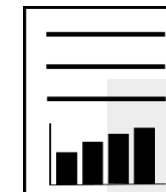


# WHAT THE BRAP?

Help me understand equal pay!

Under the Equality Act 'pay' refers to any part of the pay package, terms of employment and benefits, e.g. bonuses, overtime rate and allowances, performance related benefits, hours of work, annual leave entitlement, etc.

To be accepted as a defence the material factor cannot itself be discriminatory or unjustifiable, e.g. 'market forces' can be a defence, but will not be sufficient if the market itself unfairly discriminates against men or women in certain positions.



## PUBLISHING GENDER PAY INFORMATION

In 2011, the Government introduced a voluntary scheme to encourage companies to report gender pay information. Following a relatively low uptake, the Government has decided to introduce regulations that will require companies with 250 or more employees to carry out equal pay reviews and publish information relating to their gender pay gap. The provisions, due to come in March 2016, will cover about 40% of all employees.



## WHAT'S THE GENDER PAY GAP?

The difference between the amount men and women earn. In the UK **women earn 19.1% less than men** per year. Gaps can be explained by a range of factors (such as differences in the industries and jobs typically occupied by women), but in the UK **at least a third of pay gaps are not explained** easily by any of these factors. In these cases discrimination may be at play.

## £ SO, EQUAL PAY IS...?

Equal pay refers to the idea that there should never be a difference in the pay of a man and woman doing work of equal value because of a difference in their sex. It's also a legal obligation – specific rules apply to ensure that men and women are paid comparable amounts.

The Equality Act (2010) sets out 'equality of terms' provisions stating men and women performing work of equal value should receive equal pay.



## WHAT IS 'EQUAL WORK'?

There are three ways an individual's work can be determined to be equal to that of another employee:

- **'Like work'** – if their work is broadly similar and differences that do exist aren't of practical importance.
- **'Of equal value'** – if the work is equal in terms of the demands made on employees (e.g. effort, skill, level of responsibility, knowledge, working conditions).
- **'Rated as equivalent'** – if a job evaluation has rated two jobs as equivalent (the job evaluation must itself be non-discriminatory).



## WHEN UNEQUAL PAY IS OK (A 'MATERIAL FACTOR' DEFENCE)

If there is a real reason why the pay of two employees is different then an equal pay claim will not be upheld. This is called a material factor defence, as there is a **valid explanation for the pay difference**, other than the difference in the employees' sex.

A material factor has to be significant, relevant, and the genuine cause of the inequality. Possible material factors might be a difference in qualifications, geographical differences (such as London weighting), and a response to skills shortages.

## AND NOW...?

The Government will consult on the details until Sept 2015. Some key issues are:

- Who will hold employers to account for gender pay gaps? Will publishing be enough?
- What support will organisations need to meet the regulations?
- How should audits work in practice? e.g. how often should employers have to provide pay data? etc.