

Public sector equality duty:

Guidance for reporting on gender and employment, equal pay, and occupational segregation



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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 as it relates to gender and employment. It focuses in particular on the following:

- Gathering, using and publishing employment data;
- Gender mainstreaming;
- Developing equality outcomes;
- Calculating and using gender pay gap information; and,
- Publishing an equal pay statement on gender, including occupational segregation information.

It uses a number of synthesised good practice examples to illuminate the process of data gathering, analysis and use, and to increase understanding of how you can use the duty to deliver improved employment practice and service provision.

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 on the Commission's website, www.equalityhumanrights.com.

This is a practical explanation of what you can and should do, to ensure that you 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.

Good practice examples will appear in green boxes.

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 is 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 as amended.

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. The Equality and Human Rights Commission's *Who Is Covered* publication describes the reporting cycles for the different groups of listed authorities, and can be found at www.equalityhumanrights.com.

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 have an interest in the work of public authorities, including trade unions, equality organisations, third sector bodies, service users, and people who belong to groups protected by the Equality Act.

Gender inequality: society and labour market

The public sector equality duty requires public bodies to play a role in tackling entrenched and widespread gender inequality. Some of the practices and systems that result in women's inequality at work will be in the scope of your organisation, and some will not. It is therefore critical that work under the duty aims to make positive change for women, wherever possible.

Women do not enjoy equality with men in Scotland. The impact of this is evident in women's unequal share of caring responsibilities, in the gender pay gap, and in the lack of women's participation in public life. The causes of women's inequality are complex and numerous, and interact in multiple ways.

Gender stereotyping begins from birth, shaping girls' and boys' early experiences of development and education. Combined with gendered assumptions about young women's and men's capabilities and preferences, this results in gender segregation in subject choice, and patterns of occupational segregation across all sectors of the labour market. Gendered assumptions also influence the disproportionate burden of unpaid domestic labour shouldered by women.

Gender norms, segregation in education and skills acquisition, and women's unequal share of unpaid labour interact to constrain women's employment. Male-oriented workplace cultures, the pressure of balancing work and family life, and the gendered skills pipeline see women clustered into a small number of low-paid, undervalued occupations such as admin, retail and care.

The economic impact of women's labour market inequality is considerable. Gendered occupational segregation is a drag on growth. Women's skills and talents are being wasted because of a lack of genuinely quality part-time, and flexible, work which results in many women working in part-time work that is below their skill and qualification level. The cost of this to Scotland's economy is more than £17 billion per year¹.

Employers that take steps to address women's inequality at work benefit from a reduction in costs through lower turnover, improved employee morale and motivation, and higher levels of productivity. Diverse workforces are more creative as men and women have different experiences and perspectives. Gender equality can therefore drive excellence and efficiency in public service delivery.

PSED and gender

As a public authority, you are required to take steps to proactively address gender inequality, and the public sector equality duty is intended to assist you to do so. The duty requires you to examine the ways in which gender inequality impacts your organisation and employees. For example, a gender pay gap may signify unlawful discrimination with regard to employment, and it is advisable therefore to determine whether your organisation has a pay gap and the reasons for it, under the general duty. Patterns of occupational segregation which see women concentrated in the lowest paid roles, and men in the highest, indicate a need to investigate and address the reasons for these patterns, under the general duty.

¹ Close the Gap (2016) *Gender Equality Pays: The economic case for addressing women's labour market inequality*

Compliance with the duty requires a conscious, proactive approach. The EHRC states “General regard to the issue of equality is not enough to comply.”² In order to meet the duty, you must take into account the different needs of women and men, consider the impact of gender roles and stereotyping, anticipate and identify different effects of policies and practices on women and men, and take action to address these.

What is the public sector equality duty (PSED)?

The public sector equality duty forms s149 of the Equality Act 2010. It is a positive duty which 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 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 partnerships, with regard to eliminating unlawful discrimination in employment.

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.

General duty

The general equality duty requires public sector bodies, 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)*.

²Equality and Human Rights Commission (2014) *Essential Guide to the Public Sector Equality Duty: A Guide for Public Authorities (Scotland)*, Glasgow

Specific duties

The specific duties in Scotland were created by secondary legislation in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 as amended. They came into force in May 2012. New regulations were introduced in 2015 and 2016, the former bringing additional listed authorities into the scope of the duties. The regulations introduced in 2016 reduced the employee threshold for gender pay gap reporting and the publication of equal pay statements, and introduced a new requirement on a number of listed public authorities to publish the gender composition of their boards, and to produce succession plans to increase board diversity.

The purpose of the specific duties in Scotland is to help those authorities listed in the regulations in their performance of 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 do employers need to do to comply with the specific duties?

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

- Report on mainstreaming the equality duty.
- Publish equality outcomes and report on progress against these.
- Assess and review policies and practices.
- Gather information on the composition of your employees, on recruitment, development, and retention of people, with respect to, in each year, the number and relevant protected characteristics, and use and publish this information.

- Publish gender pay gap information.
- Publish statements on equal pay, including occupational segregation information.
- Consider award criteria and conditions in relation to public procurement.
- Publish a board diversity succession plan.

This document sets out what you must do to meet the requirements of the public sector equality duty with regard to gender and employment. This includes information on:

- Gender mainstreaming;
- Gathering, using and publishing gender disaggregated employment information;
- Calculating and publishing gender pay gap information;
- Using your employee data and gender pay gap information to develop and publish a statement on equal pay; and,
- Improving the gender balance of your board.

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 Commission has also published guidance on setting equality outcomes, using evidence, involvement of groups with protected characteristics, equality impact assessment, and mainstreaming. All Equality and Human Rights Commission publications are available at www.equalityhumanrights.com.

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 your organisation. Mainstreaming means that equality is built into the design, delivery and evaluation of public services, and employment policies and practice; therefore managers across all levels and functions of a public authority will have responsibility for ensuring equality is mainstreamed. 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, mainstream equality into the governance of the organisation, and undertake work to improve and maintain the gender balance of board members.
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.
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-ordinating and facilitating involvement with internal protected groups.
Communications staff	Ensuring relevant equality information is available and accessible. Co-ordinating and facilitating involvement with protected groups.
Analysts	Supporting others in the organisation, including policy makers, to understand the effects of its policies and practices on people from equality groups. Supporting 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 contacted out, for example, arm's-length external organisations.

