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# Section 1

## Implementing Job Evaluation: A Good Practice Guide for the Police Staff Council

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### A good practice guide for the police staff council

#### Introduction

This Guide is about implementing a job evaluation scheme. It applies whatever scheme is being used. It includes guidance on implementing a computerised job evaluation system, again whatever the underlying job evaluation scheme. It does not cover the pay modelling process, which is a separate and subsequent stage to job evaluation.

The Guide is in two parts. Part 1 sets out good practice on implementing job evaluation based on the relevant statutory provisions, legal decisions and advice from the Equal Opportunities Commission and from practitioners in the field and Part 2 sets out the legal principles which underpin the use of job evaluation systems. A glossary of commonly used terms, references and a further reading list are appended to the document.

Although it is intended as guidance only, forces may wish to review their current practices in the light of the advice contained in the Guide.

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### Part 1: Good Practice for Implementing Job Evaluation

#### 1. Practical First Steps

Implementation of a job evaluation scheme is a major exercise for any organisation as every employee's grading and pay is subject to review. It is therefore good practice to agree some initial practical steps:

(1) **Steering Committee**, a joint group of management and trade unions, to:

- a. Determine the *scope of the exercise* – which employees are to be covered by the exercise and which jobs are to be evaluated (see (2) below).
- b. Agree the *job evaluation scheme* to be used, if not already decided prior to the establishment of the steering committee.
- c. Organise the *logistics* of the exercise, for example, timescales, project management and resources, senior management approval and support, role and support of middle managers, identification of active participants in the exercise, release from normal duties.
- d. Decide on any *external consultancy support* required. This will depend on the scheme to be used and on the availability and competence of internal job evaluation practitioners and project managers. Consideration also needs to be given to the 'ownership' of the exercise.
- e. Ensure *training* for active participants. Training should cover:
  - i. The general principles of job evaluation, so that participants can set the selected scheme against a wider framework
  - ii. The scheme to be used

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- iii. The specific role of those being trained (e.g. as steering committee members, evaluators, job analysts, communicators)
  - iv. Equality issues and the avoidance of bias, so that the exercise is and can be seen to be conducted in accordance with the principle of equality.
- f. Oversee the *communications strategy*. Evaluation exercises can be seriously damaged by poor communications (to the extent of leading to rejection of the resulting grading and pay structure proposals), for example, where employees are not kept informed on the various stages of the exercise, their potential involvement and of progress on each step. Communications strategies can include use of cascade briefings, newsletters, dedicated website location with reference documents and regular updates, help desk, identified communicators. Jointly agreed communications appear to be most effective, but that does not preclude employer or trade union only communications at appropriate points in the process.
- g. *Resolve problems* during the exercise: job evaluation is in one sense a problem solving exercise and there are always practical problems to be resolved, for example, procedures which do not operate as intended, delays in completion of questionnaires.
- h. *Approve the job evaluation outcomes*: it is standard practice for the steering committee to 'sign off' evaluations before they are used in other contexts, generally the development of a grading and pay structure. If steering committee members have any concerns about the evaluations, they can raise queries, but should not normally change evaluation results themselves.

**(2) The Scope of the Exercise:** it is important that the employer and trade unions agree at the outset the scope of the exercise. Decisions about coverage are much assisted by a cross-organisation audit of jobs and jobholders, but even if this is not available, consideration should be given to the principles of the scope of the exercise:

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- a. *Staff to be covered:* the expectation is that a police staff job evaluation exercise will cover all police staff jobs and this will help minimise the risks of successful equal pay claims (see para b below). There may be questions over whether senior management jobs should be included. A decision will also be needed on whether jobs traditionally paid on hourly rates, such as those of cleaners and catering staff, and temporary and casual posts should be included. In all these cases, exclusion raises practical issues of how to deal with jobs close to the relevant boundaries and also increases risks of equal pay claims, especially where the excluded group is predominantly of one gender or the other, as is often the case. In particular, if senior jobs are evaluated under a different job evaluation scheme it will be necessary to equality proof the two schemes by evaluating borderline jobs on both schemes.

There may also be questions over whether to exclude jobs where there are suspected labour market issues and a fear that current salaries will turn out to be higher than evaluated salaries. In this latter situation, best practice from a legal perspective is to evaluate such jobs along with all others and then to consider whether there is a need for market supplements as part of the development of an appropriate pay structure.

