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Equal Pay Act at 40
Wednesday 23rd February, 2011

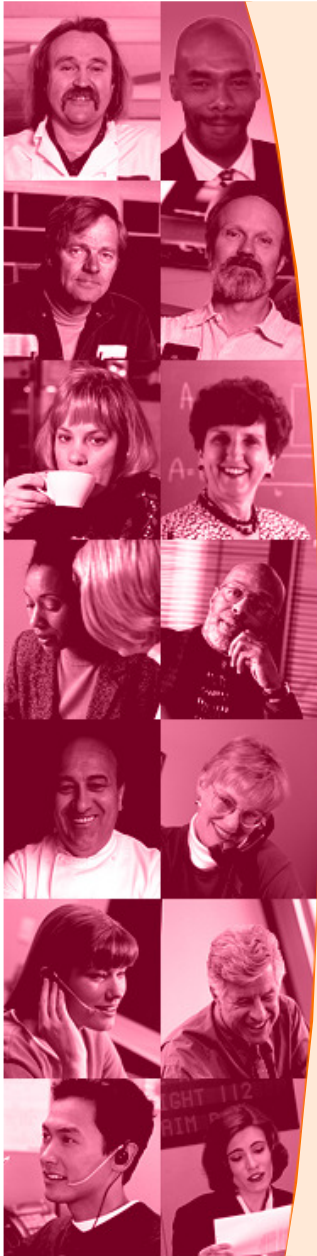
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Future prospects for narrowing the gender pay gap

*Sally Brett
Senior Equality Policy Officer*

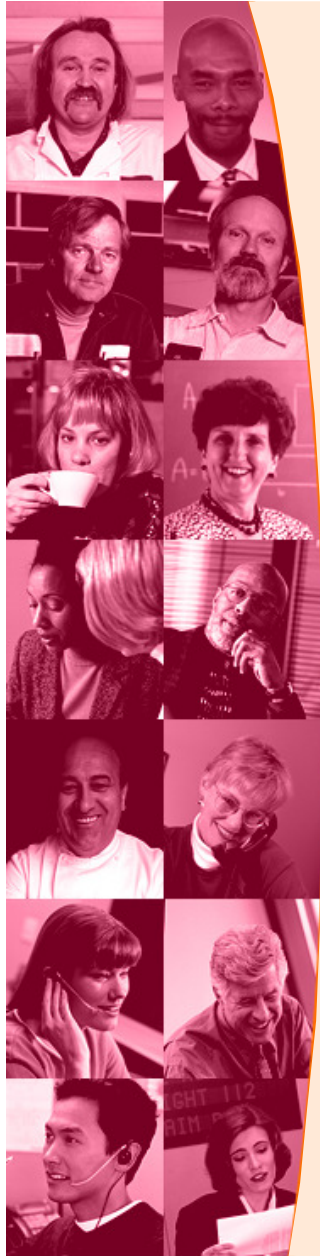


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Lessons from past

- Achieving equal pay for women has involved lengthy legal battles
- Entrenched attitudes about value of women's work
- Daunting for women to undertake fight for equal pay without support
- Unions played a central role in using the law to secure collective change



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Looking to the future

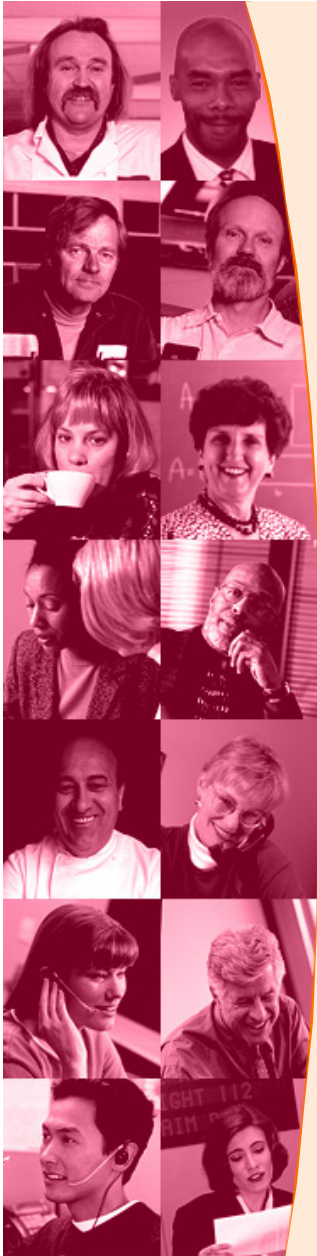
- Equality Act 2010 replaces Equal Pay Act 1970 – will it make legal challenges any easier?
- Gender pay gap reporting in the private and public sectors – will it encourage better practice and more transparency around pay?
- Impact of cuts and public policy on women's pay



