

CLOSE YOUR PAY GAP



FLEXIBLE AND PART-TIME WORKING

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INTRODUCTION

This guidance is for private and third sector companies who are covered by the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017. It is particularly aimed at those with responsibility for developing work on the gender pay gap, and specifically developing their company's Close Your Pay Gap personalised action plan.

This guidance accompanies the Close Your Pay Gap tool, which will help your company to close its gender pay gap. The tool uses your gender pay gap information, along with a series of questions, to provide a personalised action plan to help you to close your pay gap. This guidance supports the Flexible and Part-Time Working **Close Your Pay Gap tool** priority, providing information and advice on how flexible and part-time working practice can impact on your gender pay gap, and how to implement your action plan.

Whilst every effort has been made to ensure that the explanations given here are accurate, only the courts or tribunals can give authoritative interpretations of the law.

WHAT IS THE GENDER PAY GAP?

The gender pay gap is the difference in average hourly earnings between men and women. It is caused by a range of complex, inter-related factors including job segregation (where men and women do different types and levels of work), a lack of flexible working opportunities and discrimination in pay and grading structures. These three causes are common across all workplaces and sectors.

The gender pay gap is not the same as equal pay, although unequal pay between men and women is a major cause of pay gaps at the enterprise level. Equal pay law covers the concept of equal pay for equal work, rendering it unlawful to pay a woman less than a man (and indeed vice versa) for the same job or jobs of equal value. Equal pay for equal work is only one small piece of the pay gap picture, and tackling this alone is not enough to close your gender pay gap.

Closing your pay gap requires an understanding of its causes, and action to tackle those. The Close Your Pay Gap tool can help you do this.

The impact of flexible and part-time working practice on your pay gap

Women make up the vast majority of part-time workers, and women working part-time are the group most likely to be working below their skill level. This is because women are more likely than men to provide unpaid care for children or relatives, and therefore need to find a job which allows them to balance work and caring roles. Typically, the only work which enables this is part-time. Part-time work is usually concentrated in the lower grades of a company, which is a key cause of the **gender pay gap**.

Flexible working is often framed as a solution to work-life balance; however, what is termed as flexible working isn't always flexible in the ways it needs to be. There is insufficient use of the range of flexible working options that exist, and the most common type of flexible working used is still part-time hours. This means that staff and employers are missing out on the full benefits of a flexible workplace.

Where flexible or part-time working is not seen at senior levels, this reinforces the idea that caring roles, which are predominantly done by women, are incompatible with progression. This means you can't be sure you have the right person for the role, and it's likely that you're not making the most of your talent. It's also bad for your gender bonus gap, as more senior roles have access to higher bonus earnings.

Taking action to encourage the use of a range of flexible working options in your company can help you to support women's progression and widen your talent pool. Where flexible or part-time work is seen at all levels in a company, this will help to close your **gender pay gap**.

WHAT IS FLEXIBLE WORKING?

More people than ever would like to change the way they work so they can achieve a work-life balance. Although the flexible working agenda originally focused on parents, other groups of employees are increasingly prioritising work-life balance, and showing interest in working for companies who offer flexible working.

There are many different types of flexible working which can relate to hours, place of work or work tasks. Some staff have flexible working contracts from the beginning of their employment, while others may require a flexible working pattern for a short period, to accommodate a change in personal circumstances.

Flexible working doesn't have to mean a formal change to an employee's contract; many people work flexibly on an informal basis. This can include the ability to vary start and finish times, or just having a supportive line manager who allows staff to flex their hours to accommodate their responsibilities outside of work.

The benefits of flexible working

It makes good business sense to offer flexible working. It helps you to attract and retain the best talent, and get the most out of your people. Promoting this for jobs at all levels, in particular more senior roles, is important. Jobs that are done part-time or flexibly tend to be concentrated in lower grades, and women are over-represented in them, often because they have responsibility for childcare or other caring roles. By considering jobs at all levels on a flexible or part-time basis, you'll support women to work at all levels of your company, and this will help close your pay gap.

Evidence shows that there are a range of business benefits in having a flexible and agile workforce.

Improved staff recruitment and retention

Offering flexible working will widen the pool of talent for jobs that you are looking to fill. Flexible working practices can also improve staff retention, particularly for women returning from maternity leave who need to balance caring responsibilities, as well as work. Similarly, older members of staff may be happy to work beyond retirement age on a part-time basis.

