

Gender pay equity Best Practice Guide



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This best practice guide is for employers and managers. It explains why gender pay equity is important and how you can use best practice to support gender pay equity in your business.

It includes:

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It also has practical tips and case studies to help you move your business towards best practice.

Working at best practice

Employers must pay all employees equally for work of equal or comparable value. Best practice employers understand the benefits of creating a culture that promotes gender pay equity.

Every workplace can enjoy the benefits of taking a best practice approach to gender pay equity. These may include:

- attracting quality staff
- better organisational performance
- retaining staff and reducing turnover costs
- meeting legal obligations and minimising legal risks
- accessing new markets
- building a reputation as an employer of choice.

Gender pay equity

Workplaces achieve gender pay equity when all employees receive equal pay for work of equal or comparable value.

This means:

- employees doing the same work (or different work of equal or comparable value) get paid the same amount
- pay and conditions are assessed in a non-discriminatory way – valuing skills, responsibilities and working conditions in each job
- organisational structures and processes provide all staff equal access to training, promotions or flexible working arrangements.

Legal requirements

Workplace Gender Equality Act 2012

Large employers (non-public sector employers with 100 or more employees in their corporate structure) and registered higher education providers have to report to the Workplace Gender Equality Agency (WGEA) annually on a set of gender equality indicators.

The gender equality indicators are:

- gender composition of the workforce
- gender composition of governing bodies of relevant employers
- equal remuneration between women and men
- availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities
- consultation with employees on issues concerning gender equality in the workplace
- any other matters specified by the Minister: sex-based harassment and discrimination.

The employer also has to inform employees, members, relevant employee organisations and shareholders they've lodged the report and give them access to a copy, excluding remuneration information.

Employees and relevant employee organisations can comment on the report to the employer or to WGEA.

Employers with over 500 employees must also meet certain minimum standards, including having a policy or strategy in certain areas, to support gender equality.

Visit [WGEA's website](http://wgea.gov.au) at wgea.gov.au for more information about reporting requirements.

Disclosing pay and workplace conditions

Transparency is an important tool in achieving gender pay equity. If employees don't know what other people are getting paid, they can't know if they're being paid equally for equal work.

Under the Fair Work Act, employees have workplace rights to share or not share information about:

- their pay
- their employment terms and conditions that would be needed to work out their pay, such as their hours of work.

They also have the right to ask other employees (with the same or a different employer) about:

- their pay
- their employment terms and conditions that would be needed to work out their pay, such as their hours of work.

Employees can't be forced to give this information to another employee if they don't want to.

Employers can't take [adverse action](#) against an existing or future employee either:

- because of these rights, or
- to prevent an existing or future employee from exercising these rights.

For more information about these rights, including when these rights started applying and who they apply to, see [Prohibiting pay secrecy](https://www.fairwork.gov.au/pay-secrecy) at fairwork.gov.au/pay-secrecy

Anti-discrimination laws

Various state, territory and federal anti-discrimination laws makes it unlawful for an employer to discriminate on the grounds of gender about the terms and conditions of employment offered or provided to employees (which includes pay and other benefits).

It's also unlawful under the Fair Work Act to discriminate on other grounds, including the basis of sex, sexual orientation, breastfeeding, gender identity, intersex status, marital status, family or carer's responsibilities and pregnancy. For more information about what is protected from discrimination, visit [Protections at work](https://www.fairwork.gov.au/protections) at fairwork.gov.au/protections

You can also complete our free [Diversity and discrimination online course](https://www.fairwork.gov.au/learning) at fairwork.gov.au/learning

Equal remuneration orders

Under the Fair Work Act, the Fair Work Commission can make an equal remuneration order, which requires certain employees be given equal remuneration for work of equal or comparable value.

An application for an equal remuneration order can be made by:

- an affected employee
- a union representing an employee
- the Sex Discrimination Commissioner.

The Commission also make an equal remuneration order on its own initiative.

There are rules about what the Commission can, should, or should not take into account when considering whether to make an equal remuneration order. Once an equal remuneration order has been made, it will overrule a modern award, an enterprise agreement, a Fair Work Commission order or any other industrial instrument if its terms leave the affected employee better off overall.

Visit the [Fair Work Commission's website](https://www.fwc.gov.au) at fwc.gov.au for further information on equal remuneration orders.

An employer that contravenes an equal remuneration order can be liable for a penalty.

Using best practice to support gender pay equity

Best practice doesn't look the same for all employers. The way to achieve best practice will vary because of things like the number of employees, industry and the business environment.

