

# EQUAL PAY AUDIT REPORT

College Workforce Statistics generated on 20<sup>th</sup> January 2011

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## Introduction

The College last compiled an Equal Pay Audit in March 2009. At that time the College employed 520 employees, counting those with more than one contract as individual part-time staff.

In line with the previous audit this report covers the protected characteristics of gender, ethnic origin, disability, age and contractual status and all aspects of remuneration using the Equal Opportunities Commission (EOC) Equal Pay Review Model (EPRM) as its basis.

The EPRM consists of 5 steps:

- (1) The Scope of review; assembly of data
- (2) Identification of equal work, as defined by the Equal Pay Act:
  - a. 'Like work'
  - b. 'Work rated as equivalent under a job evaluation study'
  - c. If necessary, 'work of equal value'
- (3) Calculation of average male and female salaries/ total earnings for those undertaking equal work
- (4) Establishment of reasons for any significant differences between male and female average salaries for equal work; determination as to whether these provide objective justification, including review of pay policies, for example:
  - a. Job evaluation system
  - b. Pay progression system
  - c. Starting salary policy
  - d. Market supplement system
  - e. Pay protection policies
  - f. Any other relevant pay policies
- (5) Development of an action plan to deal with any outstanding issues and, if necessary, an equal pay policy for the future.

Legislation: At the time of writing this report, the Equality Bill is still subject to final amendments and reviews. For the purposes of this report therefore, Equal Pay has been considered in accordance with the protected characteristics as already defined in the Bill.

Future Equal Pay Audits will give consideration to any further changes made to the Equality Bill including any variation to the protected characteristics within the relevant legislation at the time.

## 1. Assembly of Data

The statistical analysis and report are based upon:

- An Excel spreadsheet of the required pay, hours of work, grade, job evaluation points and diversity data for each individual employee (identified only by reference number)
- Reference to College documents which explain various aspects of pay policy

A useful background analysis is to identify the pattern of employment for each of the diversity strands under consideration. This is done for gender in Table 1.1 below.

**TABLE 1.1: WRITTLE COLLEGE WORKFORCE BY GRADE AND GENDER**

Grade	Female	% of Females	Male	% of Males	Total
10+	2	28.57	5	71.43	7
9	8	50.00	8	50.00	16
8	19	38.78	30	61.22	49
7	28	60.87	18	39.13	46
6	55	74.32	19	25.68	74
5	31	67.39	15	32.61	46
4	62	72.94	23	27.06	85
3	35	83.33	7	16.67	42
2	1	25.00	3	75.00	4
1	0	0.00	0	0.00	0
No Grade	5	50.00	5	50.00	10
<b>Total</b>	<b>246</b>	<b>64.91</b>	<b>133</b>	<b>35.09</b>	<b>379</b>

At the date of compilation of the spreadsheet data the College employed 379 employees, counting those with more than one contract as individual part-time staff for each contract, thus adopting the same approach as the 2009 audit. The 2011 data shows that 65% of the total are female and 35% are male. Grades 2 and 8 and 10+ are male-dominated, grade 9 has a 50/50 split, the remaining grades are female-dominated. There are no employees currently in grade 1, which is the same as in 2009. The most recent data (2009-10 data) from HESA indicates 53.45% female and 46.65% male across all staff within UK HEI's.

The 2009 audit showed the gender percentages employed were 61.7% female and 38.3% male. It also showed grades 2, 8, 9 and 10+ were male dominated, with a 50/50 split at grade 7. There has therefore been an increase in females at grades 9 and 7.

The 27% reduction of overall staff since the 2009 audit is attributable to Shuttleworth College no longer being part of the organisation following the TUPE transfer of Shuttleworth staff to Bedford College in July 2009. In addition as a recommendation of KPMG, approved by the Board of Governors, a Strategic Options Review took place in 2010 resulting in a planned reduction of 27.37 FTE's. This was achieved through a mix of hours' reduction, voluntary and compulsory redundancies.

There are some jobs that on job evaluation fall outside of the SPS range; there are other jobs that are subject to other arrangements. These range from those on spot salaries above the range of grade 10 to employees outside the grading structure; these are set out below:

- 7 Senior Management Team members who are on spot salaries above the top of the grade range.

- 3 Modern Apprentices; the level of pay is controlled by the Government.  
 7 Wardens who do not receive a salary.

