

Closing the gap:

Does transparency hold
the key to unlocking
pay equality?

A Fawcett Society
think piece for the
Gender Equality Forum

Rowena Lewis and Sharon Smee, November 2009

Equal pay for work of equal value – regardless of gender, ethnicity, sexuality, disability or age - is the signifier issue for workplace equality. We have the power to unlock pay inequalities and only then will we hold the key to women's full participation in the UK workplace.

Fawcett proposes a radical transformation in the UK approach to pay. Transfer the onus from the individual onto the employer with full pay audits and in doing so, you equip employers with the tools to become bastions of equal pay, driving forward a positive future for women's equality in the UK workplace.

Nearly forty years on from the introduction of the Equal Pay Act, the gap between women and men's pay is a persistent thorn in the side of workplace equality. The time to act is now.

Could transparency hold the key to unlocking pay equality?

The 40th anniversary of the Equal Pay Act is fast approaching. Hailed as groundbreaking legislation in 1970, the Act enshrines the right of women, and men, to equal pay for equal work.

Nearly forty years on, there is little cause for celebration. In 2009, the UK gender pay gap has reduced from 17.1% to 16.4%. However, the pay gap persists and rises to an astonishing 55% in the financial services industry.¹ Can we afford to tolerate the implication that women are worth half the value of their male counterparts? Or are we prepared to explore new and progressive measures for concrete action that promises to bring to fruition the ethos of the original Equal Pay Act?

Put quite simply, isn't it time we got tough on transparency?

The UK workplace harbours a culture of secrecy around pay that stands at odds with a legislative framework where the onus is on the individual to seek redress. In Sweden and Quebec, pay equity legislation has revolutionised the workplace with a culture of transparency that has empowered employers to not only expose, but tackle pay inequalities head on, resulting in a reduction of gender pay gaps.

Whilst the proposed Equality Bill goes some way to acknowledge the imperative for transparency, the realisation must dawn that nothing short of a transformation of UK pay legislation and employer practice will bring us closer to equal pay.

Many progressive UK employers are already performing full pay audits voluntarily. We have the opportunity to entrust employers with the power to take action and assume the role of guardians of equal pay, driving forward a positive future for women's equality in the UK workplace. So why are we faced with continued resistance towards a consistently applied and transparent reporting mechanism on pay?

¹ Equality and Human Rights Commission, *Financial Services Inquiry*, 2009

A snapshot of gender and pay in the UK workforce

The gender pay gap, 2009

16.4% for full-time work

35% for part-time work²

£16.07 Men's mean hourly earnings (full-time)

Women's mean hourly earnings (full-time) **£13.43**

£10.40 Women's mean hourly earnings (part-time)³

In the financial services sector the gender pay gap rises to three times that of the economy as a whole, at 55% for full-time employees.⁴

The diversity of women's pay inequality, 2008⁵

All ethnic minority women experience pay gaps relative to White British men. Pakistani women can expect to be paid 26% less, Black Caribbean women are paid 14% less, and Chinese women 9% less

Indian women are paid 18% less than Indian men

Disabled women have a pay gap of 22% relative to non-disabled men

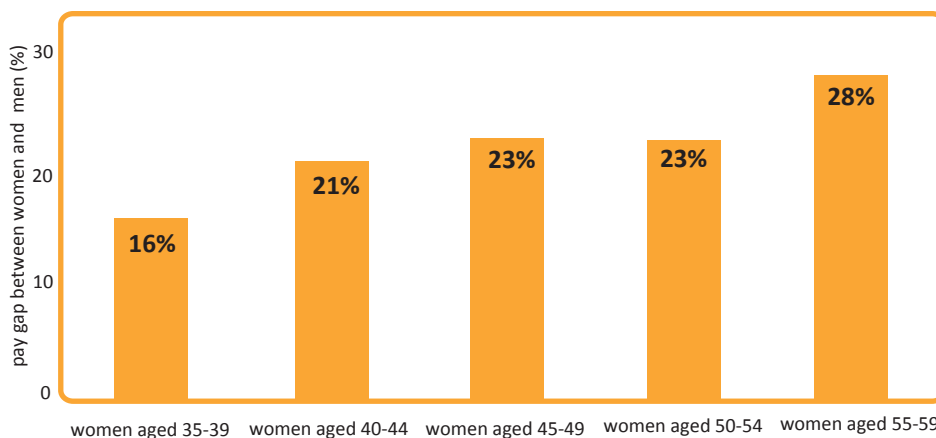
Women of all religious denominations have pay gaps relative to Christian men, and these are highest for Sikh and Muslim women (22%)