Reduced recruitment and training costs

Improved staff retention reduces recruitment costs and potential training costs for new staff taken on. Lower turnover also means that clients can be reassured by the continuity of dealing with the same staff.

Reduced stress levels, sickness and absenteeism

Staff who are able to balance their work and caring responsibilities through being able to work flexibly are less likely to experience work-related stress, and less likely to be absent from work because of their caring responsibilities. Flexibility in working hours can also result in reduced travel or childcare costs for staff, further contributing to job satisfaction.

Improved time keeping

Research suggests that when people can fit their work around outside commitments (for example, the school run, and rush hour traffic) their ability to arrive on time improves.

A workforce that more accurately reflects the diversity of the wider community, making products and services more attractive to variety of consumers

By offering flexible working, companies can recruit from a wider pool of talent, attracting applications from groups that might otherwise be discouraged from applying because of their other responsibilities. Where more diverse recruitment takes place, the workforce becomes more representative of the community it

serves. This, in turn, fosters a culture of creativity and innovation, as a diverse workforce is better placed to understand the needs of a wider range of customers.

Greater degree of loyalty and commitment

Your commitment to work with staff to meet their needs is more likely to be rewarded by greater loyalty from your workforce.

A reputation as a good employer

Offering flexible working will give you increased access to the best talent, as an employer with a good reputation for balancing business and staff needs. Companies who do not consider flexible working are not only missing out on potential business benefits, but also risk losing key people.

ACTIONS

Develop a pilot initiative to introduce flexible working to your organisation. Not sure where to start? We can help you. To find out more, visit **Work with Us**, or get in touch at info@closethegap.org.uk.

Develop a flexible working policy and provide training to managers to ensure that it is implemented fairly and consistently.

RIGHT TO REQUEST

The Flexible Working Regulations were amended on 30 June 2014. From that date, the right to request flexible working was extended to cover all employees, rather than only those with children under the age of 17 (or 18 if the child is disabled), and certain carers.

The law says that every employee now has the right to request flexible working, after a 26 week period of employment service. The request can cover hours of work, times of work and place of work and may include requests for different patterns of work. Any change granted under the right to request flexible working is usually permanent, but temporary changes may be negotiated. An employee can only make a statutory request once in any 12 month period.

A request from an employee under this law must be in writing and must include the following information:

- The date of their application, the change to working conditions they are seeking and when they would like the change to come into effect.
- What effect, if any, they think the requested change would have on you as the employer and how, in their opinion, any such effect might be dealt with.
- A statement that this is a statutory request and if and when they have made a previous application for flexible working.

You should make clear to your employees what information they need to include in a written request to work flexibly.

Forms of flexible working

The most common types of flexible working are part-time work and home working. There is a type of flexible working that is suitable for most jobs, when it has been properly implemented and staff are supported. Finding more creative options to support staff to work in a range of ways will help you close your pay gap. Research has also shown that companies who make the most of flexible working benefit from improved employee morale, productivity and higher staff retention.

EXAMPLES OF FLEXIBLE WORKING	
Part-time working	Staff work less than the normal or standard full-time hours. The majority of part-time workers are women.
Job sharing	Two people share the work normally done by one member of staff.
Flexi-time	Certain mandatory 'core' hours must be worked, but staff have some flexibility on starting or finishing times.
Compressed hours	Contracted hours are worked over fewer days, for example, a four-day week or nine-day fortnight.
Annualised hours	The staff member's annual hours are calculated and split into set shifts and unallocated shifts. This type of working suits organisations dependent on seasonal working, for example, gardeners.

Staggered hours	Working patterns where staff have different start, finish and break times.
Term time hours	Staff work fewer hours or take time off during school holidays.
Working from home	Can be on a regular or ad hoc basis. Appropriate technology (access to email, internet, telephone and so on) supports communication with the organisation / clients.
TOIL (time off in lieu)	Staff are able to take time off in lieu of overtime for additional hours worked.
Shift working	Common where staff are required across a 24-hour cycle.

ACTIONS

Map what types of flexible working are used in your organisation, and look at this by department/team and by gender.

Informal flexible working

Informal flexible working is a useful way for employees to manage their work-life balance, for example, varying start and finish time by an hour to attend a personal appointment. Low-paid full-time women are unlikely to have access to any type of flexible working, including informal arrangements. This often sees them pushed into part-time work in order to achieve some flexibility, which widens the gender pay gap. Having access to flexible working, and greater autonomy over working hours, is good for staff and good for your company. Increased trust between line managers and staff builds morale and loyalty; having goodwill among staff pays dividends.

