



**Proposals for promoting greater transparency in the private sector:  
A consultation on improving gender equality in the workplace**

## **UNITE – the Union Response**

**October 2009**

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**Introduction**

This response is submitted by Unite the Union. Unite is the UK's largest trade union with almost 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, transport, financial services, construction, print, media, local government, education, health and not for profit sectors.

**Key points**

1. Unite welcomes the proposal for measures to close the pay gap in the private sector. Unequal pay is illegal and is also central to tackling the over-representation of women among low-paid workers and the under-representation of women in more senior roles. Unite is very concerned that the pay gap between men and women has not closed and that women part-time workers' pay position has effectively stagnated for over 25 years. The government's commitment to addressing the pay gap between men and women in a pro-active way is therefore an important step.
2. Unite therefore deeply regrets that the government's proposals are for voluntary measures until 2013, rather than acting immediately to require transparency. Mandatory equal pay audits are the way forward for tackling the gender pay gap, in our view, enabling this important workplace issue to be addressed through negotiations rather than the legal route.
3. Unite's extensive experience in addressing the gender pay gap leads us to recommend the following :
  - 3.1 There should be the same system of reporting across all sectors. We believe having different reporting requirements for the public and private sector will make it more difficult to make comparisons, much harder to ensure consistency, and potentially create specific problems in effectively measuring the pay gap in areas covered by public procurement.
  - 3.2 The requirement should apply to all private sector employers regardless of their size. The EOC/EHRC Equal Pay Toolkit provides a very helpful tool for carrying out equal pay reviews and audits, and is flexible enough to be used by a wide range of organisations and companies of different sizes.
  - 3.3 Whilst information gathering in relation to transparency is important, what is also essential is the requirement to disclose information on the pay gap following collection of appropriate data, identifying action needed and then establishing ongoing monitoring; e.g. identifying why women appear to move more easily between some grades than others, or how opportunities for flexible or part-time working may affect the situation, and agreeing appropriate remedial actions, which can then be monitored in terms of their effects on closing the pay gap as an essential part of the process.

3.4 In order to effectively address the gender pay gap, it is essential that more than just pay rates and pay systems are examined. Unite's recent survey in the finance sector for example, mirrors many other industries in the private sector. It revealed that barriers to equal pay and women's progression include the long hours' culture, opaque pay systems – performance/market related pay, bonuses, wide pay bands, anomalies in starting pay and managerial pay, a reluctance to consider managerial roles on a part-time or job-share basis, attitudes to working women, the view that women are less committed to work once they have children, lack of access/encouragement to career development and training, male managers recruiting and promoting in their own image, the location of work where women may not be able to travel further because of caring responsibilities and “the old boy's network”.

3.5 Unite also sees women's job segregation as a barrier to progress, but it is clear that encouraging women to take up so-called ‘men's work’ on its own will not tackle equal pay issues or gender inequality in the labour market. It is evident that the issue is much more complex, with women's work and the jobs women do undervalued in society as a significant factor. We have often found that women are segregated in the workplace both in the type of work that they do and by remaining on the lower grades.

3.6 The Equality Bill provides a once in a generation opportunity to tackle inequality and unequal pay. Alongside greater pay transparency, the importance of introducing representative actions, reporting on equalities issues in company reports, and introducing statutory rights for union equality representatives<sup>1</sup> (an important role supported by ACAS, the EHRC and the Women & Work Commission), are all essential to closing the gender pay gap.

### **Question 1 - What are your views on the role of narrative in measuring and reporting on the gender pay gap?**

Having information on the reasons behind the pay gap will help with setting the agenda and action for addressing the problem areas. However, this should not become a justification for inaction.

Unite has found that some of the issues around the pay gap can be attributed directly to the types of work women are found in. Women tend to be found in lower grade, lower status jobs within a workplace and in particular occupational

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<sup>1</sup> We have attached at the end of this response a sample Equality Audit Checklist used by Union Equality Representatives to measure the gender pay gap and identify action needed to address pay inequality at the workplace.

areas for example, nursing and office work, caring roles as well as jobs associated with catering and cleaning. The Fawcett Society has aptly named it the 5 C's - caring, cleaning, catering, cashiering and clerical work.

