

JOB EVALUATION



THE OBJECTIVES OF THIS CHAPTER ARE TO:

- 1 INTRODUCE AND ASSESS THE OPERATION OF TRADITIONAL GRADING STRUCTURES AND PAY SPINES
- 2 EXPLAIN THE CONCEPT OF 'BROADBANDING'
- 3 APPRAISE DIFFERENT APPROACHES TO JOB EVALUATION
- 4 DEMONSTRATE THE IMPORTANCE OF EMPLOYEE INVOLVEMENT IN DESIGNING JOB EVALUATION SCHEMES
- 5 EXAMINE THE INTEGRATION BETWEEN JOB EVALUATION AND EQUAL PAY LAW

One of the main tasks of payment administration is setting the differential gaps. It is necessary always to juggle the three factors of performance, market rate and equity. It is rarely possible or wise to pay people only according to their performance or contribution, and linking payment only to developments in the labour market can make working relationships very difficult. There is always the vexed question of how much more than Y and how much less than Z should X receive? The relative contribution of each individual of the three is difficult to measure, so some acceptable assessment of each job is made. The difficult problem of assessing performance is overlaid with the even more difficult problem of making comparisons.

The standard way of tackling this problem is to use a form of job evaluation, a long-established technique which appears to be used by more and more UK employers each year. Steady growth was reported during the 1990s despite the approach being criticised by advocates of greater flexibility in pay determination (IRS 1998a). Large-scale surveys (*see* Thompson and Milsome 2001; IDS 2003a; and CIPD 2004) confirm the continuation of this trend in more recent years, also providing evidence of further likely take-up in the future. Much of the recent growth has been in the public sector, local authorities and the NHS being examples of major employers establishing new schemes in recent years, but the surveys suggest that job evaluation is very widely used in the private sector as well. Moreover, few organisations abandon it, once introduced. The maxim that ‘job evaluation is the one management tool that refuses to go out of fashion’ thus continues to hold true.

The chief reason for the introduction of job evaluation is to achieve fairness in pay policy and to increase employees’ sense of fairness. It is also commonly used as a tool in organisation restructuring and in harmonising the terms and conditions enjoyed by different groups of employees, for example following a merger or acquisition, or the signing of a single-status agreement with a trade union. Another important reason for the increased use of job evaluation is the need to comply with the Equal Pay Act 1970, as modified in 1984, which places as central in assessing equal pay claims the question of whether or not a job evaluation scheme is in use.

SALARY STRUCTURES

Most organisations of any size have in place a form of grading structure which is used as the basis for determining the basic rate of pay for each job. Moves towards person-based and performance-related reward in recent years have tended to be used to determine the level of bonus or progression within a grading structure. They have thus been used in addition to and not instead of established job-based systems.

The traditional approach involves developing a salary structure of groups, ladders and steps, whereby different groups or ‘families’ of jobs in an organisation are identified, each having a separate pay scale. This principle is illustrated in Figure 27.1.

Job families

The first element of the structure is the broad groupings of salaries, each group being administered according to the same set of rules. The questions in making decisions about this are to do with the logical grouping of job holders, according to their common interests, performance criteria, qualifications and, perhaps, bargaining arrangements and trade union membership. Massey (2000, p. 144) suggests the following as a typical seven-way division of jobs into distinct families:

