
General Tools for Equality

Introduction

An equality bargaining pack is being developed for all branches as an essential guide for local negotiations.

Our challenge is how we take the issue of equality forward so that our commitment translates from words into meaningful action.

The pack is web based and will be updated when appropriate to reflect changes in UCU policy or legislative changes. We also want to include any agreements secured locally or case law which supports negotiations.

Negotiating agreements and policies relating to equality can be perceived as added value rather than supporting all members. This means equality issues are often not prioritised but they support a huge number of our membership if not all as we are all covered by age legislation.

The guides are short and in some cases there is more detailed guidance available. These guides will inform you about:

- UCU policy and any relevant background material The legislative minimum
- A negotiating checklist (and in some cases a model policy)
- Where to go for further information and resources

Understanding your key tools for negotiating equality

There are equality tools which you can use for all negotiations. In any discussion about changes at work you can use these tools to hold your employer accountable to all members and their duty to progress equality.

The moral case

There is a strong moral case for organisations to have good equality and diversity practices. An inclusive organisation where everyone is treated with dignity and respect would be a workplace with less conflict and injustice. It could create shared values and a commitment to the workplace and colleagues.

Our members take pride in their work and contributing to the education and knowledge of students, colleagues and the wider world. Society cannot improve while people are treated unfairly because of their race, gender, sexual orientation, age, religion or belief, or because they are disabled. Excellence in equality matters gives organisations the means to meet and exceed equality commitments and establish a workplace and educational environment which is accessible to all.

The business case

There is also the business case for equality.

- An organisation is more likely to attract people from a wider pool of talent if it is explicit in its commitment to diversity and is demonstrating this through how it operates.
- Staff are more likely to perform well, feel motivated and committed and therefore be retained if they feel valued and respected in their working environment.
- Similarly, people are more likely to use the services provided by an organisation if they believe that they will be treated equally. Students from equality groups will appreciate the visibility of themselves amongst staff.
- Good equality and diversity practice avoids wasting resources by providing services that people do not want or need or are inappropriate.
- Our sectors are increasingly awarding contracts to private companies and third sector organisations to deliver services. Their procurement teams should require good diversity and equality practice in the organisation they commission.

The legal case

It is unlawful for organisations to discriminate on the grounds of age, disability, gender, gender identity, race, religion and belief, sexual orientation in employment and training and in the provision of goods, facilities and services, except in very limited circumstances. It makes sense therefore for organisations to implement best practice to ensure that they are compliant with existing legislation. The costs associated with bad practice on equality far outweigh the costs of implementing good practice.

a) Public Sector Equality Duty

The Public Sector **general duty** applies to all colleges and universities in England, Scotland and Wales. Scotland and Wales have their own **specific duties**.

Other organisations not listed in the Act must also comply with the public sector equality duty if they carry out **public functions**. This can be a public sector organisation. It can also be a private organisation or charity.

This could include - for example:

- privatised utilities like water companies, British Gas and Network Rail
- some organisations who have been subcontracted to carry out a public function like a private security company running a prison
- some housing associations when carrying out some of its functions as a social landlord
- private care homes providing care on behalf of the local authority
- private hospitals providing care on behalf of the NHS.

Generally speaking a public function is something that's normally provided to the public by the state like education, prisons or health services.

So if an organisation carries out one of these activities on behalf of the state they may be a public authority. The courts will look at a number of things to decide if a private organisation is carrying out a public function. It will look at whether the organisation is:

- publicly funded
- supervised by a state regulatory body
- exercising powers given to it by the law
- taking the place of central or local government
- providing a public service

- acting in the public interest
- carrying out coercive powers devolved from the state.

The duty

The equality duty has three main aims. It requires public bodies to have 'due regard' to:

- **Eliminate** unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act
- **Advance** equality of opportunity between people who share a protected characteristic and people who do not share it, and
- **Foster** good relations between people who share a protected characteristic and people who do not share it.