For this reason the narrative could include other examples showing barriers to women's progression to the upper grades and job segregation in addition to those mentioned in the document. It could for example include where and what jobs part-time women workers do; who are those with caring responsibilities; where black, Asian and ethnic minority (BAEM) or disabled women work; part-time and flexible working; bonus system; allocation of overtime and where unpaid overtime is regarded as part of the job. In our experience some employers appear less than willing to accept discrimination in pay systems which makes it difficult to address a fundamental barrier to women's progression and the distribution and awarding of bonuses are a significant factor behind the gender pay gap in some sectors e.g. finance. Therefore Unite welcomes the inclusion of actions employers have or are going to take to tackle the pay gap, as suggested in the proposals.

**Question 2 - We would welcome your views on using a single figure. How do you think the figure should be calculated? If you have any experience of using a single figure to capture the overall pay gap in an organisation we would welcome hearing about it.**

Unite agrees with your concerns about the use of a single figure which we do not believe is adequate to identifying and addressing the gender pay gap. See in particular points 3.3, 3.4 and 3.5 above.

Additionally, the use of a single figure can be seriously misleading. Unite would draw attention, for example to the review of pay rates carried out by the International TUC, which showed that a single pay rate was very misleading in a country where very few women were in paid work, but those that were had relatively well paid jobs. This gave a negative gender pay gap on the surface without disclosing the serious pay discrimination faced by the majority of women in that country.

**Question 3 - We would welcome your views on using both full-time and part-time figures. How do you think the figures should be calculated? Have you any experience of using figures for both the full-time and part-time pay gaps?**

Unite supports the use of both full and part-time figures calculated separately, as essential in view of the high concentrations of women as part-time workers, and the significant pay gap faced by part-time women workers, particularly in the private sector.

Unite believes that the figure should be calculated as the average (mean) hourly pay gap of both full-time and part-time women workers compared to full-time men workers. It is important that the mean is used since calculating the median pay gap understates the size of the problem because women are over-represented at one extreme of the distribution and men are over-represented at the other extreme.

**Question 4 - We would welcome your views on providing more detailed breakdown. What do you see as the advantages and disadvantages of this as a means of measuring and reporting on the gender pay gap?**

Unite believes that pay transparency requires a more detailed breakdown. The gender pay gap needs to be broken down in a manner that looks at employees who may be segregated by pay grade and that can look at additional payments such as bonuses and overtime as well as full-time and part-time differences. Without the clear advantages of this way of providing information, there will be the obvious and serious disadvantage that action needed will be very difficult to identify, and therefore the impact on closing the gender pay gap seriously reduced.

**Question 5 - We would welcome your views on using the findings of non-discriminatory analytical job evaluation. What do you see as the advantages and disadvantages of this as a means of measuring and reporting on the gender pay gap? If you have carried out a non-discriminatory analytical job evaluation exercise did you find that it exposed you to equal pay claims? Have you any experience of using a non-discriminatory analytical job evaluation exercise to tackle the gender pay gap?**

Conducting job evaluation schemes have proved to be a successful way of improving equality in the pay structure.

**ADVANTAGES OF JOB EVALUATION EXAMPLE:** In a cleaning company although tribunal claims for equal pay were lodged, the company agreed to do a job evaluation. ACAS trained all the representatives involved in drawing up the scheme and the Company also agreed to paid release for the Shop Stewards and other members (mainly women) to go on an assertiveness and confidence-building course. The results of the job evaluation helped us to conduct talks to resolve the discriminatory pay structure.

**ADVANTAGES OF JOB EVALUATION EXAMPLE:** In Orchard House, a juice squeezing company where half the workforce was women, they had 35 different rates of pay, with people doing a similar or even the same job on different rates. Management justified this by saying that this was the wage structure they had inherited from previous management. These rates were negotiated down to 7 and then to 5 rates, by setting up a working party with ACAS, shop stewards and employees, where they sat down and looked at every job description and realised the extent to which jobs were segregated along gender lines. This created new anomalies and they realised the need for greater progression of grades. The company agreed to carry out a job evaluation. This showed us that initial negotiations, the involvement of ACAS and training helped get the process moving but job evaluation was necessary to identify the problems in the grading systems.

