



**Unite the union**

Hayes Court  
West Common Road  
Hayes, Bromley BR2 7AU  
Tel: 020 8462 7755  
Fax: 020 8315 8234  
[www.unitetheunion.org.uk](http://www.unitetheunion.org.uk)

**Job Evaluation guide**

# **Job Evaluation Guide**

**Guidance for Unite Amicus Section Officers and  
Workplace Representatives**

# Job Evaluation Guide

First printing July 2007

Published by Unite Amicus section

Joint General Secretary, Derek Simpson

35 King Street, Covent Garden, London WC2E 8JG

Hayes Court  
West Common Road  
Bromley BR2 7AU  
Tel: 020 8462 7755  
Fax: 020 8315 8234

33-37 Moreland St  
London  
EC1V 3HA  
Tel: 020 7505 3000  
Fax: 020 7505 3030

This guide book is downloadable in PDF format from  
[www.unitetheunion.org.uk](http://www.unitetheunion.org.uk)

## ■ WHAT IS JOB EVALUATION?

Job evaluation is a method of comparing different jobs to provide a basis for a pay structure. It links pay to the job duties, the knowledge and skill required to carry them out and the necessary working environment. It provides a set of techniques for analysing and comparing jobs. Jobs are analysed, for example, according to the degree of skill they require, the responsibility exercised, the effort expended and so on. The information to be analysed is set down in a job description or job information questionnaire. A scoring system is used to assist the comparison between jobs and to record the results. Jobs with similar scores can then be grouped into grades and these in turn are used to form the basis of the pay structure.

## ■ WHY JOB EVALUATION IS AN ISSUE FOR TRADE UNIONS

Job evaluation techniques are not new and job evaluation exercises are not something which Unite (Amicus Section) representatives can afford to stand aside from.

Job evaluation is used by employers:

- to create an internal hierarchy of jobs which can be used as the basis of a new pay structure
- to achieve equal pay by ensuring that job demands are measured fairly and objectively
- to defend themselves against claims for equal pay for work of equal value

# ■ TRADE UNION AIMS AND JOB EVALUATION

## The design of a job evaluation scheme

A job evaluation scheme should be based upon the fundamental principle of fairness and must be capable of evaluating all of the significant characteristics of the jobs involved.

This means that the scheme must recognise the professional and technical skills and knowledge required for the job; the responsibilities associated with the job and the various mental and physical demands that the job makes on the postholder.

The acid test for a valid job evaluation scheme that should be applied by a Unite (Amicus Section) member is "Does it evaluate fairly all the significant characteristics of my job accurately?"

## Equal pay for work of equal value

Traditional pay structures were often based on the relationships between jobs in a particular occupational group. They were not designed to allow comparison between occupational groups. It is likely, therefore, that for some groups the pay system does not fully take into account the skills and knowledge, responsibilities, mental and physical demands of their jobs.

UK employment legislation requires a pay structure to provide equal pay for work of equal value. As job evaluation is based on an objective analysis of the job duties, required knowledge and skills and mental & physical job demands, it can be an effective way of implementing the equal pay principle. However, the job evaluation techniques must themselves be free of sex bias to have any chance of achieving this.

## Trade union involvement

Some employers have attempted to pre-empt union involvement in job evaluation. Such employers have been particularly keen to keep unions away from decisions about the design or selection of job evaluation schemes.

One way in which this has been done is through the setting up of management teams, often working with a firm of management consultants, to develop a job evaluation scheme. The first indication Unite (Amicus Section) representatives may get that their employer has signed up for a job evaluation exercise is when individual job holders are asked to complete, job descriptions or fill in job information questionnaires.

Moreover, it is unlikely that many employers will develop their own job evaluation scheme. The common practice at present is for employers to consider buying a ready-made scheme from management consultants.

Unite (Amicus Section) representatives should try to make sure that they are involved in the decisions to begin a job evaluation exercise. The basis on which the exercise will proceed and the procedures for choosing and implementing a scheme, should all be matters for joint discussion and negotiation between the employer and the unions.