- b. *Risks of exclusions:* a job evaluation scheme, if fair and non-discriminatory in both design and implementation, is likely to provide a defence to equal pay claims from individuals covered by the scheme wishing to compare their work with that of others also covered by the scheme. This does not apply to jobs excluded from the scope of the scheme, who could be claimants or comparators in claims to which the job evaluation scheme would not provide a first line defence. Where there are concerns about labour market factors, the job should be evaluated and consideration given at the pay determination stage as to whether a labour market supplement should be paid to bring the evaluated salary into line with market rates.

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- c. *Jobs to be evaluated:* legal decisions suggest that all distinct jobs within the scope of the exercise should be analysed and evaluated, if they are to be covered by the defence to equal pay claims provided by a fair and non-discriminatory job evaluation scheme – see Part 2 for further information. However, in a large organisation individually evaluating every job may not be feasible in practice. Alternatives to individual evaluation of all jobs include evaluations of generic roles, or a factor-based matching procedure. As either of these alternatives probably requires a larger benchmark sample (see (4) below) than where all jobs are to be evaluated, it is important that the decision on jobs to be evaluated is made at an early stage. Again, decision making in this area is likely to be assisted by a cross-organisation audit of jobs.

**(3) Choice of scheme:** the PSC 13-Factor Job Evaluation Scheme was developed by a joint union/employer team, to cover all police staff jobs and to comply with equal value principles and practices. A job evaluation scheme may alternatively be developed in-house, modified from an external supplier's framework or bought 'off the shelf' from an external supplier. It may be paper based or computerised.

Users of alternative schemes should ensure that their schemes equally meet the legal requirements: they can do this by reviewing the design of their scheme against the checklist in the Guidance Note 4 of the EOC's Equal Pay Review Kit [see Appendix 2: References and Further Reading].

Whatever type of scheme is chosen, it must be designed to comply with the requirements of the Equal Pay Act 1970 and be free of sex bias. This means the design of scheme must comply with the following principles:

- a. *The scheme must be analytical.* The Equal Pay Act requires the study to have been done by an analytical method. Analytical schemes are schemes where jobs are broken down into components (i.e. factors) and scores for each component of the job are awarded with a final total giving an overall rank order.

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b. *The factors should be representative of the whole range of work being evaluated.* Factors are clearly identifiable aspects of a job that can be defined and measured, for example, "responsibility for people", "knowledge", "communication skills", "physical demands", "emotional demands", "mental skills" and "initiative". Factors provide the basis for assessing and comparing the relative overall worth of different jobs. Except in very broad terms, there is no standard set of factors that are applicable to all jobs.

Factor choice is crucial since the final rank order of jobs is most heavily affected by the selection of factors. The exclusion of a factor that is important for a job will result in it being undervalued relative to other jobs. EOC guidance is that the scheme should be capable of measuring all significant features of all the jobs to be evaluated. Thus when choosing a job evaluation scheme, it is necessary to ensure that the set of factors on which the scheme is based covers all the important and relevant features of all the jobs to which the scheme is going to be applied. For example, where the jobs to be evaluated include some with significant effort or environmental demands, the scheme should have factors to measure them. If this is not the case, there is risk of equal pay claims based on the omission from the evaluation system of significant features of at least some jobs.

To check whether a scheme factor plan measures all significant demands of jobs either:

i) Analyse job descriptions and person specifications from a sample of typically male and female dominated jobs, listing the main job features and compare them with the scheme factors. If there are job features not covered by factors, consider whether these factors are more common in jobs typically carried out by one gender or the other; or

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ii) Check the scheme factors against a list of factors that favour typically male or female jobs. If the scheme factors favour predominantly one sex, then this may indicate that factors favouring the other sex have been omitted.

*c. Factor levels should represent clear and recognisable steps in demand.* Individual factors often have a number of levels within each factor. Factor levels should reflect significant and measurable differences in levels of demand, which are appropriately reflected in the scoring/weighting systems. In order to avoid sex bias in the number of levels it is necessary to ensure that factors characteristic of 'male' jobs do not have more levels than those factors characteristic of 'female' jobs, if this results in greater scoring opportunities for the 'male' jobs.

*d. The scoring and weighting system must be free of sex bias.* Scoring is the method of attaching values to the various levels within each factor so that a total score for each factor and therefore for the overall job can be calculated. The method of scoring for each factor should be reasonably similar. Factors characteristic of male dominated jobs must not have a wider dispersion of scores than factors characteristic of female dominated jobs.

