

Equal pay

By law, men and women must get equal pay for doing 'equal work' (work that equal pay law classes as the same, similar, equivalent or of equal value).

This means someone must not get less pay compared to someone who is both:

- the opposite sex
- doing equal work for the same employer

Equal pay law applies to pay and terms and conditions of employment, including:

- basic salary
- basic wages
- pension
- working hours
- annual leave allowance
- holiday pay
- overtime pay
- redundancy pay
- sick pay
- performance-related pay, for example a bonus that's in the employment contract
- benefits, for example gym membership or a company car

Equal pay law is covered by the Equality Act 2010 and the [Equality and Human Rights Commission \(EHRC\) statutory code of practice on equal pay](#).

1. Who has a right to equal pay

Equal pay applies to:

- employees
- workers
- apprentices
- agency workers
- full time, part time or temporary contracts
- self-employed people who are hired to personally do the work

What counts as equal work

By law, 'equal work' counts as either:

- 'like work' – work where the job and skills are the same or similar
- 'work rated as equivalent' – work rated as equivalent, usually using a fair job evaluation. This could be because the level of skill, responsibility and effort needed to do the work are equivalent
- 'work of equal value' – work that is not similar but is of equal value. This could be because the level of skill, training, responsibility or demands of the working conditions are of equal value

Some jobs can be classed as equal work, even if the roles seem different. For example, a clerical job and a warehouse job might be classed as equal work.

When differences in pay might be allowed

Differences in pay and other terms and conditions might be allowed in some circumstances. For example, it might be possible for someone to be paid more than someone of the opposite sex who does similar work because:

- they're better qualified, if their skills are crucial to the job and hard to recruit
- of where they are located – for example, in London where the cost of living is higher
- they do night shifts, and the employer can prove that they can only cover night shifts by paying staff more

Getting paid more must have nothing to do with someone's sex.

Example

A woman might get paid more than a man doing similar work because they're better qualified and skilled for the job. If there's an equal pay case, the employer might have to prove, for example, that the woman's qualifications and skills are crucial for the job, and that they had difficulties hiring and keeping people in the job now done by the woman. But getting paid more must be nothing to do with their sex.

If any circumstances only account for part of the difference in pay, someone might still have an equal pay case.

Every case depends on the individual circumstances, and this can be a complex area so it's best to:

- [get legal advice](#)
- check the [EHRC statutory code of practice on equal pay](#)

Equal pay and other forms of discrimination

By law, employers must not pay an employee less, or give them terms and conditions that put them at a disadvantage, because of their disability, race, religion, sexual orientation or another 'protected characteristic'.

[Find out more about protected characteristics, discrimination and the law.](#)

Gender pay gap reporting

Equal pay and gender pay gap reporting are not the same thing. A gender pay gap is the average difference in pay between men and

women, for example across an organisation. Employers with 250 or more employees must publish figures about their gender pay gap.

[Find out more about gender pay gap reporting](#) (PDF, 552KB, 37 pages)

Employers can prevent many equal pay issues by being clear and open with staff about pay and contractual terms and conditions.

To reduce the risk of unequal pay, it's good practice to:

- have an equal pay policy
- have up to date job descriptions that accurately describe the work that staff do
- make sure that men and women who do the same work do not have different job titles
- be consistent when deciding people's pay and contractual terms and conditions, for example have 1 pay structure for the business and limit who can decide on salaries for new staff

[Read about risky practices for equal pay on the Equality and Human Rights Commission \(EHRC\) website.](#)

2. Having an equal pay policy

An equal pay policy can help you be clear and open with staff about your policy on pay and other terms and conditions.

An equal pay policy should say how you:

- will try to achieve equal pay
- will check whether the policy is working
- will deal with any complaints about equal pay
- are committed to resolving any unequal pay issues in your workplace

The policy should be clear and easy for staff to understand. If the workplace has a trade union or employee representatives, you should agree the policy with them.

[Find out about equal pay policies on the EHRC website.](#)

Checking for equal pay issues

You can check for equal pay issues in different ways, depending on how many staff you have.

If you have 50 or more staff

You can check for issues by doing an 'equal pay audit' if you have 50 or more staff.

You can audit the whole workplace, or just one department to start with if it's the first one you've done. You should share the results with staff included in the audit.

