

WHO IS RESPONSIBLE?

Staff members, and members of boards of directors or other governance structures, all have responsibility for the delivery of the public sector equality duty. It is not possible for staff responsible for equality and diversity to meet the requirements of the duty without support, accountability, and resourcing from elsewhere in the organisation. While each organisation will decide how to deliver the duty, broad responsibilities may align as follows.

Individual or group	Responsibility
Board members	Strategic direction of equalities work, review performance of equalities functions, and mainstream equality into the governance of the organisation.
Senior managers	Oversee design, delivery, quality, and effectiveness of the organisation's equality functions, and the mainstreaming of equality into the delivery of its core business objectives. Lead on the implementation of any equality plan, and the development of, and delivery against, equality outcomes.
Equality and diversity staff	Raise awareness of the general and specific duties, and build capacity of colleagues to deliver on their responsibilities. Co-ordinate equality outcome setting across business functions.
Finance staff	Work with human resources and analyst colleagues to undertake equal pay reviews, produce equal pay data and occupational segregation data.
Human resources staff	Consider equalities in employment policies and procedures. Work with analyst and finance colleagues to undertake equal pay reviews, produce equal pay data and occupational segregation data. Co-ordinate and facilitate involvement with internal protected groups.
Communications staff	Ensure relevant equality information is available and accessible. Co-ordinate and facilitate involvement with protected groups.
Analysts	Support others in the organisation, including policy makers, to understand the effects of its policies and practices on people from equality groups. Support HR staff to interpret data contained within management information systems.
Procurement and commissioning staff	Build equality considerations into the organisation's relationships with suppliers, including those bodies to whom services are being contracted out, for example, arm's-length external organisations.



WHAT DO YOU NEED TO DO?

THE PUBLIC SECTOR EQUALITY DUTY AND EQUAL PAY

The public sector equality duty requires all public sector bodies, when carrying out their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act;
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

This is the general duty, and is the core of the public sector equality duty.

A gender pay gap within an organisation may signal unlawful discrimination with regard to employment, and it is advisable therefore to determine whether an organisation has a pay gap and the reasons for it, under the general duty. The best way to do this is by carrying out an equal pay review and then acting to address any gender gaps that this review highlights. Information about how to carry out an equal pay review can be found on page 24.

Listed authorities¹, and particularly listed authorities with more than 150 staff, require to take further action on equal pay.

¹: The list of public authorities to which the specific duties apply can be found in Schedule 2 of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

REPORTING AND PUBLICATION REQUIREMENTS

The reporting requirements of the public sector equality duty are different from those required by the predecessor Gender Equality Duty, Disability Equality Duty, and Race Equality Duty. There is no longer a requirement to produce an equality scheme, but public bodies do have to set and publish equality outcomes, publish employment data, publish

equality impact assessments on an ongoing basis, and periodically report on mainstreaming, their gender pay gap, and progress towards pay equality. A timetable for the publication of reports is on page 7 of this guidance.

MAINSTREAMING REPORT

Public authorities are required to publish information about how they have integrated the equality duty into all of their functions. This means describing how equality is taken into account in the day-to-day working of a public body. Further information on mainstreaming can be found in the Equality and Human Rights Commission publication *Mainstreaming the equality duty: A guide for public authorities (Scotland)*.

This report should also include the publication of employee information, disaggregated by protected characteristic, and a description of work that the authority has done to gather employment information, and work that it has done to use employment information to deliver the duty.

Every two years, starting no later than 30 April 2013, all listed public authorities must report on mainstreaming the equality duty. This report should include:

- Progress the authority has made to make the equality duty integral to the exercise of its functions;
- An annual breakdown of employee information, including the composition of the authority's employees, and the recruitment, development, and retention of employees; and
- Details of the progress that the authority has made in gathering and using the information to enable it to better perform the equality duty.

The types of information that it may be helpful for public authorities to gather, with regard to women and men's employment, include:

- Employees who access training, by gender;
- Employees who request training and are denied, by gender;
- Employees who participate in coaching or mentoring, by gender;

- Employees who are identified for internal development programmes, by gender;
- Successful and unsuccessful applicants for job roles, by gender, grade, and job family or role type;
- Retention and destination of women returning from maternity leave, by gender, grade, and job family or role type; and
- Successful and unsuccessful requests for flexible working, by gender, grade, and job family or role type.