Demonstrating **due regard** means consciously thinking about the three aims of the equality duty as part of the process of decision making. This means that consideration of equality issues must influence the decisions reached by institutions such as how they act as employers, how they develop, evaluate and review policy or how they design services.

Undertaking **equality impact assessments** is still an excellent tool for demonstrating **due regard**. The Equality Challenge Unit and the Association of Colleges have produced guidance on undertaking equality impact assessments and support their use in analysing the equality implications of decisions and policies of employers.

Remember: the general duty is a positive duty and your employer should be moving beyond compliance to actively promoting and using the general duty.

The specific duties

The specific duties regulations are intended to support institutions to meet the requirements of the public sector equality duty. They are specific actions which public authorities need to do to comply. The specific duties are much stronger in Wales and Scotland.

Colleges are required to:

- 1) gather and publish information on staff, students and services
- 2) agree equality objectives
- 3) publish the objectives

Your employer should have published its objectives and now be in the process of delivering them. UCU has produced a toolkit on the public sector equality duty which is available on the UCU website. There are also model letters which will also help branches in challenging employers who are not complying.

Equality Impact Assessments

An equality impact assessment (EIA) is a tool that helps public authorities make sure their policies, and the ways they carry out their functions, do what they are intended to do and for everybody. Carrying out an EIA involves systematically assessing the likely (or actual) effects of policies on people in respect of equality groups. This includes looking for opportunities to promote equality that may have previously been missed or could be better used, as well as negative or adverse impacts that can be removed or mitigated, where possible. If any negative or adverse impacts amount to unlawful discrimination, they must be removed.

UCU public sector equality duty toolkit which includes the details on undertaking an equality impact assessment.

Monitoring

All employers should monitor the composition of their workforce to understand their recruitment, promotion and retention practice.

Under the Public Sector Equality Duty, employers need to publish data about the workforce. This should include:

- race, disability, gender, age breakdown and distribution of the workforce
- (grade, job type, contract type, full time or part time, occupation)
- indication of likely representation on sexual orientation and religion or belief provided that no individual can be identified as a result
- an indication of any issues for transsexual staff, based on consultation
- gender pay gap information.
- Other information should include: success rate of job applicants take up of training opportunities, applications for promotion and success rates; applications for flexible working and success rates
- return to work rates after maternity leave
- numbers taking maternity, paternity and adoption leave
- grievance and dismissal
- other reasons for termination of employment such as redundancy and retirement
- length of service/time on pay grade

- pay gap information for other protected groups
- reported incidents of hate crime
- application and selection for submission to the REF (HE).

Your employer should cover all protected characteristics and can use the following ways to collect the information:

- national statistics
- staff satisfaction surveys
- HR records
- equal opportunities monitoring forms
- evidence of involvement, engagement and consultation
- equality impact assessments.

Sensitive information

If you work somewhere where employees are reluctant to disclose, your employer will not be able to properly analyse equality issues in your workplace.

So it is important to ask:

- why the information is being collected
- what it will be used for
- how privacy will be protected.

Answers to these questions may encourage disclosure. Members who feel confident about disclosing a disability, sexual orientation or faith can help create a visibly diverse workforce and can help push employers to take a more proactive approach to equality. Disclosure can be a big decision. The UCU guide to disclosing a disability is an excellent reference tool.

Monitoring to gather data should be anonymous and confidential. No individual should be identifiable from the responses. If the data is not anonymous, then the protections afforded by the Data Protection Act must be respected. As well as anonymous data gathering there should also be regular opportunities offered to staff to update and amend their status in records held by the employer, should they wish to.

b) Gender pay reporting

The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, have been published. They only apply to universities and colleges who have 250 or more employees on 31 March of a given year. They apply to specified English authorities in the schedule, specified cross-border authorities and specified non-devolved authorities operating across England, Scotland and Wales. Scottish and

Welsh public authorities listed in Schedule 19 of the Equality Act 2010 are subject to their own devolved regulations, which already include gender pay gap reporting.