**TABLE 1.2: WRITTLE COLLEGE WORKFORCE BY GRADE AND ETHNICITY**

Grade	White Ethnic Origin	% of total	Non White Ethnic Origin	% of total	Ethnic Origin Not Known	% of total	Total
10+	7	100.00	0	0.00	0	0.00	7
9	16	100.00	0	0.00	0	0.00	16
8	44	89.80	5	10.20	0	0.00	49
7	45	97.83	1	2.17	0	0.00	46
6	72	97.30	1	1.35	1	1.35	74
5	46	100.00	0	0.00	0	0.00	46
4	83	97.65	1	1.18	1	1.18	85
3	41	97.62	1	2.38	0	0.00	42
2	4	100.00	0	0.00	0	0.00	4
1	0	0.00	0	0.00	0	0.00	0
No Grade	9	90.00	0	0.00	1	10.00	10
<b>Total</b>	<b>367</b>	<b>96.83</b>	<b>9</b>	<b>2.37</b>	<b>3</b>	<b>0.79</b>	<b>379</b>

NOTE: Those of Mixed Ethnic Origin are included under Non-White Ethnic Origin.

The analysis of those who have declared their ethnic origin, in Table 1.2, shows 9 employees of non-white ethnic origin spread across the grades. This is a low overall percentage of the total at 2.37%. This when compared to 2.3% in 2009 is an increase of 0.07%. In terms of the equal pay audit, the current low numbers mean that it is not possible to conduct any analysis by different non-white ethnic origins. This position has not changed since the last audit. The most recent HESA statistics indicate a 9.98% ethnic minority for Staff in HEI's within the UK [source – HESA 2011]. The most recent demographic information for the Chelmsford area indicates 3.27% ethnic minority population for the Borough of Chelmsford, with the Writtle area showing 1.85% [source – Chelmsford Borough Council website]

**TABLE 1.3: WRITTLE COLLEGE WORKFORCE BY GRADE AND AGE**

Grade	16-25	% of total	26-44	% of total	45-65	% of total	Total
10+	0	0.00	2	28.57	5	71.43	7
9	0	0.00	7	43.75	9	56.25	16
8	0	0.00	20	40.82	29	59.18	49
7	0	0.00	28	60.87	18	39.13	46
6	6	8.11	45	60.81	23	31.08	74
5	4	8.70	17	36.96	25	54.35	46
4	4	4.71	28	32.94	53	62.35	85
3	2	4.76	10	23.81	30	71.43	42
2	3	75.00	1	25.00	0	0.00	4
1	0	0.00	0	0.00	0	0.00	0
No Grade	5	50.00	5	50.00	0	0.00	10
<b>Total</b>	<b>24</b>	<b>6.33</b>	<b>163</b>	<b>43.01</b>	<b>192</b>	<b>50.66</b>	<b>379</b>

Table 1.3 shows that just over half of Writtle College's employees are in the oldest of the 3 age groups identified and less than 7% are in the youngest category. This is much the same as the 2009 audit. Broadly speaking, and as one would expect, grade increases with age.

Only 6 Writtle College employees have declared disabilities, compared to 365 who have not declared a disability and 8 who have not provided any information. In keeping with the 2009 audit, the number of employees with declared disabilities is again too small to allow for any reliable statistical analysis.

**TABLE 1.4: WRITTLE COLLEGE WORKFORCE BY GRADE AND FULL-TIME/PART-TIME**

Grade	F/T	% of F/T	P/T	% of P/T	Total
10+	7	100.00	0	0.00	7
9	15	93.75	1	6.25	16
8	40	81.63	9	18.37	49
7	28	60.87	18	39.13	46
6	42	56.76	32	43.24	74
5	28	60.87	18	39.13	46
4	35	41.18	50	58.82	85
3	2	4.76	40	95.24	42
2	3	75.00	1	25.00	4
1	0	0.00	0	0.00	0
No Grade	7	70.00	3	30.00	10
<b>Total</b>	<b>207</b>	<b>54.62</b>	<b>172</b>	<b>45.38</b>	<b>379</b>

As indicated in Table 1.4, overall just over 45% of Writtle College employees work part time, treating those with more than one contract as part-time in relation to each contract, compared to just over 54% working full-time. However, the part-time employees are heavily concentrated in grades 3 and 4, where they form a majority, particularly at grade 3 where part time staff equates to more than 95% of employees. Of the part-time employees 14 in grades 2-6 have term time contracts.

At 45.38%, this has changed significantly from last audit in 2009, when 37.7% of the total workforce were part time; this is as a result of the Strategic Options Review in 2010, because a number of full time employees in grades 4-7 reduced their hours and when new College roles have been recruited to, they have been done so more robustly and in accordance with actual need.

## 2. Identification of Equal Work

In an equal pay audit, the identification of equal work is necessary in order to provide a basis for calculating average basic pay and total earnings for equal work by each of the identified diversity strands.

In the UK Equal Pay Act 1970, as amended in 1983, equal work is defined in 3 ways:

‘Like work’, that is, the same or very similar work;

‘Work rated as equivalent’ under a fair and non-discriminatory job evaluation scheme;

'Work of equal value' when compared under headings such as effort, skill and decision.

