



Essential Reference Paper “B”

Equal Pay Audit

Summary report

East Herts Council

2014

1.0 **Background**

- 1.1 East Herts Council firmly believes in equality of opportunity in the workplace, and consequently has both a legal and moral duty to ensure that pay and conditions for its employees are fair and transparent.
- 1.2 The 'equality of terms' provisions in the Equality Act 2010 entitle a woman doing equal work with a man in the same employment to equality in pay and other terms and conditions. Any differences in pay must be justified by a genuine and material reason, which is not related to the employee's sex.
- 1.3 "The Act implies a sex equality clause automatically into her contract of employment, ensuring that her contractual terms are no less favourable than his. The man with whom she is claiming equal pay is known as her comparator." (Equality and Human Rights Commission, 2014 [1])
- 1.4 The law recognises four forms of sex discrimination:
 - **Direct discrimination** (less favourable treatment of a woman than a man (or vice versa) because of their sex)
 - **Harassment** (Harassment is a form of direct discrimination and is defined as unwanted behaviour that takes place simply because someone is a woman or a man. The behaviour is done with the purpose of, or has the effect of, violating the person's dignity, or it creates an intimidating, hostile, degrading, humiliating or offensive environment for her (or him))
 - **Indirect discrimination** (Indirect sex discrimination occurs when an employer applies a provision, criterion or practice equally to both women and men that puts one sex at an unfair disadvantage)
 - **Victimisation** (when an employee is treated less favourably than others because they have made a complaint of discrimination or support someone else to)

(Equality and Human Rights Commission, 2014 [2])

- 1.5 The Equality and Human Rights Commission (EHRC) published an Equal Pay Statutory Code of Practice based on the new Equality Act 2010. The code of practice helps employers to understand and apply the law on equal pay, and to assist courts and tribunals when interpreting the law. The code provides guidance on how to prevent or eliminate discriminatory pay practices and ensure that there are no unjustifiable pay inequalities.
- 1.6 The code does not itself impose legal obligations but tribunals and courts considering an equal pay claim are obliged to take into account any part of the code that appears relevant to the proceedings. It is therefore in the organisation's best interests to comply with the Code.
- 1.7 The EHRC recommends that all employers regularly review and monitor their pay practices and the code suggests that equal pay audits may be the most effective means of ensuring that a pay system delivers equal pay.
- 1.8 The last Equal Pay Audit (EqPA) undertaken at the Council was in July 2011.
- 1.9 The EHRC (2014 [3]) recommend following a 5 Step Process for conducting EqPAs, which should include:
- Deciding the scope of the audit and identifying the data required
 - Identifying where employees in protected groups are doing equal work
 - Collecting and comparing pay data to identify any significant equal pay gaps
 - Establishing the causes of any significant pay gaps and deciding whether these are free from discrimination
 - Developing an equal pay action plan and continuing to audit and monitor pay

- 1.10 In October 2014, the Equality Act 2010 (Equal Pay Audits) Regulations 2014 will come into effect. These regulations mean that for equal pay claims presented on or after 1 October 2014, Employment Tribunals will have the power to order an employer to carry out an EqPA where a finding has been made that the employer is guilty of sex discrimination in relation to pay.

An audit will not be required:

- when a suitable EqPA has been carried out by the organisation in the last three years
- if the employment tribunal does not think that an audit is required to determine the actions to be taken
- there is no suggestion that there are any other breaches
- the disadvantages of having an audit would outweigh any benefits it would bring.

As this EqPA has been conducted using the Equal Pay Statutory Code of Practice it should be considered a suitable EqPA by an Employment Tribunal.

- 1.11 The Green Book recommends following the EHRC's 5 Step Process and in addition provides guidance specific to local government employers.

2.0 Methodology

- 2.1 The EHRC 5 Step Process was followed but the review was extended to the other equality strands (age and ethnicity) as well as gender.