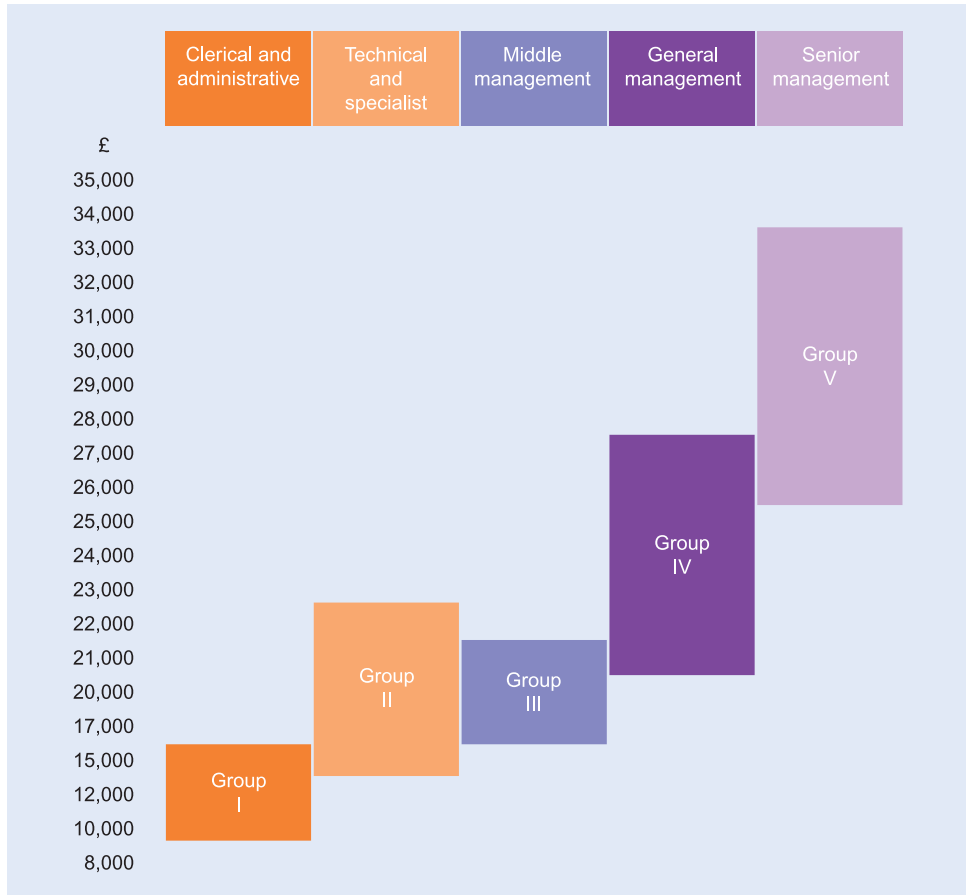


Figure 27.1 Typical salary groups

- 1 Executives
- 2 Management
- 3 Professional
- 4 Technical
- 5 Administrative
- 6 Skilled manual
- 7 Manual

The broad salary ranges are then set against each group, to encompass either the maximum and minimum of the various people who will then be in the group or – in the rare circumstance of starting from scratch – the ideal maximum and minimum levels.

As the grouping has been done on the basis of job similarity, the attaching of maximum and minimum salaries can show up peculiarities, with one or two jobs far below a logical minimum and others above a logical maximum. This requires the limits for the group to be put at the ‘proper’ level, with the exceptions either being identified as exceptions and the incumbents being paid a protected rate or being moved into a more appropriate group.

Salary groups will not stack neatly one on top of another in a salary hierarchy. There will be considerable overlap, recognising that there is an element of salary growth as a result of experience as well as status and responsibility. No overlap at all (a rare arrangement) emphasises the hierarchy, encouraging employees to put their feet on the salary ladder and climb, but the clarity of internal relativities may increase the dissatisfaction of those on the lower rungs and put pressure on the pay system to accommodate the occasional anomaly, especially if climbing is not well supported. Overlapping grades blur the edges of relativities and can reduce dissatisfaction at the bottom, but introduce dissatisfaction higher up.

Another reason why pay scales for different job families usually overlap is to accommodate scales of different length. A family with a flat hierarchy will tend to have a small number of scales with many steps, while the steep hierarchy will tend to have more scales, but each with fewer steps. One of the main drawbacks of overlapping scales is the problem of migration, where an employee regards the job as technical at one time and makes a case for it to be reclassified as administrative at another time, because there is no further scope for progress in the first classification. Another aspect of migration is the more substantive case of employees seeking transfer to other jobs as a result of changes in the relative pay scales, which reduce rigidity in the internal labour market.

Ladders and steps

Because employees are assumed to be career oriented, salary arrangements are based on that assumption, so each salary group has several ladders within it and each ladder has a number of steps (often referred to as 'scales' and 'points'). In the traditional model increments are awarded annually, reflecting individual seniority. Hence the new starter normally enters employment with the organisation at the lowest rung of the ladder in the grade for the job. At the end of each completed year of service they are then awarded an increment until after six or seven years they reach the top of the ladder – the ceiling for the relevant grade. At this point pay progression stops, except for any annual cost of living rise. The only way a higher income can be gained within the organisation is to secure promotion to a more highly graded job. This involves moving up on to a new ladder, at which point annual incremental pay awards commence again. Such approaches are still common in the public sector, although, as in many private sector organisations, incremental progress is increasingly linked to satisfactory performance or to the achievement of agreed objectives.

As with groups there is considerable overlap, the top rung of one ladder being rather higher than the bottom rung of the next. Taking a typical general management group as an example, we could envisage four ladders, as shown in Figure 27.2. The size of the differential between steps varies from £200 to £600 according to the level of the salary, and the overlapping could be used in a number of ways according to the differing requirements. Steps 6 and 7 on each ladder would probably be only for those who had reached their particular ceiling and were unlikely to be promoted further, while steps 4 and 5 could be for those who are on their way up and have made sufficient progress up one ladder to contemplate seeking a position with a salary taken from the next higher ladder.

The figures attached to the ladders in this example are round, in the belief that salaries are most meaningful to recipients when they are in round figures. However,