This is not an exhaustive list, and public authorities should consider gathering data on issues identified by trade unions, HR functions, or through staff surveys.

PUBLISH EQUALITY OUTCOMES AND REPORT PROGRESS

All listed public authorities must set equality outcomes, to be published no later than 30 April 2013.

There is no longer a requirement to publish an equality scheme, but authorities do require to set equality outcomes, and to report on progress against these.

In preparing equality outcomes, authorities must:

- take reasonable steps to involve people who share a protected characteristics, and those who represent their interest, such as trade unions; and
- consider relevant evidence relating to people who share a protected characteristic.

If an authority's outcomes do not meet the general duty in relation to every protected characteristic, it must publish the reasons why not.

Further information on publishing equality outcomes can be found in the EHRC publication *Equality outcomes and the public sector equality duty: A guide for public authorities (Scotland)*.

PUBLISHING GENDER PAY GAP INFORMATION

In addition to the information required in the mainstreaming report, listed authorities² with 150 or more staff also require to publish gender pay gap information.

The first publication of gender pay gap information must be published no later than 30 April 2013, and then at intervals of not more than two years.

Employers require to publish a single figure, which is the percentage difference between men's and women's hourly pay, excluding overtime. To arrive at this figure, authorities can use the following steps. They will need employee data that identifies whether an employee is male or female, and which includes their basic pay.

STEP ONE Determine the basic (excluding overtime) **hourly rate of pay** for each employee. If the basic pay data is expressed as an annual salary, then employers should divide this until they have an hourly rate. This will enable the pay of part-time employees to be compared with full-time employees.

STEP TWO Calculate the average hourly rate of pay for male employees, and female employees. Find out the **mean average** by adding together all of the individual hourly rates of pay, and then divide this by the total number of employees. Do this separately for male employees and female employees

STEP THREE Work out the percentage gap in pay, by using the following calculation.

$$(A \div B) \times 100 = \text{TOTAL}$$
$$100 - \text{TOTAL} = \text{PAY GAP}$$

A = female average hourly rate

B = male average hourly rate

² The list of public authorities to which the specific duties apply can be found in Schedule 2 of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

Public authorities should publish the **PAY GAP** figure. This may be included in any of the reports in which a public body is publishing information about its response to the public sector equality duty. This information should be easily accessible on an authority's website.

PUBLISHING AN EQUAL PAY STATEMENT

In addition to the information required in the mainstreaming report, and the gender pay gap information, listed authorities³ with 150 or more staff also require to publish an equal pay statement, including information on occupational segregation.

The first equal pay statement must be published no later than 30 April 2013, and then at intervals of not more than four years.

The first equal pay statement need relate only to gender. Subsequent equal pay statements should include race and disability.

This statement provides employers with the opportunity to set out their intention to deliver equal pay for their staff, and to develop measurable steps towards achieving this.

In formulating an equal pay statement, authorities are recommended to consider each of the causes of the gender pay gap.

The Equality and Human Rights Commission's *Code of Practice on Equal Pay* recommends that an equal pay policy should:

- commit the organisation to carry out an equal pay review and to monitor pay regularly in partnership with trade union(s)/employee representatives;
- set objectives;
- identify the action to be taken;
- implement that action in a planned programme, in partnership with the workforce;
- assign responsibility and accountability for the policy to a senior manager; and
- commit the organisation to set aside the resources necessary to achieve equal pay.

³. The list of public authorities to which the specific duties apply can be found in Schedule 2 of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

NOTE

It should also be noted that public authorities that do not determine their own pay systems will still be expected to gather information and take appropriate action on any causes of the gender pay gap within their organisation that are within their control. They should report any findings of discrimination within the pay system to the pay setting body.

Occupational segregation

Public authorities require to publish information about occupational segregation within the equal pay statement.

As set out in pages 20 to 22, there are two **types** of occupational segregation. **Horizontal segregation** refers to the clustering of men and women into different types of work. In a public authority, this might mean that there are more women working as cleaners, and more men working as maintenance workers. **Vertical segregation** refers to the clustering of men and women into different **levels** of work. In a public authority, this means more men working as senior managers, and more women working in the lowest grades.