- 2.2 The EqPA firstly consists of a profile of the whole workforce to understand:

- The ratio of male to female staff
- The number of disabled staff employed
- Age groups of staff
- Ethnicity groups of staff

- Religious beliefs of staff
- Sexual orientation of staff

2.3 In terms of the EqPA itself, all posts at the Council were reviewed rather than using a sample. The HAY Job Evaluation Scheme was used to identify like work, work rated as equivalent and of equal value, i.e. jobs at the same grade. The Green Book supports this approach, stating that 'the recognised system for establishing where employees are carrying out work of equal value is to carry out a job evaluation exercise'.

2.4 Comparisons between the following equality strands were made to determine whether there was any direct or indirect discrimination in terms of pay differences for certain groups:

- Gender - male/female comparisons
- Age - comparisons between age groups
- Ethnicity - comparisons between ethnicity groups

2.5 The data used to make these comparisons was:

1. Directorate/service
2. Grade (job evaluation outcomes)
3. Occupational group (identified through points 1 and 2)
4. Average basic pay
5. Average total pay
6. Length of service
7. Range of earnings, i.e. mean, median and modal salaries within each grade
8. Normal/standard hours worked
9. Access to other pay elements (and amounts received) including:
 - overtime
 - unsocial/shift payments
 - allowances
 - pay protection
10. Access to non-pay benefits, including:
 - car allowances

- loans
 - travel expenses
 - salary sacrifice schemes, e.g. childcare vouchers and cycle to work scheme
11. Policies and procedures affecting entitlements, including:
- pay entry points
 - pay progression arrangements
 - promotion policies
 - job transfers
 - acting up, honoraria and secondments
 - long service increments and awards

2.6 Any pay discrepancies identified between the equality strands were explored and recommendations in the form of an action plan were made to resolve these discrepancies.

2.7 The data used were correct as at 15 May 2014. The data was extracted from the HR and Payroll system, Wealden. At the point the data was extracted, there were 358 permanent employees and 16 casuals.

2.8 Apart from in the overall profile of the workforce, disability, religious belief and sexual orientation were not reported on any further due to the very small numbers of employees in certain categories which could make some employees identifiable.

3.0 Data

3.1 In order to prepare for the transfer of data to a new HR and Payroll system, all members of staff were asked in November 2012 to let HR know if their personal details had changed. This was the last time that personal data was updated council-wide prior to the EqPA Audit being carried out. However, members of staff continue to contact HR when their individual personal details change.

4.0 Key Findings

4.1 Workforce profile

- 4.1.1 Of the 358 people employed by East Herts Council as at 15 May 2014, 71% were female and 29% were male. This is unsurprising, female workers are found consistently to be in the majority in the public sector, with around 66% of public sector workers being female (Office for National Statistics, 2014).
- 4.1.2 Of the 341 employees who chose to disclose whether or not they had a disability, 11 declared themselves as disabled. Disability will not be reported on any further in this report due to the very small number of employees who have declared themselves disabled as this could make some employees identifiable.
- 4.1.3 The workforce of East Herts Council is predominantly white (90%). This is reflective of the East Herts district as a whole, where 92% of people are white (Opinion Research Services, 2013). This is similar to the findings in the 2011 EqPA where 94% of employees were white.
- 4.1.4 Around 30% of staff are aged 40-49 and 33% aged 50-59. This is consistent with the public sector in general where 44% of public sector workers are aged 35-49 (Office for National Statistics, 2014). Around 7% of staff are aged between 16 and 29, which is also consistent with the public sector as a whole where 5% are aged 16-24. This is similar to the findings in the 2011 EqPA where 35% of staff were aged 40-49, 25% were aged 50-59 and around 8% of staff were aged between 16 and 25.
- 4.1.5 The religious beliefs of the workforce of East Herts Council are predominantly Christian, Unknown or None. Religious belief will not be reported on any further in this report due to the very small number of employees in certain categories as this could make some employees identifiable.

- 4.1.6 The sexual orientation of the workforce of East Herts Council is predominantly Heterosexual (76%) with 21% choosing not to disclose their sexual orientation. Sexual orientation will not be reported on any further in this report due to the very small number of employees in certain categories as this could make some employees identifiable.