## ■ KEY POINTS FOR WORKPLACE REPRESENTATIVES

1. Make sure your members are aware of, and understand, the importance of job evaluation. If they are asked to fill in job descriptions or job information questionnaires or have an interview with a job analyst they should let you know. It may be the first sign that a job evaluation exercise is underway.
2. Get in touch with your Regional Officer. Unite (Amicus Section) can provide detailed advice, information and training about job evaluation. Your Regional Officer is the contact point for this.
3. Make contact with other Unite (Amicus Section) representatives in your workplace, company or organisation. If you do not know who the other representatives are, or if there is no established machinery for liaising with them, your Regional Officer will be able to help.
4. Contact representatives from other unions. A co-ordinated union response to job evaluation is important. Again, if there is no established machinery for doing this, your Regional Officer can help.

### **The trade union objective for job evaluation is:**

The scheme must:

- evaluate all significant characteristics of a job accurately and fairly
- be designed to provide equal pay for work of equal value
- allow trade union involvement in its design or selection and implementation

## ■ HOW JOB EVALUATION WORKS

### The job evaluation process

#### **The Steering Committee**

The first step in a job evaluation exercise is usually to set up a steering committee whose function is to:

- decide on the type of job evaluation scheme to be introduced,
- decide the procedure for its implementation
- monitor and review the implementation procedure

#### **The steering committee has a choice of:**

- developing its own job evaluation scheme, with or without external advice
- modifying a scheme already in use elsewhere
- buying a ready-made scheme from a firm of management consultants

#### **Once a job evaluation scheme has been chosen the steering committee can set up the implementation procedures. The following steps are typically involved:**

- Job analysts must be selected and trained. Their job will be to interview job holders and write up job descriptions or fill in job questionnaires, or to advise and assist job holder's to do this for themselves. (See section below on the importance of job descriptions)
- If the job description or job questionnaire is not a ready-made part of the job evaluation package the steering committee will have to decide on its final format.

- A set of benchmark jobs must be selected. The benchmark jobs must be a representative sample of the range of jobs to be evaluated in terms of the organisational levels involved, the different functions covered, the types of jobs, and the gender composition of the workforce.
- Job descriptions must be written or job questionnaires filled in for the benchmark jobs. This information will be used to test whether there are any problems with the job evaluation scheme and to develop the evaluation standards for its use.
- Evaluation panels must be selected and trained. Their job is to evaluate the benchmark jobs (and eventually all the other's). This stage may be eliminated if a computer-assisted job evaluation package is being used
- The benchmark jobs must be evaluated and the results examined for anomalies, inconsistencies and sex bias.

***Note: Care must be taken to select job analysts and evaluation panel members who are representative of both genders and the different ethnic groups working in the organisation.***

Once the steering committee is satisfied with the job evaluation scheme, job descriptions or job questionnaires can be completed for the rest of the jobs which are then evaluated using an analytical method. This is sometimes a slightly different process from that used for the benchmark jobs.

When the exercise has been completed the results must be examined for anomalies, inconsistencies and sex bias. Any outstanding queries resulting from this exercise must be investigated and any errors corrected. If there is a fair reason for the anomaly, the process continues. At this stage there will be a list of jobs ranked in terms of their job evaluation scores.

This will be used as the basis for grouping jobs into grades. A pay structure will then be developed from this list. The steering committee will not necessarily be involved at these last stages. One thing the steering committee will have to do, however, is to setup a system so that job holders can appeal against their job evaluated grading if they wish.

Finally, the steering committee should set up a monitoring and review system to deal with future appeals, new or changing jobs, and the general maintenance of the job evaluation system.

# ■ THE IMPORTANCE OF JOB DESCRIPTIONS

## Designing and using job descriptions

The collection of information about jobs is vital to the whole process of job evaluation. If job descriptions or job questionnaires are badly designed, difficult to complete or miss out significant aspects of a job then the resulting evaluation is likely to be incorrect. It is particularly important to avoid sex bias in the preparation of job descriptions.