The Equal Pay Review Model uses the same indicators of equal work. These are relevant to all the diversity strands.

#### **a. 'Work Rated as Equivalent'.**

Of the above identifiers of 'equal work', the most comprehensive, where an organisation has carried out a job evaluation exercise and applied it to all, or most, employees, is 'work rated as equivalent'. This allows for the identification of jobs which are 'equal work' under the Equal Pay Act by grade, because they have been 'rated as equivalent under a job evaluation study'.

It should be noted that this approach relies on an assumption that the job evaluation scheme is fair and non-discriminatory and has been implemented in a fair and non-discriminatory manner. This assumption will be checked in a following section of the equal pay audit, as part of the review of pay policies.

Writtle College has undertaken a job evaluation exercise, using the HERA system of evaluation developed to support pay modernisation in the higher education sector. The structure has 10 grades and these can each reasonably be taken as representing 'work rated as equivalent'.

#### **b. 'Like Work'**

Where job titles have been used consistently, these can be the basis for identifying those undertaking the same or very similar work.

#### **c. 'Work of Equal Value'**

As noted above, 17 employees are outside the evaluated grade structure, so are excluded from the gender pay gap analysis below.

As a result of the last Equal Pay Audit all jobs have been evaluated with the exception of SMT who have different terms and conditions and therefore are not comparable and Apprentices who are separately governed by legislation. Wardens do not receive a salary, therefore can not be evaluated.

### **3. Calculation of Average Basic Pay for Equal Work for Each Diversity Strand**

#### **Work Rated as 'Equivalent'.**

##### **a. Gender**

Table 3.1 shows average male and female basic full time equivalent (FTE) pay for each of the Writtle College grades.

The European Human Rights Commission's (formerly the EOC) advice on equal pay reviews is that gender pay gaps of 5% or more should be considered significant and the reasons for the differences investigated. Systematic pay gaps of 3% or more in favour of one gender or the other should also be investigated as potentially indicative of underlying pay discrimination.

**TABLE 3.1: AVERAGE BASIC PAY BY GRADE AND GENDER FOR 'WORK RATED AS EQUIVALENT'**

Grade	No		Average FTE Basic Pay (£)		F as a % of M
	M	F	M	F	
9	8	8	49,416.50	49,912.63	101.00
8	30	19	41,884.77	40,392.42	96.44
7	18	28	33,394.39	32,214.71	96.47
6	19	55	26,475.90	26,965.26	101.85
5	15	31	22,246.00	21,251.58	95.53
4	23	62	18,659.48	18,960.76	101.61
3	7	35	16,755.86	16,254.68	97.01
2	3	1	14,169.00	13,856.00	97.79
1	0	0	0.00	0.00	0.00
<b>Total</b>	<b>112</b>	<b>250</b>			

On the basis of this advice, there are no Writtle College grades where the gender difference in pay is significant, at more than 5%. There are only three grades, 5, 7 and 8, where the gap is between 3 and 5%. Further investigation is required for these grades.

#### **b. Ethnic Origin**

Numbers of those declaring an ethnic origin other than 'white' are too small to be able to do any reliable analysis so they have been treated as one group for statistical analysis purposes. Table 3.2 below shows average pay on a full-time equivalent basis for 'white' and "ethnic minority" employees for each of the grades. Employees whose ethnic origin is not known are excluded from this table, so the total numbers in each grade are different from those in the previous table.

**TABLE 3.2: AVERAGE BASIC PAY BY GRADE AND ETHNIC ORIGIN FOR 'WORK RATED AS EQUIVALENT'**

Grade	No		Average FTE Basic Pay (£)		Ethnic Minority @ % of White
	Ethnic Minority	White	Ethnic Minority	White	
9	0	16	0.00	49,664.56	0.00
8	5	44	39,498.40	41,511.52	95.15
7	1	45	31,671.00	32,698.67	96.86
6	2	72	24,283.50	26,910.61	90.24
5	0	46	0.00	21,575.85	0.00
4	2	83	18,147.50	18,896.87	96.03
3	0	42	0.00	15,951.19	0.00
2	0	4	0.00	14,090.75	0.00
1	0	0	0.00	0.00	0.00
<b>Total</b>	<b>10</b>	<b>352</b>			

Considerable caution is necessary when interpreting averages and percentages based on very small numbers. However, the overall pattern is of ethnic minority employees earning 4 – 10% less than white employees in all grades. These figures require further investigation.

### c. Disability

Of the 6 employees with declared disabilities, the job of one is ungraded and 5 are paid within the scale range for the grade.

