

Equality and
Human Rights
Commission

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Equality and Equal Pay

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Gender pay gap reporting survey 2009*

- 57% of non-public sector employers surveyed were doing some sort of measuring of the gender pay gap, but,
- 20% discouraged or forbade discussions about pay;
- 49% gave staff no information at all;
- Openness more common in the non-for-profit sector & in respect of more junior staff.

*Adams, Gore and Shury, EHRC Research Report 55

- Transparency doesn't guarantee equal pay, but it enables the right questions to be asked.

What do we mean by transparency?

- **Transparency of pay systems** - a legal requirement.
- **Transparency of the gender pay gap** - voluntarily making visible the outcomes of policies and practices that determine men's and women's pay i.e. measuring and reporting on the gender pay gap in your organisation.



Equality - What the law says about transparency

- Transparency
 - Pay & benefit systems should be capable of being understood by everyone (employers, workers & trade unions)
 - It should be clear to individuals how each element of their pay contributes to their total earnings
 - Where pay structure not transparent & woman able to show indication of sex discrimination in her pay, burden of proof moves to employer [ECJ; Code of Practice]

Equality - What the law says about transparency

- **Secrecy clauses** unenforceable since October 2010 [Equality Act]
- Applies not just to gender but to all the protected characteristics



Equality - What the law doesn't say

- No requirement to disclose individual salaries - guidance on Data Protection Act principles and how they relate to equal pay is on the Information Commissioner's and EHRC websites
- No requirement to measure and report on the gender pay gap



Pay disclosure-secrecy clauses unenforceable

- From October 2010 any term of a contract which prohibits or restricts a person from making a 'relevant pay disclosure' to anyone, including a trade union representative, or from seeking such a disclosure from a colleague, including a former colleague, is unenforceable [Equality Act 2010]

Pay disclosure-secrecy clauses unenforceable

- Also applies to secrecy cultures
- A relevant pay disclosure is one which is about:
 - pay; and
 - which is made for the purpose of finding out whether or to what extent there is a connection between pay and having (or not having) a protected characteristic

Pay disclosure - EHRC powers

- The EHRC's inquiry powers [Equality Act 2006 Schedule 2] enable the Commission to serve a notice on any person or organisation requiring the production of information, documents or evidence in their possession
- Power used in our Inquiry into the gender pay gap in the financial services sector to gather information on pay practices from 49 randomly selected companies

Reporting

- In 2009 EHRC was asked to consult on what employers should report on: August 2009
- Also to produce a baseline report on the extent to which non-public sector employers are already measuring and reporting on the differences between men's and women's pay: January 2010
- In the light of the consultation, to set out proposals for what employers could voluntarily report on: January 2010

Reporting

- Measures proposed:
 - **Single figure difference** between median hourly earnings of men & women
 - **Difference measured by a breakdown across grades & job types** between average basic pay & total average earnings of men & women
 - difference in average **starting salaries** of men & women
 - a **narrative** alongside one or more of the quantitative measures

Reporting

- Possible ways of reporting:
 - Corporate web site
 - Joint employer/union communication
 - Corporate Social Responsibility reports
 - Annual Report and Accounts
- Deliberately not setting out a standard format for reporting on gender pay differentials

Reporting - where we are now

- Government Equalities Office
 - Think, Act, Report
 - A step by step approach - analyse, act where necessary, report on gender equality
 - Government will review effectiveness over time

Where to find EHRC good practice advice

- www.equalityhumanrights.com