Public bodies will need to provide data on occupational segregation in a way that addresses both horizontal and vertical segregation. This might look something like the following matrix.

Grade	HR		Legal		Finance		TOTAL	
	Men	Women	Men	Women	Men	Women	Men	Women
7								
6								
5								
4								
3								
2								
1								
TOTAL								

Many public bodies are likely to have been taking steps to reduce barriers to women's progression to senior roles, but these efforts will take time to be reflected in the distribution of women and men within organisations. It may be useful to summarise these steps, and to plot progress in subsequent equal pay statements or mainstreaming reports.

Where figures have changed substantially because of organisational restructure, this should be identified in the narrative explaining the figures.

Although the first occupational segregation report with regard to race and disability is not due to be published until 2017, and only for those public bodies who have had more than 150 staff during that time period, public authorities should give thought now to ensuring they will have sufficient data to publish this information by that date.

There is additional information on actions that public authorities can take to tackle occupational segregation on pages 20 to 22.

PROCUREMENT

The public sector equality duty places a requirement on listed public authorities to consider award criteria and conditions in relation to public procurement.

The procurement elements of the public sector equality duty have strengthened those that were part of previous equality duties, and have placed further responsibilities on public bodies.

In addition to the requirements of the specific procurement duty, public authorities require to treat their procurement functions as they would any of their other functions.

This means that contracting out of services, among other pieces of significant procurement, should be equality impact assessed.

Further information on the procurement element of the public sector equality duty will be published by Scottish Government, and was not complete at the time of publication of this guidance.

EQUALITY IMPACT ASSESSMENT

Under the gender equality duty, public authorities were required to assess how policies and practices will affect men and women. Equality impact assessment is a way of examining policies, proposals and plans to detect and assess their differential impact on men and women so that any potential inequalities can be addressed before implementation.

The requirement for public authorities to carry out impact assessment is also included within the specific duties. This means assessing the impact of applying a proposed, new, revised or existing policy or practice. 'Policies and practices' covers all the proposed and current activities that a public body carries out, including its employment and service delivery functions.

In assessing the impact of policies and practices, authorities must:

- consider relevant evidence relating to those who share a protected characteristic and those who do not, such as men and women;
- take account of the results of the policy or practice;
- publish the results of the assessment, within a reasonable time, if they decide to implement a policy or practice; and
- review and, where necessary, revise existing policies and practices.

In relation to meeting the general duty, authorities must:

- ensure that the policy or practice does not discriminate unlawfully;
- consider how the policy or practice might better advance equality of opportunity; and
- consider whether the policy or practice will affect good relations between different protected characteristics, such as men and women.

Public bodies must consider relevant evidence, including evidence received from equality groups, and other groups that represent people with a shared protected characteristic, such as trade unions. Where a negative impact, or missed opportunity to promote equality of opportunity, is identified through an impact assessment, public bodies must consider taking action to address the issues, for example removing negative impact, where possible, and exploiting any potential for positive impact.

Equality impact assessment provides a mechanism to build equality considerations into policy making and decision making, providing a clear and structured way to consider evidence about the needs of equality groups.

Further information on equality impact assessment can be found in the EHRG publication *Assessing impact and the public sector equality duty: A guide for public authorities (Scotland)*.

PUBLIC SECTOR EQUALITY DUTY CHECKLIST	
A report on mainstreaming the equality duty has been published (page 11)	
A set of equality outcomes have been published (page 12)	
A report on the progress in delivering equality outcomes has been published (page 12)	
Information on the composition of the workforce, and on recruitment, development and retention of employees has been gathered	
Gathered employee information is disaggregated by protected characteristic	
Gathered employee information is used to inform action on equalities	
Gathered employee information has been published	
Gender pay gap information has been published (page 13)	
Statements on equal pay have been published (page 14)	
Information on occupational segregation has been published (page 15)	
Award criteria and conditions in relation to public procurement have been considered (page 16)	
Equality impact assessments are conducted on an ongoing basis (page 17)	
Information is published in a manner that is accessible to the public	



EQUAL PAY

WHAT IS THE GENDER PAY GAP?