## Collecting job information

Job evaluation requires a clear understanding of what is involved in each job and the job description or questionnaire should therefore:

- cover the essential content of the job
- be free from sex bias
- avoid technical jargon
- be precise, concise, and comprehensive
- identify what is done, how it is done and why it is done. For physically demanding tasks it is also helpful to identify the frequency and duration of the task.
- be agreed by the job holder and their manager

## **The information about jobs may be collected in a number of ways:**

- job holder's may be asked to write their own job description - job analyst may help or advise
- job holders may be asked to fill in a detailed job questionnaire about their jobs. If a computer programme is used to analyse this information the questionnaire will ask detailed "closed" questions and be very long

- job holder's may be interviewed by a job analyst, working either on their own or in pairs, who then complete a job description or job questionnaire
- job descriptions or questionnaires may be completed by managers instead of job holder's. In this situation, the content should always be discussed and agreed by the job holder.

## **Advising members**

When the job description or job questionnaire has been compiled, the job holder should sign it to indicate that it gives a comprehensive and accurate description of their job. A jobholder must ask themselves whether the job description or questionnaire gives them a good understanding of their job or whether it has missed significant elements of what they do. If they are unhappy with the job description or questionnaire they should not sign it.

Answering questions about your job is not easy and it helps if job holders spend time before the meeting with the job analysts to think about their job duties. What do they do in a typical week or month and what do they do at specific times of year?

Unite (Amicus Section) representatives should make sure that their members understand the importance of job descriptions and questionnaires and know how to increase their awareness of these issues.

## ■ KEY POINTS FOR MEMBERS

1. Make sure that you have guidance notes on how to complete the job descriptions/questionnaire forms.
2. Make sure you have been given a copy of the job description questionnaire form well in advance of being asked to complete it so that you can think about how to present the information required clearly and comprehensively.
3. Make sure you are given sufficient time away from your job to complete the job description/questionnaire.
4. Always complete the questions fully to ensure that aspects of your job are not left out. Do not include unnecessary details however as this detracts from the relevant information.
5. Do not sign the job description/questionnaire if you are unhappy with it in any way. Do not sign it if you think a job analyst has misinterpreted your job.
6. If you have any queries or need any help contact your workplace representative.

## ■ JOB EVALUATION SCHEMES

There are two main types of job evaluation schemes, non-analytical and analytical methods.

### **Non- analytical schemes**

These schemes compare whole jobs with each other using either ranking or paired comparison methods. These types of scheme are particularly prone to sex discrimination because where whole jobs are being compared there is a tendency for evaluators to take account of other factors, such as the traditional status of the job and subjective views concerning the people who typically carry out the job.

### **Analytical schemes**

Modern analytical job evaluation schemes try to overcome the problems illustrated above by dividing jobs up into their component parts, known as factors and assessing each of these parts against an agreed framework.. For schemes based on factors, this framework is typically made up of written level definitions for each factor and is known as the Factor Plan.

### **Factors**

A factor plan consists of a number of different factors. Sometimes they are grouped into factor "families". Here is an example of 14 factor's grouped into four factor families.

**Knowledge and Skill**      Knowledge, Training and Experience  
Physical Skills  
Analytical Skills  
Communication Skills  
Planning Skills

**Effort**                      Physical Effort  
Mental Effort  
Emotional Effort

**Responsibility**            Information

Human Resources  
Financial and Physical Resources  
Organisation and Development  
Health, Safety and Well Being

**Working Conditions** Hazards and Environment

### **Factor definitions**

Each of the factors must be clearly defined so that objective judgements can be made. This is done in two ways, the overall meaning of the factor is set out and a number of different levels are identified within the factor. The number of levels a factor has should be sufficient to describe the range of demands required in any of the jobs being compared. Typically, each factor level definition scores a specific number of points.

### **Scoring**

The factor plan is used to evaluate each job on the basis of the information provided about it. Each job is scored factor by factor, and the total score obtained by adding the scores of all the factor level definitions selected. This allows job comparisons to be made based on these points. A job evaluation scheme which works in this way is known as a points rating scheme.