Weighting may then be applied to factor scores so as to reflect the relative importance of the various factors to the organisation. The weighting system should not introduce bias towards predominantly male or female jobs. This can be checked by comparing the rank order resulting from simply adding up raw scores (one point per level per factor) with that resulting from applying the schemes weighting and scoring systems. If the differences in position in the two rank orders affect jobs of predominantly one sex, then this indicates the introduction of bias through the weighting/scoring system.

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**(4) Identifying Benchmark Jobs:** in all but the smallest organisations, it is good practice to identify a benchmark sample of jobs against which to test both the scheme and associated procedures. There is no right answer to the question about how large the benchmark sample should be. This depends partly on the use of the benchmark (see above) and on the variety of the jobs in the organisation. Benchmark samples in reasonably sized organisations such as police forces are commonly between 50 and 150 jobs. The identification of the benchmark sample should not be controversial. The benchmark sample should be representative in terms of:

- a. Large population and small population jobs;
- b. Male-dominated, female-dominated and gender-mixed jobs;
- c. Jobs at different levels in the organisational hierarchy (which may be indicated by the previous grading structure);
- d. Jobs from different job families (finance, forensic science, divisional administration) and different departments;
- e. Jobs from different geographical locations where this may make a difference in job evaluation terms;
- f. Jobs normally carried out on a full-time basis and jobs usually undertaken part-time.

**(5) Paper-based or computerised:** all that has been said so far and most of what follows applies whether the job evaluation system is paper-based or computerised. A number of the schemes in use for police staff jobs are available in paper-based or computerised versions: at least one comes only in computerised form. The perceived advantages of computerised systems are the saving in resources, both human and paper. The usually quoted advantages of a paper-based system are a greater degree of participation and thus a higher level of ownership of outcomes.

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### 2. Job Information for Evaluation Purposes

The quality of job evaluation outcomes, and thus the credibility of the exercise, depends crucially on the quality of the job information. The phrase 'garbage in, garbage out' is applicable. Experience shows that more problems occur over the quality of the job information than over any other aspect of job evaluation. Good practice indicates the following:

**(1) Up to date and accurate job descriptions:** it is good HR practice to maintain agreed up to date and accurate job descriptions for reasons other than job evaluation (e.g. recruitment, avoidance of grievances over job duties), but they are important also as the foundation for job evaluation. If they do not exist, then an alternative method will be needed to collect job information, for example, a Main Duties section on a Job Description Questionnaire. If a matching process is envisaged, then up to date and accurate job descriptions are essential and should be agreed with job holders and line managers prior to the evaluation exercise.

**(2) Factor-based information:** EOC guidelines recommend that evaluations are undertaken using information relating to each of the scheme factor headings, in order to avoid evaluators making assumptions about some of the job demands. This also leads to more accurate evaluation and fewer subsequent queries and appeals. Factor-based information could be included in the job descriptions, although it is unusual to have information about, for instance, working conditions and physical effort on a contractual job description. The more common approach is a factor-based Job Description Questionnaire as a stand-alone document or to supplement the job description. For efficient evaluation, it is recommended that the Job Description Questionnaire follows a common format and the order of the scheme factors.

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**(3) Use of job analysts/facilitators:** even with thorough briefing of those completing job questionnaires, it is difficult to provide all participants in the process with sufficient information about the scheme to allow them to supply all the required information. Job analysts can be trained in the requirements of the scheme (and in equality issues and the avoidance of bias) and can then assist jobholders and line managers to provide the quantity and quality of information needed for evaluation purposes. Job analysts/facilitators are essential for computerised evaluation and highly recommended for paper-based evaluation. Job analysts can work singly or in joint employer/union pairs. The team of analysts should be as representative as possible of the job population being evaluated, in terms of gender, ethnicity and union or employer background.

Job analysis interviews for completion of a job questionnaire for paper-based evaluation generally consist of the analyst(s) and a representative postholder, together with a union representative and line manager, if this has been agreed locally and subject to their availability. For completion of an on-screen questionnaire for computerised evaluation, it is usual for the line manager to also be in attendance, as there may not be a later opportunity for the line manager to contribute to the information gathering process or to check the information provided.

For both paper-based and computerised evaluation purposes, it is common for the jobholder to complete a questionnaire in draft beforehand, as this makes the interview process more efficient.