On average, women in Scotland receive 11% less per hour that they work full-time than men working full-time. Women working part-time earn 32% less per hour than men working full-time.⁴ The pay gap signifies the differences that still exist in men's and women's working lives, and is caused by three main factors. Although the gender pay gap is lower in the public sector than in the private sector, each of these factors is likely to be contributing to a pay gap in individual public authorities.

HOW THE PAY GAP IMPACTS ORGANISATIONS

The pay gap is not only an issue for employees and their families. Barriers to men's and women's participation in stereotypically gendered occupations, and to women achieving the most senior posts, mean that employers cannot be assured that they are recruiting the most skilled and talented individuals to specific areas of their organisation.

Employers who proactively address gender equality issues reap the benefits of a more productive, loyal, motivated, and innovative workforce, who are more in touch with the needs of service users. Action on equalities, therefore, has the potential to drive excellence in service delivery. The gender pay gap is not solely caused by men and women receiving different pay for doing the same or similar jobs, or work of equal value. It is also caused by training and employment practices which impact on women in different ways to men. All of these factors underpinning the pay gap can be addressed, to some degree, by employment policy and practice, including the employment of apprentices.

⁴ *Annual Survey of Hours and Earnings*
2011

Some public authorities, like local authorities, will also have responsibility for education, employability, and economic development.

Consideration to reducing occupational segregation should be given in the design and development of these services. More information on this can be found in the Equality and Human Rights Commission publication *Assessing impact and the public sector equality duty: A guide for public authorities (Scotland)*.

OCCUPATIONAL SEGREGATION

Women and men tend to be clustered into different occupations and sectors. There are many factors which underlie this segregation, including stereotyping about men and women's capabilities and skills; the culture associated with different types of work; and access to training courses and apprenticeships in different sectors. Although job segregation restricts choices for men and women, the jobs which are most likely to be done by women are also those that are associated with low pay and limited possibilities for progression. These are sometimes referred to as the "5 Cs": cleaning, catering, cashiering (retail), clerical work, and caring. This type of job segregation is called **horizontal occupational segregation**.

Appropriate actions to address gendered occupational segregation will require to reflect the needs of the specific organisation in which occupational segregation is present. However, consideration could be given to a number of factors, which can have a different impact on men and women.

The places and ways in which jobs are advertised. Evidence shows that women are less likely to apply for jobs for which they do not have all of the essential and desirable criteria. Similarly, if jobs are not advertised formally then women, who tend to have less access to informal workplace networks, are less likely to be aware of development and promotion opportunities. Employers should look at their recruitment practices to see if simple changes, like removing unnecessary criteria and ensuring all jobs are advertised will ensure that applications come from a diverse group.

Recruitment processes. Gender balance on recruitment panels can be helpful. Robust training should be given to all recruitment panel participants to ensure that questions are not asked of female candidates that are not asked of male candidates.

Training and skilling opportunities. Part-time low-paid women are the group of workers least likely to be offered training opportunities in the workplace, but they are also the most likely to be underemployed. Employers should ensure that all workers have an equal opportunity to develop their skills.

Workplace culture. Employers should be aware of the different impacts of the working environment on women and men. For example, networking events that require participation in an activity stereotypically seen as male, such as golf or football, may exclude female employees.

Presenteeism. There is overwhelming evidence that longer hours can be harmful to both employees and productivity. Many women perceive that promoted posts will require a significant increase in hours spent at the office, which can be challenging for employees with caring responsibilities, and acts as a disincentive. Developing flexible working practices can help employees work smarter rather than longer.

Mentoring and networking. Many women struggle to access informal work networks, particularly those that are based on after-work socialising. Creating women-only networks can help to build cross-organisational relationships, emphasise that the organisation values difference, and can help drive cultural change.

CASE STUDY

A non-departmental public body looks at its employment figures by organisation function, and realises that it has many more women in HR and business support functions, and many more men in operational, technical roles. The staff survey identifies that an inability to move between functions is seen as a block to progression.

It develops 'taster days' where staff can shadow colleagues in different functions, and adjusts its training policy to enable staff to develop competencies that would enable them to apply for jobs in different areas of the organisation. Over time, it sees more mobility between functions, and more women in previously male-dominated areas of the organisation.