ACTIONS

Conduct an all staff survey on what forms of informal flexible working would benefit them.

Conduct a review across departments/teams to identify where staff are working flexibly on an informal basis, and how it's working in practice.

Make sure line managers are trained in how to manage informal flexible working.

PART-TIME WORKING

Pay and progression

Part-time work, job segregation, and what it means for the gender pay gap

Part-time work is most commonly found in lower grade jobs, and usually done by women. Quality part-time work, in more senior grades, is often difficult to find. The concentration of part-time work in lower paid jobs is a major cause of **job segregation**.

Job segregation means that men and women tend to work in different jobs and industries. For example, women are more likely to be home care workers, administrators and HR practitioners. Men are more likely to be plumbers, engineers, and IT professionals. There are many reasons for this, including stereotyping about men's and women's capabilities, skills and interests; access to training and flexible working; and the culture associated with different types of work. This is called **horizontal segregation**.

Vertical segregation describes the under-representation of women at senior levels, and is more commonly known as the '**glass ceiling**'. Women are three times more likely to be administrators than managers, directors or senior officials. Men are half as likely to be administrators as managers.¹

The two kinds of job segregation overlap, in that female-dominated such as administration are also less valued, in terms of salary and status within organisations, than male-dominated occupations.

¹ Women in Scotland's Economy Research Centre (January 2013) *Where are the women in Scotland's labour market?*

Research shows that many women working part-time are working below their skill level, in the only part-time jobs that are available. Providing part-time options for jobs in all grades of your company will help you harness untapped female talent, reduce women's concentration in lower grade jobs, support women's progression to senior roles, and help close your pay gap.

A lack of flexible working and quality part-time work is a barrier to women's progression at all levels, but particularly in senior grades. Women often have caring roles, and require working hours which allow them to accommodate this responsibility. Where women do not have equal access to progression it can widen your company's pay gap.

Part-time workers are usually concentrated in the lower grades of a company, which is a key cause of the gender pay gap. A lack of promoted part-time roles, and targeted training and progression routes, cause women to be clustered in low paid part-time work. Enabling part-time workers to move and progress throughout your company, by supporting the use of part-time hours at all levels of your organisation, will help to reduce your pay gap.

Where you already have senior staff who successfully use flexible working or part-time hours, it's a good idea to share their profiles in staff communications. Case studies can demonstrate organisational commitment, and help to show that working in this way isn't a barrier to progression.

ACTIONS

Map where part-time workers are concentrated in your organisation.

Share good practice case studies from teams where staff are already working flexibly.

Prior to advertising vacancies, review new roles to ascertain their compatibility with a part-time or flexible basis.

Map progression and development routes to identify where these are available on a part-time or flexible basis in your organisation.

Review recruitment policy to make sure interview panels include an HR representative, wherever possible.

Take action to encourage senior members of staff to use flexible working options. Ask a senior employee who works flexibly or part-time to become a flexible working champion, and share their story in staff communications.

Check all senior vacancies are advertised as being suitable for flexible working, wherever possible.

POLICY AND PRACTICE

Having a written flexible working policy not only provides helpful guidance to which all staff can refer, but it's also a good way to communicate to staff that you are committed to flexible working. A good flexible working policy should:

- Set your organisational commitment to flexible working, and equality and diversity.
- Explain how staff can submit a request, and how that request will be considered.
- Provide that all line managers will be trained and supported in managing flexible working.

It's important to make sure that all of your staff are aware of what your policies are, and that they are easily accessible. A good staff communication process should ensure staff are kept up to date about, and understand how to access, your employment policies.

Having a good flexible working policy is a great starting point, but it's important to make sure that the policy is implemented consistently across your organisation. It's critical that line managers understand your policy, and your commitment to support flexible working.

It's good practice to regularly review how the policy is implemented, and seek the views of staff on this, to identify if there are particular teams or departments where flexible working isn't being used.

ACTIONS

Review how your flexible working policy is communicated to staff to check it's easily accessible and understood by all staff members.

Engage with your staff to elicit their views on how flexible working is used across your organisation.

Managing flexible working requests

Decisions around flexible working should be fair and objective. Where line managers have discretion over granting requests, or don't understand how to implement your flexible working policy, subjectivity and bias can lead to inconsistent and unfair practice.