On average, disabled men can expect to be paid better not only than disabled women but also than non-disabled women

Data on how lesbian and bisexual women are affected by pay is extremely scarce as none of the UK national datasets used for pay gap analysis identify sexual orientation.

The gender pay gap widens with age, 2008⁶

Women's pay falls behind in their late 30s and from this age onwards they experience substantial pay gaps relative to prime age men (aged 40-44 years).



² Annual Survey of Hours and Earnings, 2009

³ ibid

⁴ Equality and Human Rights Commission, *Financial Services Inquiry*, 2009

⁵ Equality and Human Rights Commission, *Pay Gaps across Equalities Areas, 2008; Pay Gaps across the Equality Strands, 2009*

⁶ ibid

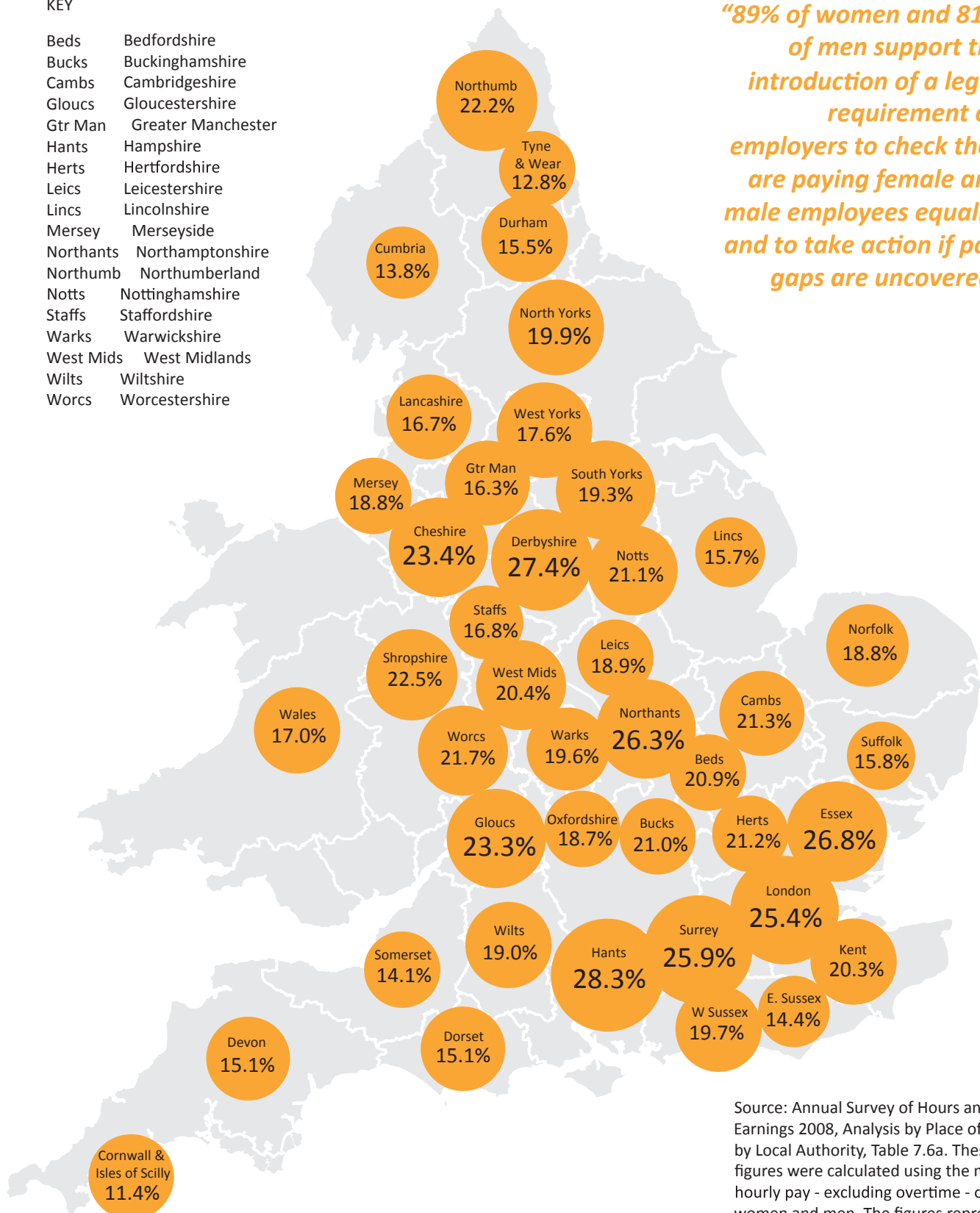
The regional pay gap map, 2008

UK occupational segregation by gender is significantly more pronounced than in other European countries.

KEY

Beds	Bedfordshire
Bucks	Buckinghamshire
Cambs	Cambridgeshire
Gloucs	Gloucestershire
Gtr Man	Greater Manchester
Hants	Hampshire
Herts	Hertfordshire
Leics	Leicestershire
Lincs	Lincolnshire
Mersey	Merseyside
Northants	Northamptonshire
Northumb	Northumberland
Notts	Nottinghamshire
Staffs	Staffordshire
Warks	Warwickshire
West Mids	West Midlands