**(4) Role of analysts/facilitators:** in most cases the role of the analysts/facilitators is to elicit sufficient information to allow for accurate evaluation (whether computerised or paper-based), but they are not merely passive recipients of the information. They should also be testing the accuracy of the information by asking probing questions, such as how often stated responsibilities are carried out and what they involve.

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**(5) Information for computerised evaluation:** computerised evaluation systems come with their own questionnaires to be completed by the analyst or facilitator during or following interview with the jobholder. However, experience shows that it is helpful if the jobholder has been asked to complete a short job questionnaire in advance of the interview, as this gives the interviewee an idea of the sort of questions they will be asked and also provides the analysts/facilitator with a basis for supplementary and probing questions.

**(6) Signing off job information for job evaluation purposes:** it is good practice for information for job evaluation purposes, whether in job description and/or job questionnaire form, to be signed off as an accurate description of the role by relevant employees in conjunction with their line manager. This provides security for all concerned. If this is not done, there is a risk that an employee will be able to claim that their job is significantly different from the evaluated job and thus outwith the scope of the job evaluation scheme for Equal Pay Act purposes.

**(7) Disputes arising from factual content of job:** although often anticipated, it is very rare in practice for a job holder and line manager to be in dispute about the factual content of a job. However, in the event of a job holder and line manager failing to agree, the matter should be dealt with as a formal grievance through the organisation's grievance procedure, as it is not a job evaluation issue, but an organisational matter. A job cannot be evaluated until any such disagreement is resolved.

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### 3. Evaluation Process

**(1) Paper-based evaluation:** EOC advice is that evaluations should be carried out by a joint management/trade union panel which is representative of the workforce whose jobs are being covered, to ensure good understanding of jobs and their organisational contexts. It is increasingly common practice for evaluation panels to have equal numbers of union and employer representatives. The panel should be trained in the evaluation procedures and the avoidance of bias. If more than one panel is needed to deal with the number of evaluations required, then a proportion of jobs should be evaluated by each panel to check for consistency.

**(2) Computerised evaluation:** one of the major reasons for using a computerised scheme is to avoid the need to convene evaluation panels, which can give rise to logistical difficulties. However, computerised evaluation is heavily dependent on the jobholder and analyst, so needs verification or moderation by a joint, representative and trained panel. Verification is much quicker than evaluation, so the panel can meet once a week or fortnight to review the evaluations undertaken and raise any queries with the analysts/facilitators. The computerised exercise and the verification process in particular, will produce higher quality outcomes if the benchmark sample (see above) of jobs has been evaluated on both the computerised and paper-based versions of the scheme.

**(3) Panel composition and chairing:** depending on available resources, joint management/trade union panels of 4 or 5 members are found to be most efficient, whether for paper-based evaluation or verification of computerised evaluations. The role of the chair is to facilitate discussion, make sure all members have had their say and ensure that records are kept (see below). It is for local discussion and agreement as to whether the chairing is permanent or rotated (for example, between trade union and employer sides or round all panel members).

**(4) Evaluation by consensus:** job evaluation is a consensus exercise. With appropriate training and experience, panels can and do reach agreement on each factor evaluation. Tips for reaching consensus include:

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- a. Panel members should not evaluate their own jobs: there should be local discussion over whether this bar should be extended to subordinate or line manager jobs for panel members.
- b. If consensus is not immediately possible, a provisional split vote should be recorded. This should be re-visited at the end of the relevant evaluation, at the end of the session and on each subsequent session until consensus is reached. Jobs where the evaluation is likely to be contentious should be left towards the end of the list, so that the discussion is constrained by previous agreed evaluations.
- c. If the absence of consensus appears to be due to the membership of a particular panel, the job can be referred to a differently constituted panel.

### 4. Evaluation Records

[One of the criticisms made by the Employment Tribunal in *Thompson v Diageo* was that no contemporaneous records of the evaluations of the claimant and comparator jobs were available at the time of the Hearing.]

(1) **Job evaluation records** are essential for:

- Evaluation panels to check back on previous evaluations for jobs with similar features.
- Consistency checking both by panel members themselves on a regular basis and for the formal consistency checking process (see below).
- Resolution of queries raised by jobholders, line managers or HR, for example, over what was taken into account in the evaluation.
- Informal and formal appeal processes, which should be a review of any new information against the original evaluation.