Line managers usually act as 'gatekeepers' to flexible working, and this can function as a barrier to women's development and progression where flexible working is viewed unfavourably. If a woman has a supportive line manager and is able to work flexibly in her current team, but sees that flexible working isn't used consistently across the company, she may feel unable to move to another role to gain experience, or to apply for promotion.

All managers involved in deciding whether jobs can be done on a flexible basis should be given appropriate training. Any changes to the law on flexible working should be communicated to all managers, to ensure that your policies and decision-making processes remain compliant with the relevant legislation. Training helps to build capacity in managers to make fair and objective decisions, and make sure they understand how to implement policy.

Flexible working requests, and whether or not they are granted, should be monitored, by gender and department, to identify any patterns around demand for flexible working, and also around the decision-making process.

ACTIONS

Make sure all line managers are fully trained in assessing flexible working requests, and managing flexible working in their teams.

WHAT THE LAW SAYS

Dealing with a request for flexible working

The law says that once you have received a written request for flexible working, you must consider it. You should arrange a meeting with your employee as soon as possible after receiving their request. If you intend to approve the request then a meeting is not needed. The employee can be accompanied at meetings by a trade union representative or a work colleague, and has the right to appeal any decision.

Employers should discuss with the employee the type of flexible working most valued by them, and which arrangements are most workable.

The law says that you must seriously consider an application, but are not obliged to agree if sound business reasons can be proven, in line with the current legislation. These are:

- the burden of additional costs.
- an inability to reorganise work amongst existing staff.
- an inability to recruit additional staff.
- a detrimental impact on quality.
- a detrimental impact on performance.
- detrimental effect on ability to meet customer demand.
- insufficient work for the periods the employee proposes to work.
- a planned structural change to your business.

If you do refuse, the refusal should include the relevant and accurate facts, and employees should be given the right to appeal.

All requests, including any appeals, must be considered and decided on within three months of first receipt, unless you agree to extend this period with the employee.

If you arrange a meeting to discuss the application including any appeal and the employee fails to attend both this and a rearranged meeting without a good reason, you can consider the request withdrawn. If you do so, you must inform the employee.

The ACAS website² has further information on handling flexible working requests.

Deciding whether specific jobs are suitable for flexible working

No jobs should be automatically ruled out for flexible working, and your flexible working policy should say this. Many companies have successfully had senior posts operating on a job-share or part-time basis, and it is helpful to assume that all jobs can be done on a flexible basis unless there are very clear business reasons why this should not be the case.

To ensure unfair or unlawful decisions are avoided, it's important that appropriate training is given to all managers involved in deciding whether jobs can be done on a flexible basis.

When considering whether a particular job is suitable for flexible working, using a structured questionnaire can be helpful. A sample job suitability questionnaire can be found in the Appendix on page 25 of this guidance.

Managing staff who work flexibly or part-time

Reviewing workloads on a regular basis helps to make sure staff members' workloads match their hours. Part-time staff often report workloads that do not correspond with their working hours, so it's important that line managers are trained in managing staff on flexible and part-time hours to make sure your company runs effectively.

Team meetings are a great way to maintain good communication with your staff, and it's important to make sure these are accessible to all staff. It's good practice to arrange team meetings at a time when you can bring all of your people together. This might involve reviewing staff working patterns to identify suitable times, scheduling meetings in staggered sessions to accommodate groups of staff on different working patterns, or varying meeting times to make sure there's always a regular time-slot that suits everyone. For teams where staff are geographically dispersed, line managers can use conference calls and other types of remote connection software to enable staff to attend remotely.

ACTIONS

Make sure line managers review workloads on a regular basis to check that the workload of their part-time team members is appropriate for their hours.

Review team meeting practices across your organisation to check that part-time workers are always included. This may mean exploring the use of remote connection software.

Share good practice information with line managers to make sure they're aware of the most inclusive ways to schedule team meetings.

Keeping records, and evidencing decisions

It's best practice to keep records on flexible working requests, including how decisions are made to approve or refuse requests. This will enable you to evidence that you have considered the request in line with the law.

Keeping records of flexible working arrangements also helps you to understand how well your policy is working. By recording and monitoring requests for flexible working, by gender and department, you can identify patterns, and address any issue which arise.

ACTIONS

Make sure data on flexible working requests is gathered and monitored, by gender, including whether or not the request was granted.