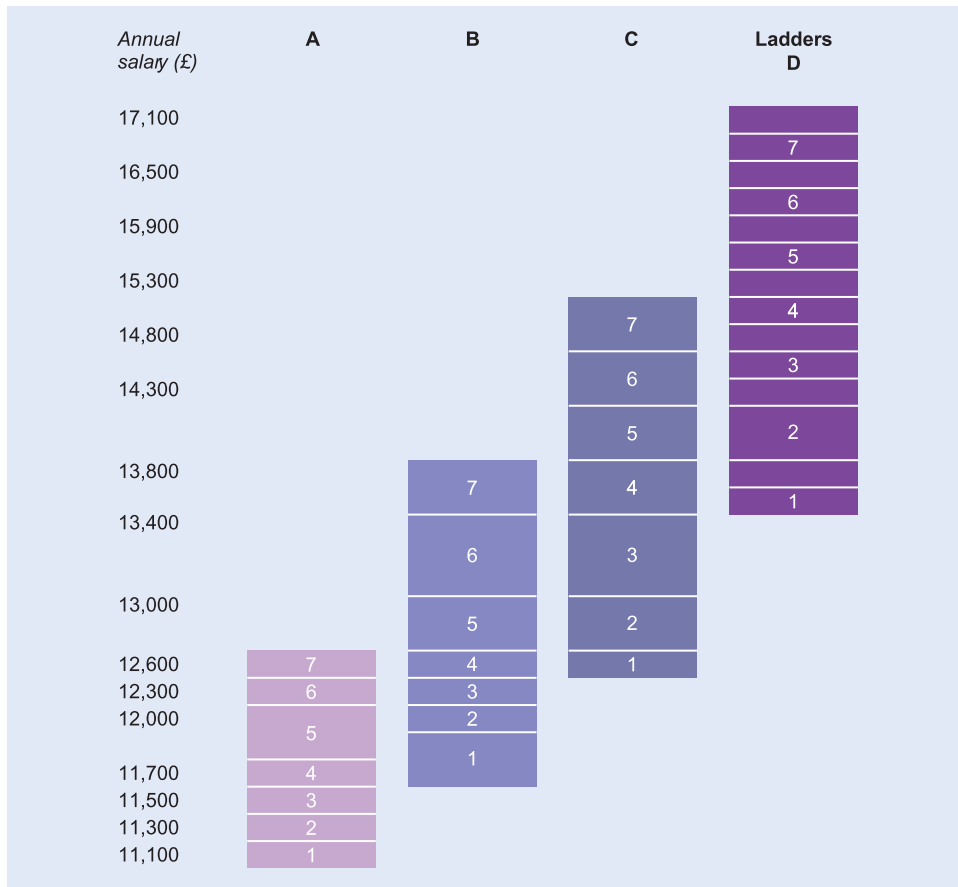


Figure 27.2 Ladders and steps in a salary group

ladders are sometimes developed with steps having a more precise arithmetical relationship to their relative position, so that each step represents the same percentage increase. Equally, some ladders have the same cash amount attached to each step. Some commentators place importance on the relationship of the maximum to the minimum of a ladder, described as the span, and the relationship between the bottom rung of adjacent ladders, referred to as the differential. According to Armstrong and Murlis (1998, pp. 174–5), a span of 50 per cent above the minimum or 20 per cent on either side of the midpoint ‘is fairly common and was orthodox practice a decade or more ago’. Differentials of 20 per cent are also seen as typical, but there is no inscrutable logic behind these precise figures. There is a neatness and symmetry about the method, which can commend itself to salary recipients.

The self-financing increment principle

It is generally believed that fixed incremental payment schemes are self-regulating, so that introducing incremental payment schemes does not mean that within a few years everyone is at the maximum. The assumption is that just as some move up, others retire or resign and are replaced by new recruits at the bottom of the ladder. This will clearly not be the case when staff turnover is low.

ACTIVITY 27.1

If incremental scales cease to be self-financing through lack of labour market movement, what advantage is there to the employer in keeping them?

Why not one big (happy) family?

An important question is whether there should be subgroupings within the organisation at all, or whether all employees should be paid in accordance with one overall salary structure. Internal relativities disappear; there is only a differential structure.

This arrangement has many attractions, as it emphasises the integration of all employees and may encourage them to identify with the organisation as a whole, it is administratively simple and can stimulate competition for personal advancement. It also allows more flexibility in the pay that is arranged for any individual. Interest in the development of single pay structures has increased in recent years for a number of reasons. It has accompanied a more general preference among employers for taking a company-wide approach to a whole range of HR initiatives. New technologies often demand a more flexible workforce, leading to a blurring of the organisational distinction between groups of workers. Harmonisation of the terms and conditions of employment follows, so that all employees work the same number of hours, are given the same training opportunities and enjoy the same entitlement to occupational pensions, sick pay and annual leave. Such practices have also been conspicuously imported into British subsidiaries of Japanese and American companies, which typically have longer experience of single-status employment practices.

Interest has also arisen following recent judgments in which courts have awarded equal pay to employees who have sought to compare their jobs with those of other individuals in wholly different job families. As a result, employers who continue to operate different mechanisms for determining the pay of different groups of employees have had difficulty in defending their practices when faced with equal value claims.

The argument against such a system is that it applies a common set of assumptions that may be inappropriate for certain groups. In general management, for instance, it will probably be an assumption that all members of the group will be interested in promotion and job change; this will be encouraged by the salary arrangements, which will encourage job holders to look for opportunities to move around. In contrast, the research chemist will be expected to stick at one type of job for a longer period, and movement into other fields of the company's affairs, such as personnel or marketing, will often be discouraged. For this reason it will be more appropriate for the research chemist to be in a salary group with a relatively small number of ladders, each having a large number of steps; while a general management colleague will be more logically set in a context of more ladders, each with fewer steps.

Moreover, in practice it is very difficult to develop a single pay structure which is acceptable to all parties in an organisation. The more diverse the skills, values and union affiliation of the employees, the more difficult is such a single job family. The factors used to compare job with job always tend to favour one grouping at the expense of another; one job at the expense of another. The wider the diversity of jobs that are brought within the purview of a single scheme, the wider will be the potential

dissatisfaction, with the result that the payment arrangement is one that at best is tolerated because it is the least offensive rather than being accepted as satisfactory.