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Equality Act 2010

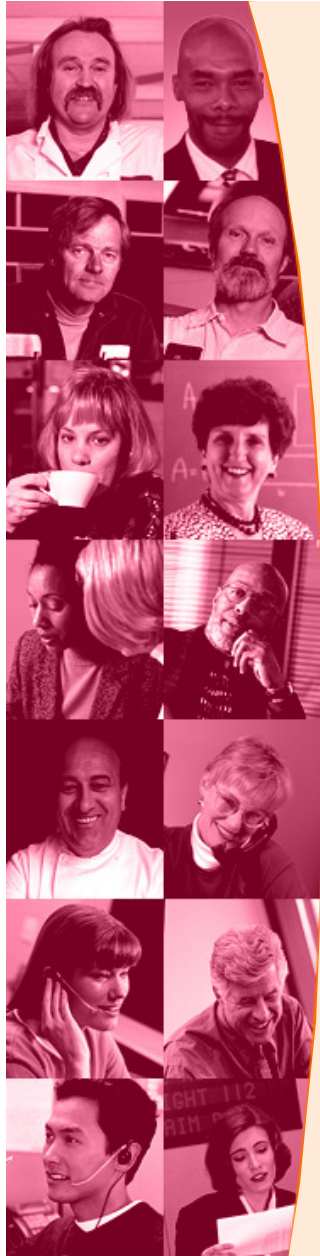
- Part 5, ch.3 'Equality of Terms' mirrors Equal Pay Act approach
- Bit more clarity about how material factor defence works in indirect discrimination cases (s.69)
- Long-term objective of reducing gender pay inequality will always be regarded as a legitimate aim (s.69)



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Equality Act 2010

- Hypothetical comparisons possible where direct sex discrimination in pay but no actual comparator (s.71)
- Pay secrecy clauses in individual contracts unenforceable if information shared for purposes of finding out if there is discrimination (s.77)
- Power to introduce mandatory gender pay gap reporting for companies with more than 250 employees (s.78)



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Equal pay audits vs gender pay reporting

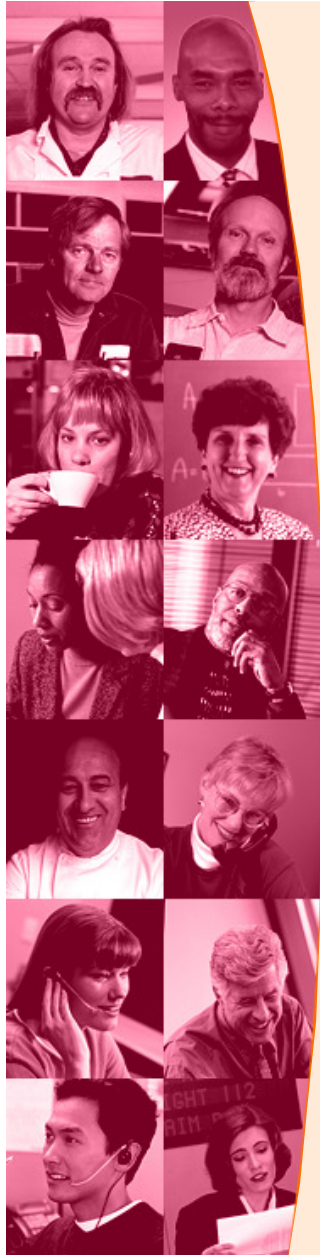
- Equal pay audits involve establishing where equal work is being done, identifying unjustified pay gaps and taking action to close them
- Gender pay reporting always intended to be 'light touch' approach to encourage a bit more transparency about overall gender pay gaps



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Voluntary gender pay reporting

- Labour Government committed not to use s.78 powers until at least 2013 to give voluntary approach a chance
- TUC and CBI worked with EHRC to agree voluntary set of gender pay metrics in 2009
- EHRC report recommended: overall median gender pay gap, gender pay by grade/job type, starting salaries



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Coalition Government

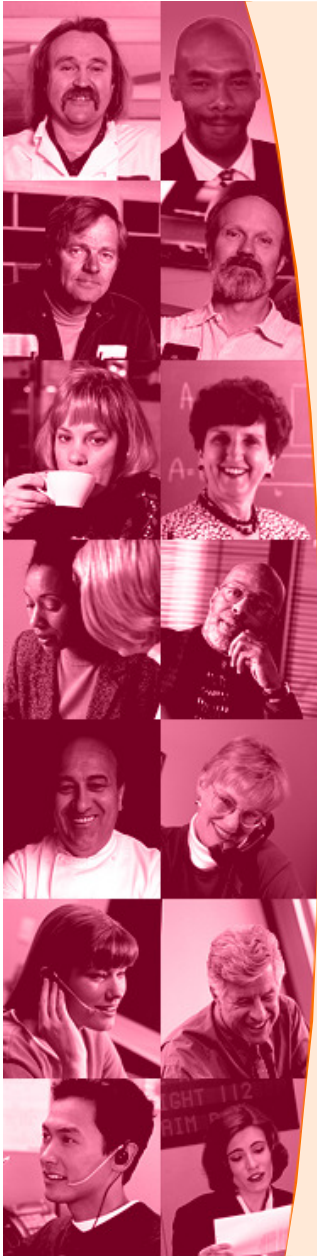
- Commitment in coalition agreement to “promote equal pay”
- GEO working group (incl. TUC, CBI etc) to agree gender pay measures
- Recommended framework for reporting to be published early 2010
- Intend for use by companies with 150 or more employees