### d. Part Time/Full Time

Table 3.3 shows average pay by grade for part time and full time employees calculated on a full time equivalent basis for comparability. There are no pay gaps of more than 5%, but there is a gap of between 3 and 5 % in favour of full time, for grade 9. No investigation is required in this instance as it relates to one individual only.

**TABLE 3.3: AVERAGE BASIC PAY BY GRADE AND PART TIME/ FULL TIME FOR 'WORK RATED AS EQUIVALENT'**

Grade	No		Average FTE Basic Pay (£)		P/T as a % of F/T
	F/T	P/T	F/T	P/T	
9	15	1	49,781.93	47,904.00	96.22%
8	40	9	41,277.05	41,435.22	100.38%
7	28	18	32,717.71	32,611.94	99.68%
6	42	32	27,051.43	26,561.59	98.32%
5	28	18	21,785.50	21,249.72	97.54%
4	35	50	18,828.60	18,914.68	100.46%
3	2	40	16,395.50	15,928.98	97.15%
2	3	1	14,169.00	13,856.00	97.79%
1	0	0	0.00	0.00	0.00%
<b>Total</b>	<b>193</b>	<b>169</b>			

### e. Age

**TABLE 3.4: AVERAGE BASIC PAY BY GRADE AND AGE FOR 'WORK RATED AS EQUIVALENT'**

GRADE	16-25	AVE BASIC FTE PAY (£)	26-44	AVE BASIC FTE PAY (£)	16-25 % of 26-44	45-64	AVE BASIC FTE PAY (£)	16-25 % of 45-64	26-44 % of 45-64
9	0	0	7	48,786	-	9	50,348	-	96.90
8	0	0	20	39,997	-	29	42,209	-	94.76
7	0	0	28	32,315	-	18	33,239	-	97.22
6	6	23,802	45	26,965	88.27	23	27,387	86.91	98.46
5	4	20,188	17	21,342	94.59	25	21,957	91.94	97.20
4	4	17,111	28	18,665	91.67	53	19,126	89.47	97.59
3	2	15,506	10	15,705	98.73	30	16,586	93.48	94.69
2	3	14,169	1	13,856	102.26	0	0	-	-
No Grade	5	2,028	5	2,282	88.87	0	0	-	-
<b>Total</b>	<b>19</b>		<b>156</b>			<b>187</b>			

Table 3.4 shows average basic pay on a full time equivalent basis for each of the identified age ranges. It shows increasing basic pay, associated with grade of job and with increasing age range, as one might expect. The biggest differences are between the youngest and



middle age groups. The differences between the middle and oldest age groups are much smaller.

#### **4. Analysis of Reasons for Significant Differences: Review of Pay Policies**

##### **a. Further Investigations**

The next step is to investigate the reasons for the differences identified as significant in the 'work rated as equivalent'. Analysis of the data by scale point, grade and the various diversity strands indicates two explanations for this:

(i) There are 24 employees paid above the stated maximum scale point for their grade. For example, the scale range for grade 4 there are 10 employees paid on points above point 15. This is because employees who take on additional duties but do not warrant a re-grade are placed in the contribution area (where their current and the next grade overlap) and do not receive any further increments.

(ii) Another factor is the distribution of employees within each grade. For example, none of the employees of ethnic minority origin are in the groups paid above the maximum stated scale point for the grade; and these employees are generally in the bottom half of the relevant scale range, (starting salaries are at the bottom of the grades) accounting for the grade pay gaps in favour of white employees. The employees on the bottom two points of grade 5 are disproportionately female at 80% compared to 52% for the grade as a whole; 66% of the total males are on the top point or in the contribution area of grade 7 and 61% of the total males are on the top points in grade 8. These factors contribute to the gender gaps in these grades.

These features explain the pay gaps, however, whether they provide objective justification needs to be considered. The fact that they contribute to some pay gaps in relation to most diversity strands suggests that they are not symptomatic of systemic pay discrimination.

All employees were originally assimilated to the national pay spine prior to job evaluation being conducted and thereafter the evaluated grade for their role confirmed (due to the pay model). This resulted in the salaries of some employees being within the contribution area of the relevant grades. All employees who are in the contribution area (except those who are under pay protection following the Strategic Options Review) have taken on additional responsibilities which are over and above those normally required in that particular grade and these have been defined as Contribution Area Criteria, justifying their salary remaining at that level, unless such duties cease to be needed or fulfilled. These are regularly reviewed as part of the normal annual PDR process in line with the job description and requirements for each of these roles. These forms containing the Contribution Area Criteria form part of the employee records of those concerned, along with their job descriptions.

This additional information amplifies the explanation for the pay gaps and provides more detailed reasons. Undertaking additional responsibilities is likely to provide objective justification for these pay differences, as long as the system is administered in a fair and unbiased manner.