THE 'GLASS CEILING'

Women tend to work at a more junior grade than men across all occupational sectors, and are likely to be found clustered in the bottom grades of most organisations. The invisible barrier that prevents women from progressing to senior levels, despite seemingly fair recruitment and promotion procedures, is called the 'glass ceiling'.

The 'glass ceiling' is not only responsible for women not reaching boardrooms and senior management level. Women can be discouraged from applying for promoted posts by cultures of presenteeism; 'old boys networks' which leave women without the access to informal mentoring opportunities that men have; a perceived or actual lack of work-life balance at senior levels; a lack of senior women role models; and recruitment and selection processes that appear to lack transparency.

Organisations sometimes find that they have two 'glass ceilings': one directly above the most senior administrative workers, and one above the team leader grade. This type of job segregation is called **vertical occupational segregation**.

CASE STUDY

A public authority now ensures that every selection board has a gender balance. This is the case even at board level. To ensure that all selection boards comply with legislation and with internal policies it always has a member of HR present on each panel, both for external recruitment and internal selection and promotion. Before selection boards convene, a mock board is set up to allow board members to work together and identify any issues so that they can be ironed out or dealt with before the board is convened for the first applicant.

Around five or six years ago, it was frequently the case that board members would ask questions specifically of women that they wouldn't have asked of a man. But this does not happen often now; it is covered quite extensively in the formal, two day programme that all managers have to go through.

CARING RESPONSIBILITIES

Women are more likely than men to have primary caring responsibilities for children, sick relatives, disabled people, or older people.

One fifth of women lose their job, or lose out on pay or promotion, simply for being pregnant. In addition to pregnancy discrimination, there is evidence that the increasing cost of childcare, and the withdrawal of state support for it in the form of tax credits, is causing women to leave their jobs, or reduce their hours, in an effort to balance family budgets.

A lack of flexible working in many workplaces means that women are required to look for part-time work in order to meet their caring responsibilities. As most part-time work is in low-paid, stereotypically female occupations, this means that many women are underemployed. Their skills are being lost to their employer and to the economy.

CASE STUDY

Staff at a college have access to work-life balance arrangements, including flexitime, part-time and term-time working; special leave; study leave; emergency leave; time off for sports achievement and public/community service. The college has also instituted a range of measures to support men and women with childcare responsibilities, including: parental leave, extended maternity leave, carers leave, childcare allowance, a childcare information system, and an on-site nursery. The college Principal reported a noticeable impact on stress relief with the implementation of the work-life strategy, and described a more positive approach and higher quality performance from staff. Attendance levels also improved, as less staff felt the need to take time off unofficially.

DISCRIMINATION EMBEDDED WITHIN PAY SYSTEMS

The single most significant cause underpinning the pay gap is discrimination embedded within pay systems. It is rare to find employers who discriminate directly and intentionally on grounds of pay, but many employers are unaware of the different impacts that seemingly objective pay arrangements have upon men and women.

There can be many factors within pay systems that lead to inequalities, including: individuals being appointed to different points on the pay scale; different job and grade titles for virtually the same jobs; male jobs having disproportionate access to bonus earnings; women having less access to high-paid shift and overtime work; performance-related pay being unfairly awarded; women not receiving the same access to training; sex bias in analytical job evaluation schemes grading women's jobs lower. It is important that employers critically examine their pay structures to identify the ways in which these affect female and male employees, and take action to address any gaps that cannot be objectively explained.

The most effective way for an organisation to uncover unequal pay is to carry out an equal pay review. The key elements of equal pay reviews are:

- Identifying jobs involving similar levels of skill, effort, decision-making, and knowledge (work of equal value);
- Comparing the pay of women and men doing like work, work rated as equivalent, and work of equal value;
- Identifying gaps and the reasons that the gaps exist;
- Eliminating those pay gaps that cannot satisfactorily be explained on grounds other than sex.

The EHRC, in conjunction with other equalities experts, has developed a toolkit to help employers carry out an equal pay review. This breaks the process down into five steps, and provides detailed guidance on the types of analysis that employers will need to carry out on their pay data. Equal Pay Review Toolkit is available from:

<http://www.equalityhumanrights.com/advice-and-guidance/tools-equal-pay/equal-pay-audit-toolkit/>

Close the Gap also has a limited number of hard copies.