**DISADVANTAGES OF INAPPROPRIATE JOB EVALUATION:**

We have found serious difficulties where the employer does not carry out a job evaluation across all jobs. For example a voluntary sector employer looking for savings decided to target those who have been transferred under TUPE Regulations who were on better terms & conditions than the rest of the workforce, rather than properly evaluating all jobs as part of a transparent job evaluation.

In our experience, a tailor-made job evaluation scheme is essential, and if it is properly drawn up bearing in mind equal value, women workers will benefit enormously in their pay rate where they have previously been undervalued. Job evaluation schemes which have not been specifically designed for a particular workplace, tend to undervalue work done by women. The job evaluation process should have full representation and involvement of trade unions where they should be properly trained on what to look for in terms of equality and recognition of the value of all types of work.

**Question 6 - We would welcome your views on using the findings of an equal pay audit. What do you see as the advantages and disadvantages of this as a means of measuring and reporting on the gender pay gap? Have you any experience of using an equal pay audit to tackle the gender pay gap? If you have carried out an equal pay audit did you find that it exposed you to equal pay claims?**

Unite has found equal pay and equality audits very effective in finding out if there is unequal pay between men and women in the workplace, identifying the reasons for the discrepancies and using the information to negotiate for equal pay. Equal pay audits also provide women with the information necessary for them to identify if they are receiving fair pay. The disadvantages we would identify are where a commitment to carrying out an audit is then not implemented within a reasonable timeframe, or when the information obtained by the employer is not shared with the union, in both cases, effectively preventing rather than encouraging action on the gender pay gap.

Conducting a pay audit will assist the employer in ensuring they are not in breach of equal pay legislation and that they are treating women and men equally and fairly in the workplace. And according to the Institute for Employment Studies' research in 2003 those organisations that had conducted, or were conducting an equal pay review were generally positive about the experience.

The benefits to the private sector of closing the gender pay gap include:

- recruitment and retention of valuable staff since women would be more likely to apply for and stay in a job where they receive good pay on the same terms and conditions as men doing like work or work of equal value;
- employers can also use the information from the pay review to improve procedures and practices to eliminate discrimination and ensure they are using all the talents and skills of a diverse workforce;

- working with employers has shown us that when they work jointly with the union to conduct the pay audit and address any issues it assists in building trust and confidence in the pay and grading system.

**BMW EQUAL PAY AUDIT EXAMPLE:** Our joint work with employers such as BMW has proved very effective where an Equal Pay Review Committee made up of management and union reps was set up. Managers and union reps were trained together on a union course involving both ACAS and the EOC (now EHRC). The management and trade union team showed a real commitment to this and this was particularly evident in their annual monitoring and follow-up action. The company agreed to commence some further analysis to determine whether performance related pay has produced any gender anomalies. The audit resulted in real advances for track workers and women team leaders. The company also agreed to produce and share figures on pay rates and BAEM employees so that we can see if any work needs to be done in this area too. For the first time agency workers were included in the 2008 audit.

**EQUAL PAY AUDITS LEADING TO ACTION FOOD INDUSTRY EXAMPLES:**  
 As part of the union's Pay-Up campaign, Unite equal pay audits exposed women's unequal pay and even found a pay system that still included a "women's rate".

- In a food distribution company during the course of a pay audit, it was discovered that 85 people (90% women) were doing a job where the pay rate varied between £7-20. After negotiations, the Company agreed to pay the differential of the grade over a period of time.
- In a chilled food company 12 women canteen workers were found to be paid at a rate that was not even included on the pay scale. Following negotiation, this situation was rectified and they received an hourly pay rise and a one-off payment.
- At a frozen foods company, women who were half the workforce were paid less than the minimum wage. The employer was not initially in favour of an equal pay audit, but after negotiations to address both unequal and low pay, they agreed and they also supported joint training.

