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Equal Pay and Pay Transparency – what every employer needs to know

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1 What is equal pay, and why does it matter?

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Equal pay and pay transparency are not the same thing



Equal pay

A legal right under the Equality Act 2010: people doing equal work for the same or an associated employer must be paid equally, unless a difference can be objectively justified.



Pay transparency

A growing set of disclosure obligations, from EU legislation to UK reform proposals, that require organisations to share pay information and be able to justify any gaps.

The two are linked, and both stem from the same underlying principle of fair pay, but they are separate obligations with separate requirements. Note that these are both separate and different from Gender Pay Gap.

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What makes an equal pay claim valid

Four tests must all be met. Missing any means there is no valid claim.

1. Opposite sex
The comparison is between a man and a woman, or vice versa. Same-sex pay gaps fall outside the Equality Act 2010 equal pay provisions.

2. A valid comparator
An actual person paid more for comparable work, not a hypothetical one. They work for the same or an associated employer, on common terms.

3. Equal work
Like work, work rated as equivalent, or work of equal value (effort, skill, decision-making).

4. Paid less, for no objectively justified reason
If tests one to three are met, the employer must show a genuine, non-discriminatory "material factor", such as location or skills.

Why this matters: most disputes turn on tests 2 and 3, not test 4.

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Equal pay risk comes from several angles



Associated employers

Comparators can work for a sister company or another organisation under common control, not just the same legal entity.



Roles that look nothing alike

A catering assistant and a refuse loader are equal in law if a job evaluation scheme rates them as equal.



Similar roles across multiple environments

Multiple contracts or sites doing the same type of role but paid differently are hard to justify side by side.



Total pay, not just salary

Allowances, overtime, shift premiums, bonuses, benefits and pension contributions all count. A gap that looks fine on base salary can still create risk.



Practices go out of date

A practice that was reasonable when it was set up is not automatically safe today. Roles and working environments change over time.

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2 Learnings from the latest Equal Pay claims

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Poll question

Q: How much has been spent on Equal pay payments in Birmingham and Glasgow Councils combined?

A. 0 - £500 million

B. £500 million - £1 billion

C. £1 billion - £1.5 billion

D. 0ver £1.5 billion



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Three real examples, three different lessons

The headlines are well known. The reasoning behind them is what is actually useful.

Asda

Around 35,000 mostly female shop floor staff argued they should be paid the same as mostly male warehouse workers, who earned up to £3 an hour more.

Asda argued the two groups could not be compared at all, since they worked at different sites. The Supreme Court disagreed: if pay and terms are set on a common basis across an organisation, cross-site comparisons are valid, and the case is still not fully resolved.

Why it matters: splitting a workforce across sites does not, by itself, remove equal pay risk.

Birmingham City Council

A 2012 equal pay claim found that female-dominated roles, such as cleaners and catering staff, were of equal value to traditionally male manual roles like refuse collectors.

The council has since paid out over £1.1 billion and declared effective bankruptcy in 2023. In 2025, an attempt to reduce further exposure by removing a largely male pay grade triggered a fresh, ongoing strike.

Why it matters: one equal pay settlement can generate risk, and fresh disputes, for well over a decade.

BBC

Samira Ahmed was paid £440 per episode presenting *Newswatch*, while Jeremy Vine was paid up to £3,000 per episode for presenting *Points of View*, a similar short audience feedback show on the same channel. The BBC argued the roles were not comparable because of Vine's higher public profile. The tribunal disagreed, ruling the work was equal, and found the BBC had no clear, consistent process for setting on-air pay at all.

Why it matters: Without a clear, consistent process for setting pay, even subjective or 'talent market' roles are exposed to equal pay claims.

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Recent landmark case

Next won its appeal on basic pay, but not on every term.

next

Why it matters:

Market forces can justify a pay gap, but only with clear, documented evidence of why the higher rate is needed. Saving money cannot: Next still lost on night-time premium, overtime and paid rest breaks. The claimants have said they will appeal.

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3 EU Pay Transparency Directive Overview

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The EU Pay Transparency Directive: what employers need to know

Directive (EU) 2023/970 — adopted May 2023. Transposition deadline: 7 June 2026, since passed into national law by most member states.



Transparency before hire

Salary range disclosed in job ads or before interview.

No questions on salary history.

