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# Pay equity: awards and enterprise agreements

Many employers state that because an award or enterprise bargaining agreement (EBA) sets employees' wages in their organisation, there is no need to do a payroll analysis. However, there are a number of reasons why gender pay gaps may arise, even when pay structures are set using awards or EBAs as the primary basis for determining pay. This briefing note provides an overview of the key pay equity issues organisations should consider if they have a large number of employees on awards and / or enterprise agreements.

## What is pay equity?

Pay equity is achieved when women and men receive equal pay for work of equal or comparable value. This means that women and men performing the same role at the same performance standard are paid the same amount. It also means that women and men performing different work of equal or comparable value are paid equitably.

There are different types of gender pay gaps within organisations:

- Like-for-like gaps: pay gaps between women and men undertaking work of equal or comparable value (comparing jobs at the same performance standard), for example, comparing two senior engineers in the same organisation.
- By-level gaps: pay gaps between women and men doing the same or comparable work (comparing responsibilities, typically the same level in the organisational hierarchy), for example, comparing individuals within groupings of levels such as Key Management Personnel, managers, professionals.
- Organisation-wide (or department-wide): the difference between the average remuneration of women and the average remuneration of men across the whole organisation (or department).

Unintended gender biases in hiring, promotion, performance and pay decisions lead to incidences of pay inequity in almost every organisation. Undertaking a gender pay gap analysis can paint a valuable picture of your organisation and highlight gaps that award remuneration structures do not necessarily avoid.

## Can gender pay gaps arise if employees are on awards or enterprise bargaining agreements (EBAs)?

### Setting wages using awards or EBA

- Setting wages through awards: employers can use awards to set minimum wages and conditions for employees. There are 122 awards that cover most people working in Australia. Employees under the same award are typically paid the same. Some awards do, however, have a wage range and therefore discretion can be applied at the time of setting wages<sup>1</sup>. Any discretion in the wage setting process is

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<sup>1</sup> For example, Labour Market Assistance Industry Award 2010, Higher Education Industry – Academic Staff – Award 2010, Higher Education Industry – General Staff – Award 2010, Health Professionals and Support Services Award 2010.

potentially open to gender bias. It is also important to note that a business can be covered by more than one award depending on the jobs the employees do.

- Setting wages through EBAs: the wages and conditions of employees covered by an EBA are normally adhered to strictly, which results in consistent application of pay across groups of employees, including gender.

## **How can gender pay gaps arise when employees are on awards or covered by an EBA?**

When pay is set by federal or state industrial authorities, there is a more equal distribution of pay between women and men than when it is set by agreements made collectively between employees and their employer, or by individual agreement with the employer. Although employees covered by an award or an EBA receive the same pay, there are a number of reasons why all three types of gender pay gaps may arise.

### **Like-for-like gender pay gaps**

Like-for-like gender pay gaps should not typically arise if employees are on the same award or agreement. However, some award structures include a wage range for a job grade, which enables different levels of pay at the same grade. Employees may also be receiving unequal access to additional benefits such as overtime, allowances and other benefits. Like-for-like gender pay gaps may also arise if the job size has changed since the original classification of the job or if there is an element of performance based pay, where gender bias may creep in to the performance rating process.

### **By-level gender pay gaps**

By-level gender pay gaps may arise if men and women progress through the employment grades or levels at different rates, which may arise from gender bias in the promotion or progression process.

By-level gaps may also arise from employees being on different awards and agreements within the one organisation, where there is an undervaluation of the work that is typically female dominated. This undervaluation of women's skills reflects the history of the development of women's work, our social expectations of women and men, and Australia's industrial system. Various NSW and Queensland equal pay cases have illustrated how the under-valuation and under-payment of women's work was due to a range of factors. These included inappropriate classification of jobs in the award and pay systems and under-recognition of the qualifications needed to do them.