Wilts	Wiltshire
Worcs	Worcestershire

“89% of women and 81% of men support the introduction of a legal requirement on employers to check they are paying female and male employees equally, and to take action if pay gaps are uncovered.”⁷



Source: Annual Survey of Hours and Earnings 2008, Analysis by Place of work by Local Authority, Table 7.6a. These figures were calculated using the mean hourly pay - excluding overtime - of women and men. The figures represent full-time and part-time pay rates combined.

⁷ Ipsos MORI interviewed a representative sample of 1,055 British adults aged 16+ by telephone between 2nd and 4th October 2009. The interviewees consisted of 438 men and 617 women. Data is weighted to the profile of the population.

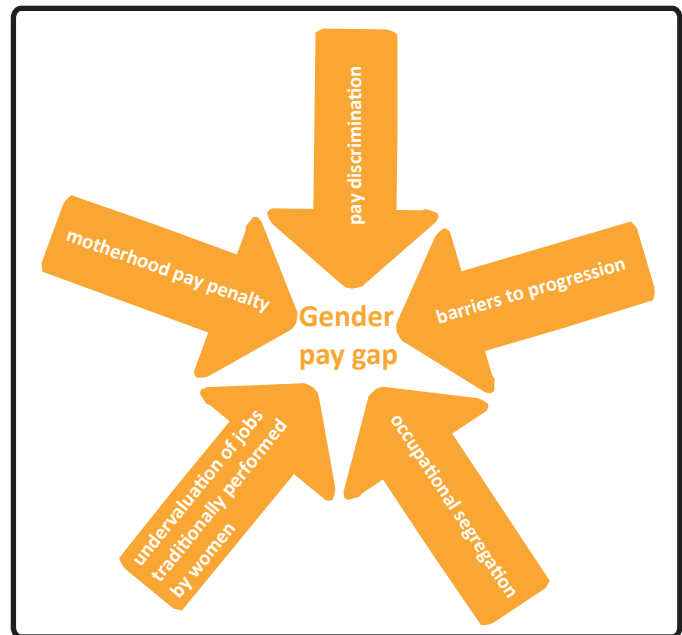
Unpicking the gap

Transparent pay reporting is a prerequisite to unpicking the converging factors that contribute to what is now an ingrained culture of pay inequality, and to developing a foolproof strategy to address the different interrelated causes of the pay gap. Transparency to build knowledge of the complexity of factors that contribute to the gap is all the more relevant where gender meets other equality strands such as ethnicity, sexuality, disability and age.