### **Weighting**

Once the factors and factor level definitions have been agreed, it can be seen that these are not all of equal importance to the organisation. A weighting is therefore usually applied to the factor scores to reflect the importance of the various factors to the organisation. This process is subjective and must be carried out very carefully as it is easy for discrimination to creep into the process at this stage. All weighting decisions must be thoroughly discussed and tested to ensure that they are objective and free from bias.

The selection of factors and design of the factor plan is crucial to the whole job evaluation process. The outcome of the job evaluation exercise will be affected by the number and nature of the factors used, the factor definitions and the scoring weights given to them. These are the " design choices" for a job evaluation scheme.

Who makes these choices and the aims they want to achieve in making them can strongly influence the outcome of a job evaluation exercise.

A job evaluation scheme which is designed to be as free as possible from sex bias will be a scheme which seeks to evaluate all jobs fairly. Good design principles therefore must be based on the principle of equal pay for work of equal value.

# ■ THE FOLLOWING IS A CHECKLIST FOR NEGOTIATORS:

## The aims of the scheme

- The reasons for introducing job evaluation should include the achievement of a pay system which provides equal pay for work of equal value
- An analytical job evaluation scheme should be used
- All of the jobs in the organisation should be covered by the scheme
- There should be a commitment to review the scheme at least every three to four years.

## The factors used and problems to look out for

- omitting relevant factors
- counting the same job feature more than once in a scheme under different factor headings
- combining more than one distinct job feature within a factor thereby preventing it being measured separately.
- the factors are representative of the full range of job functions (e.g., mental, manual, interpersonal and physical skills) and are relevant to the full range of jobs to be covered by the scheme.
- factor level definitions are expressed in clear and unambiguous language and use terms and language relevant to actual work tasks
- the factors are not totally hierarchically determined (e.g. lower-level jobs can score highly on some factors)
- the factors are free from sex bias in terms of the factors used, their description, the factor level definitions and the weightings that they carry.

## Factor levels

- Check that factor level definitions are clear and the difference between the levels clearly defined.
- Ensure that the factor level definitions refer to aspects of jobs typically found in both male and female dominated jobs.
- Check that evaluator's are clear how to score jobs, since this is evidence of clarity on the definitions.
- Check that there are enough levels within each factor. A clustering of jobs at one or two levels may indicate insufficient levels within the factor to clearly distinguish between jobs.

- Check the distribution of scores of male and female dominated jobs across the factor levels to see if unjustified assumptions are being made about which jobs should score at which level within each factor.

## Testing the scheme

- The factors should be tested against a representative sample of benchmark jobs to see if they work:
- Check that the benchmark jobs are representative of the whole range of jobs in the organisation, including all levels and types of jobs and jobs held predominantly occupied by a single gender.
- Establish clearly where men and women work and the jobs they do to make sure that relevant job features have not been omitted from the job evaluation scheme
- Check the benchmark jobs' scores to ensure the factors and factor weights are not unfairly discriminating against any particular group of jobs. If it is found that the system is discriminating against particular jobs, adjustments will need to be made to remove these biases.

## Who is involved

- It is important that those involved are representative of the workforce and have been properly trained.
- Check that the steering committee is representative of the workforce in terms of jobs, levels within the current hierarchy, the unions involved and the gender composition of the workforce.
- Check that members of all committees and panels have been trained in job evaluation and in avoiding sex bias in job evaluation.
- Training in committee skills may also be needed. If management consultants are being used, check the extent of their knowledge of, commitment to and experience of equal value and avoiding sex bias. Establish their previous involvement in job evaluation and find out how much training they have had in avoiding sex bias.

# ■ ESTABLISHING A PAY STRUCTURE

One of the main purposes of job evaluation is to help establish a pay structure. This involves a number of steps:

- producing an internal hierarchy of jobs based on the job evaluation total scores
- grouping jobs into grades on the basis of the job evaluation scores
- deciding on the pay differentials within the structure
- linking pay levels for the grades to market rates
- deciding the basis for pay progression within a grade.