4.2 Results

- 4.2.1 East Herts Council appears to be operating free of gender, age, disability or ethnicity bias. The distribution of salaries between men and women and between different age groups and ethnicities is even. Access to other pay elements is also fair and justifiable.
- 4.2.2 Pay is strongly linked to grade and length of service. The HAY job evaluation scheme is a well recognised and fair mechanism to ensure that 'like work', 'work rated as equivalent' and of 'equal value' are paid the same, i.e. are the same grade. Pay being linked to length of service is appropriate given that length of service is the basis of pay structures for most local government organisations.
- 4.2.3 The local award could be viewed as an equal pay risk as it is based on length of service, is custom and practice and classed as an additional benefit rather than used to aid recruitment and retention as originally intended.
- 4.2.4 For business reasons, Weekend Enhancements for Hertford Theatre is currently being reviewed to ensure the benefit is affordable, reflects current market practice and is applied fairly and consistently.
- 4.2.5 However, some discrepancies were identified that should be addressed. These were the same issues that were highlighted in the 2011 EqPA.
- 4.2.6 There was some evidence of occupational segregation between men and women, with women being more likely to work in support services and traditionally male dominated

areas of work such as Building Control and Environmental Inspection being done by males. It was also more common for males to occupy higher graded posts than females.

- 4.2.7 Males earn on average more than females at the Council. A comparison of full-time equivalent salaries (rather than actual pay which appeared lower for women due to more women working part-time) supported the fact that there was little difference between men and women's pay between each grade. However, overall at the Council men earn more than women, which is due to women working in lower graded jobs than men.
- 4.2.8 Actual pay tends to decrease slightly with age for some grades at the Council but this can be explained by the fact that older members of staff are more likely to be part-time at these particular grades and a comparison of full-time equivalent salaries supported this.
- 4.2.9 As certain policies and procedures at the Council are based on length of service, older employees are more likely to have access to more generous benefits but legislation states that an employer does not have to justify pay differentials based on length of service, even if the resulting pay structure is indirectly discriminatory (Equalities and Human Rights Commission, 2011).

5.0 Recommendations

5.1 The recommendations from the previous EqPA in 2011 were as follows:

Subject	Action	Resources	Timescales	Status
Job Evaluation	Investigate whether it is appropriate to have posts with scores higher than the top bandings, and if not, research alternative solutions.	<ul style="list-style-type: none">• HR Officer (as delegated by Head of PIP)• HAY	2012/13	Completed. This was investigated as part of the Senior Pay Review. The review was completed by HAY in January 2013 and recommendations made.
Job Evaluation	Arrange for HAY to quality assure a selection of recent job evaluations and appeals to ensure that job evaluators are still assessing jobs correctly.	<ul style="list-style-type: none">• HAY• Trained job evaluators	2011/12	Completed April 2012.
Job Evaluation	Arrange for HAY to run a refresh training course for trained Hays evaluators to ensure skills and knowledge are up to date and evaluators are assessing jobs correctly.	<ul style="list-style-type: none">• HAY• Trained job evaluators	2011/12	Completed April 2012. The job evaluations of several jobs were quality assured by a HAY trained evaluator as part of the refresher training course.
Gender	Research whether female employees are	<ul style="list-style-type: none">• HR Officer (as delegated by	Nov/Dec 2011	Completed. The November 2011 staff survey showed

	<p>employed at lower grades due to personal choice and circumstances as opposed to any perceived discrimination on the part of East Herts Council. The staff survey may be used to check this as staff are asked their opinions on career progression at the Council. Some additional research may need to be undertaken if the staff survey does not produce the required results. Appropriate training on career progression will be arranged if deemed necessary.</p>	<p>Head of PIP)</p> <ul style="list-style-type: none"> • Staff survey 2011 		<p>that of those that responded, females were more satisfied with career progression at the Council than men. Therefore it is not recommended that any further research is undertaken.</p>
Gender	<p>Conduct an overtime review (these have been conducted annually for the past 2 years) with particular focus on access to overtime between men and women at the Council to check whether there are</p>	<ul style="list-style-type: none"> • HR Officer (as delegated by Head of PIP) • Payroll 	2012/13	<p>This was completed. No unjustified discrepancies were found.</p>

