

Guidance notes to be read alongside UNISON Local Government Equal Pay form – February 2008

This guidance note is designed to help you fill in the UNISON Equal pay CASE form. If you are unsure of any of the answers or want help completing the form, your local steward, branch or regional office may be able to help you.

Please do try to fill in every box as accurately as possible as this will help us to process your form quickly. Some sections may not appear to be relevant to you. It is very important that you fill in all of the information asked for otherwise delays may occur in the processing of your form.

Introduction to equal pay

The purpose of the form is to provide UNISON with the information we need to establish whether you have suffered inequality in pay and may have a legal claim.

Potential equal pay claims in local government are most likely to come from traditionally under valued and under paid female dominated groups. The most obvious jobs are from the former manual groups but the old white collar APT&C structures will have female dominated groups that may have been undervalued, and not just in the lower grades.

Members and the union are working together to prove that there has been a historical inequality in pay, and that the reason for the inequality is based on your gender.

What this means in reality is that within your employer a “comparator” has to be identified. A comparator is someone who is of a different gender to you, who was doing work of a similar value to you but who was paid more.

Once a comparator has been identified, detailed evidence then needs to be gathered about the terms and conditions of both the individuals making the claim and their comparators, including information about basic pay, enhancements for working unsociable hours and any bonus payments received.

Equal pay is a complex issue and so we, or our agent solicitors, will need to gather as much information as possible from you about your terms and conditions and that of a possible comparator

What is involved in a claim?

Once this form has been processed, a full assessment will be made to decide whether it is appropriate to lodge a grievance with your employer, followed by submitting a claim to an employment tribunal. The parts of the union involved in this assessment will include:

- your branch,
- your region,
- the union’s national negotiators,
- our legal team
- a senior member of the unions’ National Executive Council.

In addition our agent solicitors will also advise on whether the case has “a reasonable prospect of success”. Legal cases can be very lengthy and are very expensive. It is not uncommon for equal pay cases to run for many years if the employer is not prepared to settle. The union has a duty to all its members to ensure that its resources are used effectively. This includes making careful decisions to ensure that we support cases where we believe we have a prospect of winning. This does not mean that we only take “easy” cases but it does mean that if we do not believe that your case has reasonable prospects of success, we will be honest and tell you that.

Below are some help notes which offer advice on where you may be able to find some of the information requested

Front Page

There are 3 questions in a box on the front page.

A Name Please fill in your full name in the box on the front page.

B Employer Please also write in the name of your employer to which your equal pay claim(s) relates. Your employer is the organisation that you work for eg. Stockport Metropolitan Borough Council. The full name will be listed on your payslip. (See Guidance notes Section 5 for further information).

C Change date If you have had any change to your contract in the last 6 months or you plan to within the next 3 months, for example if you have left your employment, been promoted or retired please list the date of the contract change or intended date in the box on the front page. **NB If you have not changed your contract within the last 6 months and do not intend to within the next 3 months please leave change date blank.**

Section 1 – Membership details

1.1 We need to know that you are a fully paid up UNISON member, and you must maintain your membership during any period when UNISON is acting for you. Filling in your membership number will speed up the processing of your form. Your membership number can be found on your UNISON membership card and may also be on correspondence sent by UNISON.

Don't worry if you do not know your UNISON membership number, but do make sure that you give us accurate personal details that allow us to find you on our records.

Section 2 – Correspondence details

Please provide your full current correspondence details. It is important that this information is up to date as UNISON will need to contact you at this address. Please ensure that your postcode is clearly written, as this will help us process the form. If you have moved house without telling us, or changed your surname etc, please explain this in the "other information" box in section 9.

Section 3 – contact details

If possible, please provide contact telephone numbers and any regularly checked email address so that UNISON can contact you urgently if necessary.

Section 4 – personal details

4.2 Your National Insurance number can be found on your payslip.

4.4 If you have a disability which may impact on the way in which UNISON would assist you, and you can identify specific needs (for example palantype, large print, or mobility needs for meetings) please tell us about them.

Section 5 – Employment details

Please do not leave any question unanswered in this section or your questionnaire may have to be returned for you to complete fully.