Converging causes

Despite the outlawing of pay discrimination in 1970, today discrimination remains a significant contributing factor. Statistical analysis of the pay gap has revealed that direct discrimination together with different labour market preferences and motivations (some of which will be attributable to indirect discrimination) represents 38% of the gap between women and men's pay.⁸

It is clear that we will remain ill-equipped to address the gender pay gap without a better understanding of its causes. Transparency is key to unravelling these causes within individual workplaces and removing misconceptions as to whether women and men are being paid equally. Ultimately, what gets measured, gets addressed.



Shrouded in secrecy

Not only is transparency crucial in unpicking the factors that converge to create the gender pay gap, but under the current legislative framework - where the onus is on the individual to seek redress - transparency is pivotal to remedying instances of unequal pay. An individual woman must be able to identify that she is being paid unfairly, before she can even begin to make a claim.

The UK workplace is host to a culture of secrecy around pay that stands at odds with a legislative framework that places the onus on the individual to seek redress. The taboo associated with open discussion of pay is perpetuated by contractual secrecy or 'gagging' clauses prohibiting employees from disclosing information relating to their pay and bonuses with colleagues.

Fawcett welcomes provisions within the proposed Equality Bill to ban such 'gagging' clauses. This measure represents a positive step towards promoting a culture of transparency around pay, and protecting employees from being penalised for discussing pay. But policy is only half the journey, it is then for employers to challenge the culture of workplace secrecy.

⁸ W. Olsen & S. Walby, *Modelling Gender Pay Gaps*, Equal Opportunities Commission, 2004

The evolution of UK pay legislation

The original legislation

The Equal Pay Act of 1970 protects the right of women, and men, to equal pay for equal work. Whilst outlawing pay discrimination, the Act is weak in setting out tangible measures for the elimination of pay inequalities. It lacks a requirement for transparent reporting, and for concrete action on the part of employers to address pay discrepancies, with the onus on the individual employee to evidence pay discrimination in order to seek redress.

Dagenham's Women Workers

In 1968 a group of women machinists at the Ford factory in Dagenham walked out when they discovered that they were being paid 15% less than men for doing the same work stitching seats for Cortinas. After a three-week strike in 1968, the women settled for a deal that brought them to within 8% of male pay. Barbara Castle, Labour's Employment Minister, was present during negotiations, and from firsthand experience of working with the women, was driven to steer the Equal Pay Act past a reluctant Chancellor, unions and employers and into law in 1970.

A new generation

In 2007 we welcomed a new generation of equality legislation in the form of the public sector duties, with the gender equality duty requiring a proactive approach to eliminating historic imbalances including unequal pay. The duty paved the way for greater transparency across the sector, and shifted the onus onto public sector employers to identify and address pay inequalities within its workforce. The impact of this radical new legislation on workplaces such as the University of Sunderland is already apparent.

University of Sunderland⁹

One of the first universities to undertake an equal pay audit, the University of Sunderland embraced the opportunity for increased transparency and now publishes annual reports online. The data reveals that the pay gap has decreased from 20.9% in 2003, when equal pay audits were first performed, to 15.0% in 2009. The university follows the EOC Five Step model, taking action on any gaps that cannot be objectively explained. Here we see that increased transparency when combined with an onus on employers to identify and remedy pay inequalities, can result in a reduced gender pay gap.

The future of legislation

Fawcett welcomes new provisions within the Equality Bill acknowledging the imperative for increased transparency around pay. However the proposed measures as they stand are unlikely to have a significant impact on pay inequalities in business.

Current proposals within the Bill contain a power to require private sector employers with 250 or more employees to report on the gender pay gap in their organisation if there has not been significant voluntary progress by 2013. Of the 4.7 million businesses in the UK, only approximately 6,000 have over 250 employees. As a result, 59% of the private sector workforce would be entirely

⁹ <http://services.sunderland.ac.uk/hr/equalityanddiversity/equalpay/equalpayaudits/>

unaffected by these regulations,¹⁰ and there is no guarantee that the pay reporting metrics adopted will require employers to address pay discrimination once it has been exposed.

Yet for the more progressive of UK private sector employers, pay audits are already a well established practice and are very much on the business agenda. Many have already adopted the EOC model for full pay audits in recognition of its effectiveness in not only exposing unequal pay in the workplace, but also in enabling employers to then take action to address pay discrimination.