Advertising jobs

It makes good business sense to let prospective employees know that you're happy to consider flexible working. It helps you to attract and retain the best talent, and get the most out of your people. Promoting this for jobs at all levels, particularly management and senior roles, is important. By advertising jobs at all levels as considered on a flexible or part-time basis, you'll be able to recruit more women to senior roles, and this will help close your pay gap.

ACTIONS

Advertise all vacancies as being considered on a flexible or part-time basis, wherever possible.

Sign up to Family Friendly Working Scotland's **Happy to talk flexible working** strapline
www.familyfriendlyworkingscotland.org.uk/what-we-offer-talk/

Workplace culture

Creating a culture where flexible and part-time working is valued in the same way as full-time working patterns will help you to close your gender pay gap, and will enable you to make the most of women's skills and talent. An inclusive workplace culture is driven by your employment policy and practice. Make sure your commitment to flexible working is visible, and support this with strong messaging from senior leaders.

You can demonstrate your commitment to supporting flexible and part-time working when you advertise vacancies or offer development or training opportunities, and share profiles of staff members working flexibly or part-time at all levels of your organisation. Make sure that the organisation's vision for flexible working is cascaded down to line managers who will be managing requests for flexibility on a daily basis. They may need training and support to make flexible working work in their teams.

Where staff feel supported to work in ways which allow them to balance their responsibilities in and out of work they will be more loyal, and more productive, which in turn will make your company more profitable.

ACTIONS

Deliver an all-staff communication to promote the uptake of flexible working.

Identify a senior leader who can act as a flexible and part-time champion.

GLOSSARY

Direct discrimination

Less favourable treatment of a woman than a man (or vice versa) because of their sex.

Diversity

The recognition and valuing of difference, in its broadest sense. It is about creating a culture and practices that recognise, respect, value and harness difference for the benefit of service users, members of the public and employees.

Equality

Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration - recognising the diversity of different groups of women and men.

Equal value

As defined by the Equality Act 2010, an individual can claim equal pay with a comparator of the opposite sex where work is different, but which

would be assessed as equal in value in terms of demands such as effort, skill and decision-making.

Equal pay review

A process which looks at pay arrangements within an organisation to find, and address, gender discrimination. It involves comparing the pay of groups of workers who are doing equal work in the organisation and then investigating any gaps between men's and women's pay.

Gender

Refers to roles, attitudes, values and behaviours that men and women are encouraged to adopt by society. These characteristics can vary depending on the society around us. For example, historically, gender role stereotyping would suggest that women should look after children at home while men go to work in the formal labour market.

Gender bias

Gender bias describes where men and women are treated differently because of their gender, and it may be intentional or unintentional. It can also be

used to describe why a process or policy may have a differential impact on or outcome for women and men.

Gender pay gap

The gender pay gap is the difference in average hourly earnings between men and women.

Glass ceiling

Describes the under-representation of women at senior levels in organisations, and across the labour market.

Indirect discrimination

Occurs when an employer applies a provision, criterion or practice equally to both women and men that puts one sex at an unfair disadvantage.

Job segregation

Another term for occupational segregation.

Positive action

Refers to a range of lawful actions that seek to overcome or minimise disadvantages (e.g. in employment opportunities) that people who share a protected characteristic have experienced, or to meet their different needs.

Positive discrimination

Treating someone with a protected characteristic

more favourably to counteract the effects of past discrimination. It is sometimes confused with positive action, which is lawful.

Presenteeism

Refers to a working culture which equates working long hours with increased productivity, commitment or capability. This is a barrier to women's retention and progression within the workplace. The need to be seen to be putting in the extra hours do not fit with the family-friendly working practices many women (and men) need.

Protected characteristics

These are the grounds upon which discrimination is unlawful. The characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Occupational segregation

Refers to the clustering of men and women into different types of work (horizontal segregation) and into different levels of work (vertical segregation).

CLOSE YOUR PAY GAP

The Close Your Pay Gap tool is designed to help large employers close their gender pay gap. It's aimed at those who are publishing their gender pay gap figures under the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017. Close Your Pay Gap is developed by Close the Gap, Scotland's expert on the gender pay gap.

Close the Gap works in Scotland on women's participation in the labour market. We work with employers and policymakers to influence and enable action to address the causes of women's inequality at work.

Close the Gap

info@closethegap.org.uk

www.closethegap.org.uk

Twitter: [@closethepaygap](https://twitter.com/closethepaygap)

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