In the event of you having more than one job with your employer you will need to complete an Employment Details sheet as provided for each job – see Sections 6 and 7 below

Where possible you should provide a copy of your:

- Contract of employment / letter of appointment
- Job description
- Last 3 wage slips for each position held.

This will help us to process your claim. Please do not send original documents, as it is not always possible for us to return them.

It is **very important** that you fill in the details for the job to which your claim relates. So, if you have left your job, or had a change in contract in the last 6 months, and your claim relates to your previous job, you must fill in details for your old job.

If you have more than one current job or job that you have left in the last 6 months for which you believe you have an equal pay claim, you will need to fill in section 6 and/or section 7 as appropriate with the details of your second or third jobs. If your current job was subject to a TUPE transfer, even if this change occurred more than 6 months ago, please complete this section with your employment details.

5.1 Your employer is the organisation that you work for eg. Stockport Metropolitan Borough Council. The full name will be listed on your payslip.

5.2 Please fill in your place of work and full postal address. Your place of work may be different to your employer's address. For example you may be employed by a Council, but actually work at a school. For this question please write the address of the place you normally work at.

5.3 Please list your job title.

5.4 Please list the date you started this job.

5.5 Are you still doing this job? If yes please tick the box marked 'still doing this job.' If you are not still doing this job please give the exact date that you stopped doing the job. If you intend to change your job in the next 3 months please write your future leaving date in this box.

Some changes to contracts may also trigger the time limits for making equal pay claims so it is very important that you list the date of any changes that you have had to your contract and the detail of the change. For example if your hours changed or any changes in your responsibilities. If you have not had any changes to your contract please tick the box marked 'No changes to my contract'

There are very specific and hard time limits for the presentation of Equal Pay claims to the Employment Tribunal. Therefore, it is **very important** that you advise us on your questionnaire if:

- you have left your employment within the last 6 months
- you intend to leave your employment in the near future
- you have changed jobs within the last 6 months or intend to
- you have been promoted within the last 6 months or you are due to be promoted.
- you are still employed by the same employer but there has been a change to your terms and conditions

Any of those will trigger the time limit for the submission of your claim and without accurate information we will be unable to do so within the appropriate time limit.

Please see Appendix B for further information on time limits

5.6 Your payroll number can be found on your payslip.

5.7 Please fill in your hourly rate of pay. If you do not know your pay information it may be written on your pay slip or your contract, or your Human Resources department may be able to advise you. If you do not know your hourly rate of pay please fill in your annual salary or weekly wage. Please enter gross pay information, eg. Your hourly rate, or annual salary, or weekly wage, before any tax or deductions are taken)

5.8 Your grade may be on your payslip. If not your Human Resources department may be able to advise you. Appendix A of the Guidance notes provides a number of sample grades if you are a manual worker.

5.9 Your spinal column point may be on your payslip. If not your Human Resources department may be able to advise you.

5.10 Please list the number of hours you are contracted to work each week

5.11 - 512 Please tick appropriate boxes.

5.13 If you do work in a school please tick the appropriate box. There are a number of different types of schools and you may need to ask one of your colleagues at the school if you are not sure what type of school you work in. Voluntary aided schools are those where the governing body of the school employs staff, rather than the local authority.

5.14 If your job has been, or will be TUPE transferred please provide further details. A TUPE transfer occurs where, through no action of your own, your job is transferred to a new employer. This could have occurred because of a privatisation, contracting out or a transfer of ownership.

5.15 If you have signed any agreements with your employer on single status or equal pay; or if you have received correspondence from your employer on this issue, or previously received compensation or back-pay from them it is **very important** that you provide details, and send copies of any correspondence or relevant documents. This will help us to process your case.

Section 6 Member Employment Details – Second job

Please only fill in this section if you have more than one current job, or job which has been subject to a TUPE transfer, or a previous job which you have left in the last six months for which you believe you have an equal pay claim..

Please use this section to fill in the details of your second job, or a previous job that you left in the last six months.

Please use the guidance note listed for Section 5.

If this does not apply to you, please leave this section blank and go to Section 8 on page 8.