## **Checking the job evaluation results**

A simple test to check the job evaluation results is to ask if any job is obviously out of place in the rank order. If it is it should be investigated. This process is often called sorethumbing. It should not be assumed that the rank order is wrong just because it does not match the existing hierarchical structure of jobs.

There are two possible explanations for anomalies. One is that there has been an error in the job evaluation process, either through inadequate job descriptions or poor evaluation judgements. In this case the jobs would have to be re-evaluated.

The other explanation is that some jobs could be currently “overpaid” for the work they do, while other could be “underpaid”. There may be other explanations for an apparent overpayment of some jobs. For example, there may be an unsocial hours element included in certain jobs.

If, however, jobs are in fact paid above the evaluated value relative to comparable jobs the issue of salary protection will need to be addressed. (See later section on equal pay).

## **Establishing grades**

A grading structure will group similar jobs (i.e. jobs with similar scores) into the same pay bands. This task may be relatively easy if the job scores show distinct breaks between job score ‘clusters’, since this indicates clearly distinct job families.

In many job evaluation exercises the total scores of jobs will fall naturally into groups, called “clusters”. Grade lines should be drawn above and below clusters of jobs, never across the middle, especially where that means that women’s jobs come below the line and men’s above. This may sound obvious but it has been shown to happen in practice. It is unlikely that all jobs will fall neatly into the main clusters; some will be scattered in between. Here too, it is important to position the lines so that they do not leave women’s jobs just below the grade boundary line. The points range span should show a rational progression and each points range should be linked to a discrete job grade.

## **Key questions to be asked by negotiators:**

- Are there groupings of women’s jobs below a particular grade line?
- Can the placing of the grade line at that point be justified in relation to the differences between the jobs?

## **Minimum and maximum pay levels**

Once the grade boundaries have been decided, the pay range for each grade can be established by setting minimum and maximum pay levels for each grade. Care must be taken when doing this not to infringe Age Regulations relating to service related pay. (See Unite (Amicus Section) guide on Age Regulations for more details)

## **Salary modelling**

All of the analysis just described can be carried out on a computer. Software packages for salary modelling are offered by all the main management consultancy firms. They allow the user to try out a wide

range of pay and grading options and to cost the results. Workplace representatives should ensure that they have access to information where such systems are used.

#### Pay policies

A pay structure is developed within the framework of an organisation's pay policy. This will take account of how the organisation wants to relate its own pay levels for particular jobs to market pay rates and how the organisation wishes to provide for pay progression within a grade.

## ■ GETTING INVOLVED IN JOB EVALUATION

There are a number of safeguards which workplace representatives should negotiate when job evaluation is being introduced. These cover:

- disclosure of information
- training for workplace representatives
- Unite (Amicus Section) participation
- protecting individuals

#### **Disclosure of information**

In circumstances where the union is recognised by the employer but has not been involved in the development of a job evaluation scheme it is important that key information is established at the earliest opportunity.

As soon as it is apparent that a job evaluation scheme is being considered or is underway management should be asked for full disclosure of information about their proposals and about any scheme which has already been prepared or selected. The information about the scheme required is:

- the factor plan, including the full definitions of each factor and its factor levels, the scoring system, and the weightings of the factors
- the manual or guidance notes for job evaluators
- the manual or guidance notes for job analysts
- the job description or job information questionnaire.

Any scheme which has already been developed ought to have all of this documentation. In addition the scheme is likely to have already been tested on a set of benchmark jobs. Therefore the following information should be requested:

- a list of the benchmark jobs on which the scheme has been tested and from where and how these benchmarks were selected
- the job evaluation scores for each of these benchmark jobs
- any analysis which has been done on these benchmark scores which implies a particular grading structure
- a list of the benchmark jobs which will be used by the employer

There is a legal right to this information under the Employment Protection Act 1975?? backed up by the Code of Practice on Disclosure of Information to Trade Unions for Collective Bargaining Purposes. In addition, if an employer is to show that its pay structure is based upon equal pay principles it must be able to demonstrate the transparency of its pay system, and this means it will have to disclose the details of how its job evaluation scheme works.