The next step is to consider whether any other aspects of pay policy might have contributed to the situation. Relevant pay policies are considered below.

##### **b. Job Evaluation System and Grading Structure**

Writtle College uses the HERA system of evaluation and has done so since the Higher Education National Framework Agreement on Pay Modernisation was implemented by the College in 2007.

As stated in the last Equal Pay Audit, the HERA (Higher Education Role Analysis) system meets the first two EPRM Job Evaluation Checklist criteria. This audit does not examine or consider this in detail as it was extensively covered in the first Equal Pay Audit conducted by an independent analyst, and nothing has changed since the first audit.

The analyst commented in 2009 that *“The HERA system provides a sound basis for determining equal work in the higher education sector. There is no reason to think that it could have contributed to the identified gender and other pay gaps. Rather it should have narrowed historical pay gaps”*

### **c. Post Evaluation Grading and Pay Structure**

Writtle College agreed a 10 grade structure plus spot salaries for the SMT members to implement the evaluation outcomes, in line with the National Framework Agreement.

The College does not currently have any employees in grade 1, so effectively it currently has a 9 grade structure. This as reported in 2009 is comparable with the grading structures developed elsewhere in higher education and other parts of the public sector.

Also as reported in 2009, the pay scales vary in length from 2 substantive scale points at grade 1 and 3 at grade 2 to 9 substantive scale points at grade 8. Government advice in relation to the Employment Equality (Age) Regulations 2006 is that scales with up to 6 incremental points (minimum plus 5) do not require specific justification; scales above that may require such justification.

Pay progression is through experience in post in relation to the substantive pay scale points. However, at the top of each pay scale there are between 1 and 4 contribution related points. As long as the contribution system is fair and non-discriminatory and applied in a fair and non-discriminatory manner, this will provide justification for differences in pay between employees correctly placed on the contribution points and those on the substantive pay scale points.

Assimilation onto the new pay spine took place before the completion of the role evaluations, but subsequent adjustments effectively followed standard practice in that:

- Those whose previous pay was within the new pay range for their job moved across at their current salaries;
- Those whose previous pay was below the minimum of the new pay range for their job, called ‘green circles’, moved to the minimum point of the new scale;
- Those whose previous pay was above the maximum of the new pay range for their job, called ‘red circles’, moved to the maximum point of the new pay range for their job, but the excess is subject to personal protection for an agreed period of time. (This protection has now ceased)
- Those whose previous pay was above the substantive pay scale but within the contribution range were assimilated to the nearest point within that range, to avoid ‘detriment’, in accordance with the national agreement.

From the above, it is possible to see that the gender pay gaps in grades 5, 7 and 8, and the ethnicity pay gaps in all of the grades, are in large part attributable to the following:

- Employees in grades 5, 7 and 9 have reduced significantly since the last audit mainly because of the Strategic Options Review and the end of pay protection related to Single Pay Spine assimilation. All of the pay gaps in these grades have also improved since the last review.

- The length of the pay scales, especially towards the top of the structure, means that a slightly unbalanced distribution of men and women through the grade can result in significant pay gaps.

The key is whether these features can also provide objective justification. For a transitional period, this is likely to be the case, but less likely to be so in the medium term. It will therefore be important that the College:

- continues to undertake regular equal pay audits (e.g. biannually) to ensure that gender, ethnicity and part-time/full-time gaps continue to narrow. Since the last audit these gaps have narrowed slightly;
- continues to ensure that those assimilated on contribution points are meeting the criteria for those points, in order to provide individual justification for grade pay differences. These people in job roles are looked at annually as part of the appraisal (PDR) process by the line manager and are monitored annually by the HR department.

The 2009 Audit also suggested that consideration be given to the shortening of the longer pay scales over time, to prevent grade pay gaps from re-emerging. This has been considered but rejected on the grounds that it would take Writtle College out of the collective bargaining arrangements and the nationally agreed pay framework, which would require the college to individually consult regarding a proposed variation to contract agreement with each and every employee of the College.

#### **d. Starting Salaries**

The 2009 audit identified that Equal Pay Audits have found that starting salaries are a potential area of pay discrimination, particularly where justifications for differences are not monitored for their continued relevance over time.

As recommended in the 2009, starting salaries are usually at the minimum point of the grade unless it is identified that the new recruit meets the requirements for the higher point on the scale, or where there is a quantifiable need to apply the Market Pay Policy.