The negotiation process at the time of setting an EBA can also play a role in by-level pay inequities. This can result from fewer women being represented among negotiators and trade-offs being made against other claims or working conditions.

### **Organisation-wide gaps**

An organisation-wide gap may arise if there is a dominance of one gender over another in the organisation. For example, significantly more men in supervisory levels, or at higher paid levels, may lead to higher average salaries for men.

## **What actions can be taken to ensure pay equity for employees on awards or EBAs?**

To ensure equal remuneration between women and men, it is important that organisations take relevant action. This also applies to organisations with employees on awards or EBAs.

### **Conduct a regular payroll analysis**

The critical step to address and improve pay equity in your organisation is to review the data and understand what is driving any gender pay gaps. It is important to do this even if your organisation sets wages using awards or enterprise agreements. The more detailed your analysis, the more you will be able to tailor a strategy and action plan to address your organisation's specific issues. Your data analysis may uncover the different types of pay gaps.

## Review the causes of any gaps identified

- When was the last time a review of the pay structure and progression rules in your EBA was undertaken?
- If a role has grown and changed, is the current award or EBA pay structure still applicable?
- Are all employees covered by an award or EBA? If not, how are these employees remunerated, and has a pay equity analysis been conducted on this group?
- Are there multiple awards or EBAs in your organisation? Are different employee groups dominated by men or women? Can you be sure no bias has influenced the classification of these roles into the different awards or agreements?
- Do any employees receive remuneration in addition to what is agreed in the relevant agreement or modern award? How is this remuneration decided? Is the decision process free of gender bias?
- Are there other benefits available to workers outside the award wage or agreement? Are these available to all employees? What is the process for identifying which workers can obtain these benefits? Is this free of gender bias?

## Review the process for matching jobs to award classifications

Employers who set wages using awards and EBAs typically match jobs within the organisation to awards classifications. In order to ensure job/award matching is accurate, employers need to have a detailed job description covering duties, skills and responsibilities. This should include how the job fits with others and contribution to the organisational outcomes. An employer may need to match more than one award to cover workers within their organisation.

Organisations should perform regular reviews of award classifications matched to jobs to ensure the most appropriate awards are being used. In this process consider:

- involving more than one person in the process to ensure transparency
- documenting decisions made and reasons, this helps consistency, particularly when the fit is not obvious
- supplementing generic award descriptors with organisation specific classifications or policies
- using a specific and analytical evaluation process to match unusual jobs
- informing employees of classification decisions
- allowing room for feedback to promote confidence around decisions
- reviewing remuneration outcomes of classifications by gender in case any gender-related assumptions emerge about the nature and value of a particular job.

Job information should be current and agreed to by the job-holder and manager. Job matching should be done by assessing the requirements of the job, not by job title. All elements of the classification description need to be compared with elements in the job description.

## Gender equality in the EBA bargaining process

The bargaining process can contribute to or inhibit gender pay equity. During EBA negotiations consider the following:

- ensure women are represented among negotiators
- during negotiations consider leave, flexibility, childcare, training, job design and career development
- assess whether there should be more and higher levels in classifications in female dominated jobs
- review the number of salary advancement steps within a job band / grade of male and female dominated roles for consistency
- explore options for increasing hours and opportunities for part-timers

## Review the performance management system

If your organisation uses a formal performance evaluation process to determine advancement to the next salary level, review this to ensure no gender bias exists in the allocation of performance ratings, promotions and progression.

## **Raise awareness and train employees**

Provide training and guidance around pay equity and performing unbiased performance evaluations to those involved in determining pay and performance review outcomes.

## **More information**

For more information on how to address gender pay equity, visit our website

<https://www.wgea.gov.au/addressing-pay-equity/improving-pay-equity>

Additional resources can be found at the Fair Work Ombudsman website

<http://www.fairwork.gov.au/Pay/minimum-wages>

Equal remuneration decision on gender bias in award

<https://www.fwc.gov.au/documents/decisionssigned/html/2012fwafb1000.htm>