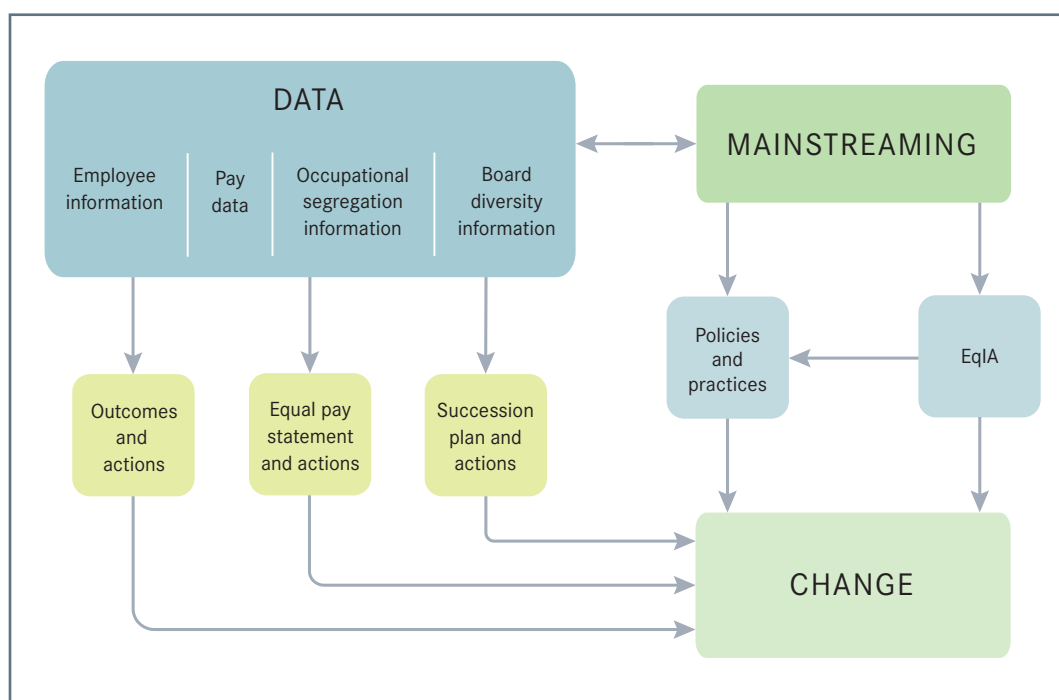
Meeting the public sector equality duty: the process

Although this guidance looks at individual aspects of the duty, it also recognises that each area of work must be part of an inter-related and ongoing process. The process of data gathering, analysis and use is the core of work to meet the duty, and this is reflected in the cycle of progress reporting.

It is essential that you are gathering robust, meaningful data, analysing it, and using your findings to inform the development of your equality outcomes, equal pay statement, and board succession plan, and each of their corresponding action plans. You should make full use of the data available to you, for example, you should not only consider pay data when developing your equal pay statement, your employee data and occupational segregation information should also inform this policy. If you are not using your data to inform your work it is unlikely that the work will be meaningful and relevant to your organisation, and it will also be very difficult to measure or evidence progress.

It is important to recognise that you cannot satisfy the general duty by justifying a decision after it has been taken. Equalities must be considered throughout the decision making process, and in the design, delivery and evaluation of policy and practice.

This diagram illustrates how each part of the duty interconnects, and how efficient data use is central to meeting the duty.





Mainstreaming report

The duty requires public authorities to publish a mainstreaming report which contains 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 authority.

This report should also include the publication of employee information, and a description of work that the authority has done to gather employment information, and to use this information to deliver the general duty.

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)*.

Gender mainstreaming

What is it?

Gender mainstreaming is a process whereby efforts to promote gender equality are not only restricted to specific projects and initiatives to help women, but are also incorporated into the design and delivery of all services, policies and practices. It is important to note that a dual approach is necessary; mainstreaming gender into service delivery, policy and practice, while also implementing specific measures to address gender inequalities. Both approaches go hand-in-hand, and one cannot replace the other.

Public sector bodies have an important role to play in tackling gender inequality because of their proximity to the everyday lives of women and men. Mainstreaming gender in public sector employment policy and practice, and service delivery, will help to address gender inequality in wider society through the shifting of gender norms, and challenging stereotypical assumptions about men and women.

Why is it important?

Historically, employment policies and public service delivery have been viewed as gender-neutral, and it is often assumed that services and policies benefit or affect women and men equally. However, structural inequalities are still embedded in society and women do not enjoy equal access to resources. Consequently, public authorities' services may have an unintended, differential impact on women and men.

An example of a policy that has a differential impact on women and men is the delivery of employability programmes. Employability programmes do not consider occupational segregation, or the specific barriers to employment faced by women, in their design or delivery. As a result, these programmes replicate gendered patterns of skills acquisition and employment, which sees women clustered into jobs such as cleaning, caring and retail. This entrenches occupational segregation, and widens the gender pay gap.

Most services, policies and practices have a differential impact on women and men. It is therefore important for public authorities, in all of their functions, to account for the different positions of women and men; to consider the impact of gender norms and stereotypes; and to anticipate different impacts on women and men.

Women's experience of inequality is not universal, but rather shaped by multiple identities. An intersectional approach is crucial to understanding the complexities of women's lives and it is therefore important that you consider groups of women who share more than one protected characteristic, for example, black and minority ethnic women; disabled women; and lesbian, bisexual and transgender women.

Under the specific duties public authorities are required to publish information about how they have integrated the general duty into all of their functions. Women are beneficiaries of services and policies to a greater extent than men, as both service users and public sector employees³, therefore gender mainstreaming should be appropriately prioritised by all public authorities.

It is the aim of the duty that gender equality is mainstreamed into the day to day work of public authorities. In order to evidence progress towards this aim you may find it useful to include case studies which show the end to end process of a

³Women are more likely to rely on public services than men because of their propensity to be primary carers, and make up two-thirds of public sector workers.

change to, or introduction of, a particular policy. These case studies should demonstrate how equalities was considered at every stage of design, delivery and evaluation.

GOOD PRACTICE EXAMPLE

Gender and employability

A local authority has identified patterns of occupational segregation in the destinations of female participants in its employability programme, with women more likely to end up in lower paid retail or caring jobs. The authority is concerned this may indicate that the programme is failing to adequately assess female participants' skillsets and preferences. Using a survey, the authority gathers quantitative and qualitative data from the programme participants to identify existing skills of participants. The findings show that many of the women are working below their skill and qualification level. The authority recognises that this contributes to occupational segregation in the local labour market, and women's broader inequality in the workplace. The organisation decides to take steps to reduce occupational segregation by ensuring that the programme assessment process considers all participants' skillsets and experience, and considers the particular gendered barriers faced by female participants, such as difficulties in accessing flexible working. The authority also updates training for employability staff to ensure that gendered assumptions are not made around women's abilities and preferences, and they are matched with employment opportunities based on their individual skills and needs.

Employee information

You are required to **gather** and **use** employee information in order to better perform the duty, and you must **publish** the data you have gathered. This employee information should be published in your organisation's mainstreaming report, which must also include details of the **progress** you have made in gathering and using that data. Employee data may be gathered over a time period that aligns with your organisation's planning period, and must be published as an **annual breakdown**. For example, you might publish your mainstreaming report on 30 April 2017, reporting on data covering 1 January 2015 to 31 December 2016, broken down by year.

For any mainstreaming report published on or after 1 May 2016, a number of listed authorities must also publish the gender composition of their board members (or board of management), and report on current and planned work towards ensuring board diversity.

Gathering data

The duty describes employee information as including the composition of your organisation's employees, and information on the recruitment, development, and retention of those employees, and which enables you to better perform the general duty. It is important to bear this purpose in mind when considering the specific data you may need.