Pay-setting criteria must be gender-neutral and available on request.



Right to information

Employees can request their own pay level and the average pay of colleagues doing equal work, by gender.

Employers must respond within two months.



Gender pay gap reporting

Employers with 100+ staff report gender pay gap metrics.

Phased by size:

- 250+ annually from 2027
- 150–249 every three years from 2027
- 100–149 from 2031.



The 5% trigger

An unexplained gap of 5%+ in any job category triggers a mandatory joint pay assessment with worker reps within six months of reporting.

The employer carries the burden of proof.

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What employers will have to report

Article 9(1), Directive (EU) 2023/970 — seven metrics, company-wide and by category of worker.

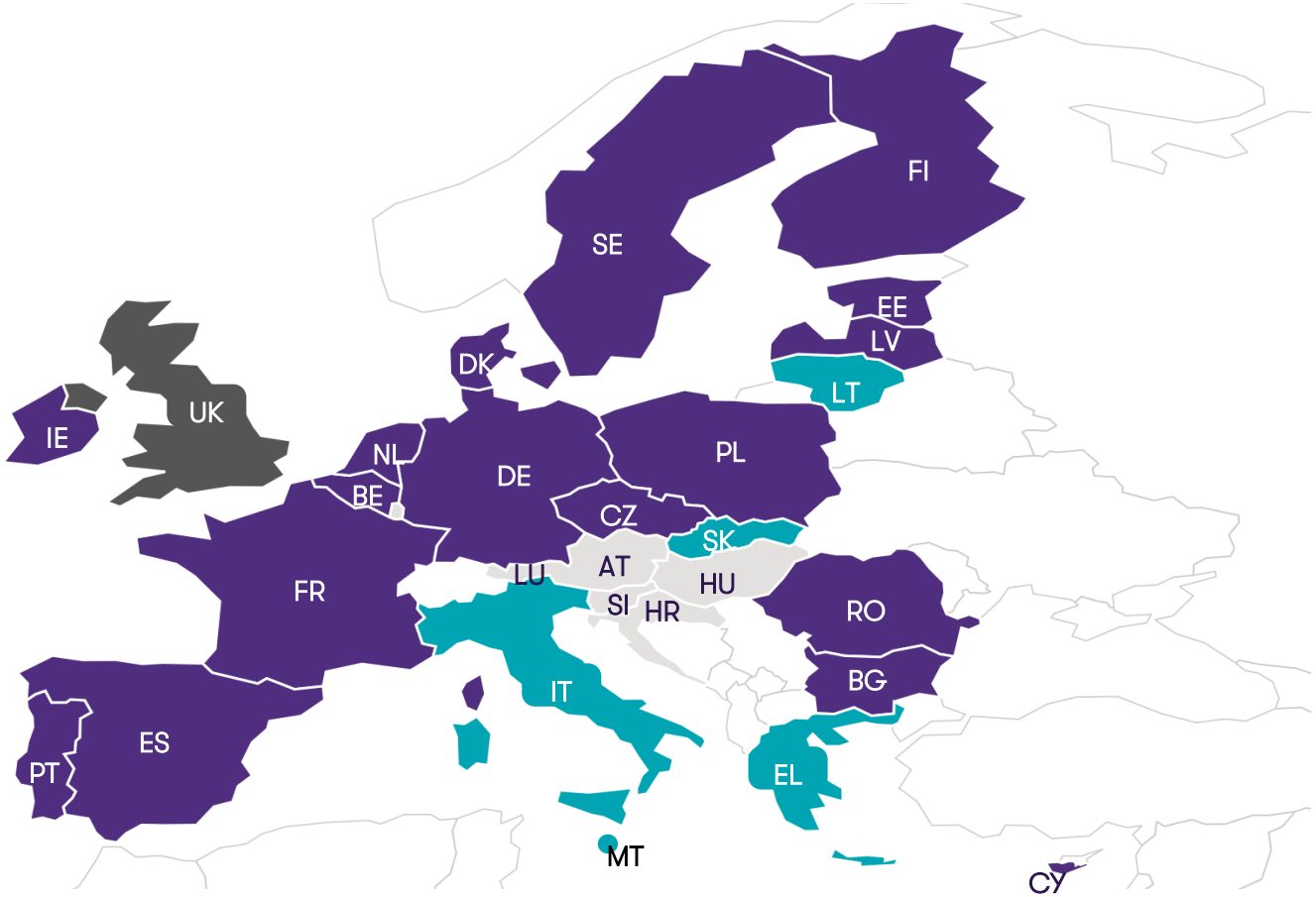
	Metric	What it captures
(a)	Mean gender pay gap	Average difference in ordinary gross hourly pay, company wide
(b)	Median gender pay gap	Middle value difference — less skewed by a handful of high earners
(c)	Mean gender pay gap	Average difference in bonus and other complementary pay
(d)	Median gender pay gap	Middle value difference in bonus and other complementary pay
(e)	Share receiving variable pay	Proportion of women and of men who receive any complementary or variable pay
(f)	Pay quartile distribution	Proportion of women and men in each of four equal sized pay bands
(g)	Gap by category of worker	Basic and variable pay gap for each group doing equal work or work of equal value