**EQUAL PAY AUDITS LEADING TO ACTION: OTHER EXAMPLES**

- Unite has found that even a basic look at the job content, rather than the job title can result in women being put on a higher pay scale. For example in a metal factory with predominantly women workers we found that the vast majority of line workers (women), who were doing a skilled job of putting together the components, were on a lower grade than the man who moved the finished product from their area to another area. The comparators were chosen and the women's job titles changed and the grades were increased.
- In a contract cleaning company an equal pay audit revealed that fifteen women members, working on the "twilight shift", were being paid less than their male colleagues on the day shift. They won equal pay and a substantial increase in their hourly pay.
- In Plastic Products Manufacturing an equal pay audit revealed the importance of equality in shift and overtime pay, as it showed that women manual workers' average gross weekly pay was 68% of men but after shift and overtime pay were excluded they earned 74% of men's wages.

The EOC Code of Practice states that equal pay reviews are the single most effective method of ensuring that a pay system delivers equal pay free from sex bias. The best practice from our experience has had the joint commitment of the employer and the union, followed by the establishment of a joint Equal Pay Working Group including relevant expertise and the provision of joint training including the union, the employer, ACAS and the EOC/EHRC, working together to examine information available, identifying further information needed, calculating if there is a gender pay gap, identifying any action needed, and finally agreeing on a timetable for implementation and regular monitoring.

Unite has been calling for mandatory equal pay audits with full involvement of trade unions as the most effective way of tackling the gender pay gap. EHRC research shows that the voluntary approach to equal pay audits is not working and in order to eliminate the pay gap, there should be mandatory pay audits in the private sector.

**Question 7 - Please give us details of the range of measures you currently use and of your experience of what does and does not work. Do you think providing for a choice of measures would be helpful or not? Please explain why you think this.**

**Question 8 - Have you any experience of reporting on the gender pay gap, or on equalities generally through your existing forms of annual reporting such as your annual company report? If so, please tell us what you do, who the information is shared with and how satisfied you are with the process.**

**Question 9 - How would you prefer to report on your measurement of the gender pay gap? Please explain why that would be your preference.**

For details of positive experiences the union has had, please see above examples and paragraphs.

In terms of the measurement of the gender pay gap, Unite would draw attention to the need to include full-time and part-time women workers in particular, as well as other factors covered in the answers above.

<p><b>EQUAL PAY AUDIT – IMPORTANCE OF PART-TIME WOMEN WORKERS’ PAY TO CLOSING THE PAY GAP</b> In our experience, negotiating for equality for part-time workers invariably improves pay for women. For example some years ago, in a bookstore after one of our part-time members had put in a claim for equal pay with her full time colleagues, after the initial refusal the Company equalised full-time and part-time rates as part of the annual pay review. This agreement committed the Company and the Union to tackling all equal opportunities issues through negotiation.</p>
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Additionally, we would draw attention to the following:

- EHRC research into the pay gap across all equality areas in 2008 showed persistent gender disadvantage across equalities areas and a higher pay gap for ethnic minority and older women. For this reason it is important that employers collect data on the make up of the workforce for example BAEM or disabled

women, younger or older women and women returners. Information on the work they do and which grades and jobs they are in.

- There should be data on hours of work including overtime and flexible work patterns as well as shifts patterns offered and the take up by women and men and at what grade or level.
- There needs to be data on recruitment and promotion of women as well as training.

**EQUAL PAY AUDIT – EXAMPLE OF RANGE OF DATA COLLECTED :** In Kerry Foods Unite identified a gender pay gap and job segregation as well as problems with recruitment and selection, little access to training and promotion, discrepancies on bonus and overtime payments. They were all contributory factors to the gender pay gap and employment of women. By setting up a regional employer/union equal pay committee we looked at ways to resolve the issues.



## EQUALITY AUDIT CHECKLISTS

These checklists are taken from section two of the **Union Equality Reps** Toolkit: *“PAY UP!” Organising for Fair Pay and Equality Audits*. In this format they can be amended and used for your workplace and local union organisation.