The following section provides a detailed breakdown of what employee information you should gather, and why. If you are not gathering all of the information specified it is unlikely you will be considered to be doing everything you can to perform the duty.

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

Composition

Alongside information on basic staff composition, it is considered best practice to include information, disaggregated by gender, on:

- Occupation of part-time posts;
- Occupation of fixed term and/or temporary posts;
- Flexible working applications and success rates;
- Grievances; and,
- Disciplinary incidents.

This information will enable you to identify gendered patterns of employment, including where women are located in your workforce, and examine how flexible working functions in your organisation. It is likely that you will identify patterns from this data that will require further investigation, including examining individual datasets by grade, job family or role type.

GOOD PRACTICE EXAMPLE

Advising and using data on staff composition

A public authority finds that the first tranche of its employee data shows that the three-quarters of part-time posts in its organisation are held by women. Due to engagement with Close the Gap, the organisation is aware that part-time work is associated with lower pay and a lack of progression, and in order to fully understand the issue, examines the data again, this time disaggregating further by grade. It finds that part-time posts are concentrated in the lowest three grades in the organisation, become progressively less concentrated in grades above this, and are entirely absent in senior managerial posts. The organisation undertakes further work, in the form of a series of focus groups with senior managers, HR officers, and female employees working part-time, in order to understand why part-time work is not found at senior levels. It identifies that there is a perception among senior managers and HR officers that senior roles are incompatible with part-time working, and that a number of women working part-time had considered applying for senior roles, but had decided not to progress their application following discussions with hiring managers which gave the impression the role would be incompatible with part-time working. This prompts the organisation to improve its procedures for the consideration of part-time or flexible working, and to implement training for hiring managers on the new procedures.

Recruitment

Information gathered on recruitment should include the following, disaggregated by gender and grade:

- Applications for jobs;
- Shortlisted applicants; and,
- Appointments.

This information will enable you to identify barriers to the recruitment of women across your organisation, and help you identify where practice could be improved. It is likely you will identify patterns from this data that will require further investigation, including examining individual datasets by role type.

Development

Development covers all employee training and development opportunities, and also employee promotion. This includes training that is essential to a job; courses which might facilitate promotion; shadowing, coaching and mentoring; and other opportunities that allow employees to develop their skills. Information gathered on development should include the following, disaggregated by gender:

- Employees who access training;
- Employees who request training and are denied, by gender and working pattern;
- Employees who participate in coaching or mentoring;
- Employees who are identified for internal development programmes; and,
- Employees who are promoted.

This information will enable you to identify whether men or women are the main beneficiaries of training and development opportunities, to identify if employees who work part-time are able to access training and development opportunities to the same degree as full-time employees, and also provides an evidence base for action to address unequal access to training. It will also allow you to identify gender imbalances in promotions across your organisation. It is likely that you will identify patterns from this data that will require further investigation, including examining individual datasets by type of training, working pattern, grade, and/or job family or role type.

GOOD PRACTICE EXAMPLE

Analysing and using data on staff development

A public authority examines its employee data across all forms of training, development, coaching and mentoring and finds that a majority of opportunities are taken by men. The authority disaggregates each individual dataset (formal training courses, and coaching and mentoring) further by working pattern, and finds that women working part-time are the group least able to access training and development opportunities. Women make up 35 per cent of formal training courses, and only 20 per cent of coaching and mentoring opportunities; within this group women working part-time constituted ten per cent of formal training courses, and no women had participated in coaching and mentoring opportunities.

The authority undertakes an all employee survey on training and development and identifies a number of issues, including formal training courses taking place at times which are not concurrent with some part-time workers' working hours; formal training courses taking place outwith normal working hours, when some employees with caring responsibilities have found it difficult to attend; and, there being no formal process by which employees are made aware of coaching and mentoring opportunities. This prompts the authority to review the planning of formal training courses, ensuring they are scheduled within working hours where possible, and introducing additional support for part-time employees and those with caring responsibilities. The authority also implements a new policy to formalise mentoring within the organisation, whereby opportunities must be communicated to all relevant staff, and an application and matching process are introduced.

Retention

Retention covers employees who return to work following a period of absence, and the different reasons for termination of employment with a public authority. Information gathered on retention should include the following, disaggregated by gender:

- Uptake of shared parental leave;
- Voluntary redundancies;
- Compulsory redundancies;
- Dismissals; and,
- Retirement grounds.

You are also required to include information on the following:

- Proportion of women returning to work following maternity leave; and,
- Destination of women returning to work following maternity leave.

This information will enable you to identify issues which constrain women's return to work following maternity leave, and provides a basis for widening uptake of shared parental leave. It also allows you to identify potential trends in redundancies and dismissals. It is likely that you will identify patterns from this data that will require further investigation, including examining individual datasets by grade, and job family or role type.

Pregnancy and maternity

Pregnancy and maternity is a protected characteristic under the Equality Act 2010, and as such public authorities are required to publish employee information for this protected group. Despite this a significant number of public authorities have failed to publish meaningful, or any, information on employees who were pregnant or on maternity leave.

In 2015 the Equality and Human Rights Commission published its report on pregnancy and maternity discrimination and disadvantage in the workplace⁴. This report found that three quarters of pregnant women and new mothers experience discrimination at work and one in nine lose their job as a result. The Scottish Government has made a series of commitments to improve the working conditions of pregnant women and those on maternity leave, including setting up a new working group to create guidelines for employers to ensure best practice on recruitment, retention and development of pregnant workers; strengthening employer advice to ensure that work environments are safe and healthy for pregnant women and new mothers, including providing employment rights information; and, improving public monitoring and reporting of pregnancy and maternity under the public sector equality duty.

It is important that you are aware of the requirement to gather, use and publish data for this protected group. Employee information on pregnancy and maternity should be gathered across staff composition, development and retention; however you should not be asking prospective employees, or those applying for promoted posts, if they are pregnant at recruitment stage.

⁴ EHRC (2015) *Pregnancy and Maternity Related Discrimination and Disadvantage*
<http://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-report>

Improving disclosure

The better your equalities monitoring data, the better prepared you will be to undertake meaningful work to meet the duty. Across all public authorities, sex is the protected characteristic most frequently reported on in authorities' performance of the duty, while pregnancy and maternity is the least frequently reported on. Where there are gaps in the data, you should design work that will improve disclosure these areas.

The duty requires you to consult with people who share protected characteristics and groups who represent their interests. In initiatives to improve and encourage disclosure consultation with key stakeholders can help build an understanding of barriers to declaration, and develop solutions. Effective communication is also important; all employees must be made aware of why the information is needed and how it will be used and stored. The Civil Service's *'Best practice guidance on monitoring equality and diversity in employment'*⁵ contains further information on equalities monitoring practice.

Improving disclosure is an ongoing process, and the duty requires you to report on the progress that you have made in gathering and using employee data. You may find it useful to focus improvement work on employees who have not disclosed their information, or those protected characteristic groups on which you hold the least information. Authorities whose disclosure rates remain low should carefully examine workplace culture to identify why staff are reluctant to disclose their equalities information, and then develop work to address these barriers.