#### **e. Market Payments**

- It is justifiable to pay above the grade rate to recruit and retain even where the group with the payment is of predominately one gender and the group without the payment is predominantly of the opposite gender (source: Enderby vs. Frenchay Health Authority and the Secretary of State for Health 1993 IRLR 591 ECJ). In order for market payments to provide objective justification for differences in pay, they should be:
  - paid only where there is a demonstrable need for them from market data and/or evidence of inability to attract suitable candidates at the advertised rates;
  - subject to regular review in order to demonstrate an ongoing need and to adjust them to changes in market rates;
  - ideally paid as a separate supplement, rather than being consolidated into basic pay (it is easier for an organisation to justify and monitor market payments, where they can be separately identified);
  - paid to all those in the same circumstances. Non-payment to others in the group could lead to equal pay claims;
  - responsible for the whole of the difference in pay attributed to them.

Reliance on market data alone should be treated with caution, as the quality of the information depends entirely on how it is collected and collated. Information from a small number of recruitment advertisements is unlikely on its own to be sufficiently robust to justify a market supplement, as it is limited and partial. Further, internal and external jobs may not have been accurately matched for 'size' and specific content.

Once higher salaries have fulfilled their function of attracting more recruits into the particular role or changes in the labour market result in a reduction in the market rate, there is no longer a need for any additional payment and such payments lose their justification. In these circumstances, such payments should be subject to pay protection and phased out over time (unless the employee or their job has been subject to a development process to allow re-grading or appointment to a job commensurate with their historic salaries).

Writtle College does have a *Market Pay Policy and Conditions Supplements*. This largely complies with the criteria set out above, including, for example, separate identification of market payments on the basis of market data, regular review and adjustment as necessary. It includes provision for HR to monitor payment of market supplements, but does not specifically say that monitoring should be by gender and other diversity strands.

Only two Writtle College employees are identified from the data capture in 2011 as being in receipt of market supplements, one of whom has given notice of intention to retire. Both are female, of white British ethnic origin and work part-time; neither has declared any disabilities. Given the small number, it is impossible to draw any statistical inferences.

#### **f. Pay Protection**

The justification for pay protection is to cushion the transition to a lower pay rate, not to maintain the enhanced pay for a lengthy or indefinite period. There is a risk that indefinite or lengthy pay protection agreements become discriminatory over time, so such arrangements are generally considered to be contrary to good practice. A pay protection policy should therefore provide for enhanced pay to be phased out over a short period of time (generally 3 to 5 years). There are a number of different ways by which this can be achieved, for example:

- those affected do not receive annual pay awards until such time as the maximum of the relevant pay scale 'catches up' with their salary;
- by stipulating a fixed time period for pay protection after which the salaries of those affected are adjusted to maximum of the relevant pay scales;
- by stipulating a fixed time period for pay protection and reducing the salaries of those affected by a set percentage every year during this period.

There is no prescribed legal time limit on pay protection. The issue is whether the protection arrangements can be justified in the circumstances of the particular case. A survey by local authority employers which included pay protection arrangements revealed that the length of such arrangements ranged from 2 to 6 years but most commonly 3 years. The "Agenda for Change" scheme implemented within the NHS offered protection for 5 years as part of the negotiated pay protection arrangements.

Writtle College has a Pay Protection Policy, which is generally in accordance with the criteria set out above and which offers protection for 3 years. It also provides for a Personal Development Plan (PDP) for those subject to pay protection as a result of job evaluation or re-organisation.

**TABLE 4.1: PAY PROTECTION BY GRADE AND GENDER**

Grade	Nos		Nos on Pay Protection		% of Total	
	F	M	F	M	F	M
10	2		0	0	-	-
9	8	8	0	1	-	-
8	19	30	2	0	10.53	-
7	28	19	4	4	14.29	22.22
6	55	19	3	0	5.45	-
5	31	15	0	0	-	-
4	62	23	2	1	-	-
3	35	7	1	0	2.86	-
2	1	3	0	0	-	-
1	0	0	0	0	-	-
No Grade	5	5	0	0	-	-
<b>Total</b>	<b>246</b>	<b>133</b>	<b>12</b>	<b>6</b>	<b>4.88</b>	<b>4.51</b>

Numbers of employees currently subject to pay protection by grade and gender are set out in Table 4.1. Total numbers subject to protection are small overall. Since the pay protection ceased with relation to the job evaluation exercise it is no longer the case that there are a higher percentage of men subject to protection. The majority of numbers on pay protection are in grade 7 because there are no longer any FE Advanced lecturers and these are split equally between males and females. None of those subject to protection are of ethnic minority origin.

The majority of Pay Protection cases are in grade 7. This is as a result of the Strategic Options Review within the FE division of the College, where a reorganisation resulted in the total removal of FE Advanced Lecturers

#### **g. Performance Related Payments**

The College does not have performance related pay per se. The grading and pay structure includes provision for contribution increments above the substantive pay scales. A Reward Policy, defining the criteria for awarding contribution payments, is currently being consulted on with a view to seeking agreement and approval through the required Governor and committee structures.