To do an equal pay audit, you'll need to:

- check if there are people doing 'equal work' (work that equal pay law classes as the same, similar, equivalent or of equal value)

- carry out job evaluations, where needed, to measure the value of different jobs and identify any that count as 'equal work' – find out about [job evaluations from EHRC](#)
- gather details on pay and contractual terms and conditions for people doing 'equal work' to see if there are any differences between men and women
- if there are differences, check the reasons for them and if they're legal or illegal – this can be a complex area so it's a good idea to get legal advice
- decide on an action plan – for example, resolving any cases of unequal pay as soon as possible

If the workplace has a trade union or employee representatives, you should consult them when:

- carrying out an equal pay audit
- deciding how to resolve any cases of unequal pay

[Find out how to do an equal pay audit on the EHRC website.](#)

If you have fewer than 50 staff

You can check for equal pay issues by doing an 'equal pay review' if you have fewer than 50 staff. An 'equal pay review' has fewer steps than an 'equal pay audit'.

To do an equal pay review, you'll need to:

- check if there are people doing 'equal work'
- gather details on pay and contractual terms and conditions for people doing 'equal work' to see if there are any differences between men and women
- decide on an action plan - for example, resolving any cases of unequal pay as soon as possible

You should share the results with staff included in the review.

[Find out how to do an equal pay review on the EHRC website.](#)

Risk of legal action against you

If someone feels they are not getting equal pay, they might be able to [make a claim to an employment tribunal](#) for equal pay.

They might also be able to make a claim for sex discrimination, if they feel they were also treated unfairly because of their sex.

To make an equal pay claim, they must compare their pay and contractual terms and conditions against someone else (a 'comparator'). The comparator must:

- be of the opposite sex
- do 'equal work'
- work for the same employer

More than one comparator can be used. A comparator can be someone who currently works for you, or someone who used to.

An employment tribunal judge will consider factors including:

- whether the person making the claim is doing equal work, compared to a comparator
- any differences in pay and contractual terms and conditions between the person making the claim and their comparators
- if you followed the [EHRC statutory code of practice on equal pay](#), for example if you've checked for equal pay issues

If you lose an equal pay claim, you can be forced to carry out an equal pay audit and publish the results. This does not apply to employers with less than 10 staff, or employers less than 1 year old when the equal pay complaint was made.

You should talk to your employer to try and resolve the issue if you feel you're not getting equal pay compared to someone who is all of the following:

- of the opposite sex
- does 'equal work' (work that equal pay law classes as the same, similar, equivalent or of equal value)
- works for your employer

3. Checking for evidence

To help see if there's an equal pay issue, you should check:

- your pay and how it's made up so you can compare it with others – for example, how much basic pay, overtime or commission you get
- pay and benefits for people of the opposite sex doing work you think is 'equal work' for your employer

You can ask your employer or manager for information about pay and contractual terms and conditions, if you think you have an equal pay case.

Your employer can only give you general information about other people's pay and terms and conditions. They cannot share any personal details about other employees because of data protection law (GDPR).

For example, you could ask for general information about:

- how much people of the opposite sex who do the same or similar work as you earn
- the contractual terms and conditions for people of the opposite sex who do the same or similar work as you
- the reason for any differences in pay and terms and conditions, if there are any

It's best to talk to your employer first, if you feel you can, and then put your questions in writing.

You could also ask others at work about their pay and benefits, if it's about equal pay. For example, you could ask someone of the opposite sex who does the same or similar work how much they earn. They're allowed to tell you, but it's up to them to decide if they want to.

Raising an issue

It's best to [raise an issue informally first](#) by talking to your employer. If this approach doesn't work, you can [raise the issue formally](#). This is known as raising a formal grievance.

If you have any evidence at this stage, it's a good idea to share it with your employer when you raise the issue.

Making an equal pay claim

If you're not able to resolve the problem with your employer, you might be able to [make a claim to an employment tribunal](#) for equal pay.

You might also be able to make a claim for sex discrimination, if you have been treated unfairly because of your sex.

To make an equal pay claim, you'll need to show your pay and conditions are worse than someone else's (a 'comparator'). The comparator must:

- be the opposite sex to you
- do 'equal work'
- work for the same employer

More than one comparator can be used. A comparator can be someone who currently works for your employer, or someone who used to.

This is a complex area so it's a good idea to [get legal advice](#).

[Find more advice on equal pay from the Equality and Human Rights Commission \(EHRC\).](#)