The Employment Protection Act 1975 provides that every employer who negotiates with independent trade unions must provide to them information in their possession:

- without which unions would be materially disadvantaged in conducting collective bargaining with the employer; and
- which is related to matters the union is recognised to negotiate on for that group of employees.

If an employer refuses to disclose information, a union can seek a ruling from the Central Arbitration Council requiring the disclosure. (This step should only be taken following advice from the full time official).

The Act does not specify exactly what information should be disclosed, but an ACAS Code of Practice on “ Disclosure of Information to Trade Unions for Collective Bargaining” sets out some of the items which would be relevant to bargaining. It specifically identifies job evaluation systems and grading criteria as information which should be disclosed.

This is what the Code says about the kind of pay and benefits information which should be disclosed:

- principles and structure of pay systems;
- job evaluation systems and grading criteria;
- earnings and hours analysed according to work group, grade, plant, sex, out-workers and homeworkers, department or division, giving, where appropriate, distribution and make up of pay, showing any additions to basic rate or salary total pay bill;
- details of fringe benefits and non-wage labour costs.

### **Training for workplace representatives**

Trade union representatives have a legal right to time off with pay to go on union training courses. Unite (Amicus Section) representatives should ensure that they are not hindered from attending job evaluation courses provided by the union. Courses may also be run locally. If you meet any difficulties in getting time off for union training contact your Regional Officer.

The employer may suggest joint union management training sessions. These may be about either job evaluation generally or the specific details of the job evaluation scheme being proposed. In such cases the training should not be dominated by the views of management and Unite (Amicus Section) representatives should get agreement that they can invite trade union speakers or independent experts of their choice to participate. Your Regional Officer will be able to advise you on this.

### **Unite (Amicus Section) participation**

Unite (Amicus Section) representatives must get involved at all stages of the job evaluation process along with other trade union representatives. Participation in the exercise is a way of protecting members’ interests whilst acknowledging the union’s responsibilities to meet both individual as well as collective objectives and of achieving broad trade union aims for job evaluation.

As far as is possible participation should take place before key decisions are reached on:

- the design or selection of the job evaluation scheme
- the procedures for its implementation
- the selection and training of job analysts and members of evaluation and appeals committees

As these key issues are normally the responsibility of a Steering Committee it is important that Unite (Amicus Section) representatives are members of the Steering Committee. Trade union representatives should make up at least half of the Committee.

Problems may arise when decisions about the design or selection of

the job evaluation scheme have already been taken and the Steering Committee is being asked only to oversee its implementation. In these circumstances, workplace representatives should stress to management that any participation in the Steering Committee does not commit them to accepting the results of the job evaluation exercise if these are found to be unacceptable.

### **Conditions for Participation**

Unite (Amicus Section) representatives should not accept any job evaluation scheme at face value. Some of the schemes are badly designed. Some do not provide adequate information about the way they work, (this may be a particular problem with computer-assisted job evaluation). It may be necessary to ask your Regional Officer to obtain an expert review of the scheme. Alternatively, the employer could be asked to provide an independent review of the scheme. (ACAS maintains a list of independent experts on Job Evaluation). If the employer is unwilling to take on board trade union concerns about the scheme, either through the Steering Committee or through the collective bargaining procedure, Unite (Amicus Section) representatives should seriously consider whether continued participation in the scheme's development or implementation is appropriate and whether they are able to recommend its acceptance to their members.

Involvement in negotiations on future pay structures arising from job evaluation may result in issues relating to current pay differentials which need to be addressed. Such issues should be the subject of discussion with a regional officer of the union who will obtain legal advice regarding the conduct of negotiations. The union's objective will be to achieve a pay structure based on the principles of equal pay for work of equal value.

