



# Burges Salmon

## Gender Pay Audit Advisory Service

Employers with 250+ employees will soon be required by law to publish pay data broken down by gender. Publishing data which shows a gender-based pay difference puts the spotlight on pay and may provoke equal pay claims from unhappy workers.

No organisation deliberately sets pay rates based on gender but gender pay differentials can arise unexpectedly and may be hard to spot. This is because workers not only have the right to be paid the same rates for doing the same work but also for doing work deemed to be of the same value. Dinner ladies, gardeners, road sweepers and refuse collectors have all been found to be doing work of equal value although the work they were required to do was very different to their comparators. This is the area where the majority of issues arise.

If any disparity in pay levels between genders is identified, employers need to consider whether there is a material factor that explains the difference in pay (other than the difference in gender). There will be a defence to an equal pay claim if there is. Assessing whether this defence applies can be an important element of a gender pay audit.

In the window of time before publication becomes an obligation, businesses should audit pay levels to identify any potential risks and develop change and ER strategies to manage them. Burges Salmon can help you structure this process, identify any issues of concern and devise a strategy for addressing them and, because our advice is legally privileged, critical documents can be kept confidential.

### Our gender pay audit advisory service: benefits for you

- Our expertise in a complex area of the law
- Benefit from legal privilege – keep audit and reports confidential
- A collaborative approach – we will support you in your audit process
- Training for your team and helpline support
- Expertise in developing an effective employee relations strategy
- Assistance with planning trade union discussions
- Cost certainty – fixed fees based on the agreed level of support.

### Contact

For more information contact Roger Bull or speak to any member of the employment team on 0117 939 2000.



**Roger Bull**

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## How we can help

### Stage 1 - planning and scoping of audit

- Legal analysis of the organisation and its structures/job categories to identify:
  - workers potentially in scope
  - the appropriate audit mechanism
  - potential areas of risk
- Preliminary identification of potential justifications for material factor defence
- Stakeholder briefing

### Stage 2 - briefing your audit team

- Audit team support programme:
  - training on principles of equal pay
  - advice on legally robust differentials and the material factor defence
  - training on maintaining legal advice privilege

### Stage 3 - advising your audit team on data collation and analysis exercise

- Sources of data
- Elements of pay and benefits in scope
- Relevant comparisons
- Helpline support

### Stage 4 - Legal Risk Analysis

- Review data
- Review reasons for any pay differentials
- Prepare Legal Risk Analysis including options for reducing/eliminating risk

### Stage 5 - strategic action planning

- Strategic advice on the development of action plan
- Legal review for robustness and deliverability
- Strategic support in the development of an employee relations strategy (including effective approaches for dealing with recognised trade unions)
- Advice on presentation of data to ensure compliance, appropriate messaging and reduce risk
- Legal sign off

Maintain legal privilege

**Publish gender pay data**