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- Any external challenge to the evaluation, for example, through a statutory grievance or an equal pay claim to an employment tribunal.

### (2) Evaluation records should include:

- The evaluated level for each factor.
- The associated factor score.
- The reason for the evaluation under each factor heading (this should be a summary or quote from the job description or job questionnaire – not just a quote from the factor level definition, as this information will be available from other sources).

## 5. Consistency Checking

**(1) Reason for consistency checking.** Job evaluation is a technique which allows comparison between different jobs. Because comparing different types of jobs can appear difficult, the comparison is first made against the job evaluation. However, it remains necessary for the credibility of the exercise to check the outcomes by making comparisons across jobs. This process of consistency checking is sometimes called moderation.

**(2) Method of consistency checking.** Employees are sometimes sceptical about consistency checking on the grounds that it is a management technique for 'putting jobs back where they came from'. This should not be the case, if systematic consistency checks are undertaken:

- On a factor by factor basis, considering the distribution of evaluations across factor levels and checking comparability of the jobs assessed at each factor level.

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- On a job family by job family basis, examining whether the evaluation outcomes represent a consistent and sensible hierarchy (not necessarily what was there before) of factor and total scores.
- Finally on total scores by comparison with the historical hierarchy.

**(3) Outcomes of consistency checks.** Consistency checks such as those described above cannot change evaluation outcomes but can raise queries for further investigation. Apparent anomalies raised as queries through consistency checking could be the result of:

- Inadequate or inaccurate job information, in which case the correct information should be confirmed with the job holder and line manager and the job re-evaluated. This is better done before publication of results, if possible, as inaccurate evaluations damage the credibility of the exercise.
- An evaluation error, in which case the error should be corrected. Again, this is better done before than after publication of results.
- The information was accurate and evaluation correct, but the job moves significantly in the organisational hierarchy compared to its previous position relative to other jobs, in which case the outcome must be accepted.

**(4) Gender checks on job evaluation outcomes.** Once all other consistency checks have been undertaken, the EOC recommends that upward and downward movements of male and female dominated jobs should be monitored - for further information see Guidance Note 4, EOC Equal Pay Review Toolkit.

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### 6. Publication of outcomes

#### (1) Scope of information to be published

The EOC Code of Practice on Equal Pay says that pay systems should be 'transparent' in the sense that all staff should understand how their pay is made up. This is generally understood to mean that they should have access to:

- The job evaluation scheme factors, level definitions, scoring and weighting systems.
- Information about the job evaluation points ranges for each grade and the associated pay scales, ranges or rates.

Consideration needs to be given locally to whether further information should be published to employees generally, for example:

- The total job evaluation score for their own job
- All the jobs evaluated to each grade
- The total points scores for each job
- The factor scores for each job
- The evaluation record sheets for each job.

**(2) Current practice on publication.** In the past such information was often not disclosed to employees, except possibly in the case of an appeal (see below). However, modern practice is in favour of more rather than less publication of information, often on the organisation's website rather than necessarily in paper format. Not publishing all relevant information may serve to create suspicion. Employees can, in any event, obtain information relevant to their own jobs and those of others with whom they seek to compare themselves by serving an Equal Pay Act Questionnaire and trade unions can apply for disclosure of the job evaluation and grading scheme for collective bargaining purposes by making an application to the Central Arbitration Committee.

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### 7. Appeal Process

**(1) Basis for appeal procedure.** It is good evaluation practice to allow employees to appeal if they are dissatisfied with the outcome of an evaluation exercise. However, the aim should be to minimise the number of appeals, as they tend to be viewed in a negative light and to impact on the credibility of the job evaluation scheme. Experience shows that a partnership approach to job evaluation helps minimise the number of appeals.

**(2) An informal stage.** Many appeals against initial evaluations result from lack of information about or understanding of the job evaluation system or procedures. Some organisations therefore have an informal stage to their job evaluation appeals procedure, whereby an employee can meet with an HR adviser or evaluator together with their union rep and/or line manager, in order to explore the cause of dissatisfaction. Such a step should not obviate in any way the employee's right to proceed to the formal appeal stage if they remain dissatisfied.

**(3) Grounds for appeal.** Grounds for a formal appeal need to be agreed locally. These could include, for example:

- the evaluation was based on inaccurate or inadequate information;
- the evaluators failed to understand or take into account the demands of the job;
- a comparable job has been evaluated at a higher grade (if this is to be a basis for appeal, it is another reason for thorough consistency checking to avoid unnecessary appeals).