Below are initiatives and suggestions that can help you move your business towards best practice.

Recognise inequality

Understanding and recognising inequality is the first step. There are 3 types of gender pay inequity typically seen in businesses:

1. **Like-for-like pay gaps** between employees who do work of equal or comparable value (comparing job-to-job at the same performance standard).



CASE STUDY – like-for-like

Alana and Steven both apply for sales positions at the same company. They have similar levels of experience and past sales performance. Steven is successful and obtains a full-time position. Alana wants to work part-time and is successful for a part-time position. The company has decided to pay Alana a part-time salary at a lesser rate meaning if Alana was working full-time, she would be earning less than Steven.

This is gender pay inequality – Alana is earning less per hour than Steven, even though she’s performing the same work at the same standard.

2. **By-level pay gaps** between women and men who do the same or comparable work (comparing responsibilities, typically the same level in the organisation hierarchy).



CASE STUDY – by-level

Johan, a geologist, and Maya, an engineer, both studied 3-year university degrees and have worked 5 years in their respective fields. They’ve recently been employed by the same mining company.

Maya manages 5 engineers. Johan manages 5 geologists. Looking at the skills, effort, responsibility and working conditions involved, their work involves comparable skills and responsibilities. However, Johan is paid a higher salary than Maya.

This could be an example of gender pay inequity, as Johan and Maya have similar skills and experience, are performing work of comparable value but are receiving different pay.

NOTE: There may be a valid reason for the difference in remuneration. This includes factors that are unaffected by gender (such as labour market supply and demand for geologists compared to engineers) and differences in industry working conditions (such as remote work).

3. **Organisation-wide pay gaps** is the difference between the average remuneration of women and the average remuneration of men across the organisation.



CASE STUDY – organisation-wide

Lauren is a sales associate at a real estate company. While the majority of people in the company have similar qualifications and experience, men are more readily promoted and are in higher-paid management roles. Women and gender-diverse people in the company are often overlooked for training and promotion, with many remaining in lower-paid support roles.

The owner of the real estate company may be influenced by unconscious biases and gender stereotypes. The biases and stereotypes may be about women who want to start a family in the future, are pregnant, work part-time or have recently returned from maternity leave. These have led to women missing out on opportunities for promotion, being excluded from training and development or not taking on leadership roles.

Review pay data and practices

Employers with less than 100 employees who want to adopt best practice should review their business pay data and practices.

WGEA recommends:

- creating a list of all employees and their annualised full-time equivalent remuneration amounts in an Excel spreadsheet
- sorting the employees in the spreadsheet in order of remuneration (for example, highest to lowest remuneration)
- comparing the salary of employees in the same or comparable roles
- where there are differences, consider whether this is related to an employee's gender.

Discretionary pay practices like bonuses or fixing market-based starting salaries, can lead to inequitable pay differences. When setting these pay amounts think about whether the outcomes for men are better than for women (and vice versa). There might be some unintended bias in these decisions.



PRACTICAL TIP: WGEA provides a range of information and resources relating to [equal pay for women and men](#). These can be found on their website at www.wgea.gov.au

Address any issues

If you've identified gender pay differences you should address this by:

1. correcting the pay differences in a one-off adjustment, by increasing the wage rates of the lower paid worker
2. identify the underlying cause of the pay difference – for example, was it because you relied too much on the negotiating power of the individual concerned? Is it a systematic failure to properly value a particular role?
3. Address the underlying cause of the pay difference. This may involve training, reviewing policies, introduction of position descriptions or classifying wage levels.



CASE STUDY – pay review

A medium-sized technology company addresses the gender pay gap with annual pay reviews. These are conducted by a panel who investigate and adjust salaries to ensure equality.

Introduce initiatives to improve gender equality

As well as meeting their obligations under legislation, best practice employers introduce initiatives that respond to the specific needs of their workplace. These employers identify areas where equal opportunity can be improved and implement policies and practices to achieve this.

For example, a best practice business might:

- put transparent remuneration policies and practices in place
- recognise and value skills within their business
- provide flexible work arrangements (such as part-time work and flexible hours) to encourage more women into the business
- make sure employees on flexible work arrangements have access to meaningful and quality work. This includes the same benefits, training and promotional opportunities as other employees
- support women to return to work after parental leave and take steps to minimise disruption to their career progress
- provide flexible parental leave to the carer of a child, regardless of gender
- conduct an annual gender pay equity audit. If there are any issues or areas that can be improved they would seek to address and eliminate them
- review overtime and shift arrangements to make sure access is provided equally to male and female employees. For example, a business shouldn't assume women don't want to work overtime or night shifts
- strive to meet the requirements of a [WGEA Employer of Choice citation](#). Relevant employers can apply for the WGEA Employer of Choice for Gender Equality citation if they are compliant with the Workplace Gender Equality Act 2012 and meet all criteria, which includes conducting a gender pay gap analysis each year. Employers who are either not eligible to apply or who do not currently meet all the criteria, can still strive to meet the requirements of the citation. Go to wgea.gov.au/employer-choice-gender-equality/applying-eocge-citation for more information.