Using employee information: data gathering, analysis and use as a process

Effective data monitoring is an important tool for identifying inequalities in an organisation, and measuring performance and progress on equalities work, however data monitoring is not an end in itself. You are required to use the data gathered to inform your work to meet the general duty. The process of data gathering, analysis and use is the basis on which all equalities work must proceed.

⁵ Civil Service (2012) *Best practice guidance on monitoring equality and diversity in employment*, London <http://webarchive.nationalarchives.gov.uk/20140305122816/http://www.civilservice.gov.uk/wp-content/uploads/2012/03/Equalities-Monitoring-Guidance-final.pdf>

EXAMPLE OF PROCESS

- Stage 1: The first cut of employee data shows that fewer women than men are successful in internal promotion. Only 20 per cent of internal promotions are women. Of those women who apply for internal promotion 3 per cent are successful, compared with 12 per cent of their male counterparts.
- Stage 2: This first data cut is analysed across multiple characteristics to identify any patterns which better explain the initial observation. This shows that women who work part-time are concentrated in the group of employees unsuccessful in seeking promotion. No women or men who were promoted worked part-time.
- Stage 3: In order to gather qualitative information, targeted surveys and focus groups are run with employees, including managers and HR. It is identified that 85 per cent of staff involved in recruitment processes have a perception that some managerial roles are unsuitable for part-time work.
- Stage 4: The quantitative and qualitative data are used to develop appropriate interventions. Recruitment processes are reviewed to ensure all roles are advertised as suitable for flexible working. All staff involved in recruitment processes are given training on equalities, and line managers are given training on implementing flexible working. A realistic target is set for increasing the number of women successful in internal promotion. The authority aims to increase the proportion of promotions awarded to women to 40 per cent within the next five year period.
- Stage 5: The next year's employee data is gathered and analysed. Progress is able to be assessed using the measures previously set, and women are found to constitute 28 per cent of internal promotions.

The development and delivery of work to meet the duty should be an iterative and ongoing process. Effective gathering, analysis and use of employee data is necessary at all stages of the design, delivery and evaluation of policy and practice. If work to meet the duty is based on trends identified through data analysis it will be both measurable, and relevant to the organisation. Demonstrating the use of employee data will also encourage further disclosure.

Publishing data

You are required to publish an annual breakdown of the employee information you have gathered; this should be located within your mainstreaming report. This information must be published in a manner which is accessible to the general public, and it is therefore good practice to include an explanatory narrative alongside your employee information to provide context and highlight important trends. It is also helpful to include the findings of any employee surveys or focus groups which you have conducted in order to further understand issues identified from your employee information. Publishing this evidence and narrative will help readers to understand how your work to meet the duty is informed by your analysis of the data you have gathered.

It is important that you do not view the publishing of employee information as an end in itself. You should give appropriate consideration to the analysis and use of this information to inform the work your organisation plans to do to meet the general duty, and the measuring and reporting on progress thereof.

Common pitfalls

- Mainstreaming reports which are process focused and use weak verbs such as 'exploring' and 'reflecting', as opposed to referencing concrete programmes of work.
- Mainstreaming reports which frame the disbanding of equalities committees, or ceasing of specific measures to address inequalities, as evidence of effective mainstreaming.
- Mainstreaming reports which are heavily service-user focused to the detriment of work to meet the duty as an employer.
- Describing actions required under law as evidence of mainstreaming work, such as gathering employment data, undertaking equality impact assessments or offering parental leave.
- Focus on ensuring employees are aware of their obligations to consider equalities in how they deliver services, to the exclusion of the employer's own responsibility to their employees under the duty.
- Only publishing employee data at the basic staff composition level.
- Development data which only includes data on employee equalities training.
- Publishing data that is incomplete, e.g. number of men working part-time but not number of women, publishing data on return to work for disabled staff but not for staff on maternity leave.
- Publishing no data on pregnancy and maternity.
- Publishing data which is only disaggregated by a single protected characteristic.
- Publishing data which does not cover a full two year period.
- Developing post-hoc equality impact assessment as opposed to assessing impact of policies during the development stage.



Equality outcomes

The duty requires all listed public authorities to set equality outcomes, and report progress in meeting those outcomes.

Listed public authorities must published a refreshed set of equality outcomes at intervals of not more than four years after the previous set were published.

In developing equality outcomes, you must:

- take reasonable steps to involve people who share a protected characteristic, and those who represent their interests, such as trade unions; and,
- consider relevant evidence relating to people who share a protected characteristic, e.g. research from specialist equalities bodies.

If your outcomes do not meet the general duty in relation to every protected characteristic, you must publish the reasons why not. This does not mean that each individual outcome must cover every protected characteristic, but that the set of outcomes as a whole must do so.

Development of equality outcomes

What is an equality outcome?

An equality outcome is a result which you seek to achieve which will further one or more of the needs of the general duty. An outcome is a change, for example an improvement or a reduction, and is distinct from an output, which is an action you might undertake in order to achieve an outcome.

You will find it useful to link equality outcomes to strategic organisational outcomes. Due to the nature of many equalities issues, you will require to take a long-term view of equalities work, and you may also wish to set outcomes with short, medium and long term goals, or outcomes that align with the National Performance Framework.

Using evidence

Equality outcomes should be relevant and organisation-specific. It is therefore essential that evidence is considered at the outset of development. You should examine a range of evidence, including:

- Employee data, disaggregated by gender.
- Research from specialist equalities bodies.
- Qualitative data from targeted employee surveys.
- Feedback from the involvement of people who share a protected characteristic, and groups which represent their interests, for example trade unions.

Using a combination of different kinds of internal and external evidence allows for organisation-specific data to be contextualised and enhanced, providing the foundation for high quality outcomes. The evidence used to develop an outcome also provides the basis for progress indicators.

You will find it useful to develop an action plan for each outcome, comprising a set of actions which will help the authority achieve the required change. It is good practice to develop an action plan containing actions which are specific, measurable, achievable, realistic, and time-bound.

GOOD PRACTICE EXAMPLE

Using data to develop equality outcomes

A public authority has identified patterns from its employee data on pregnancy and maternity. The data shows that in 2015 and 2016 16 per cent of employees on maternity leave did not return to work. Of those employees returning to work after maternity leave 62 per cent returned to the same job on the same hours, and 38 per cent were found to have moved into a different role with lower hourly pay. The second cut of data identifies that all of these women had previously worked full-time, and had moved into a different, part-time role. The authority investigates this issue further by drawing on external research on pregnancy and maternity discrimination, and examining internal data on Keeping in Touch (KiT) days and return to work meetings. The internal data is found to be incomplete, with no data collected on KiT days, but suggests that a number of women had requested to return to their previous roles on

a part-time basis and these requests had been refused. In order to fully investigate the authority decides to consult directly with those women who had taken maternity leave in the relevant period. An invitation to participate in a focus group, or respond to a survey, is sent to the target group. The findings of the focus group and survey identify that some line managers perceived that roles cannot be changed from full-time to part-time. It is also found that many of the women who had returned to work in a lower paid role, and all of the women who had not returned to work, had requested an alternative flexible working pattern which had been refused. The authority decides to develop an outcome to address this issue. The outcome is set as “Women returning to work after maternity leave are able to access flexible working”. Progress indicators are set including “95 per cent of women returners are able to work flexibly by 2019” and “Proportion of women returning to work increases by 10 per cent by 2019”. A corresponding action plan is developed including training for all line managers on pregnancy and maternity discrimination and the implementation of flexible working, and work to improve data collection on KiT days and return to work meetings.