ACTIVITY 27.2

In what type of situations do you think a single, integrated pay structure would be appropriate? Where would such a pay structure be inappropriate? What are the most likely management problems in each case?



WINDOW ON PRACTICE

In 2003 the National Health Service started the process of moving towards a single streamlined pay structure for all its staff except doctors and dentists by securing agreement with its many trade unions to pilot a scheme in 12 NHS Trusts. The new pay scales form part of a wider package of measures being introduced by the government under the heading 'agenda for change'. The intention is for national implementation to begin in 2004 and 2005.

The new pay structure radically simplifies established NHS pay practices. Instead of each professional group negotiating its own grading structure, the agenda for change approach creates a standard pay scale which covers everyone. Six hundred and fifty different pay grades are being replaced with just 16 pay bands (two spines each with eight grades) along with harmonised terms and conditions which will apply across the whole NHS.

All existing jobs are being allocated to one of the eight new bands using a job evaluation scheme which takes account of five factors:

- the level of responsibility held by the job holder
- the extent of knowledge, training and experience needed to do the job
- the extent to which the job holder has freedom to act independently
- the level and type of skills deployed by the job holder
- the nature of the working environment and amount of effort required to carry out the job.

The number of incremental steps varies from band to band. Band 1 (mainly for lower-skilled ancillary and clerical roles) contains four steps, while Band 7 (specialist nurses and section managers) contains nine. Progression is mainly based on seniority, so after each completed year of service, the employee is awarded one increment and climbs a step. But two steps in each band (the second from the bottom and one higher up the scale) can only be attained if the job holder satisfies a competency-based assessment.

Sources: IDS (2003b) 'Pay modernisation in the NHS', *IDS Report 884*, July. London: IDS; and Department of Health website (www.doh.gov.uk/agendaforchange).

BROADBANDING

Attention has recently been given to the introduction of ‘broadbanding’ as a way of retaining the positive features of traditional pay scales while reducing some of the less desirable effects (*see* Armstrong and Brown 2001, CIPD 2004). One of these less desirable effects is the built-in incentive to focus on being promoted rather than on performing well in the current job. This can lead to individuals playing damaging political games in a bid to weaken the position of colleagues or even undermine their own supervisors. Inflexibility can also occur when individuals refuse to undertake duties or types of work associated with higher grades. Moreover, in making internal equity the main determinant of pay rates within an organisation, rigid salary structures prevent managers from offering higher salaries to new employees. This tends to hinder effective competition in some labour markets.

Broadbanding essentially involves retaining some form of grading system while greatly reducing the numbers of grades or salary bands. The process typically results in the replacement of a structure consisting of ten or a dozen distinct grades with one consisting of only three or four. Pay variation within grades is then based on individual performance, skill or external market value rather than on the nature and size of the job. The great advantage of such approaches is their ability to reduce hierarchical thinking. Differences in pay levels still exist between colleagues but they are no longer seen as being due solely to the fact that one employee is graded more highly than another. This can reduce feelings of inequity provided the new criteria are reasonably open and objective. As a result, teamwork is encouraged as is a focus on improving individual performance in order to secure higher pay.

In theory, therefore, broadbanded structures increase the extent to which managers have discretion over the setting of internal differentials, introduce more flexibility and permit organisations to reward performance or skills acquisition as well as job size. Their attraction is that they achieve this while retaining a skeleton grading system which gives order to the structure and helps justify differentials. Time will tell how acceptable such approaches are to the courts when it comes to judging equal value claims.

JOB EVALUATION METHODS

Job evaluation is the most common method used to compare the relative values of different jobs in order to provide the basis for a rational pay structure. Among the many definitions is this one from ACAS:

Job evaluation is concerned with assessing the relative demands of different jobs within an organization. Its usual purpose is to provide a basis for relating differences in rates of pay to different in-job requirements. It is therefore a tool which can be used to help in the determination of a pay structure. (ACAS 1984)

It is a well-established technique, having been developed in all its most common forms by the 1920s. In recent years it has received a series of boosts. First, various types of incomes policy between 1965 and 1974 either encouraged the introduction

of job evaluation or specifically permitted expenditure above the prevailing norm by companies wishing to introduce it. In the 1980s the use of job evaluation became the hinge of most equal pay cases. More recently organisations have found it useful as part of moves towards single-status contractual arrangements and resolving pay issues following organisational mergers (IDS 2000, p. 2).

Despite its popularity it is often misunderstood, so the following points have to be made:

- 1 Job evaluation is concerned with the job and not the performance of the individual job holder. Individual merit is not assessed.
- 2 The technique is systematic rather than scientific. It depends on the judgement of people with experience, requiring them to decide in a planned and systematic way, but it does not produce results that are infallible.
- 3 Job evaluation does not eliminate collective bargaining. It determines the differential gaps between incomes; it does not determine pay levels or annual pay rises.
- 4 Only a structure of pay rates is produced. Other elements of earnings, such as premia and incentives, are not determined by the method.

There are many methods of job evaluation in use and they are summarised by Armstrong and Murlis (1998, pp. 81–102), Smith and Nethersall (2000) and IDS (2003a). Where a non-analytical or ‘whole job’ scheme is used a panel of assessors examines each job as a whole, in terms of its difficulty or value to the business, to determine which should be ranked more highly than others. No attempt is made to break each job down into its constituent parts. By contrast, an analytical scheme requires each element or factor of the job to be assessed. Since 1988 it has been the practice of courts only to accept the results of analytical schemes in equal pay cases.

