

ALLEN & OVERY

Equal pay audits

Ten things to take-away



Context

Audits are becoming more commonplace since Gender Pay Gap Reporting became a requirement, and have become a board's response to understanding more about pay disparity.



Why?

Equal pay issues are rarely the result of deliberate direct discrimination between the genders. They have evolved over time as a result of business growth and integration, negotiated pay on entry by new hires (often male) or pay systems which have not developed at the same pace as their organisation.



Contractual terms

Equal pay laws apply to contractual terms, whereas sex discrimination is the route for non contractual discretionary payments.



Key principles

Audits require a basic understanding of equal pay legislation but not an in depth knowledge of all the technical aspects, just some key principles.



In a nutshell

An equal pay audit will identify systematic patterns of discrimination based on the average pay of men and women in the same company/grade/business and function.

The five steps to an audit are:

1. Scoping
2. Establishing where men and women do equal work
3. Data collection
4. Justifying gender pay differentials
5. Action plan to eradicate pay inequality.



Purpose:

- to flag differences in pay between men and women doing equal work across a group/division/function/team
- to identify the causes of any differences
- to remedy those differences above a threshold (say 10%) that cannot be justified
- to inform pay decisions and pay strategy.



Scoping is critical

Employers need to decide whether the audit will be conducted over the entire global organisation (rare) or whether a staged approach will be preferable in certain key jurisdictions.



Legal privilege

Generally, employers want audits to be conducted under legal privilege to enable them to identify risks privately. The privileged report would not be disclosable in any subsequent litigation.



The results

The output will put the employer on notice of potential pay parity issues which will need to be addressed. Outcomes may include:

- rectification of individual pay discrepancies
- an overhaul of a company's pay structure and systems;
- change to its pay practices; or
- development of a clearly defined governance process for pay decisions.



Good news, bad news

As with any risk, forewarned is forearmed and employers will want to be able to respond to questions about their pay policies and practices, and to be in a position to allude to fair pay practices in, for example, gender pay gap reporting.