Metric (g) is the one that matters operationally: it's tested per category, not company wide, and any unexplained gap of 5%+ here will trigger a mandatory joint pay assessment (with worker reps within six months).

Applies to employers with 100+ employees. Annual reporting for 250+; every three years for 100–249 (first report 2027 for 150+, 2031 for 100–149).

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Where implementation stands across the EU



Status

- Transposed into law
  5 states
- Draft or legislative process under way
  17 states
- Little or no visible progress yet
  5 states
- UK — outside EU scope, own regime applies

Read this as directional, not definitive

N.B. National positions move weekly

Status as of 14 October 2026 based on publicly available sources.

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4 What's different between UK law and the EU directive & how to get compliance-ready

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UK gender pay gap and equal pay law vs the EU Directive

Two different models — not two versions of the same requirement.

	UK: gender pay gap & equal pay law	EU: Pay Transparency Directive
Legal basis	Equality Act 2010 — equal pay provisions plus gender pay gap reporting regulations	Directive (EU) 2023/970, transposed into each member state's own national law
Who reports, and when	Employers with 250+ employees, annually	Employers with 100+ employees, phased: 250+ annually, 150–249 every three years, 100–149 from 2031
What is measured	Mean and median gap, bonus gap, pay quartile bands	Nine specific metrics, including the gap by category of worker performing equal work
Trigger for action	Reporting is disclosure only, with no automatic next step. Equality action plans coming in 2027	A gap of 5%+ in any category triggers a mandatory joint pay assessment within six months
Hiring transparency	No statutory salary range or salary history rules	Salary range must be disclosed before interview; salary history questions are banned
Individual right to challenge	Equal pay claim via employment tribunal; burden of proof shared	Statutory right to request comparator pay data directly; burden of proof sits with the employer

The fundamental difference: the UK model reports and discloses; the EU model reports, then requires employers to act once a gap crosses 5%, with the burden of proof reversed onto the employer.

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Getting compliance-ready: what to focus on now

01

Fix your data and job architecture

One clean source for gross hourly pay by gender and job category

Objective job evaluation criteria that hold up under challenge.

02

Get ahead of hiring transparency

Salary ranges in job ads and no salary-history questions, even ahead of local transposition landing in your countries.

03

Run the 5% test yourself

Model your own gap analysis by job category now, so any surprise is found internally first, not by a regulator or an employee.

04

Build your engagement plan

Line managers ready for pay conversations, and a structured plan for informing employee reps if a joint pay assessment is triggered.

Sequence matters: data and job architecture come first — hiring transparency, reporting and engagement all depend on that foundation being right.

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5 Managing risk well

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Employees are better informed, and more open



Better access to information

Employees increasingly know their rights and can research them easily. Even where grievance volumes fall, the cases that do arise tend to be better informed and harder to resolve quickly.



Much more openness about pay

Conversations about pay and restructuring that used to stay private now happen openly, including on social platforms. Employees increasingly expect this candour from employers too.



Stronger union presence

Union membership and presence are far more common, so employees have collective backing and expert support. Pay disputes are raised more readily and pursued more firmly. Employment Rights Act 1995 gives stronger influence

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The cost of delay compounds

Some equal pay claims are now waiting years for a tribunal date, driven by the scale and complexity of multi-claimant cases. Where liability is not resolved, interest continues to accrue on the amounts owed.