The most widely used analytical schemes are based on points-rating systems, under which each job is examined in terms of factors such as skill, effort and responsibility. Each factor is given a weighting indicating its value relative to the others and for each factor there are varying degrees. A score is then given depending on how demanding the job is in terms of each factor, with the overall points value determining the relative worth of each job – and hence its grade in the organisation’s pay structure. Traditionally the analysis was carried out by a panel of managers and workforce representatives examining each job description in turn and comparing it, factor by factor, against grading definitions. In recent years there has been increased interest in computer-assisted job evaluation systems which award scores to each job on the basis of information gathered from job analysis questionnaires.

A well-known set of factors, weightings and degrees was devised for the National Electrical Manufacturers Association of the United States, but the International Labour Organisation has produced a list of the factors used most frequently (*see* table below). It would be unusual for more than a dozen of these to be used in any one scheme, most taking account of six to ten different factors.

The points values eventually derived for each job can be plotted on a graph or simply listed from the highest to the lowest to indicate the ranking. Then – and only then – are points ratings matched with cash amounts, as decisions are made on which points ranges equate with various pay grades. This process is illustrated in Figure 27.3, each cross representing a job. The most common approach involves using a graph on which one axis represents the *current* salary for each job evaluated and

| | | |
|------------------------|---------------------------|---|
| Accountability | Effort | Problem solving |
| Accuracy | Initiative | Resources control |
| Analysis and judgement | Judgement | Responsibility for cash/ materials, etc. |
| Complexity | Know-how | Social skills |
| Contact and diplomacy | Knowledge and skills | Supervision given/received |
| Creativity | Mental effort | Task completion |
| Decision making | Mental fatigue | Training and experience |
| Dexterity | Physical demands | Work conditions |
| Education | Physical skills | Work pressure |
| Effect of errors | Planning and coordination | |

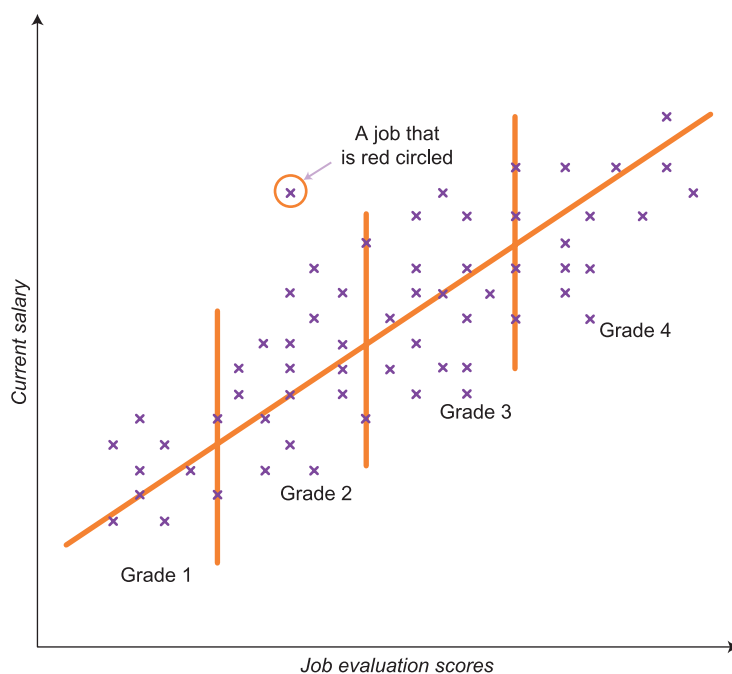


Figure 27.3 Job evaluation analysis

the other the number of *job evaluation points* awarded. A line of best fit is then drawn and each job assigned to a grade. Salary-modelling software is widely available to help with this process.

It is virtually inevitable that some jobs will be found to be paid incorrectly after job evaluation has been completed. If the evaluation says that the pay rate should be higher then the rate duly rises, either immediately or step by step, to the new level. The only problem is finding the money, and introducing job evaluation always costs money. More difficult is the situation where evaluation shows the employee to be overpaid. It is not feasible to reduce the pay of the job holder without breaching the contract of employment. There have been two approaches. The first, which was

never widespread and appears almost to have disappeared, is buying out. The over-paid employee is offered a large lump sum in consideration of the fact of henceforth being paid at the new, lower rate. The second and more general device used is that of the personal rate or **red-circling**. An example could be where the rate for the job would be circled in red on the salary administrator's records to show that the employee should continue at the present level while remaining in that post, but a successor would be paid at the lower job-evaluated rate.

A very widely used proprietary scheme is the Hay Guide Chart-Profile Method (E-reward 2003), which is particularly appropriate for the evaluation of management jobs. The method is based on an assessment of four factors; know-how, problem solving, accountability and working conditions. Jobs are assessed by using each of three guide charts, one for each factor. A profile is then developed for the job showing the relationship between the factors, a ranking is eventually produced and the rates of pay of the jobs considered in order to produce a new pay structure. At this stage comes one of the greatest advantages of this system. The proprietors have available a vast amount of comparative pay data on different undertakings using their system, so their clients not only can compare rates of pay within their organisation (differentials and internal relativities) but also can examine their external relativities. This and other proprietary systems developed by firms of consultants are described by Armstrong and Murlis (1998, pp. 602–15) and by IDS (2000).