PRACTICAL TIP: Find out more about flexibility and balance in the workplace with our [Flexible working arrangements Best Practice Guide](#) available at fairwork.gov.au/bestpracticeguides, and our free [Workplace flexibility online course](#) available at fairwork.gov.au/learning

Monitor and review

Once you've addressed any issues and implemented initiatives, continually monitor and review pay practices that can lead to gender-based pay inequities. This analysis should occur at least once a year.

Other times to consider gender pay differences include when:

- hiring new staff. Is a new employee paid more or less than others doing the same job? Are they expected to perform at a different level to your existing employees?
- allocating bonuses and pay-rises.

When doing a pay review look at gender specific aspects of pay and the different roles within your organisation. Determine if you have any gaps so you can fix them.



PRACTICAL TIP: Our free [Record-keeping and pay slips course](#) is a great way to help you stay on top of the salary and benefits information you need to record in your business. Visit fairwork.gov.au/learning



CASE STUDY – identify and maintain pay equity

A telecommunications company fixed like-for-like pay gaps by analysing employee duties and introducing initiatives to improve gender equality. Placing strong governance around salary decision-making became an important aspect of the company's strategy to maintain pay equity.



Best practice checklist

Gender equality and pay equity are separate but related. Improvements in one should lead to improvements in the other.

A best practice workplace involves more than just understanding and complying with the law. This checklist will help you work towards best practice in your business:

1. **flexible work arrangements** – providing flexible work arrangements will help all employees manage work-life balance, and improve opportunities for progression and career satisfaction. For more information see our [Flexible working arrangements Best Practice Guide](#) available from fairwork.gov.au/bestpracticeguides
2. **gender balance** – consider gender balance within different roles, leadership and business areas. Where does your business have the greatest imbalance between genders? What are the reasons for this? What can you do to even this out?

3. **recruitment and promotion** – consider skills, experience and qualities that are most relevant to the role. Focus on these, rather than a stereotype of the person who would normally do the job
4. **talent pipeline** – tomorrow’s leaders often come from people already in the business. Try to ensure there’s a gender mix in the people identified for future progression and leadership
5. **parental leave** – consider steps to minimise the disruption parental leave can cause to a person’s career progress. For tips and strategies see our [Parental leave Best Practice Guide](#) available from fairwork.gov.au/bestpracticeguides
6. **Employer of Choice for gender equality** – relevant employers can apply for the WGEA Employer of Choice for Gender Equality citation

Links and resources

Resources

1. WGEA provides a range of information and resources addressing [gender pay equality](#). Visit wgea.gov.au
2. The Australian Human Rights Commission has a fact sheet on [Gender equality in Australia](#). Visit humanrights.gov.au
3. Our [Online learning centre](#) has a free training course on Diversity and discrimination. Visit fairwork.gov.au/learning
4. Our page on [Protection from discrimination at work](#) explains the legal basis of discrimination laws. Visit fairwork.gov.au/protections

Links

Fair Work Commission

fwc.gov.au

Workplace Gender Equality Agency

wgea.gov.au

Australian Human Rights Commission

humanrights.gov.au

State & territory anti-discrimination bodies

1. Australian Capital Territory Human Rights Commission
hrc.act.gov.au
2. New South Wales Anti-Discrimination Board
lawlink.nsw.gov.au/adb
3. Northern Territory Anti-Discrimination Commission
adc.nt.gov.au
4. Anti-Discrimination Commission Queensland
adcq.qld.gov.au
5. South Australian Equal Opportunity Commission
eoc.sa.gov.au
6. Tasmanian Office of the Anti-Discrimination Commissioner
antidiscrimination.tas.gov.au
7. Western Australian Equal Opportunity Commission
eoc.wa.gov.au
8. Victorian Equal Opportunity & Human Rights Commission
equalopportunitycommission.vic.gov.au

CONTACT US

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: **13 36 77**. Ask for the Fair Work Infoline **13 13 94**

Speak & Listen: **1300 555 727**. Ask for the Fair Work Infoline **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

Last updated: January 2023
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