Reporting on progress

Outcome action plans should be developed using a range of evidence, and should have a set of indicators and realistic targets which allow for progress to be measured. If an outcome is generalised or non-specific, it will be impossible to measure tangible improvements for the protected groups, or to meaningfully report on progress.

Progress reports should include information on indicators and an accompanying narrative on the work that has been done, and progress towards meeting outcomes. When reporting on progress, both positive and negative results should be included as this will allow for a meaningful analysis of what has worked and what has not. This will also allow for future actions to be adapted if necessary. You may find it useful to repeat any focus groups, surveys or other involvement work which formed part of your outcome development work, with outcome target groups in order to gather qualitative data on progress.

GOOD PRACTICE EXAMPLE

Using data to measure progress

The authority is preparing to report on its progress against its outcome “Women returning to work after maternity leave are able to work flexibly by 2019”. Training on managing pregnant employees, and supporting female employees’ return from maternity leave has been delivered to line managers, and improved procedures are in place for recording discussions during KiT days and return to work meetings. The authority is therefore able to record those actions as complete. Employee data is analysed and shows 90 per cent of women who had taken maternity leave had returned to work. Data from KiT days and return to work meetings show that all women returners have been able to return to their jobs on a flexible basis, and the proportion of women moving from full-time to part-time roles has reduced in line with an increase in flexible working uptake. This data also shows that the majority of women who have moved into part-time work had previously worked in managerial roles. The focus group and survey are repeated with this cohort, and while overall attitudes among line managers are found to be more positive around flexible working, there remains an issue around the availability of flexible senior roles. The authority reports on this and decides to set a new outcome which seeks to increase flexible working at senior levels.

Common pitfalls

- Outcomes which are developed without considering employee data.
- Outcomes which are generic and non-specific, containing vague actions such as ‘develop initiatives’, ‘explore alternatives’, or ‘review practices’ as opposed to concrete programmes of work, and which have no measurable progress indicators.
- Outcomes which list all protected characteristics as target groups.
- A set of outcomes which focuses on service users to the exclusion of employees.
- Progress reports which make no reference to outcome indicators.
- Progress reports which re-timetable actions which have not been started, with no narrative to explain why work committed to has not been undertaken.



Publishing gender pay gap information

The duty requires public authorities with 20 or more employees to publish a gender pay gap figure which is the percentage difference between men's and women's average hourly pay, excluding overtime. The information published must be based on the most recent data for when an authority had at least 20 employees.

This section describes the causes of the gender pay gap, and the impact of the pay gap on organisations. It outlines different ways of measuring the pay gap, and provides guidance on how to calculate your organisation's pay gap.

What is the gender pay gap?

The gender pay gap is the difference in average hourly earnings between men and women. On average, women in Scotland earn 15% less per hour than men.⁶ The pay gap is the key indicator of the inequalities and differences that still exist in men's and women's working lives, and is caused by three main factors, occupational segregation, inflexible working practices, and pay discrimination. Although there will be differences between different organisations, these three causes are common across all workplaces and sectors.

Headline gender pay gap figures are a useful measure of women's position in the labour market. However, a single figure can mask inequalities at grade and departmental levels. It is possible for an organisation to have a very low or no pay gap but for women still to be clustered in the lower grades and under-represented in senior positions.

⁶ Close the Gap (2016) *Gender pay gap statistics*

Causes of the gender pay gap

Occupational segregation

Women and men are clustered into different occupations and sectors. There are many factors which underlie this segregation including gender norms and stereotypes; assumptions about men's and women's capabilities, preferences and skills; the culture associated with male-dominated occupations and sectors; and, access to training and development opportunities and apprenticeships in different sectors. Occupational segregation restricts choices for men and women, and the jobs most likely to be done by women are those that are associated with low pay, and fewer opportunities to progress. This includes cleaning, care, admin, retail and catering. This type of job segregation is called **horizontal segregation**.

The 'glass ceiling'

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

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

Organisations usually find 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 segregation**.

There is more information about occupational segregation, including the types of activity that can be taken to reduce it on pages 35 to 42.

Caring responsibilities and inflexible working practices

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

Research by Equality and Human Rights Commission found that one fifth of women experienced harassment or negative comments relating to their pregnancy, and one in nine mothers was dismissed, made compulsorily redundant or treated so

unfavourably they felt compelled to resign.⁷ In addition to pregnancy and maternity 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 to balance their caring responsibilities with their work. As most part-time work is in low-paid, stereotypically female occupations, this means that many women are underemployed, and their skills are lost to their employer and the economy.

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 the grounds of pay, but many employers are unaware of the different impacts that seemingly objective pay practices have on 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;
- Stereotypically 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; and,
- 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 gaps that cannot be objectively justified.

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

- Identifying jobs involving similar levels of skill, effort, decision-making, and knowledge (work of equal value);

⁷EHRC (2015) *Pregnancy and Maternity Related Discrimination and Disadvantage*
<http://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-report>

- 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; and,
- Eliminating those pay gaps that cannot satisfactorily be explained on grounds other than sex.

The Equality and Human Rights Commission, in conjunction with other equalities experts, has developed a toolkit to enable employers to carry out an equal pay review. There are five steps to the process, and the toolkit provides detailed guidance on the types of analysis that employers will need to carry out on their pay data. The equal pay review toolkit is available on the Equality and Human Rights Commission's website www.equalityhumanrights.com.

How the pay gap impacts organisations

The pay gap is not only an issue for female 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 people to specific areas of their organisation.

Employers who take steps to address gender inequalities benefit from a more productive, loyal and motivated workforce. Diverse workforces bring a range of skills and experience to an organisation. This diversity of thought makes an organisation more creative, more innovative, and more attuned to the needs of all 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 rates of pay for equal work. It is also caused by employment and training practices that impact on women in different ways to men. All of the factors underpinning the pay gap can be addressed, to some degree, by good employment policies and practice, including the employment of apprentices.

Some public authorities, such as local authorities, will also have responsibility for education, employability, and economic development. In the design and delivery of these services, consideration should be given to reducing occupational segregation.

How to calculate the gender pay gap

There are two measures of the pay gap, **mean** and **median**.

The **mean average** is calculated by adding all individual employees' hourly rate of pay and dividing by the total number of employees. The mean is a useful measure as it includes the highest and lowest rates of pay, and because those on the highest rates of pay tend to be men, and those on the lowest are more likely to be women, it captures a more complete picture of the pay gap.

The **median average** is calculated by listing all employees' hourly rate of pay, and finding the midpoint. The median is not skewed by very low hourly rates of pay or very high hourly rates of pay, and gives a more accurate representation of the 'typical' difference. However, because of this, it can obscure gendered pay differences.