#### **h. Holidays**

Holiday entitlement varies. Historically HE academic staff are entitled to 42 days holiday although new starters receive 35 days in line with FE academic staff, and non academic staff receive 25 days holiday raising to 30 after 5 years service.

#### **i. Benefits**

It would be usual to calculate average total earnings for 'work rated as equivalent' in order to examine the impact of additional payments and benefits on top of basic pay. However, at

Writtle College, the additional payments and benefits are specific to small numbers of employees, so their impact on average total earnings would be very limited. In these circumstances, it is more useful to consider the impact of each additional payment separately.

Five members of SMT in the analysis benefit from **Private Medical Insurance** provision. All are on spot salary on grades 10+.

There are 13 employees who have **accommodation** provided with the job. Justification for this relies on the nature of the work undertaken. There is justification for 10 of these employees. For the remaining 3, justification is unclear, and the College is at the time of this report, in the process of consultation, with these 3 employees, with a view to a potential contract amendment. Of the total of those with accommodation provided, 11 are male and 2 are female; this is clearly disproportionate to the gender composition of the workforce as a whole. All are of white British ethnic origin, except one whose ethnic origin is not known; again this is disproportionate to the ethnic composition of the workforce as a whole.

There are 7 employees in receipt of **childcare vouchers**, 4 males and 3 females, spread across the grades. The scheme is a salary sacrifice arrangement, open to all employees. This is therefore unlikely to be a potential source of challenge.

Most employees take advantage of the **pension scheme contributions** to one of the available pension schemes, the Teachers' Pension Scheme (TPS) or the Local Government Pension Scheme (LGPS). Numbers not taking advantage of this benefit are greater in the lower grades, so are female dominated. As take up of pension scheme contributions is on a voluntary basis, it is not considered that any particular conclusions can be drawn from this analysis except that the take up of the benefit amongst female employees is slightly lower than amongst male employees. This is likely to adjust as a result of the government's pension reforms as there will be a requirement to adopt "automatic enrolment" of new employees from October 2012, even though there will be an "opt out" period it is thought the majority will remain in. The majority of those in lower grades will adjust with the exception of Casual Staff employed for less than three months, where automatic enrolment will not apply.

**TABLE 4.2: EMPLOYEES NOT RECEIVING PENSION CONTRIBUTIONS BY GRADE AND GENDER**

Grade	Total	Female	Males	No Pension		% of Total	
				F	M	F	M
10+	7	2	5	0	0	0	0
9	16	8	8	0	0	0	0
8	49	19	30	1	1	2	2
7	46	28	18	4	0	8.69	0
6	74	55	19	7	2	9.45	2.7
5	46	31	15	6	3	13.04	6.52
4	85	62	23	12	5	14.11	5.88
3	42	35	7	10	3	23.8	7.14
2	4	1	3	0	3	0	75
1	0	0	0	0	0	0	0
No Grade	10	5	5	5	4	31.25	25
<b>Total</b>	<b>379</b>	<b>246</b>	<b>133</b>	<b>45</b>	<b>21</b>	<b>11.80</b>	<b>5.50</b>

## 5. Summary Conclusions, Action Plan, Equal Pay Policy

### a. Conclusions and Observations

In the last Audit, 24 employees were outside of the evaluated grade structure. This Audit, 17 employees sit outside of the grade structure, so have been excluded from the gender pay gap analysis. At present there are 7 employees on spot salaries, where different terms and conditions apply. These 7 jobs have been evaluated but on evaluation, exceeded the SPS, point 51. These are the same senior roles as in the last audit.

There are 3 apprentices whose salaries are governed by legislation and there are 7 wardens who do not receive a salary. These employees are in roles that do not require evaluation.

The 2009 Audit recommended that "*Writtle College evaluate all non-evaluated jobs before the next equal pay audit. Until that is done, there is a risk that an employee whose job has not been evaluated might seek to take an equal pay claim comparing themselves with an employee of opposite gender whose job has been evaluated, or vice versa. In such a situation, the job evaluation system would not provide an immediate defence to the claim. There may be alternative defences arising from their contractual status, but it would be wise to take legal advice on this point*". As previously identified the roles that are not evaluated or beyond point 51, are due to specific reasons and are therefore no longer considered a claim risk.

The primary statistical analyses show that there are gender pay gaps requiring further investigation in relation to grades 5, 7 and 8. Similarly, there is a pattern of ethnic minority employees earning significantly less than white employees in one grade, grade 6. These figures also required further investigation. In relation to contractual status, the only gap of between 3 and 5% in favour of full time is grade 9 employees. Analysis by age shows increasing basic pay, associated with grade of job and with increasing age range, as one might expect. The numbers with declared disabilities are too small for reliable statistical analysis.