Any English, Scottish or Welsh public sector employer that is not listed in Schedule 19 of Equality Act 2010 still needs to follow the private and voluntary sector regulations.

The new gender pay gap obligations have been introduced alongside the existing requirements under the Public Sector Equality Duty for specified public bodies, including publishing annual information to demonstrate compliance under the PSED and publishing equality objectives every four years. The deadline for all the publishing requirements have now been streamlined to 30 March 2018.

The Gender Pay Gap reporting requirements must be adhered to but a specified public authority can handle the process as part of their wider PSED work or equality strategy. For example, public authorities can set equality objectives which would help reduce the gender pay gap in their organisation.

Organisations with over 150 employees may already be publishing gender pay gap data under the existing requirement to publish data on its employees.

Gender pay reporting is a different requirement to carrying out an equal pay audit.

Equal pay deals with the pay **differences between men and women who carry out the same jobs, similar jobs or work of equal value**. It is unlawful to pay people unequally because they are a man or a woman.

The gender pay gap shows the **difference in the average pay between all men and women in a workforce**. If a workforce has a particularly high gender pay gap, this can indicate there may be a number of issues to deal with, and the individual calculations may help to identify what those issues are.

What are the calculations?

An employer must publish six calculations showing their:

1. average gender pay gap as a mean average
2. average gender pay gap as a median average
3. average bonus gender pay gap as a mean average
4. average bonus gender pay gap as a median average

5. proportion of males receiving a bonus payment and proportion of females receiving a bonus payment
6. proportion of males and females when divided into four groups ordered from lowest to highest pay.

What should be done with the calculations?

The results must be published on the employer's website and a government website. They must, where applicable, be confirmed in a written statement by an appropriate person, such as a chief executive.

Employers have the option to provide a narrative with their calculations. This should generally explain the reasons for the results and give details about actions that are being taken to reduce or eliminate the gender pay gap.

- The narrative can say why the results show **challenges**. For example, an employer might explain that their executives get the highest bonuses and most of them are men. Where there is a challenge, employers should consider taking new or faster actions to reduce or eliminate their gender pay gaps.
- The narrative can say why the results show **successes**. For example, an employer might explain that a recent change to their bonus policy has helped provide a much lower bonus gender pay gap.
- The narrative can also be used to show **plans for long-term results**. For example, an employer might want to tackle the underrepresentation of women in their science and engineering roles by running a recruitment campaign for junior roles that particularly encourages women to apply. In the short-term this means more women will be at the starting salaries, which could make the gender pay gap look higher. However, in the longer-term this will balance out and the underrepresentation should be reduced.

c) Chartermarks

There are a number of schemes that your employer will have signed up to, to demonstrate their practical commitment to equality. Branches can raise their employers' participation in these schemes and ask what actions are being undertaken to meet the aims of each scheme. All the following schemes are based on self-assessment by the employer so branches can use awards as a way to discuss equality with their employer and how the employer is meeting the aims of the scheme.

The main ones are:

1. 2 ticks - Positive about disability symbol (England, Scotland and Wales)

The 'two ticks' positive about disability symbol is awarded by Jobcentre Plus to employers who have made commitments to employ, keep and develop the abilities of disabled staff.

The five commitments

Employers who use the disability symbol make five commitments regarding recruitment, training, retention, consultation and disability awareness.

The five commitments are:

- To interview all disabled applicants who meet the minimum criteria for a job vacancy and to consider them on their abilities.
- To discuss with disabled employees, at any time but at least once a year, what both parties can do to make sure disabled employees can develop and use their abilities.
- To make every effort when employees become disabled to make sure they stay in employment.
- To take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work.
- To review these commitments each year and assess what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans.