The Close the Gap project can also provide free individual support to employers who wish to identify and address gender pay gaps within their organisation.

Further information can be found at **www.closesthegap.org.uk** or by contacting **info@closesthegap.org.uk**

It is critical that when employers check their pay systems they:

- include all staff in their comparisons, including part-time and temporary employees;
- include all elements of pay (this includes all contractual benefits including, but not limited to: bonuses, pay rises, piece work, severance pay, benefits, performance related pay, maternity pay, and occupational pensions); and
- engage with trade unions and employee representatives in taking the work forward.

CASE STUDY

A public sector organisation found that it has an organisational gender pay gap in basic pay of around 19 per cent. When looking at total pay (including overtime and premium-rate payments) the gap was 29 per cent. Within grades the biggest pay gaps were mainly, but not exclusively, in areas where women were in the majority.

The most extreme example was one area where women's total earnings were on average 40 per cent behind those of men in the same grade. The main reason for the gaps in basic pay was the performance-related pay system which provided limited progression opportunities to most staff. This was exacerbated by a system of almost 40 grades with long incremental scales.

Together these factors were found to work to the disadvantage of women, who tended to have shorter service than men. The main reason for the even greater gaps in total pay was the system of overtime payments: people received multiples of their normal hourly rate for time worked on overtime, so the differential in the pay rates between those at the top of the scale (mainly men) and those at the bottom (who were likely to be women) was increased by the relevant overtime multiplier (for example 'time and a half' or 'double-time').

GLOSSARY

Diversity

The recognition and valuing of difference, in its broadest sense. It is about creating a culture and practices that recognise, respect, value and harness difference for the benefit of service users, members of the public and employees.

Due regard

This concept is based on ‘proportionality’ and ‘relevance’. It is the weight given to gender equality, which should be proportionate to its relevance to a particular function. The greater the relevance of the function to the duty, then the greater the regard that should be paid to it.

Equality

Equality does not mean that women and men will become the same but that women’s and men’s rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration - recognising the diversity of different groups of women and men.

Equal value

As defined by the Equality Act 2010, an individual can claim equal pay with a comparator of the opposite sex where work is different, but which would be assessed as equal in value in terms of demands such as effort, skill and decision-making.

Equal pay review

A process which looks at pay arrangements within an organisation to find, and address, gender discrimination. It involves comparing the pay of groups of workers who are doing equal work in the organisation and then investigating any gaps between men’s and women’s pay.

Gender

Refers to roles, attitudes, values and behaviours that men and women are encouraged to adopt by society. These characteristics can vary depending on the society around us. For example, historically, gender role stereotyping would suggest that women should look after children at home while men go to work in the formal labour market.

Gender mainstreaming

Making sure that gender issues are built into the processes and outputs of a public body. It is an approach to integrating gender considerations into all facets of work. It involves ensuring that a gender perspective and the goal of gender equality is central to all activities, whether policy development, research, advocacy, legislation, resource allocation, and planning, implementation and monitoring of programmes and projects. It integrates a gendered awareness into each aspect of work, rather than considering gender separately.

Occupational segregation

Refers to the clustering of men and women into different types of work (horizontal segregation) and into different levels of work (vertical segregation).

Outcome

The result that the employer aims to achieve. For example, the number of female joinery apprentices is increased by 12 percentage points and occupational segregation is reduced.

Policy

An umbrella term for everything we do: legislation, strategies, services and functions.

The gender pay gap

The difference between men's and women's average hourly earnings (excluding overtime).

REFERENCES

Equality and Human Rights Commission (2012) *Essential guide to the public sector equality duty: a guide for public authorities (Scotland)*, Glasgow

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FURTHER INFORMATION

Close the Gap
www.closesthegap.org.uk

Equality and Human Rights Commission
www.equalityhumanrights.com/scotland/

THE PROJECT

Close the Gap works across Scotland with employers to encourage and enable actions to address the gender pay gap. The project has been operating since 2001.

The project partners are Scottish Government, Equality and Human Rights Commission, Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, and Scottish Trades Union Congress.

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