There is no consensus on which is the best measure, and instead it can be helpful to publish both, giving preference to the mean, which will give a deeper understanding of any pay gaps.

The **combined, or overall, pay gap figure** (which includes full-time and part-time employees) provides the most complete picture in relation to gendered pay inequalities. It can also be helpful to calculate the full-time and part-time pay gaps. The **full-time pay gap** is calculated by comparing women's full-time average hourly pay with men's full-time average hourly pay. The **part-time pay gap** is calculated by comparing women's part-time average hourly pay with men's full-time, and is usually much higher than the combined figure and illustrative of the concentration of part-time work in lower grade jobs.

It is important that you do not use the full-time pay gap figure as the headline figure for your organisation, as it omits the experience of part-time workers.

It can also be helpful to publish pay gaps by grade and or/department.

Calculating the pay gap

The single pay gap figure should include all employees, including those in senior grades, even if pay in those grades is determined in a different way from other employees. It should also include all full-time and part-time employees, and employees on permanent and fixed term contracts.

Calculating hourly rates of pay

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.

Calculating the mean pay gap

Example:

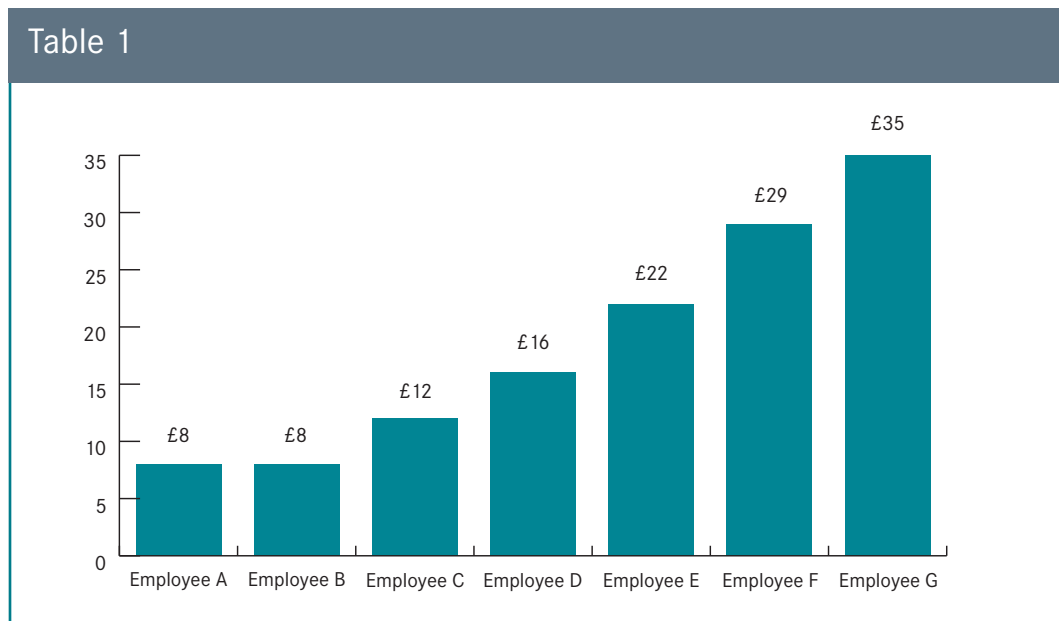


Table 1 shows the hourly pay for employees A to G. To calculate the mean hourly pay rate, use the following formula.

Sum of all employees' rate of pay ÷ Total number of employees =

$$£8 + £8 + £12 + £16 + £22 + £29 + £35 ÷ 7 = £18.57$$

The mean hourly pay rate is therefore £18.57

Use this calculation to determine the mean hourly pay rate for female employees, and the mean hourly pay rate for male employees.

To calculate the mean pay gap, use the following formula.

$$\frac{A - B}{A} \times 100$$

A = mean hourly rate of pay of male employees
B = mean hourly rate of pay of female employees

The median pay gap

Example:



Table 1 shows the hourly pay for employees A to G. The red circle marks the midpoint, and the median hourly rate of pay is therefore £16.00.

Example: To calculate the median pay gap, use the following formula.

$$\frac{C - D}{C} \times 100$$

C = median hourly rate of pay of male employees
D = median hourly rate of pay of female employees

It is helpful to provide an accompanying narrative which allows you to outline the context for the gender pay gap figure, and include an analysis of any change to the figure. The narrative should also include links between action taken to address the causes of the pay gap, and acknowledge any necessary changes to the equal pay policy or action to address unequal pay as a result.

Common pitfalls

- Publishing a pay gap figure which excludes the pay of staff in the most senior grades, or staff on fixed term contracts.
- Publishing full-time pay gap figure only.
- Publishing pay gap figure by grade, but no overall figure.
- Errors in the calculation.
- Publishing a pay gap figure with no accompanying narrative to contextualise the data.



Publishing an equal pay statement

Listed authorities with 20 or more employees are required to publish an equal pay statement, including information on occupational segregation. From 30 April 2017, listed authorities are required to publish an equal pay statement on race and disability, as well as gender.

Occupational segregation

As set out on page 28, occupational segregation is one of the major causes of the gender pay gap. **Horizontal segregation** refers to the clustering of men and women into different **types** of work. In a public authority, this may mean that there are more women working in care and cleaning jobs, 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.

Causes of occupational segregation

Gender norms and stereotyping

Attitudes and expectations based on gender norms and stereotypes can determine the job and career choices made by people. There is a widespread belief that the persistent inequality between women and men is due to innate and immutable differences in the female and male brains. Women are perceived to be natural empathisers and, therefore, good at caring roles and using communication skills, whereas men are assumed to be better technical jobs and manual skilled work that is done outdoors, along with physical labour.

A lack of flexible working

Women are more likely than men to have primary caring responsibilities for children, disabled people, sick people or older people. The unpaid labour of caring for disabled and older people alone, represents a £10.3bn saving to the public purse, which is equivalent to the cost of all NHS services in Scotland.

Women face a number of barriers to finding flexible work which can accommodate their caring responsibilities. This includes finding work that matches their skills and expertise, and more generally, the level of skills and training they have to offer. The lack of options mean that many women opt for the only part-time work that is available which is usually low-skill and low-paid. Flexible working options further diminish for more senior roles and management positions.

Undervaluing of roles and occupations

The undervaluing of occupations is intrinsically linked to stereotyping and the expectations placed on women where historically they have carried out similar roles in the home, such as caring and cleaning. ‘Women’s work’ has lower status and value because the skills required for these jobs are perceived to be inherent in women, and the work is therefore not fairly remunerated.

The potential for the undervaluation of women’s work is formally recognised in the Equality Act. Women are not only at risk of being undervalued within a given job or occupation, in that they are at risk of being paid less for the same level of efficiency within the same job, but they are also at risk of undervaluation through employment in jobs or occupations which are themselves undervalued and this is reflected in the principle of equal pay for work of equal value.