WINDOW ON PRACTICE

In 1997 the National Joint Council for Local Authority Services agreed in principle to abolish the long-standing division in UK local government between manual workers and white-collar officers. This harmonisation deal included the introduction of a single national pay spine covering all workers. In order to assist local authorities to implement the new payment arrangements, the negotiating parties at national level developed a single-status job evaluation scheme which can be used to assess the size of jobs across the various employee groupings. No authority is obliged to evaluate jobs using this particular scheme, but many are doing so. Potentially, 1.5 million workers could ultimately be covered. The main motivation for moving towards a single pay spine was the threat of equal value claims.

The local government scheme contains four principal factors: knowledge and skills, effort demands, responsibilities and environmental demands. Each is broken down into a number of subfactors which are weighted differently. Under 'effort demands' four headings are listed: initiative and independence, physical effort, mental effort and emotional effort, the first being weighted as having double the significance of the others. The aim is to ensure that different types of 'effort' are rewarded properly, those typically associated with male jobs being given equal standing to those that are characteristic of female-dominated jobs.

Sources: IRS (1998b) 'From status quo to single status: job evaluation in local government', *IRS Employment Trends* 663, September, and S. Hastings (2000) 'Grading systems and estimating value', in G. White and J. Druker (eds) *Reward Management: A Critical Text*. London: Routledge.

EMPLOYEE PARTICIPATION IN JOB EVALUATION

The degree of participation by non-managerial employees in job evaluation varies from one business to another. In some cases the entire operation is conducted from start to finish without any employee participation at all. Some degree of participation is more common and is sensible if acceptance of a new scheme is to be gained. Apart from negotiating on pay levels and bargaining units, the main opportunities for employee contribution are discussed below.

Job families

Employees collectively need to consent to the family structure and they can probably add to the deliberations of managers about what that structure should be, as they will be well aware of the sensitive points of comparison.

Job descriptions

Traditionally job descriptions have been crucial to the evaluation and it is common for job holders to prepare their own, using a pro-forma outline, or for supervisors to prepare them for jobs for which they are responsible. Superficially, this is an attractive method, as there is direct involvement of the employee, who cannot claim to have been misrepresented. Also, it delegates the task of writing job descriptions, enabling it to be completed more quickly. The drawback is similar to that of character references in selection. Some employees write good descriptions and some write bad ones: some overstate while others understate. Inconsistency in job descriptions makes consistency in evaluation difficult.

An alternative is for job descriptions to be compiled by job analysts after questioning employees and their supervisors, who subsequently initial the job description which the analyst produces, attesting to its accuracy.

Panel evaluation

The awarding of points is usually done by a panel of people who represent between them the interests and expertise of management and employee. This is not only being 'democratic', it is acknowledging the need for the experience and perspective of job holders as well as managers in arriving at shrewd judgements of relative worth. Naturally, panel memberships alter so that employees are not asked to evaluate their own jobs. Although there is an understandable general tendency for employee representatives to push ratings up, and for management representatives to try to push them down, this usually smooths out because both parties are deriving differential rankings and not pay levels. The only potential conflict of interest will be if employee representatives and managers have divergent objectives on the shape of the eventual pay structure, with big or small differential gaps.

Job analysis questionnaires

Proprietary, computer-assisted job evaluation methods involve trained analysts putting a series of detailed questions to job holders from a multiple-choice questionnaire. The results are then fed into a computer which generates a score for each

job. There is therefore no need for a panel to reach decisions based on written job descriptions. While there is clearly direct employee involvement in providing answers to the job analysis questionnaire, the absence of a panel including workforce representatives can reduce the level of employee influence on the outcome of the exercise. This is particularly the case with those proprietary schemes which are customised to meet the needs of the purchasing organisation.

EQUAL VALUE

One of the major reasons for the growth in job evaluation in recent years has been the development of equal pay law. When assessing the validity of equal pay claims, tribunals employ the principles of job evaluation as a starting point, appointing a job analyst to undertake a comparison of the content of different jobs if necessary. Importantly, from the employer perspective, this means that the use by an organisation of an analytical job evaluation scheme can be a very effective defence when an equal pay claim is brought. The employer can simply claim that the jobs in question have both been evaluated and have been found to be of different value for specific reasons. Provided the scheme itself is free of sex bias, this should serve to deter aggrieved employees from bringing cases in the first place.

The Equal Pay Act 1970 established that a woman could bring a case to an employment tribunal claiming entitlement to equal pay with a man working at the same establishment if the claimant and her chosen comparator were engaged in 'like work' or work rated as equivalent under an employer's job evaluation study. A man can equally bring a case comparing his pay to that of a female colleague but this has rarely occurred in practice outside the field of pension entitlements. An amendment to the Act, which came into effect in 1984, broadened the definition of 'equal value' so that it became possible for a case to be brought if the claimant believes that her work is equal to that of her comparator in terms of the demands made upon them. This amendment followed a European Court ruling which judged the existing Equal Pay Act to fall short of the standard established by the EEC Equal Pay Directive. Since then other European Court rulings have further extended the scope of equal value law.