### **Fair Pay and Equality Audit Checklist**

- 1.1 Sample Unite form for carrying out Pay & Equality Audit of Current Workforce
- 1.2 Sample Unite form for Monitoring Recruitment, Selection, Training and Promotion

# FAIRER WORKPLACES : STRONGER ORGANISATION

## UNFAIR & UNEQUAL PAY    You Can Help Change This!

As a union equality rep it is important to remember that shop stewards have the authority to negotiate in the workplace so **you can only enter negotiations when you have the agreement of your shop steward.**

Working with other union reps you can help achieve fair and equal pay in your workplace.  
**Use this Fair Pay and Equality Audit Checklist to help you:**

WHAT?	WHY?	DONE?	ACTION NEEDED IN MY WORKPLACE
<b>Carry out an Equality Audit of the workforce</b> using eg the sample form after this checklist	To highlight eg concentration of women in lower grades, lack of progression of black workers, lack of disabled workers		
<b>Bargain for Facilities and Paid release for Union Equality Reps</b> and campaign with government for statutory rights for union equality reps	To strengthen the skills, knowledge and capabilities of the union in advancing equality; to ensure the union has specialist equality support and time		
<b>Bargaining for 100% income for family leave</b> and campaigning with government for this as of right	Family friendly policies are a way towards eradicating poverty. Loss of income at this time leads to hardship long-term		
<b>Eliminating unfair wage rates</b> eg on grounds of age, gender, ethnic origin, nationality	Unequal pay rates are divisive and can be unlawful		
<b>Ensuring the National Minimum Wage is achieved and improved on</b> Campaigning with government for an increase in the National Minimum Wage	Some workers are un-lawfully paid below the NMW eg non-unionised workplaces, migrant domestic workers and homeworkers. Eliminating low pay is a win for equality		
<b>Training included as a collective bargaining issue, fully funded training with paid time off and monitoring who receives training</b>	Access to training, or lack of it, can have a big impact on pay. Part-time, agency and older workers particularly lose out on training		
<b>Negotiating</b>	Disabled workers have the		

<b>WHAT?</b>	<b>WHY?</b>	<b>DONE?</b>	<b>ACTION NEEDED IN MY WORKPLACE</b>
<b>reasonable adjustments without loss of pay and with clear procedures to check this</b>	right to reasonable adjustments to get and keep a job. This should not be at the expense of previous pay rates		
<b>Check women's pay and equality</b>	There is a gender pay gap in most workplaces		
<b>Check black, Asian &amp; ethnic minority workers' pay and equality</b>	BAEM workers are mostly under-represented in higher grades		
<b>Check young men and young women's pay</b>	Unfair age rates exist in many workplaces		
<b>Check older workers' pay</b>	Poverty in retirement mean more older workers at work facing discrimination		
<b>Check disabled workers' pay and equality</b>	Disabled workers are more likely to be low paid		
<b>Check migrant workers' pay</b>	Migrant worker Agencies are discriminating, including in basic rates, housing, travel, Tax & NI		
<b>Check agency workers' pay</b>	A two-tier workforce is bad for everyone		
<b>Check ex-offenders' pay</b>	Discrimination is unlawful		

# Checklist

## Workplace practices that can be unlawful

- Different rates of pay for men and women
- Different shifts for men and women
- Black, Asian and ethnic minority workers on the night shift
- Job segregation for disabled workers
- Seniority or last-in, first-out indirect discrimination

## PAY & EQUALITY AUDIT OF CURRENT WORKFORCE

The following is an example of a basic form which could be used to conduct an equality audit to get a picture of the workplace and identify potential discriminatory practices and issues to address.

Grade	No. of Men	No. of Women	No. of BAEM Workers	No. of Disabled Workers	No. Aged 26 and Under	No. Aged 50+	P/T workers		Total
							Men	Women	
Total									
%									

\*An equality audit needs to include relevant info for your workplace. Therefore, you may need to add columns to include e.g. Migrant Workers, agency Workers, LGBT Workers or specific religions

## MONITORING RECRUITMENT, SELECTION, TRAINING AND PROMOTION

This is an example of a basic form to monitor equality in recruitment, selection, training and promotion and to identify issues to address.

JOB/TRAINING APPLIED FOR \_\_\_\_\_

NUMBER APPLIED						NUMBER INTERVIEWED						NUMBER APPOINTED/TRAINED					
M	W	BAEM	D	50	26	M	W	BAEM	D	50	26	M	W	BAEM	D	50	26

**M** = Men   **W** = Women   **BAEM** = Black, Asian and Ethnic Minorities  
**D** = Disabled   **50** = Aged 50 or over   **26** = Aged 26 or under