Section 7 –Member Employment details – third job

Please only fill in this section if you have more than one current job, or job which has been subject to a TUPE transfer, or a previous job which you have left in the last six months for which you believe you have an equal pay claim.

Please use this section to fill in the details of your third job, or previous job that you left in the last six months.

Please use the guidance note listed for Section 5

If this does not apply to you, please leave this section blank and go to Section 8 on page 8.

Section 8 – Previous positions

Please provide as much information as possible if this section applies to you.

6.2-6.3 Your grade and/or spinal column point may be on your payslip. If not your Human Resources department may be able to advise you. Appendix A provides a number of sample grades if you were a manual worker.

Section 9 – Remedy sought

9.1 UNISON has an approved standard wording in respect of equal pay cases.

9.2 It is important that you provide further details if you are, or have been, represented by another person or organisation in relation to equal pay.

Section 10 - Declarations

10.2 This box can be used to provide any additional information, including any change of name or address that you haven't previously told us about.

10.3 Please list any documents or additional sheets that you are sending with your CASE form.

Section 11 – Action taken by the region

Section 11 is for office use only. Please leave these boxes blank.

Appendix A

Below is list of sample job titles and grades to assist with your answers in this section, however if none of these are appropriate please give other information.

JOB TITLES, GROUPS & GRADES

NJC for Manual Workers Agreement (England, Wales, and Northern Ireland)

GRADE 1

Cook 1
Dining Room Assistant
Domestic Assistant 1 (Residential)
Gardener 1
Office Cleaner
Road Sweeper
School Cleaner

GRADE 2

Cook 2
Domestic Assistant 2 (Residential)
Gardener 2
Leisure Attendant 1
Refuse Collector
School Crossing Patrol Attendant
Supervisory Assistant (School Meals)

GRADE 3

Assistant School Caretaker
Cook 3
Driver 1
Gardener 3
Gravedigger
Housing Caretaker
Leisure Attendant 2
Roadworker 1
School Cleaner in Charge
Security Attendant/Porter
Sewer Operative

GRADE 4

Care Assistant
Driver 2
Roadworker 2
Waste Disposal Operative

GRADE 5

Cook 4
Gardener 4
Home Help
Refuse Driver
Roadworker 3
School Caretaker 1
Social Services Driver/Attendant

GRADE 6

School Caretaker 2

Job titles and grades
Scottish Manual Workers Agreement

Grade 1

Cook 1
Dining Room Assistant
Office Cleaner
Road Sweeper
School Cleaner

Grade 2

Cook 2
Leisure attendant
Refuse collector

Grade 3

Driver 1
Grave digger
Housing caretaker
Leisure attendant 2A
Security attendant

Grade 4

Care assistant
Driver 2
leisure attendant 2B
library / museum attendant
refuse driver

Grade 5

Attendant / driver
Home help
School janitor (2A and 2C)

Grade 6

School janitor (2B, 2D, 3A and 3C)

Grade 7

School janitor (3B and 3D)

Grade 8

School janitor (large school)

Appendix B

UNISON Equal Pay – Time Limits

Fact Sheet

December 2007

There are **very strict time limits** which apply to submitting grievances and lodging equal pay claims at the Employment Tribunal. If these are not met, claims will fail as being out of time. Unlike claims for unfair dismissal or discrimination, the Tribunal is unable to grant an extension of time if your claim is lodged outside the strict time limits.

The time limits are also very short. Action needs to be taken to protect an equal pay claim within **six months**. It is therefore crucial that you are aware of whether or not the clock has started ticking in respect of your potential claim.

When does the clock start ticking?

Time begins to run from the date your **employment comes to an end** for any reason, such as resigning or retiring.

Time also runs from the date of a **change of job with the same employer**.

The six month time limit can also be triggered when there is a **change of contract with the same employer**, such as when your terms and conditions of employment have changed whether or not you were required to sign a new contract. For example, this may simply be a change of hours.

Time may also run where you continue in the same job but **your job is transferred to a new employer** (sometimes known as **TUPE transfer**).

How do I know if the time limits apply to me?

Are you still in the job to which your claim relates?

