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# Personnel Today

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## BBC and gender pay: Why getting it right is not always simple

By [Orla Bingham](#) on 10 Aug 2017 in [Equality & diversity](#), [Gender](#), [Gender pay gap](#)



Gary Lineker was named as one of the BBC's best-paid stars  
Vickie Flores/REX/Shutterstock

**The BBC could face spending millions of pounds to boost female broadcasters' salaries after stars threatened action over a gender pay divide. But this story highlights how difficult it can be to define equal or similar work when trying to ensure gender pay parity, argues Orla Bingham.**

It is difficult to believe that over 40 years after the enactment of the original equal pay legislation, discussions about pay inequality are still rife.

Last month, figures revealed by the BBC showed that almost two thirds of its stars earning over £150,000 are men, and its highest male earner brings home over four times as much as its highest female earner.

These revelations raised serious questions over the BBC's exposure to claims over equal pay and discriminatory pay practices.

Originally enshrined in the Equal Pay Act 1970, the right to equal pay now falls under the Equality Act 2010.

The legislation implies a "sex equality clause" in every contract of employment, which essentially means that men and women should receive equal pay when doing "equal work" for the same or associated employer.

This means the work carried out by a woman should be "the same or broadly similar" as (or work rated as "equivalent or of equal value" to) that of a man.

In the case of the BBC, for example, male and female presenters carrying out the same (or broadly similar) presenting role on the same television show should receive the same level of pay.

## **Equal work**

However, it is not always this simple. A male star will inevitably receive a greater level of annual compensation if he presents a programme more regularly than a female star, or features on a greater number of other television or radio shows across the BBC, for example.

The fact that a male presenter has greater exposure to lucrative work within the BBC than a female presenter is perhaps an issue in itself to be addressed, but in terms of pay comparison, the female and male stars would not necessarily be considered to be carrying out “equal work”.

The BBC could potentially rely on a “material factor” which is not in itself related to gender, as a defence to pay disparity. This could include an individual’s performance or greater level of skills and experience.

It could be argued that the “bigger” or more established and experienced stars earn the highest salaries, or that their performance on much more popular television shows with a wider audience appeal justifies a higher rate of pay.

The fact that the majority of such stars are male is incidental. The average male salary across the BBC being higher than that of the average female certainly results in an unsettling “gender pay gap”, but does not necessarily give rise to equal pay claims.

## **Beyond the BBC**

These revelations are undoubtedly embarrassing, but not specific to the BBC alone. This issue raises broader questions for all employers about how to narrow the gender pay gap, and minimise exposure to equal pay or discrimination claims.

Gender pay reporting legislation came into force in April 2017, requiring employers of 250 employees or more to publish statistics on the pay gap between its male and female employees.

Such employers should seize this opportunity to not only publish, but also assess and explain these statistics, address the fundamental issues behind any gap and take steps to reduce it.

One argument is that the salary and career progression of female employees is often stunted because of the so called ‘mum tax’, resulting from career breaks to have children, or part-time work to accommodate child care.

Employers need to be proactive in encouraging family friendly policies and to be open to flexible working arrangements to begin to address this issue.

Employers should also regularly review their pay practices to ensure they are not discriminatory, and ensure that any inequality between male and female pay is based on legitimate non-discriminatory factors.

Decisions relating to pay and promotions should be directly linked to the employee’s skills and performance wherever possible, and should be well documented.

Annual appraisals should record employees’ development and expectations in relation to performance as well as remuneration, so that links between the two are transparent.

There should also be clear, fair and objective guidelines about the allocation of bonuses, and employers should ensure such guidelines are not directly or indirectly discriminatory.

Proper training of management in relation to non-discriminatory pay practices could also go some way to addressing the pay disparity problem. Your pay practices may not be as widely exposed and discussed as the BBC’s, but reviewing policies and training could prevent unwanted scrutiny.



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