Equal value is measured in terms of the demands of the job. This means that an individual has the right not to be paid less than a comparator of the opposite sex where the work is different but is of equal value in terms of the demands of the job. Although two jobs are different, they can be regarded as being of equal worth in terms of the nature of the work, the training or skills required to do the jobs, the conditions of work and the decision-making that is part of the role.

Commonly, very different jobs are deemed to be of equal value in terms of the demands made on the worker such as effort, skills and decision-making. Tribunals have found a number of jobs to be of equal value, for example, a cook and a painter; a speech therapist and a pharmacist; and a sewing machinist and an upholsterer.

Why occupational segregation is a problem

Occupational segregation restricts the choices of men and women, and boys and girls. As a major cause of the gender pay gap, it contributes to women’s higher levels of poverty, which is inherently linked to higher levels of child poverty.

The cost of occupational segregation is high, both to employers and to Scotland’s economy. Employers are missing out on women’s under-used skills and talent, as many women are working below their skill level.

Women's disproportionate responsibility for care, and a lack of flexible and quality part-time working means that many women are simply in the wrong jobs for their skill and qualification level. The cost of this to Scotland's economy is estimated to be £17bn per year.⁸

The gender pay gap means that women have less disposable income, which impacts on local economies as women are more likely to spend in their local area.

Equal pay statement

The equal pay statement provides you with the opportunity to set out your organisation's intention to deliver equal pay for their staff, and to develop realistic, measurable steps towards achieving this.

In formulating the equal pay statement, you should consider each of the causes of the pay gap, and how each relates to your own organisation. Information about the causes of the pay gap is on pages 28 to 30.

Developing an equal pay policy

Within the equal pay statement, public authorities are required to outline their policy on equal pay between men and women.

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 necessary resources to achieve equal pay.

The development of an equal pay policy should be informed by the gathering and analysis of gender-disaggregated employee data. Analysis of the data will provide an understanding of the causes of the gender pay gap within an organisation, and the actions that can be taken to achieve equal pay for staff.

The analysis of employee pay data can help identify any potential equal pay issues, and should be used to inform the development of the equal pay policy.

⁸ Close the Gap (2015) *Gender Equality Pays: The economic case for addressing women's labour market inequality*

Public authorities that do not determine their own pay systems are still required to gather information and take appropriate action on any causes of the pay gap within their organisation that are within their control. Any findings of discrimination in the pay system should be reported to the pay setting body.

GOOD PRACTICE EXAMPLE

Analysing pay data

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 lower than 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. Staff 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 (mainly women) was increased by the relevant overtime multiplier, for example 'time and a half' or 'double-time'.

Publishing occupational segregation information

Public authorities need to provide data on occupational segregation in a way that captures both horizontal and vertical segregation within the organisation. The may look something like the following matrix.

Grade	HR		Operations		Finance		Total	
	Men	Women	Men	Women	Men	Women	Men	Women
7								
6								
5								
4								
3								
2								
1								
Total								

Contextualising the data

A narrative should be provided to contextualise the data, and to offer an understanding of equal pay and occupational segregation issues within your organisation.

An equal pay statement should also list comprehensive details of your organisation's policies and practices to promote equal pay between men and women. It can be helpful to include details of related policies that support gender equality, for example, a flexible working policy and a training and development policy.

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 in organisations. It is useful to summarise these steps, and to report on progress in subsequent equal pay statements and mainstreaming reports.

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

Activity to address occupational segregation

In developing actions to address gendered occupational segregation, you should ensure that actions prioritise outcomes for staff, rather than focus on processes such as the development of complex monitoring procedures and policy development.

You should reflect on the needs of your own organisation, and the nature of the segregation among its workforce. However, consideration could be given to a range

of factors which can have a different impact on men and women, and therefore entrench occupational segregation.

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 the essential and desirable criteria. If jobs are not formally advertised then women, who tend to have less access to informal workplace networks, are less likely to be aware of development and promotion opportunities. You should look at your recruitment practices to see if simple changes, like removing unnecessary criteria, and ensuring all jobs are advertised, will enable a more diverse range of people to apply for vacancies.

Recruitment processes

It is good practice to have gender balance on recruitment panels, wherever possible. Robust equalities 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 development opportunities

Part-time, low-paid women are the group of workers least likely to be offered training and development opportunities in the workplace, but they are also the most likely to be over-qualified for their job. It is also not uncommon for training to be scheduled to take place at a time when part-time staff are not working, or for it to be held at an off-site location which may be difficult for some staff, such as those with caring responsibilities, to attend. You should ensure that all workers have an equal opportunity to access training and development and are able to develop their skills.

Workplace culture

Be aware of the ways in which the working environment impacts on men and women differently. For example, networking events that require participation in an activity stereotypically seen as male, such as golf or football, may exclude female employees, and networking events which are held outwith working hours may be inaccessible to those with caring responsibilities.

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 support employees to 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, or supporting your female employees to participate in, women-only networks can help to build cross-organisational relationships, emphasise that the organisation values difference, and can help drive cultural change.

GOOD PRACTICE EXAMPLE

Implementing the Living Wage

A local authority has identified patterns of horizontal and vertical segregation in their workforce, and has a gender pay gap of 14 per cent. Female staff are concentrated in the lower grades, and dominate in stereotypical female jobs such as care, cleaning and admin, which are traditionally undervalued. The council decides to take steps to reduce the pay gap by implementing the Living Wage for its employees. This raises the pay of the lowest paid, the majority of whom are women, and within two years, the pay gap has reduced to 11 per cent.

GOOD PRACTICE EXAMPLE

Occupational segregation in Modern Apprenticeships

A public authority has identified from its employee data that the organisation's Modern Apprenticeships are segregated by gender, with women particularly under-represented in trades, where 98 per cent of its apprentices are men. The organisation decides to use positive action measures to increase the number of women applying for trades apprenticeships. The test component of the recruitment process was identified as a key drop-off point for women, so in partnership with local schools, the organisation offers training on the test for women. The take-up on the training is high, and the number of women making it to interview stage increases by 40 per cent, and the number of successful female applicants increases by 17 per cent.

GOOD PRACTICE EXAMPLE

Horizontal segregation and progression

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 barrier 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 the functions, and more women in previously male-dominated areas of the organisation.

Common pitfalls

- Actions to address gendered pay inequality are process-focused and include developing monitoring systems and policy development, and do not focus on programmes of activity.
- Responsibility for ensuring equal pay is designated to the most senior person in the organisation, such as a chief executive, or to the equality officer, rather than to a senior manager who can ensure it remains a strategic priority.
- Occupational segregation is determined to be because of the ‘choices’ that women have made, and is perceived to be a societal issue, and so no action is taken.
- Failure to use pay gap data and occupational segregation information to inform the equal pay statement.

A sectoral approach to equal pay statements

It can be helpful to take a co-ordinated approach with organisations in the same sector, or in the same region. This could include developing a joint equality outcome or a joint equal pay statement. Groups of public authorities working in this way should ensure that the actions and indicators relating to shared outcomes or statements are specific to the circumstances and issues, and the employee data collected, within their own organisations.



Publishing a board diversity succession plan

Listed public authorities will be required to publish their plans to increase board diversity as part of any mainstreaming report published on or after 1st May 2016.