If you are still doing the same job and nothing has changed, time has not started running against you and you can pursue an equal pay claim at any time.

However, the later you leave it to claim, the greater the risk that you will not be compensated in full for the historical inequality as the Tribunal can only award back pay for six years (five years in Scotland).

Have you retired or left in the last six months, or are you intending to?

You must submit a grievance to your employer/former employer within six months and a Tribunal claim must be lodged within nine months of retiring or leaving.

Have you changed job or been promoted to a different job, but are still working for the same employer?

Your employer may argue that time will run against you from the date of the change, so to be on the safe side, you should submit a grievance within six months and lodge a Tribunal claim within nine months of the promotion/change to avoid being out of time.

Have there been changes to your existing job, e.g. the responsibilities of the job or the work you are required to do?

As mentioned above, the six month time limit can also be triggered when there is a change of contract with the same employer, such as when your terms and conditions of employment have changed whether or not you were required to sign a new contract. For example, this may simply be a change of hours.

The only safe course of action is to assume that time has started to run. You should therefore ensure that you submit a grievance to your employer within six months and that a Tribunal claim is lodged within nine months of the change.

Is your job still the same but your employer has changed (TUPE transfer)?

A TUPE transfer occurs where, through no action of your own, your job is transferred to a new employer. This could have occurred because of a privatisation, contracting out or a transfer of ownership.

Where your employer has changed following a TUPE transfer, UNISON has previously advised members that the six month time limit will begin to run from the date of your transfer to the new employer. This means that if you contacted UNISON and told us that you transferred employer more than six months ago, you may have been advised that your claim was already out of time. This was following a 2006 House of Lords' decision called *Powerhouse*.

However, recent Tribunal cases have tested this position and UNISON must now respond to a possible change in the law. There is now a chance that the law may be clarified to provide that the six month time limit does not start until the end of your employment with the new employer.

If you have been subject to a change of employer over six months ago, you may still be able to make a claim. We are now able to lodge a claim for you and await the outcome of cases which are testing this particular area to see whether such claims will now succeed.

If you were subject to a TUPE transfer, whether in the last six months or over six months ago, you should now contact your regional office even if UNISON has previously advised you that you were not able to bring a claim because you were out of time.

This new advice does not apply to you, however, if you were subject to a TUPE transfer to a new employer but you left your new employer over six months ago. For example, if you retired or handed in your notice.

What do I need to do?

If you believe that the six month period has started, or if you are not sure, you should contact your regional office for further advice. You should also contact UNISON if you were subject to a TUPE transfer at any time, provided you did not leave your new employer over six months ago.

Please note that the that the value of your claim may reduce if you do not act promptly. You will only be able to claim compensation for the period of six years (five years in Scotland) prior to the date Tribunal proceedings are lodged.

In general, you will need to submit a written grievance to your employer/former employer within six months of the date of termination, change or transfer. After waiting at least 28 days, a claim can then be lodged with the Employment Tribunal. The Tribunal claim must be lodged at the very latest nine months less one day after the date of termination, change or transfer.

If, however, you were subject to a transfer over six months ago, our advice is that you should lodge a protective claim with the Tribunal and await the outcome of the test cases (you will still have to submit a grievance and wait 28 days before doing so).

Pursuing my claim in the Courts

I've heard that I may be able to pursue my equal pay claim in the Courts, rather than through an Employment Tribunal. Is this true?

A provision in the Equal Pay Act appears to suggest that Court procedures could be used for equal pay claims which are out of the time in the Employment Tribunal. However, this provision has never been relied upon in over 30 years since the Equal Pay Act took effect. Unfortunately, UNISON is unable to provide representation in relation to such claims due to the uncertainty of this route.

What if I want to go ahead anyway?

If you want to explore this further, you will need to take independent legal advice bearing in mind that the time limit for commencing such a Court claim is six years (five years in Scotland), and that the value of your claim may reduce if you do not act promptly (you may only be able to claim compensation for the period of six years – five in Scotland – prior to the date Court proceedings are issued).

Queries

Please contact your regional office for more information if you have any queries relating to equal pay.

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