“In a 2008 EHRC survey, 94% of employers who had conducted pay audits said that they would do so again.”¹¹

Given that leading employers are voluntarily moving towards a full pay audit model with proven effectiveness, and that the full pay audit model used within the public sector has a demonstrable impact on addressing pay inequalities and closing the gap - why the reluctance to hand the power to UK employers by legislating for full pay audits?

BT Group¹²

BT’s initial pay audit in 1998 revealed a gap largely due to the over-representation of women in lower paid clerical and call centre roles, and men in technical or management roles.

BT’s last pay review in 2008 allocated 0.5% of the pay budget to address equal pay issues with £5.53m spent on 17.8% of employees. The underlying principle was to address employees receiving low pay within a pay range for no justifiable reason and was based on comparison with market rates, rather than base salary.

Learning from International Practice

The UK Government has acknowledged the imperative for increased transparency around pay, and the Equality and Human Rights Commission (EHRC) is leading on consultation to develop pay reporting metrics¹³ that are workable and can be implemented to best effect. In this context, what can we learn from our international counterparts about what works well, and what works less well in practice?

Sweden and the Canadian state of Quebec offer inspiring pay equity legislative frameworks, brought to life by robust enforcement mechanisms that have not only prompted employer action, but have also proved their worth by proactively addressing the gender pay gap.

Equal Pay vs Pay Equity

Equal pay legislation, similar to that currently in place in the UK, places the onus on the employee to file a complaint if they feel they are being unfairly compensated. Pay equity on the other hand requires the employer to take proactive steps to identify and redress discriminatory pay gaps.

¹⁰ www.berr.gov.uk

¹¹ Adams et al, *Equal Pay Review Survey 2008*, IFF Research for the EHRC, p.41

¹² BT HR Employee Communications, 2007

¹³ <http://www.equalityhumanrights.com/fairer-britain/gender-pay-reporting/>

Transfer the onus to close the gap

In Quebec, the pay gap has closed by 2.2% between 1997 and 2004. The Pay Equity Act 1996 applies to public and private sector employers with 10 or more employees, with obligations increasing with the size of the employer. For example, employers with 50 or more employees are required to produce pay equity plans to address pay inequalities uncovered.

Sweden¹⁴

In Sweden, pay equity legislation which was first introduced in 1991 requires all organisations with 25 or more employees to carry out three yearly pay equality action plans. A review of pay audits between 2001 and 2005 revealed pay adjustments for 11% of employers. Sweden now boasts a pay gap of just 3% for women working in male dominated professions - negligible in comparison with the EHRC's recent findings of a gap of up to 55% for women and men in the UK financial services sector.

Legislation in both Sweden and Quebec stipulates how job classes are to be evaluated and defined. This is essential to ensure that women and men are paid equally not merely for doing the same job, or jobs with the same title, but also for doing work of equal value.

In both Sweden and Quebec, reluctance from small employers to comply with pay equity legislation has been noted. In Sweden, an Equalities Ombudsman is in place demonstrating a significant investment in enforcing compliance. In contrast, Quebec lacks a well-funded independent regulatory body, and despite the closing of the pay gap by 2.2%, in 2006, only 44% of small businesses and 56% of large businesses had completed pay equity plans.¹⁵

High ambitions, limited results

From France we learn of the limitations of mandatory pay equity legislation without the backing of a clear methodological framework, objectives and an overseeing enforcement body.

France, like Sweden, is one of the few European countries to have adopted compulsory pay equity legislation.¹⁶ Organisations with 50 or more employees are required to negotiate agreements on equality at work with social partners and submit an annual report including information on pay range, average monthly pay, and number of women in highest paid positions.

Legislation was introduced in 2001 with the ambitious aim of eliminating the gender pay gap by December 2010. Results have been limited – the gender pay gap in France has fluctuated around 20% since 1997.¹⁷ In 2004 a study found that 72% of businesses surveyed had never carried out the bargaining process and many were not even aware of the 2001 Act.¹⁸ Clearly there is a significant gap between progressive policy and its subsequent translation into practice.