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Coalition Government

- Reporting intended to work like CSR in tackling gender pay gap
- Menu of gender equality measures companies can choose to report on
- GEO will produce annual review of gender pay gap and quantity and quality of reporting
- Will take “a view over time whether alternatives required, including using ... s.78 of the Equality Act”



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Private sector record on transparency

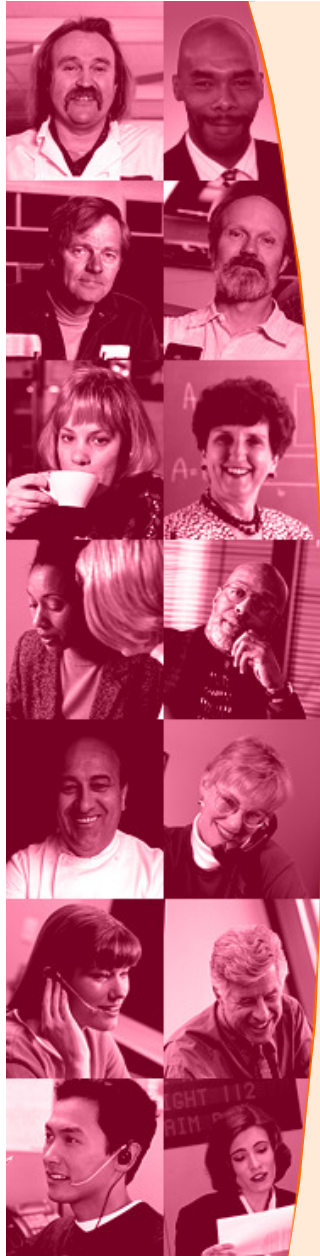
EHRC baseline research:

- 49% give staff no info about pay
- 18% forbid discussions about pay (2% have clauses in contracts)
- 43% do some gender pay analysis but only 19% report info outside HR
- 23% have done equal pay audit but only 16% share info about the audit
- many saw no need for any reporting

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Public sector duty

- Gender duty encouraged more equal pay audit activity in public sector
- s.149 of Equality Act 2010 replaces gender duty from 6 April 2011
- It requires public bodies to pay 'due regard' to eliminating unlawful discrimination and advancing equality of opportunity across eight protected characteristics when carrying out their functions



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Public sector duty

By 31 Jul 2011 (or 31 Dec 2011 if educational institution) must publish:

- “sufficient information to demonstrate compliance with s.149(1)”
- If 150 or more staff, “information on the effect of its policies and practices” on employees from different groups
- Evidence of analysis it undertook to establish whether its policies further the aims of s.149 and info it took into account when doing that analysis

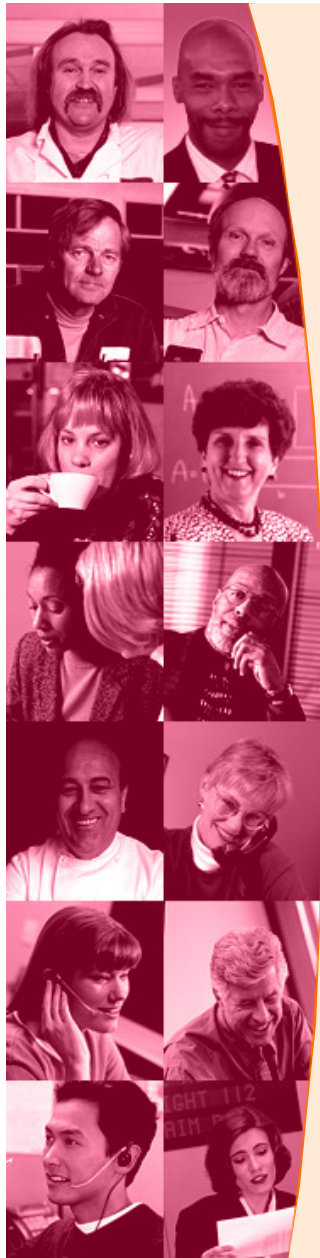
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Public sector gender pay gap reporting

- EHRC guidance says on workforce information:
 - expects it to include gender pay gap information
 - plus useful to see info on length of service/time on pay grade
- GEO says comparable info will be required to recommendations for large private sector employers



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Impact of cuts and public service reform

- Public sector job cuts will hit women
- Cuts to childcare, tax credit changes and benefit reform will constrain women's choices further
- More contracting out will worsen terms and conditions
- Public service reform will undermine good equal pay practice like AfC



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Future prospects...



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