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(4) **Appeal panel composition** and chairing also needs to be determined locally, but good practice indicates that the panel should be joint and all panel members should have been trained in the job evaluation scheme and the avoidance of bias. To ensure the integrity of the appeal, at least some members of the appeal panel should not have been involved in the original evaluations.

(5) **Appeal panel records.** As with the original evaluation, records need to be kept of the reasons for any changes to the original evaluation and the outcome, in case of subsequent internal or external query.

## 8. Ongoing Maintenance

Job evaluation is not a one-off exercise. Indeed, one of its perceived advantages to both management and unions is that the job evaluation system can be applied to new or changed jobs so that they are assessed and graded in a consistent manner with existing jobs. Aspects of ongoing maintenance include:

(1) **New jobs.** Standard job evaluation practice is that the new job description is provisionally evaluated as a desk-top exercise, usually with the assistance of the line manager to provide additional information on likely job demands, in order to set a grade and salary range for recruitment purposes. A full evaluation is carried out once the job is 'bedded in', for example, after the jobholder has been in post for 6 months so able to provide information about how the job has turned out in practice.

(2) **Changed jobs.** A local procedure is needed for the identification and re-evaluation of significantly changed jobs. The expectation is that the job description has been amended and a new or modified paper-based or computerised questionnaire completed. This should be evaluated in the normal way. The jobholder should have the right of appeal against the evaluation or re-evaluation of a new or changed job, in line with the locally agreed appeal procedure.

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(3) **Re-organised jobs.** Where a department or section of the organisation is subject to reconstruction or reconfiguration, then all resulting new or changed jobs should be evaluated or re-evaluated, as above. If this is not done, grading anomalies will emerge over time and lead to grievances.

### 9. Monitoring

The EOC recommends that all aspects of job evaluation should be monitored to check against gender bias and this can be extended to include other characteristics which are known to lead to pay inequalities, for example, race, disability. Possible areas for monitoring include:

- Composition of evaluation and appeal panels, and job analyst teams, as attrition over time can lead to membership becoming unrepresentative.
- Numbers of appeals and requests for re-evaluation and the outcomes: there is some evidence that women are less likely to appeal or request re-evaluation and less likely to be successful when they do.
- Composition of the evaluated workforce by grade and gender, ethnicity, disability, to check that the scheme continues to promote equality.

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### Part 2: Legal Principles of Job Evaluation

The legal principles are drawn from the Equal Pay Act 1970, the EC Equal Pay Directive 75/117/EEC and relevant legal decisions. Relatively few job evaluation schemes have been tested in the courts.

It is sensible to be clear at the outset as to what are the principles for implementation, as the absence of explicit principles can cause practical difficulties and delays during the exercise. Examples of principles which are consistent with legal requirements and EOC advice are:

**(1) Equality:** this is a requirement of the Equal Pay Act, but worth stating explicitly as a reminder to all involved in the exercise.

**(2) Transparency:** The EOC Code of practice on Equal Pay says that all pay systems should be transparent, in the sense that employees should be able to understand where their pay is derived from and how their earnings are made up.

**(3) Joint Working/Partnership:** EOC advice is that job evaluation should be carried out jointly with employee representatives in order to increase understanding of job demands and ensure the credibility of the exercise to employees generally. Experience shows that joint implementation can increase acceptability of outcomes and reduce the number of appeals.

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### 1. Design of the scheme

A job evaluation scheme must be designed to comply with the requirements of the Equal Pay Act 1970 and the EC Equal Pay Directive and be free of sex bias. This means the design of scheme must comply with the following principles.

**(1) The scheme must be analytical.** In order to provide a defence to an equal pay claim, the Equal Pay Act states that a job evaluation study should have been undertaken with a view to evaluating “in terms of the demands made on a worker under various headings (for instance, effort, skill, decision) the jobs to be done by all or any of the employees in an undertaking...”<sup>1</sup>. The Act therefore requires the study to have been done by an analytical method. Analytical schemes are schemes where jobs are broken down into components (i.e. factors) and scores for each component of the job are awarded with a final total giving an overall rank order.