However, if a pay review or job evaluation finds that some members are 'over paid' compared to others, and the employer is refusing to level the lower paid members up to the level of the higher paid, then, according to recent case law, it may amount to indirect sex discrimination if the union takes a negotiating stance which is totally opposed to any reduction in the pay of the higher paid members, particularly if it does not provide adequate information to its members. Workplace representatives should always seek advice

without delay, through the regional officer, from union solicitors about the conduct of the negotiations if an employer refuses to "equalise up" on equal pay issues, even if members locally have strong views on their bargaining position.

Unite (Amicus Section) participation is also required because no matter how much care is taken in the job evaluation design it is equally important that the scheme is fairly applied, establishing all the equality principles to guard against unfair bias and discrimination. In effect this is maintaining the agreed scheme and monitoring outcomes to ensure they comply with our principle objectives.

If workplace representatives are not able to establish acceptable grounds for participation, or if the employer actively refuses to allow trade union involvement, then an alternative strategy based upon obtaining full disclosure of information, monitoring the results of the job evaluation, and alerting our members to the issues raised, needs to be adopted. In some cases a strategy based on the non-completion of job descriptions or job information questionnaires may cause management to reconsider their attitudes to trade union involvement.

Where it is believed that the job evaluation scheme is unfair and/or discriminatory it will be necessary to make sure that all members are aware of the problems identified by the union and assisted in mounting appeals against allocated gradings if they are not happy about them.

### **Protecting Individuals**

The nature of any job evaluation exercise is that individuals may be affected in different ways including the possibility of jobs being placed at a lower graded level.

If following a job evaluation exercise there are groups of workers who have been historically better off and who would, without protection, suffer a pay cut when moving on to a new scale it may be appropriate to consider a red circling, or pay protection arrangement.

The law on red circling is not straightforward and whether a red-circle is appropriate will depend on factors such as:

- Whether the red circling is temporary or permanent;
- Whether the origin of red circling is to be found in sex discrimination;
- Whether the group being red circled is historical in origin or has resulted from recent organisational changes;
- Whether the red circle has been the subject of negotiations with representatives of the workers and the views of the less advantaged taken into account;

Unite (Amicus Section) takes the view that it is entitled to argue in the first instance that employees should maintain their contractual pay when moving to a new wage structure. It is more difficult to argue that employees should be entitled to receive a period, (particularly an indefinite period), of continued annual increases, as this will tend to perpetuate any wage gap.

It is important to note however, that if the contractual rights of one group can only be maintained by failing to pursue the rights of another group (e.g. equal pay claims including back pay for those who have been historically undervalued), then the union may not be entitled to maintain the stance of "equalisation up". The union needs to take a realistic view based on the information provided by the employer.

For the time being, because the specific nature of the union's duty to groups of members in this regard remains uncertain, any proposed pay protection arrangements under new pay structures should be referred to the regional officer who will seek advice from union's legal department.

Workplace representatives and the full time official should also always fully consult with all affected groups (including those who are not receiving pay protection), recording their views and balancing them accordingly when conducting negotiations.

Advice on red-circling is available on the EOC web site at <http://www.eoc.org.uk/Default.aspx?page=15636>

## Information to members regarding their rights and after negotiations

If you believe that a member may have any kind of legal claim resulting from the design or implementation of the job evaluation scheme, you should contact your full time official who will advise on how to obtain legal assistance from the union.

A job evaluation study may provide evidence of members having been paid less than others doing work of equal value. Therefore workplace representatives need to be particularly vigilant during and after such studies regarding potential member's claims for equal pay. Members must be given clear advice about how any proposed deal may affect them and will need to be advised in writing if it appears that they may have a claim, but in all cases you must seek advice from the full time official who can obtain legal advice prior to writing to members.

It may be appropriate to write to each member to explain a proposed deal and the implications for different groups of workers. If this is not done then steps must be taken to ensure that all members will not only be able to see, but are likely to read, the information, (so, for example, if you use a union notice board you have to be confident that all members actually read what is on there, and that it is an appropriate way of giving advice which might have to be different for different members.)