The ambitions expressed through policy are undermined by the absence of understanding and take-up. In contrast, in Sweden, organisations are provided with a clearly laid out methodological framework to pay equity procedures and the Swedish Equalities Ombudsman supports businesses to understand the policy setting and oversees compliance.

¹⁴ <http://www.sweden.se/eng/Home/Work-live/Equality/Equal-Opportunities/Closing-the-pay-gap--an-uphill-struggle/> 07/10/09; Equality and Human Rights Commission, *Financial Services Inquiry*, 2009

¹⁵ Côté and Lassonde, *Status report on pay equity in Canada*, National Association of Women and the Law, Quebec, June 2007, p. 8

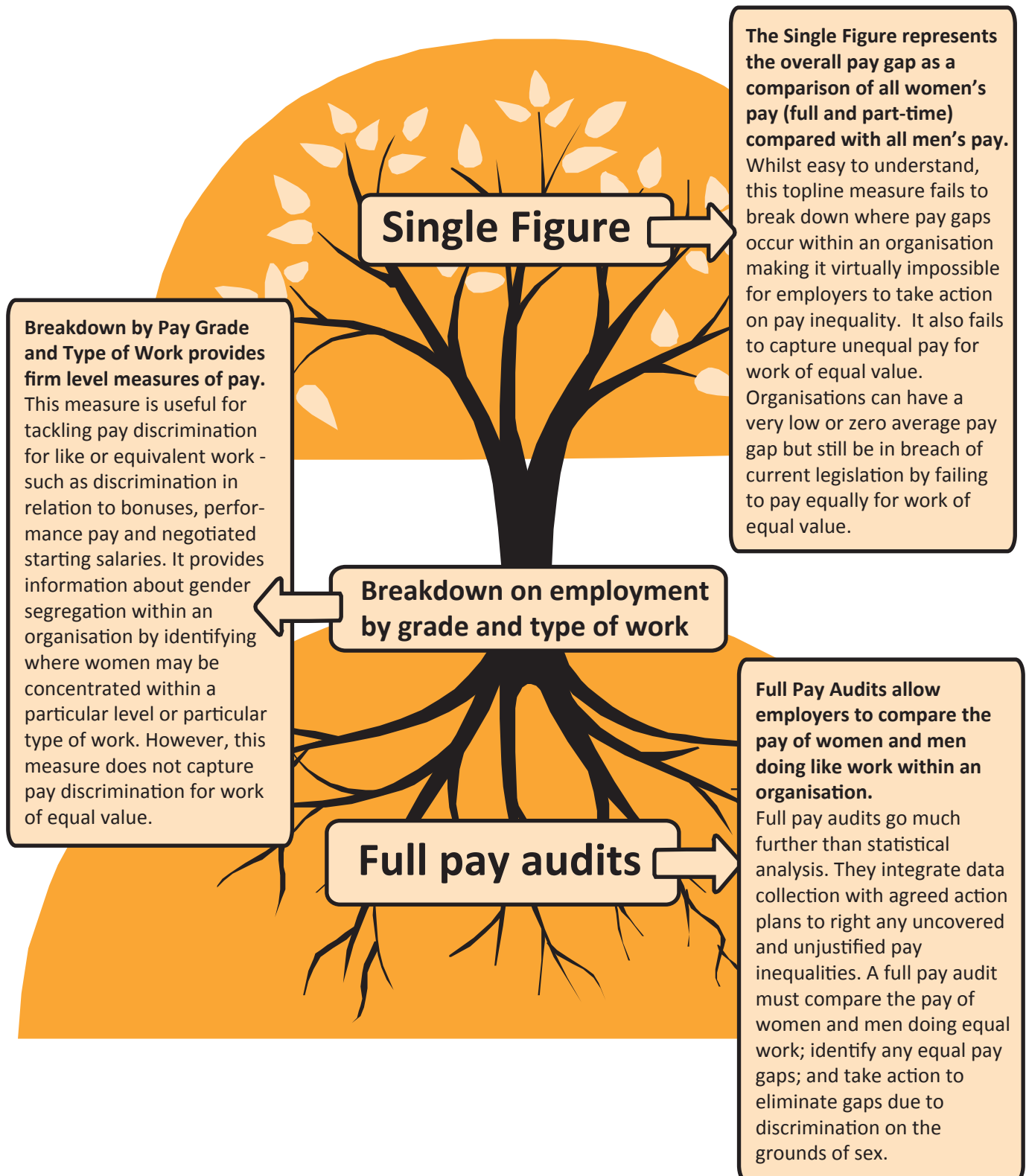
¹⁶ Occupational Equality between Men and Women Act, 2001