Financial risk

grows the longer a claim is contested rather than resolved

Reputational risk

grows alongside it, as employees and unions watch how a claim is handled

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Fighting it is not the same as managing it well



Defend at all costs

Treats every claim as a legal fight to be won. It can protect a position in the short term, but it signals to employees and unions that the organisation would rather contest fairness than address it.

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Resolve early, and talk to trade unions

Engaging early, including with trade unions where relevant, tends to be better financially and reputationally. How an organisation responds to a pay issue says as much about its values as its legal position.

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Job Evaluation — an analytical tool for managing equal pay risk

A structured way to measure the relative size of jobs, not the people in them

What it is

A systematic method for comparing the relative size, or weight, of roles across an organisation.

The Equality Act 2010 defines it as assessing jobs "in terms of the demands made on a person by reference to factors such as effort, skill and decision-making."

The output is a defensible grading structure that pay can be built around.

Why it matters for equal pay

- Creates the **"work rated as equivalent"** category: jobs that score the same under a valid scheme are treated as equal, whatever the title or department.
- A sound scheme can support a **material factor defence** by showing pay differences stem from objective factors, not sex.
- Protection applies only to **analytical, gender-neutral** schemes. Ranking jobs by feel or reputation gives none and can add risk.

What makes a scheme robust

- Factors and weightings are set and applied **without reference to who holds the role**
- The **same factors and scoring method** apply across the whole organisation, not department by department
- The scheme is **documented**, so decisions can be defended years later

Why it matters: a credible scheme turns subjective pay decisions into an evidenced, defensible structure. It is one of the few proactive defences available before a claim is made.

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Five questions every organisation should be able to answer

To understand your level of exposure, ask:

1. Do you have accurate, up-to-date and digitised job descriptions for all roles?
2. Are all pay elements (allowances, bonuses, supplements) clearly documented and justified?
3. Do all decision-makers understand equal pay requirements — not just HR?
4. Can you evidence that pay decisions are consistent, fair and bias-free?
5. Do you actively monitor and surface emerging risks through data and audits?

If the answer to any of these questions is not a confident “yes”,
there is likely a level of **unmanaged equal pay risk.**

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The Finance leader's role in equal pay and pay transparency

Prevent claims early and put a number on the risk before one arrives

Prevent claims

- Add a **finance check** to starting pay, promotions, bonuses and allowances, so gaps are caught before they are paid
- Build one **reliable pay dataset** by role, grade and sex, reconciled to payroll, so gaps can be seen and explained
- Budget for **job evaluation and regular pay audits** as routine costs, not a reaction to a claim
- Consider the requirements under the **Public Sector Equality Duty** for public bodies

Quantify the risk

- Model **exposure scenarios**: number of claimants, back pay (up to six years in England and Wales), interest and legal costs
- **Cost the alternatives**: levelling up pay now against defending and paying later, including NI and pension on-costs
- **Test sensitivity** to find which assumptions, such as the comparator group or case outcome, move the number most

Prepare to report

- Assess whether a claim needs a **provision or contingent liability disclosure**, with legal counsel and auditors
- Reserve budget for **closing gaps** before EU reporting: an unjustified gap of 5% or more in a worker category triggers a joint pay assessment
- Give the board **one risk view**: gaps by category, exposure range and remediation cost

Why it matters: Finance holds the pay data, the budget and the board's attention. A pay gap found and funded early costs less than the same gap found in a claim.

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6 Practical steps for employers to take

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Six practical steps on equal pay and EU pay transparency

Start with data and job architecture; every later step depends on them

Fix the foundations

1 Get the data right

One clean source of **gross hourly pay by gender and job category**, with accurate, digitised job descriptions for all roles.

2 Put job evaluation in place

Use an **analytical, gender-neutral scheme**, applied consistently and documented, so pay differences can be defended.

Test and prepare

3 Run the 5% test yourself

Model gaps by job category using **total pay**, not just salary, so you find them before a regulator or employee does.

4 Get ahead of transparency

Show **salary ranges** in job ads, stop asking about salary history, track transposition in each country you operate in and **document objective, defensible reasons** for every pay difference.

Manage and respond

5 Prepare managers and reps

Get line managers ready for pay conversations, and plan how to inform employee reps if a **joint pay assessment** is triggered.

6 Resolve early, not at all costs

Quantify the exposure with Finance, and **resolve claims early** and talk to trade unions rather than defending at all costs.

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