2. Stonewall Diversity Champions/Stonewall top 100 employers (England, Scotland and Wales)

The Diversity Champions programme is a good practice employers' forum on sexual orientation and from this year, trans. Membership provides benchmarking via the Workplace Equality Index, good practice seminars, discounted entry to the annual Stonewall Workplace Conference and a profile on Stonewall's Starting Out Careers Guide website. Those who join the programme can promote themselves as a member.

The workplace equality index is an annual survey (2016 includes trans) which asks institutions to benchmark their performance across a number of areas including policies, monitoring, training, networks and visible LGBT senior

employees. There is also a staff survey which participants are encouraged to make available to staff. There is no obligations on 'champions' to participate in the survey and it is unclear how many employers actually do as the website states over 1000 have participated since 2006. The Global Diversity Champions programme is Stonewall's best practice employers' forum for global organisations.

Stonewall produces a top 100 employers list from the survey. Many universities and colleges participate.

3. Athena Swann

ECU's Athena SWAN Charter was established in 2005 to encourage and recognise commitment to advancing the careers of women in science, technology, engineering, maths and medicine (STEMM) employment in higher education and research. Members can use the Athena SWAN logos to highlight your commitment to gender equality on institutional websites, materials and job adverts

In May 2015 the charter was expanded to recognise work undertaken in arts, humanities, social sciences, business and law (AHSSBL), and in professional and support roles, and for trans staff and students. The charter now recognises work undertaken to address gender equality more broadly, and not just barriers to progression that affect women. Including

- In relation to their representation
- progression of students into academia
- journey through career milestones
- working environment for all staff

For a first-time bronze application, a department will need to make a thorough assessment of how well it promotes equality of opportunity, and to identify areas for improvement. The first step is to collate and scrutinise (and ultimately submit as part of an application) a range of quantitative data that capture key gender trends. A detailed action plan will need to be drawn up to address gender imbalances. The department will also need to explain in its application how it will promote a culture of inclusivity and assist women at key career points.

Department heads will be asked to write a statement of support. Awards last for three years. For a silver award, departments must be able to show a significant record of activities to support gender equality and demonstrate the impact of good practices.

4. Race equality charter mark

ECU has piloted a Race equality charter mark which focuses on improving the representation, progression and success of minority ethnic staff and students within higher education.

It covers:

- Professional and support staff
- Academic staff
- Student attainment, diversity of the curriculum and progression of students into academia

By becoming a member of the race equality charter mark, institutions are committing to following these guiding principles:

- Racial inequalities are a significant issue within higher education. Racial inequalities are not necessarily overt, isolated incidents. Racism is an everyday facet of UK society and racial inequalities manifest themselves in everyday situations, processes and behaviours.
- UK higher education cannot reach its full potential unless it can benefit from the talents of the whole population and until individuals from all ethnic backgrounds can benefit equally from the opportunities it affords.
- In developing solutions to racial inequalities, it is important that they are aimed at achieving long-term institutional culture change, avoiding a deficit model where solutions are aimed at changing the individual.
- Minority ethnic staff and students are not a homogenous group. People from different ethnic backgrounds have different experiences and outcomes of higher education, and that complexity needs to be considered in analysing data and considering actions.
- All individuals have multiple identities, and the intersection of those different identities should be considered wherever possible.

To participate in any ECU charter mark, an institution will need to establish a self-assessment team responsible for undertaking a full evaluation of the institution to identify racial inequalities and barriers. The self-assessment team will lead the institution through the charter mark process by:

- reviewing quantitative and qualitative data
- reviewing policies and practices, and the outcome of policies and practices

- reviewing the results of the mandatory staff and student survey and managing other forms of involvement and engagement
- managing the process of developing SMART actions and action plans and submitting an application to ECU for the charter mark

d) Equal pay audits

Equal Pay audits are a useful tool at looking at pay and promotion of women, black members and disabled members. UCU wants employers to undertake equal pay audits at least every two years and to develop an action plan based on the results of the audit.