¹⁷ Service des Droits des Femmes et de l'Égalité, *Chiffres clés*, 2009

¹⁸ Côté and Lassonde, p. 8

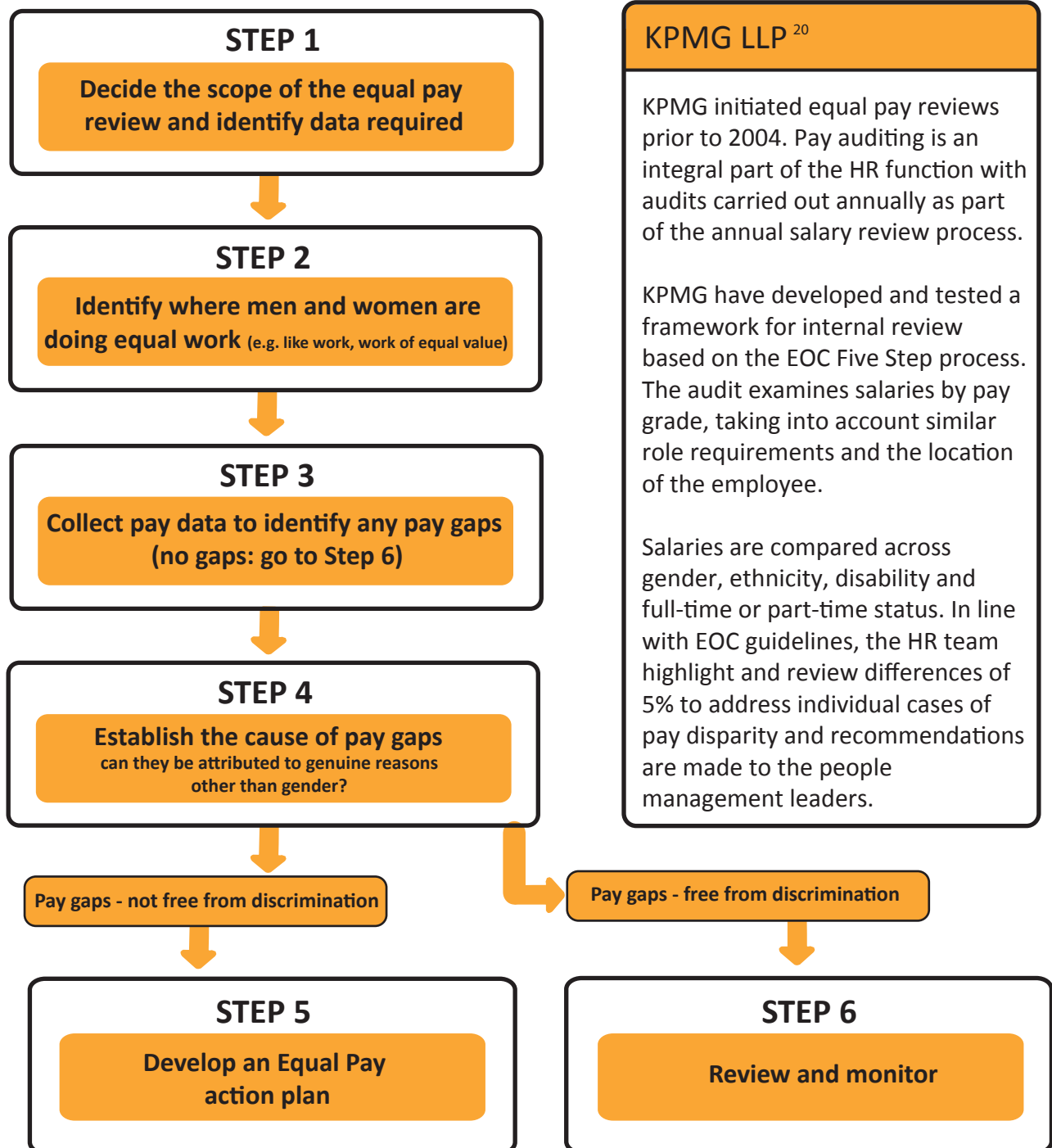
What are the options for measuring pay?