**(2). The scheme must be objective.** The Employment Appeal Tribunal has held that for a scheme to be valid under the Equal Pay Act it must be objective and capable of impartial application.<sup>2</sup>

**(3). The factors must be representative of the whole range of work being evaluated.** Article 1(2) of the EC Equal Pay Directive provides that a job classification system ‘must be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex’. According to the European Court of Justice<sup>3</sup> the EC Equal Pay Directive “...requires that the system must be based on criteria which do not differ according to whether the work is carried out by a man or by a woman and must not be organised, as a whole, in such a manner that it has the practical effect of discriminating generally against workers of one sex”.

1 Section 1(5) Equal Pay Act 1970

2 Eaton v Nuttall [1977] IRLR 71 EAT

3 Rummler v Dato-Druck GmbH [1987] IRLR 32 ECJ

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### 2. Scope of the Exercise

Under the Equal Pay Act, the existence of a non-discriminatory job evaluation scheme should provide a complete defence to an equal pay claim. However, challenges to job evaluation exercises have been successful where claimants have demonstrated that their jobs, or those of their comparators, have not been evaluated under the job evaluation put forward as a defence. For example:

(1) In *Bromley & Others v H & J Quick Ltd*<sup>4</sup>, the claimant and comparator jobs were ranked against benchmark jobs on a 'felt fair' whole job basis. The Court of Appeal held that this did not meet the requirements of the Equal Pay Act. The implication of the Court of Appeal's decision is that all distinct jobs within the scope of the exercise should be analysed and evaluated if the job evaluation is to provide a valid defence to a claim.

(2) A job evaluation scheme will not provide a defence to equal pay claims from individuals covered by the scheme wishing to compare their work with that of others excluded from the scope of the scheme, or vice versa. For example, in *McAuley v Eastern Health and Social Services Board* [1991] IRLR 467, the Northern Ireland Court of Appeal accepted that neither claimant nor comparator had been evaluated under the NHS scheme for ancillary workers, which had been developed on the basis of jobs in England and Wales only and later transferred on a pay parity basis for use in Northern Ireland. The claimant's job was very similar to an evaluated job whereas the comparator's jobs had significant differences.

### 3. Role of benchmark jobs

Most job evaluation studies involve the selection of benchmark jobs that are used as a standard because they are considered to be typical of a grade or group of jobs. The Court of Appeal confirmed in *Bromley v Quick* that this approach will meet the requirements of the Equal Pay Act provided there are no material differences between the benchmark jobs and other jobs within the group.

<sup>4</sup> [1988] IRLR 249

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### 4. Evaluation process

A failure to follow the rules of a job evaluation scheme in some material respect or a failure to follow good practice may cause a job evaluation defence to fail. For example, in *Paterson v London Borough of Islington & Others*, the Employment Appeal Tribunal held that a material departure from the terms of a job evaluation scheme meant the relevant evaluation had not been carried out under the terms of the scheme<sup>5</sup>. In *Diageo plc v Thomson*, the Employment Appeal Tribunal held that the job evaluation study by the employers was lacking in rigour, as evidenced by the fact that the central job evaluation panel had been disbanded, the evaluation was carried out by only one trained evaluator, the scheme had not been updated for a number of years and there were no contemporaneous records of the evaluations of claimant and comparator jobs.<sup>6</sup>

### 5. Publication of outcomes

**(1) Transparency.** The European Court of Justice has held that pay systems must be transparent<sup>7</sup>. According to the EOC Code of Practice on Equal Pay this means 'pay and benefit systems must be capable of being understood by everyone (employers, employees and their trade unions). Where the pay structure is not transparent, and a woman is able to show some indication of sex discrimination, the burden of proof switches to the employer who then has to demonstrate that the pay system does not discriminate'.<sup>8</sup>

A failure to operate a transparent job evaluation system may lead employees to obtain information relevant to their position and those of others with whom they seek to compare themselves by serving an Equal Pay Act Questionnaire or using the Freedom of Information Act.

<sup>5</sup> EAT 0347/03

<sup>6</sup> EATS/0064/03

<sup>7</sup> *Handels-og Kontorfunktionaerernes Forbund I Danmark v Dansk Arbejsgiverforening (acting for Danfoss)* [1989] ECR IRLR 532 ECJ

<sup>8</sup> Paragraph 39 EOC Code of Practice on Equal Pay.

