

## Equality Bill – a new facelift?

December 2009

The Equality Bill, due to come into force in October 2010, will at last harmonise and strengthen discrimination law. The new Bill will unify discrimination legislation which has developed piecemeal over the last 30 years, resulting in disparate definitions and interpretations of unlawful discrimination. However, even though we are some time away, the proposals will have far-reaching implications, and employers need to start thinking about what those implications will mean for them.

### Public procurement

Clients have already reported changes in questions posed in tenders and are asking how to respond? Such questions are wide ranging; relating to equal opportunities policies, training, discrimination complaints, claims, questionnaires and diversity statistics for employees and directors. A wrong answer can bring a pitch to a halt.

The question is whether tenders will become process driven or will actually operate to improve diversity in the workplace. The idea is to introduce this concept into the private procurement process too. The best way to maximise scoring in diversity is to have up-to-date and active equal opportunities policies and well trained managers and decision makers.

### Dealing with the gender pay gap

Despite the Equal Pay Act (the EPA) of 1970, a significant gender pay gap remains. The Equality and Human Rights

Commission (the EHRC) recently carried out the “Employment and Earnings in the Finance Sector; a gender analysis” survey. Between 2003 and 2008, 51% of the 1.3 million jobs in the UK finance sector were held by women. The basic salary gender pay gap between women and men was 39%, rising to 47% for annual total earnings. On average, women received significantly lower (more than 5%) performance related pay than men in 94% of cases.

The finance sector has one of the highest gender pay gaps. Women working full time in the finance sector earn 55% less annual gross salary than men. This compares to a pay gap of 28% for the rest of the UK economy. The Equality Bill will be used to address the pay disparities in the finance sector, a key part of the UK’s economy.

### Gender pay reporting

The Bill also provides for a power to require large employers (250 employees or more) to report gender pay gap information. This will be a particular concern in the finance sector, as mentioned earlier.

In the consultation process, the Government committed not to use this power unless there is insufficient progress on gender pay gap reporting. The EHRC has commenced consultation on gender pay reporting in the private sector.

The Conservatives meanwhile have committed themselves to introducing

mandatory equal pay audits for employers of any size who lose an equal pay claim.

### **Pay transparency**

In a recent Employment Appeals Tribunal decision it was noted that it is *“a vital component of the City bonus culture that...individuals’ bonuses are not revealed”* and that if employees were able to compare bonuses *“the bonus system would collapse”*.

The Bill will prohibit pay secrecy clauses preventing employees from having “relevant pay discussions” giving women the information from which to make a claim.

One of the intentions of the Bill is to bring pay inequality into the limelight, and therefore employers need to act now to ensure they will not be embarrassed, and subject to legal action, as a result of this transparency.

### **Contact**

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