Here we outline three key measures along the pay reporting spectrum and an analysis of the pros and cons of each approach.



The Five Step Model

We have seen that full pay audits provide not only a robust measurement of pay, but that they ensure that the employer takes action to address any unjustified pay inequalities. Several leading UK employers are already performing full pay audits based on the Equal Opportunities Commission Five Step Model.¹⁹



¹⁹ Diagram adapted from previous Equal Opportunities Commission Equal Pay Toolkit

²⁰ KPMG, 2009

Costs and Benefits of Full Pay Audits

A dearth of information on the costs of performing equal pay audits makes for a relatively uninformed argument for or against full pay audits on the basis of cost alone. What we can confirm is that where pay audits are performed they are often delivered as an integrated function of people management. Comparative data from Quebec indicates that the per capita costs decline with greater employee numbers, which appears to sustain Quebec's graduated approach to compliance around pay audits which sees an increase in responsibility for larger businesses.

Costs	Benefits
Information on the costs is sparse due in part to the fact that many employers have integrated pay audits into annual salary reviews. Just 34% of EHRC surveyed employers use external consultants to deliver pay audits ²¹	Streamlining of pay grading and reward systems meaning greater efficiency in pay practice and providing a long term management tool Positive impact on employee morale and loyalty Impact on retention and attracting employees from a growing pool of talent looking at the way an organisation runs its business Demonstrates employer best practice
Costs decline the larger the number of employees, making for higher expenses for small businesses (<100 employees) ²²	Performance of equal pay audits protects employers from the risk of incurring high costs through equal pay claims including legal costs, internal resources, any award made by the tribunal and a decline in productivity
Perceived risk of equal pay actions/class actions	Businesses are likely to avoid equal pay/class actions as seen in the public sector. The very different pay structure of the private sectors makes claims by entire grades of workers unlikely to be repeated

²¹ Adams et al, *Equal Pay Review Survey 2008*, IFF Research for the EHRC, p. 42

²² Per capita costs of delivering pay audits in Quebec; ORHRI Survey 2007, http://www.orhri.org/communique/2007-2008/20080220_CROP_equite_salariale_en_annexe.htm, accessed 27/10/09

Conclusions

Proposed measures in the Equality Bill are a welcome acknowledgment of the imperative for transparency around pay. But will these measures be tough enough to expose the complexity of contributing factors to the pay gap, and do they promise to equip employers with the tools to take concrete action to tackle pay inequality head on?

In October 2009 we learnt that the UK has once again slipped down the international league table for gender equality, where countries are benchmarked against fair pay amongst other indicators.²³ Far from being a reason for pride amongst UK employers, pay is fast becoming a thorn in our side. So long as pay discrimination persists, our capacity to progress women's full participation in the UK workforce through a myriad of inspirational and innovative gender diversity initiatives will be undermined.

We have seen how in Sweden and Quebec, as well as domestically within the public sector, increased transparency in pay reporting, combined with an onus on the employer to remedy identified pay discrepancies, can achieve impressive results. We must now acknowledge the imperative for a transformative approach which transfers the onus from employees to employers, and compels workplaces to shine a spotlight on pay within their workforce.

It is time for the UK to get tough on transparency.

The time has come for more radical action to tackle the gender pay gap. We have the opportunity to offer the key to unlocking equality in the workplace to the same UK employers that have driven some of the most progressive initiatives to attract and retain the best of female talent. Is the future one where the workplaces become one of the guardians of gender equality? Where the employer is supported to take a headline role in bringing the original 1970 Act to fruition in the 21st century?

The UK need not reside in a vicious cycle. The downward spiral in pay equality is not inevitable. Nearly 40 years on from the sterling efforts of Barbara Castle and the women of Dagenham, Fawcett asks: can we afford to dismiss calls for more robust transparency measures?

²³ World Economic Forum, from 9th position in 2006 to 15th position in 2009