Like work

When presented with a claim for equal pay an employment tribunal will first seek to establish whether the claimant is engaged in 'like work' with the more highly paid man she has named as her comparator. The work does not have to be identical to justify equal pay under this heading, but must be either the same or of a broadly similar nature. In practice this means that the difference in pay can only be justified if there is 'a difference of practical importance' in the work done or if there is 'a genuine material factor' which justifies the higher rate of pay enjoyed by the male comparator.

An example of a difference of practical importance might be the level of responsibility of the man's job when compared to that of the claimant. An employer might, for example, be justified in paying a man more than his female colleague working on a comparable production line if the articles being manufactured by the man were of substantially greater value. Similarly a discriminatory payment could be justified if a

man worked under less supervision than a woman engaged in otherwise like work. A common example would be a man working without supervision on night shifts.

Where there is no practical difference of this kind a discriminatory payment can only be justified where there is a 'genuine material factor other than sex' which can explain the difference in pay levels.

Work rated as equivalent

Cases brought under this section of the Act relate to jobs which are different in nature but have been rated as equivalent under the employer's job evaluation study. The existence of such a study can also provide the basis of an employer's defence in equal value claims. A definition of a job evaluation scheme is included in the Act:

A woman is to be regarded as employed on work rated as equivalent with that of any man if her job and his have been given an equal value, in terms of the demand made on a worker under various headings (for instance, effort, skill, decision), on a study undertaken with a view to evaluating in these terms the jobs done by all or any of the employees in an undertaking. (Equal Pay Act 1970, s. 1.5)

Case law has further narrowed the definition of acceptable job evaluation schemes. In the case of *Bromley v. H. & J. Quick* (1988) the Court of Appeal ruled that the identification of benchmark jobs and paired comparisons was 'insufficiently analytical' as this did not involve evaluation under headings as required by the Act. The widely used method of job evaluation whereby only a sample of benchmark jobs are analysed cannot, therefore, be relied upon as a basis for an employer's defence. The jobs of the applicants and their chosen comparators must each have been evaluated analytically. In addition, a tribunal will look at the means by which scores derived from a job evaluation scheme are used to determine the rate of pay and will take account of a job evaluation study which has been completed but not implemented.

To be acceptable to a tribunal the job evaluation scheme in use must also be free of sex bias. Employers should ensure, therefore, that the factor weightings do not indirectly discriminate by overemphasising job requirements associated with typical male jobs, such as physical effort, at the expense of those associated with jobs predominantly undertaken by women, such as manual dexterity or attention to detail.

Work of equal value

A woman who is not engaged in like work, work of a broadly similar nature or work rated as equivalent is still entitled to bring an equal pay claim if she believes her work to be of equal value. In these cases the claimant names as her chosen comparator a man employed by the same undertaking who may be engaged in work of a wholly different nature. If the tribunal decides that there are grounds to believe that the work is of equal value, it will then appoint an independent expert, nominated by ACAS, to carry out a job evaluation study. The report of the expert will then be used by the tribunal as a basis of the decision on whether or not to make an award of equal pay to the claimant. A woman may bring an equal value claim in this way even if she has male colleagues engaged in like work and paid at the same rate as she.

A number of significant equal value cases have been brought to tribunals over the years. In *Hayward v. Cammell Laird* (1984) a cook was awarded pay equal to that of men employed as joiners and ladders, but only after an appeal to the House of Lords three years after making the initial complaint. In 1990 the shopworkers' union USDAW dropped an equal value case against Sainsbury's when the employer agreed to carry out a job evaluation exercise. The union had claimed that predominantly female check-out operators were engaged in work of equal value to that of predominantly male warehousemen. This led to an 11 per cent rise in Sainsbury's retail wage bill and to a series of similar USDAW settlements with other major retailers during 1990 and 1991. The impact of these cases has been very substantial, leading to the restructuring of pay arrangements across industry and the public services.

Genuine material factor defences

If it is established, to the satisfaction of an employment tribunal, that the claimant is engaged in like work, work rated as equivalent or work of equal value, the employer must show that the difference in the respective rates of pay is not due to sex discrimination but to a 'genuine material factor not of sex'. There are many defences which potentially fall into this category, some of which are described in Chapter 23. Among the most significant, as far as job evaluation is concerned, is the practice of red-circling whereby an individual's rate of pay is protected for a period following redeployment or a new job evaluation exercise. In most cases, provided it can be clearly shown that the red circle was awarded for reasons other than the individual's sex, this will be an acceptable material factor defence.

WINDOW ON PRACTICE

The Ontario Pay Equity Act

A major purpose of equal pay law is the reduction of inequality between payment for jobs which are principally performed by men and those which are mostly carried out by women. Although improvements have occurred since the 1970s when the legislation was first brought in, women's gross average hourly earnings remain around 80 per cent of men's (Shaw and Clark 2000). Equal pay law is thus failing to achieve one of its principal aims, or is doing so too slowly. This has led many to argue that the current law is inadequate and that more radical approaches are needed.

A model often cited by supporters of change is the approach used in the Canadian province of Ontario, where an inspectorate has a policing role. This means that there is less need for individual women or their representatives to prepare court actions. The following are the key features of the Ontario pay equity regime:

- Employers of more than 100 people are required to have written policies which identify 'female' job classes – defined as being over 60 per cent female.
- They then have to carry out job evaluation to establish whether or not there is a discrepancy between male and female classes.