Although equal pay legislation has been in place for over 40 years, the gender pay gap in Britain remains among the highest in the European Union of 16.4%. The gap between women and men for full-time work is equivalent to men being paid all year round, while women work for free after 2nd November (Fawcett Society). There are many reasons why the gender pay gap exists including discrimination against women in the workplace, the value placed on work predominantly undertaken by women, interrupted careers and more women being in part-time and low paid jobs.

Equal pay audits will:

- establish whether there are pay inequities arising because of gender, race, disability, sexual orientation, religion or belief, and age; and/or from differing contractual arrangements
- analyse in more detail the nature of any inequities
- analyse the factors creating inequities and diagnose the cause or causes
- determine what action is required to deal with any unjustified inequities revealed by the analysis and diagnosis

This will

- Highlight areas for concern relating to equal pay
- enable causes of inequality to be diagnosed
- guide higher education institutions on the actions required to fulfil both their ethical and their legal obligations to pay those carrying out work of equal value equally
- contribute to the development and maintenance of a fair and equitable reward system, and thereby enhance the image of the institution as an employer, improve the climate of employee relations and further the ability of the institution to attract and retain the staff it requires
- help institutions to meet their statutory obligation to promote equal pay (under the gender equality duty)

- enable institutions to demonstrate progress in relation to providing equal pay and equal opportunity across the workforce.

UCU has recently participated in a joint working party which looked at equal pay in higher education. The report contains a number of recommendations and case studies which branches may find useful. The report and UCU's response can be found here <http://www.ucu.org.uk/circ/pdf/UCUHE261.pdf>

e) National Negotiating Framework

National agreement on equality in further education

This agreement is for all FE colleges in England and Wales and has been agreed with the Association of Colleges. It replaced the individual guidance on disability, gender, race, religion or belief, sexual orientation and transgender.

It should be cross-referenced against other relevant joint agreements including: Adoption Leave; Compassionate Leave, Time off for Fertility Treatment and Dependents Leave; Equal Pay; Harassment and Bullying; Maternity Leave; Parental Leave; Paternity Leave

An important part of the agreement is that it clearly acknowledges that discrimination exists and that no one should suffer discrimination at work. Sections 1 – 3 make this commitment clear and 3.3 – 3.6 states:

- ***The College will seek not only to eliminate discrimination, but also to provide a positive working environment free from discrimination, harassment and victimisation, where all employees are treated with respect and dignity.***
- ***The aim is to create a positive and inclusive ethos where issues of discrimination and stereotyping can be discussed openly; with a shared commitment to challenging and preventing discrimination (whether overt or covert), to respecting diversity and difference, and to encourage good relations between different groups.***
- ***Discriminatory behaviour against employees will not be tolerated, whether that behaviour comes from other employees, students or third parties, such as employers, contractors or members of the public.***
- ***In ensuring that the College's commitments are fully effective, and that all employees are committed to them, Colleges should work locally in partnership with recognised trade unions, staff equality***

groups and with employees, including those who identify with a protected characteristic, in the development and implementation of equality policies and objectives.

Colleges must adopt the agreement locally and FE branches are urged to raise this with their employers.

Higher Education - national negotiating pack

The Higher Education Committee has produced detailed guidance on undertaking local negotiations which is available to branch officers. The guidance includes key negotiating issues, details national policy and agreement and checklists to support the bargaining process. Equality issues are included and include Equal Pay, Disability Leave and Implications of working internationally. For further information branches should contact their regional office.

UCU can help you develop your knowledge, expertise and experience of negotiating on equality through:

- The national training programme
- The national equality conference
- Participation in the equality standing committees
- Accessing the guidance and briefings available on the UCU website
- Organising events on equality issues including establishing equality networks.

Please get in touch with the Equality and Participation team at UCU if you want further information or support. Email: eqadmin@ucu.org.uk