Again this must be done in conjunction with the full time official who will have access to appropriate legal advice on the construction and content of such information.

There should be a right of appeal for all job holders if they are unhappy with their initial grading. Adequate information should be provided to individuals to allow them to understand the way their jobs have been evaluated. The principle of transparency means that the connection between the information in the job description or job information questionnaire and the eventual job score and grading must not only be clear to the individual job holder but also be objective.

## ■ SUMMARY OF KEY POINTS FOR WORKPLACE REPRESENTATIVES

1. There should be full disclosure of information to Unite (Amicus Section) representatives.
2. Training for Unite (Amicus Section) representatives should be organised and time off with pay provided for this.
3. Unite (Amicus Section) representatives should be involved at all stages of the job evaluation exercise. In particular they should be involved in steering committees to implement, maintain and monitor the scheme.
4. All pay protection issues must be referred to a full time official.
5. There should be a right of appeal against the results of a job evaluation exercise, which should highlight the aspect complained about e.g. inaccurate information in the job description.

## ■ JOB EVALUATION AND EQUAL PAY

### Equal pay legislation

The way that the Equal Pay Act is framed means that a claim for equal pay for work of equal value cannot be pursued if work has been rated differently under an analytical job evaluation scheme, unless it can be shown that the scheme itself is discriminatory. An analytical job evaluation scheme evaluates jobs in relation to a series of factors such as skill, effort, and decision-making.

In many cases, therefore, the mere existence of an analytical job evaluation scheme will act as a barrier to any assessment of whether equal pay is being paid for work of equal value and will be an effective defence against a legal claim for equal pay for work of equal value.

### Transparency

A minimum condition that a job evaluation scheme must meet in order to have any chance of being free of discrimination is that it must be transparent.

The principle of transparency was set out in an important decision of the European Court, *Handels-og Kontorfunktionaerres Forbund i Danmark v. Dansk Arbejdsgiveforening 1989*, which is generally referred to as the Danfoss case.

A transparent pay system means that employees must know

- the criteria by which their pay is determined
- how these criteria are applied to them

The implications for job evaluation schemes are that an individual job holder must be able to see how their job has been placed in a particular grade on the basis of the information on the job description or questionnaire. In other words the way the scheme works and how it has been applied to them must be clearly demonstrated. This will require disclosure of information about the detailed working of the scheme and about the reasoning or rules behind the evaluation judgement on a particular job.

## ■ KEY POINTS FOR NEGOTIATORS

### **Avoiding sex discrimination**

Transparency alone, however, is not in itself sufficient to achieve a non-discriminatory job evaluation scheme. The scheme must also be able to demonstrate, in an objective way, that it is free from sex discrimination. Mere assertions that it is are not enough. The scheme should be able to demonstrate clearly that it has been designed and implemented with the aim of avoiding sex discrimination in job evaluation and of tackling any discriminatory pay practices in previous pay structures.

Sex discrimination can enter a job evaluation scheme at several points, including:

- choosing the scheme to be used,
- developing the scheme,
- selecting factors with which to evaluate jobs,
- weighting the factors,
- analysing jobs and writing job descriptions,
- selecting benchmark jobs,
- evaluating jobs,
- constructing job grades from evaluation scores and allocating jobs to them,
- maintaining and reviewing the job evaluation scheme.

Sex discrimination can be reduced by paying careful attention to the design of the job evaluation scheme, by having a high level of trade union and employee involvement, and by providing training for all those involved in how to recognise and avoid sex bias.

1. How the job evaluation scheme works should be clearly demonstrated (i.e. it must be transparent).
2. The job evaluation scheme must demonstrate that it is free from sex discrimination at every stage in its design and implementation.

Unite (Amicus Section) representatives should also get a copy of the booklet " Job Evaluation Schemes Free of Sex. Bias ", which is obtainable from: The Equal Opportunities Commission, Overseas House, Quay Street, Manchester M3 3HN, tel. 0161-833 9244. or online at:  
<http://www.eoc.org.uk/Default.aspx?page=15381>