- Where there is, they have to draw up a 'pay equity plan' setting out what they intend to do to narrow the gap – that is, make pay equity adjustments – over a number of years if necessary.
- There are derogations similar in nature to the UK's genuine material factors which employers can deploy to defend unequal pay.

Aileen McColgan (1993, p. 251) makes the following observation about the system:

The potential of Ontario's legislation lies in its effective reversal of the burden of proof. Rather than encouraging employers to ignore issues of equal pay save in the unlikely event of an individual's complaint, the Pay Equity Act obliges them, in co-operation with any bargaining agent, to scrutinise their own pay practices for evidence of discrimination and eliminate it.

SUMMARY PROPOSITIONS

- 27.1** Traditional salary structures assign each job to a grade in which there are a number of incremental steps.
- 27.2** Recent years have seen moves towards single pay spines covering all jobs in an organisation. Separate scales for different 'job families' remain common.
- 27.3** Another recent development is a move towards broadbanded structures which reduce the number of grades in each salary scale to allow managers greater flexibility in setting pay levels for individual employees.
- 27.4** Job evaluation involves using a standard system to measure the size or importance of jobs in an organisation. Systems can be analytical or non-analytical. Modern computerised systems are highly analytical in nature.
- 27.5** Key decisions in designing job evaluation schemes are which factors to include and what weighting to give to each.
- 27.6** A major reason for the growth in the use of job evaluation in recent years has been the development of equal value law which uses the principles of job evaluation as the basis for deciding cases.

GENERAL DISCUSSION TOPICS

- 1 'Job evaluation does not produce equitable payment: it merely produces a ramshackle method of justifying the status quo.' Do you agree with this statement?
- 2 What would be the main arguments for and against introducing legislation that is similar to the Ontario Pay Equity Act in the UK?
- 3 What do you think would be the major organisational problems associated with a move from a narrow to a broadbanded payment structure?

FURTHER READING

- Armstrong, M. and Baron, A. (1995) *The Job Evaluation Handbook*. London: IPD
- Hastings, S. (2000) 'Grading systems and estimating value' in G. White and J. Druker (eds) *Reward Management: A Critical Text*. London: Routledge
- IDS (2003a) 'Job evaluation is alive and well despite market-driven pay', *IDS Report 875*, February. London: Incomes Data Services
- Lawler, E. (1990) *Strategic Pay*. San Francisco: Jossey Bass
- IDS (2003a) and Armstrong and Baron (1995) provide the best practical guides to job evaluation processes, including case studies from different sectors. The most widely quoted critique of job evaluation is found in Lawler (1990), in which the author sets out the case for the adoption of new approaches in many organisational scenarios. Hastings (2000) provides a good summary of various other critical perspectives.
- Armstrong, M. and Brown, D. (2001) *New Dimensions in Pay Management*. London: CIPD
- IPD (1997) *The IPD Guide on Broadbanding*. London: IPD
- A great deal has been written about broadbanding in recent years and the likelihood that it will be adopted to a greater extent in the future. The best general introduction to the topic is IPD (1997), a more detailed account being provided by Armstrong and Brown (2001).
- Leslie, S., Hastings, S. and Morris, J. (2003) *Equal Pay: A practical guide to the law*. London: The Law Society
- Rubery, J. (ed.) (1998) *Equal Pay in Europe? Closing the Gender Wage Gap*. London: Macmillan
- Shaw, S. and Clark, M. (2000) 'Women, pay and equal opportunities', in R. Thorpe and G. Homan (eds) *Strategic Reward Systems*. London: Financial Times/Prentice Hall
- Equal pay issues are debated and discussed in many books and articles. Good starting points are Shaw and Clark (2000) and Leslie *et al.* (2003). The book of articles edited by Jill Rubery (1998) contains detailed analysis of pay equity issues in different industries in Germany, Italy and the UK.

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- IDS (2003b) 'Pay modernisation in the NHS', *IDS Report*, No. 884, July. London: IDS.
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- IRS (1998b) 'From status quo to single status: job evaluation in local government', *IRS Employment Trends*, No. 663, September.
- McColgan, A. (1993) 'Equal Pay: A New Approach', in A. McColgan (ed.), *The Future of Labour Law*. London: Cassell.
- Massey, C. (2000) 'Strategic reward systems – pay systems and structures', in R. Thorpe and G. Homan (eds) *Strategic Reward Systems*. London: Financial Times/Prentice Hall.
- Shaw, S. and Clark, M. (2000) 'Women, pay and equal opportunities', in R. Thorpe and G. Homan (eds) *Strategic Reward Systems*. London: Financial Times/Prentice Hall.
- Smith, P. and Nethersall, G. (2000) 'Job Evaluation', in R. Thorpe and G. Homan (eds) *Strategic Reward Systems*. London: Financial Times/Prentice Hall.
- Thompson, P. and Milsome, S. (2001) *Reward Determination in the UK*. London: CIPD.

LEGAL CASES

Bromley v. H. & J. Quick [1988] ICR 623.

Hayward v. Cammell Laird Shipbuilders Ltd [1984] TLR 52.

An extensive range of additional materials, including multiple choice questions, answers to questions and links to useful websites can be found on the Human Resource Management Companion Website at www.pearsoned.co.uk/torrington.