There is a clear business case for diverse boards, in that there is a strong link between diversity in senior positions and financial performance and governance. Having diverse teams in place brings a range of skills and experience to an organisation. In the public sector, this means enabling the design and delivery of services that are more likely to meet the needs of a broader range of service users.

The specific duties require you to use information on the diversity of your board, broken down by all relevant protected characteristics, to support succession planning, and to publish your board's gender breakdown. This information will assist you to develop a board diversity succession plan, which should include the steps you will take to increase board diversity.

Women and boards

Women experience a range of gendered barriers to entering and progressing to senior positions, including those at board level. This includes assumptions about a gendered skills gap, and a cultural perception that board memberships are for men. The timing of meetings can also adversely affect women's ability to participate because of their disproportionate responsibility for unpaid care work. The ways in which vacancies are advertised can also be a gendered barrier to women applying. Organisations which advertise vacant positions in a range of locations, including in ways which are targeted specifically at women, are more likely to attract a greater diversity of applicants. It is good practice to ensure women are given capacity building opportunities and encouragement to apply for board positions.

Occupational segregation and a lack of flexible working opportunities at senior levels are significant factors contributing to women's under-representation at senior management and board level. If your workforce displays patterns of vertical occupational segregation which sees men over-represented in senior roles, action to address this will help improve the gender balance of your talent pipeline. You will find it useful to examine the diversity issues identified in your board information alongside the issues identified in your employee information, and consider how your outcomes, equal pay action plan, and mainstreaming work will shape and contribute to the aims of your succession plan.

The Equality and Human Rights Commission have published a guide to increasing diversity and board level, *How to improve board diversity: A six-step guide to good practice*, which can be found on their website www.equalityhumanrights.com. There is also further Equality and Human Rights Commission guidance on boards of management and the public sector equality, which at the time of publishing is forthcoming.



Equality impact assessment

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 prior to implementation.

Under the specific duties, public authorities are required to assess 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 practice, you must:

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

In relation to meeting the general duty, you 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 women and men.

Using evidence to develop an impact assessment

Public bodies must consider relevant evidence, including evidence from equality organisations, and other groups that represent people who share a protected characteristic, such as trade unions. Where a negative impact or missed opportunity to promote equality 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 development and decision making, providing a clear and structured way to consider evidence about the needs of equality groups.

Six-step process

Employers carrying out an equality impact assessment can use the following six-step process.

SIX-STEP PROCESS	
Step 1: Identify the main aims of the policy	<ul style="list-style-type: none"> • Identify what the policy will do and what effect it will have on men and women or just men or women. • If it affects only men or women, or affects men and women differently, it should be decided if this is appropriate or consistent with the aims of the policy.
Step: 2 Collate existing information	<ul style="list-style-type: none"> • Establish what is already known about men and women's experiences in relation to the policy. • Review existing policy information and research including the experiences of staff.
Step: 3 Filling knowledge gaps	<ul style="list-style-type: none"> • Identify and collate further information if necessary from gender and employment specialist organisations such as Close the Gap and Equate Scotland.
Step: 4 Applying the knowledge	<ul style="list-style-type: none"> • Determine what this information tells you, what the impact of the policy will be, and whether it make things better or worse for men and women. • Consider how this policy compares with existing policies?
Step: 5 Making changes to the policy	<ul style="list-style-type: none"> • Decide whether any changes need to be made. These should be proportionate to the aims and impact of the policy and promote equal opportunity. • If changes are being made, it should be clear how they will be made and by whom.

Step: 6
Monitor and sign-off

- Establish a monitoring framework to assess the policy to ensure its impact is not discriminatory.
- The impact assessment should be jointly signed off by the employer and the trade union(s).
- Publish findings in an accessible format.

Further information about equality impact assessment 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)*.



Procurement

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

Public authorities require to treat their procurement functions as they would any of their functions. This means that contracting out of services, among other pieces of significant procurement, should be equality impact assessed.

Where your organisation proposes to enter into an agreement on the basis of an offer which is the most economically advantageous, you must have due regard to whether the award criteria should include considerations to enable you to better perform the duty.

Where your organisation proposes to stipulate conditions relating to the performance of contracted-out service providers on contract agreements, you must have due regard to whether the conditions should include considerations to enable you to better perform the duty.

Deciding whether or not equality is related to the procurement exercise will require an assessment of how the individual procurement relates to the needs of the general duty. For example, how a procured service relates to elimination of discrimination, advancement equality of opportunity, and the fostering of good relations. The greater the relevance of equality to the procurement, the greater the regard should be paid to it.

GOOD PRACTICE EXAMPLE

Procurement and employability

In the Netherlands, local authorities include stipulations in the tendering process for employability providers. These stipulations relate to the employment of ‘people with a distance to the labour market’, a target group which includes women. In practice, providers set targets in relation to these groups. One local authority has established an expert team that only deals with social considerations in public procurement. The team is in charge of job-matching and ensures that those newly employed in the contract are given support via training and counselling. They also support providers to come up to the standards imposed by the contract.

GOOD PRACTICE EXAMPLE

Using procurement to improve employability outcomes for women

In Northern Germany, a public body ran a procurement pilot on the inclusion of employment standards in global production chains (in this case compliance with certain ILO Conventions). In the invitation for tenders, they included a concept (for example improved employment outcomes for women) that prospective providers had to include in their papers and in which they had to outline which measures they would undertake to improve employment conditions, and work towards compliance. This was part of the award criteria and subsequent performance evaluation. During the course of the project, the measures outlined were regularly evaluated. This approach was successful as prospective providers could tailor their proposal to their own organisation, and because it did not require providers to meet a particular criteria at the outset, but to set targets and work towards those across the course of the contract.

Further information about procurement can be found in the Equality and Human Rights Commission guidance *Procurement and the public sector equality duty: A guide for public authorities (Scotland)*.



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.

Intersectional

An intersectional approach considers the combined impacts of two or more characteristics. For example, an individual with a hearing impairment may require a BSL interpreter to participate in a training course. A woman who works part-time because of caring responsibilities may require a course that takes place across two mornings, rather than one full day. A woman with a hearing impairment who requires BSL interpretation and works mornings only may require training and support that has a higher unit cost, which, on the basis of cost may be inappropriately rejected by a manager.

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.

Public function

A 'public function' is one defined in the Human Rights Act 1998, and private and third sector organisations carrying out such a function must meet the requirements of the general duty in respect of that function.

Policy

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

Succession planning

The process whereby an organisation makes plans to ensure its workforce and leadership talent pool reflect the attributes and skills necessary to fulfil future board recruitment needs. For public authorities, succession planning must include work to widen diversity in your workforce and leadership talent pool to ensure future board diversity.

References

Equality and Human Rights Commission (2014) *Essential Guide to the Public Sector Equality Duty: A Guide for Public Authorities (Scotland)*, Glasgow
Civil Service (2012) *Best practice guidance on monitoring equality and diversity in employment*, London

Further information

www.closesthegap.org.uk
www.equalityhumanrights.com

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