Further analysis of the data by scale point, grade and the various diversity strands indicates there are a number of explanatory features for the grade pay gaps:

- There are a number of employees (29) paid above the stated maximum scale point for their grade. However the number of non-white employees being paid contribution pay is nil.
- In grade 6 which has the largest gap, there are just two ethnic minority employees who are in the bottom half of the grade's range. We consider that the numbers are too small for reliable statistical analysis but it could account for a grade pay gap in favour of white employees.
- The number of female employees in the lower half of grade 5 is 16 as opposed to 2 males. This may contribute to the gender pay gap in this grade.

This information provides more detailed reasons to explain the pay gaps. There remains a possible query over whether it provides objective justification for the observed grade pay differences. *It would be wise to repeat the pay gap analysis to ensure that gaps continue to reduce and the risks thus decrease.*

A review of pay policies which might have contributed to grade pay gaps show:

- the HERA system provides a sound basis for determining equal work in the higher education sector and it has been implemented in accordance with good practice criteria. There is no reason to think that it could have contributed to the identified gender and other pay gaps. Rather it should have narrowed historical pay gaps;

- the College has effectively adopted a 9 grade structure. This is comparable with the grading structures developed elsewhere in higher education and other parts of the public sector;

The gender pay gaps in grades 5, 7 and 8, and the ethnicity pay gaps in grades 4, 6, 7 and 8, are largely attributable to:

- new employees being appointed on the bottom point of the grade;
- employees paid above the maximum point in the scale due to contribution area criteria being applied;
- due to reorganisations resulting from the Strategic Options Review in 2010, some employees have been placed above the maximum point on the scale (in the contribution area) on a pay protected basis for 3 years;
- the length of the pay scales, especially towards the top of the structure, means that a slightly unbalanced distribution of men and women through the grade can result in pay gaps.

The question is whether these features can also provide objective justification. For a transitional period, this is likely to be the case, but less likely to be so in the medium term. At the last audit in 2009 the auditor commented: *“It will therefore be important that Writtle College:*

- *Continue to undertake regular equal pay audits to ensure that gender, ethnicity and part-time/full-time gaps narrow over time*”. Compared with the last audit the pay gaps appear to be narrowing;
- *“Continue to ensure that those assimilated on contribution area points are meeting the criteria for those points on an annual basis through PDR’s, in order to provide individual justification for grade pay difference”* The HR team monitor contribution pay annually to check that the job holder remains eligible;
- *“Ensures that those on personally protected pay either move to higher graded jobs or that their protection is terminated in accordance with the agreement after the 3 year period”*; There is evidence that this has been applied since the last audit in 2009 as pay protection has ceased in 12 cases.

**Holiday entitlement:** As identified in the 2009 audit report, holiday entitlement varies, even between those on the same grade and pay scales. As grades 6 to 9, which have most academic staff with higher holiday entitlements, also have higher proportions of males than for the Writtle College workforce as a whole, there is potential indirect gender discrimination in relation to this contractual term. This presents a risk of a female non-academic employee making an equal pay claim, comparing herself with a male academic member of staff in the same grade as herself, either for equalisation of the holiday term in her contract, or for higher basic pay on account of her worked hourly rate of pay being lower than his. As jobs in the same grade are ‘work rated as equivalent’, an Employment Tribunal would then need to decide whether the nature of academic work provided objective justification for the difference in holiday entitlement. It is considered that the outcome would be justified. As also indicated within the 2009 report, the variations will diminish as all new academic staff when recruited are on the same holiday entitlement terms. It is non-academic staff who enjoy less favourable terms.

In relation to other benefits, issues only appear to arise in relation to provision of **accommodation**. This is currently the subject of a college-wide review as there are three employees where, since the introduction of the single pay spine, they have been treated



advantageously. The College is addressing this anomaly so that employees are only provided accommodation where it is as a result of a necessity for the work undertaken. This is likely to provide a defence to any challenge.

#### **b. Action Plan**

On the basis of the above, a revision to the action plan for Writtle College might include the following:

- agreement on how equal pay can be achieved longer term. This might be in the form of a wider reward policy (following the guidance provided by The EHRC Code of Practice on Equal Pay) to include the development of objective justification criteria for the award of contribution pay;
- agreement to continue with equal pay audits regularly (biannually suggested) until such times as all grade pay gaps fall below significant levels;
- continue to ensure, via the PDR system, that those assimilated on contribution points are meeting the criteria for those points, in order to provide individual justification for grade pay differences;
- continue to ensure that those on personally protected pay either move to higher graded jobs or that their protection is terminated after the 3 year period in accordance with the Pay Protection Policy.