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(2) **Data protection.** The processing and disclosure of personal information is protected by the Data Protection Act 1998. Personal data includes any data which is held on computerised and non-automated systems from which individuals can be identified. The Office of the Information Commissioner has advised that job evaluation scores and evaluation record sheets are not classified as personal data for this purpose as the focus of such information concerns the post and not the postholder who happens to occupy the post at the time of the evaluation. However, notes taken during a job evaluation interview or personal statements made by job evaluation assessors about postholders may well be personal data for these purposes. Unless employees have given their express consent to the processing and disclosure of such information, perhaps via a term or policy incorporated into their contracts of employment, employees must be informed about the job evaluation exercise and who will have access to such information. It is not necessary to inform each employee individually. The information could be placed in a circular or put on the intranet site as long as it is readily available to all concerned. This is a matter the Steering Group will wish to consider at the planning stage.

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### Appendix 1: Glossary of Commonly Used Terms in Job Evaluation

**Benchmark Jobs:** a representative sample of the job population to be evaluated, which is used to test the agreed procedures and, once *consistency checked*, provide a framework for subsequent application of the scheme to non-benchmark jobs.

**Computerised Job Evaluation:** as job evaluation is intended to be a logical, systematic and consistent process, the main features of any scheme can be built into computer software. Use of a computerised system, such as the Pilat Gauge version of the 13-Factor Scheme, should save time and paper for the evaluation process, but still needs thorough *consistency checking*, or validation.

**Consistency Checking:** the process, which should be carried out following initial paper-based or computerised evaluation, to check consistency of *factor* scores across the evaluated jobs (sometimes called sore-thumbing).

**Evaluation Panel:** the joint, representative and trained team or teams, who apply the rules of the selected job evaluation scheme to the information supplied for the jobs to be evaluated (in paper-based job evaluation only).

**Evaluation Rationales:** the records of individual evaluations, which allow evaluators to check their evaluations for consistency and also provide the necessary information for responding to subsequent employee queries or appeals.

**Factors:** the first step in job evaluation is to analyse jobs under the agreed headings or criteria of the job evaluation scheme, in order to facilitate comparison between jobs. These agreed headings or criteria are commonly called factors, but sometimes characteristics or elements.

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**Job Analysts/Facilitators:** those who, working singly or in joint pairs, having been trained in the details of the job evaluation scheme, are able to assist job holders to provide the information required for job evaluation purposes and to check its accuracy (in both paper-based and computerised job evaluation).

**Job Evaluation:** a technique, or rather a range of related techniques, for comparing the demands of jobs, in order to establish a rank order of jobs, usually as the basis for grading and pay structures.

**Job Holders:** all those who carry out any particular job, usually identified by having the same or very similar job descriptions. A single representative job holder may be selected to complete a job questionnaire and/or be interviewed to provide job information which requires verification by the manager.

**Job Information:** detailed, accurate and up-to-date information about the jobs to be evaluated is required, either from job descriptions or preferably, because it can follow the factor format of the job evaluation scheme, from a job questionnaire. This information requires verification by the jobholder and line manager.

**Steering Committee:** the joint management/ trade union group or team, who manage the job evaluation exercise. Their terms of reference usually include selection of the job evaluation scheme; management of the logistics of the exercise; and resolution of any problems.

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### Appendix 2: References and Further Reading

#### A. References

Equal Opportunities Commission: Equal Pay Review Kit: Manchester, 2002: available in hard copy from the Equality and Human Rights Commission or from the website: [www.closesthegap.org.uk](http://www.closesthegap.org.uk)

Equal Opportunities Commission: Code of Practice on Equal Pay: 2002 (available as above)

#### Legal Cases

Handels-og Kontorfunktionaerernes Forbund i Danmark v Dansk Arbejdsgiverforening, acting for Danfoss [commonly known in the UK as the Danfoss case] [1989] IRLR 532 ECJ

British Coal Corporation v Smith [1996] IRLR 404 HL

Bromley & Others v H & J Quick Ltd [1988] IRLR 249 CA

Rummler v Dato-Druck GmbH: [1987] IRLR 32 ECJ

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### **B. Further reading**

Michael Armstrong and Angela Baron: *The Job Evaluation Handbook*: IPD, 1995

Michael Armstrong, Ann Cummins, Sue Hastings, Willie Wood: *Job Evaluation, a Guide to Achieving Equal Pay*: Kogan Page, 2003

Sara Leslie, Sue Hastings and Jo Morris: *Equal Pay, a Practical Guide to the Law*: Law Society, 2003: esp. chs 3 and 10