	any unjustified discrepancies.			
General	Conduct EqPAs every 2 years in line with published guidance to ensure compliance with the Equality Act 2010.	<ul style="list-style-type: none"> HR Officer (as delegated by Head of PIP) 	2013/14	This has been achieved with the completion of the 2014 EqPA.
General	To introduce a new HR IT system to enable pay data to be analysed in more detail in time for the next scheduled EqPA. In the interim period before a new system is introduced, HR will make arrangements to record information that was not available from the system for this EqPA, such as pay entry points.	<ul style="list-style-type: none"> Head of PIP 	2012/13	A new HR & Payroll system was introduced in April 2013 but unfortunately this system was not capable of producing all of the statistics required for this EqPA.

5.2 As can be noted, the recommendations from the 2011 EqPA were all completed. As the issues arising from this EqPA were very similar, there are only a few further recommendations suggested. Please see the action plan below for details.

Recommendations for EqPA 2014

Subject	Action	Resources	Timescales
Job Evaluation	Carry out a review of the Job Evaluation Scheme	<ul style="list-style-type: none"> • HR Officer (as delegated by Head of People and Property) • HAY 	2014/15
General	To introduce a new HR IT system to enable pay data to be analysed in more detail in time for the next scheduled EqPA.	<ul style="list-style-type: none"> • Head of People and Property 	2014/15
General	Review the Local Award	<ul style="list-style-type: none"> • Head of People and Property 	2014/15
General	Conduct EqPAs every 2 years in line with published guidance to ensure compliance with the Equality Act 2010.	<ul style="list-style-type: none"> • HR Officer (as delegated by Head of People and Property) 	2016/17
Weekend Enhancements	Review of Weekend Enhancements to reflect current market practices.	<ul style="list-style-type: none"> • HR Officer 	Sep/Oct 2014

References

The Equality Act 2010 (Equal Pay Audits) Regulations 2014.

Available at:

<http://www.legislation.gov.uk/ukdsi/2014/9780111116753>

(Accessed 19 August 2014)

Equal Pay Portal, 2014. *Statistics* [online] Available at:

<http://www.equalpayportal.co.uk/statistics/>

(Accessed 21 July 2014)

Equality and Human Rights Commission, 2010. *Equal Pay Statutory Code of Practice* [online] Available at:

<http://www.equalityhumanrights.com/legal-and-policy/legislation/equality-act-2010/equality-act-codes-practice-and-technical-guidance>

(Accessed on 5 February 2014)

Equality and Human Rights Commission, 2014 [1]. *Sex discrimination: your rights at work* [online] Available at:

<http://live.ehrc.precedenthost.co.uk/advice-and-guidance/tools-equal-pay/equal-pay-and-the-equality-act-2010/>

(Accessed 5 February 2014)

Equality and Human Rights Commission, 2014 [2]. *Sex discrimination: your rights at work* [online] Available at:

<http://www.equalityhumanrights.com/advice-and-guidance/your-rights/gender/sex-discrimination-your-rights-at-work/>

(Accessed 5 February 2014).

Equality and Human Rights Commission, 2014 [3]. *Equal Pay Audit Tool Kit* [online] Available at:

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

(Accessed 5 February 2014)

Office for National Statistics, 2013. *Full Report – Women in the Labour Market* [online] Available at:

<http://www.ons.gov.uk/ons/rel/lmac/women-in-the-labour-market/2013/rpt---women-in-the-labour-market.html>

(Accessed 21 July 2014)

Office for National Statistics, 2014. *Public and Private Sector Earnings – March 2014* [online] Available at:

<http://www.ons.gov.uk/ons/rel/lmac/public-and-private-sector-earnings/march-2014/rpt---march-2014.html>

(Accessed 21 July 2014)

Opinion Research services, 2013. *East Herts Council Residents Survey 2013* [online] Available at:

<http://www.eastherts.gov.uk/index.jsp?articleid=10872>

(Accessed on 21 July 2014)

TUC, 2012. *Women's pay and employment update: a public/private sector comparison* [online] Available at:

<http://www.tuc.org.uk/equality-issues/gender-equality/tuc-womens-conference/womens-pay-and-employment-update-publicprivate>

(Accessed 21 July 2014)