

## Returning to business as usual Restoring job evaluation

Equal pay is a fundamental contractual right for all employees. In the NHS, a bespoke analytical Job Evaluation Scheme (JES) is available to enable organisations to assess jobs against common weighted criteria to determine pay banding. This mitigates against any legal equal pay challenge.

The scheme has been tested by tribunals and found to be adequate in delivering equal pay, but only if it is implemented correctly at local level.

Therefore, employers are reminded that following the rules and processes outlined in the NHS job evaluation handbook is of utmost importance in protecting the organisation from legal risk. Doing so also increases confidence in the outcomes delivered and should reduce the number of grievances and reviews from post holders.

This guidance is designed to help organisations adopt good practice which may be especially important as services restore and return to business as usual.

## COVID-19 job evaluation advice, virtual job matching and local evaluation

To enable resources to be effectively deployed during the NHS's response to the COVID-19 pandemic, the NHS Staff Council issued the following advice:

- Where there are local capacity issues for job evaluation leads and/or panel practitioners and job evaluation work cannot be conducted in partnership, it should be **paused during this time**.

The Job Evaluation Group (JEG) issued guidance to the service to help local organisations in making the switch if necessary to virtual panels. The approach should be as in face-to-face panels with full and comprehensive discussion between all panel members.

The following principles should be followed to maintain the integrity of the JES and not create risk into the established process.

- The panels should operate in partnership. JEG recommends a minimum of two staff side and two management side practitioners.
- Consensus should be reached about the outcome. The usual issues of avoiding bias, suspending personal opinions should apply and nobody on the panel should be too close to the job being assessed.

- The chair may have to adjust the pace of the panel to ensure that each member is fully involved. Online meetings can often miss the cues that a participant in the meeting isn't keeping up.
- Records and an audit trail should be kept. This is very important should the job be involved in a future equal pay claim.
- All outcomes should be subject to consistency checking.

## Virtual panel members

Carrying out panels virtually can add a layer of complexity and it is important that:

- All practitioners should have been trained and sitting on panels before the lockdown.
- New and less experienced panel members should be offered the chance to shadow more experienced ones.
- There should be an evaluation of how virtual panels are working after they have operated for a while. It will be important to assess whether they are as effective as face-to-face panels, particularly as regards robustness of outcomes.

## Maintaining capacity to ensure compliance

The job evaluation scheme emphasises the necessity for employers to maintain capacity to undertake job evaluation effectively and according to the requirements detailed in the handbook. It is important that all temporary solutions to existing capacity issues are discussed and agreed in partnership. Any solutions agreed should include an action plan aimed at solving capacity issues.

This paper from the [Equality and Human Rights Commission](#) expands on out-of-date job evaluation:

- A job evaluation scheme which is not kept up to date may not provide a defence in equal pay claims.
- If job evaluation procedures are not followed for new or changed jobs, or if up-to-date evaluation records cannot be produced, a tribunal may not accept that a job has been adequately evaluated.
- Providing regular training on job evaluation will help to ensure skills and knowledge are fresh and reflect best practice.

## Temporary solutions

Any temporary solutions agreed should be time-limited with clear measurable goals and depend on as little external support as possible. JEG recommends the following solutions are considered in this order:

1. Solve the problem internally - this would include [commissioning more training](#) and making sure that everyone recognises the importance of job evaluation. NHS Employers supplies training, including job matching, job analysis and job evaluation, consistency checking and refresher training.
2. Liaise with local organisations to see if they can help by running joint panels and sharing resources with your organisation, or even running panels on your behalf whilst boosting your internal capacity.
3. Use JEG-nominated national panel members – there is a database of trained and experienced panel members for when there are serious capacity problems (subject to availability/capacity).
4. Use of third-party consultants should be a very short-term solution and only used when all other options have been exhausted.

## The risks of using external resources / third-party consultants

The use of external or third-party providers to match or evaluate posts creates an inherent risk to the integrity of the job evaluation scheme in the organisation and must only ever be agreed in partnership for a short time limited period.

Evidence suggests the continuance of such arrangements increases the risk of poor job matching and evaluation outcomes, which could have far-reaching consequences and exposes the organisation to equal pay risk. It should not therefore be relied upon as anything more than a short-term solution.

In recognition that some organisations needed to resort to third-party providers, the following guidance was produced to support organisations to ensure all banding outcomes are robust.

- If working with an external organisation you need to ensure that robust audit trails of decision-making are in place and easily accessible by the employer responsible for the jobs.
- Any external panels should consist of trained practitioners working in partnership.
- Ownership of any information relating to external panels should belong to the commissioning organisation and not the external organisation.

- There should be arrangements in place for dialogue to allow panel outcomes and rationales to be questioned, understood and any differences reconciled.
- Consistency checking should be carried out internally, as a third party would not have access to information on other outcomes needed for comparison.

## Experience of using external third-party consultants

The following areas of concern have been passed to JEG from NHS organisations who have resorted to using external organisations to job match and evaluate their posts:

- Panels are not appropriately trained and have not completed [NHS Employers training](#).
- Lack of evidence that panels are run in true partnership as there is no mechanism for this to happen. (NB panelists who have some tenuous link to a trade union is not what is meant by partnership).
- Evidence to support the levels given for factors is either insufficient or not relevant and therefore not sufficiently robust to defend banding outcome challenges.
- Consistency checking does not follow the process as per the [NHS Job Evaluation Handbook](#) and is completed without staff-side involvement.
- Because of the relationship between the NHS organisation and the third-party provider, it may be difficult to present their work as having the necessary objectivity required for staff to have confidence in the process and outcomes.

## Restoration, recovery and reset

It is recognised NHS organisations will be moving to restoring their BAU services, and they must maintain their JE standards throughout this period.

To support this JEG are working with NHS Employers to deliver the full suite of job evaluation training virtually.

As job evaluation is restored locally, it's recommended that organisations complete the [self-assessment checklist](#). In particular JEG advises organisations to:

- action plan to build capacity locally so that third party providers are no longer needed

- promote the role of the job evaluation panelist and recruit volunteers from within the workforce
- determine what your training requirements are for new and existing panelists
- carry out a quality assurance check on any banding outcomes undertaken by external panels during this interim period.

## Further advice and resources from the Job Evaluation Group

There are a range of materials which can help NHS organisations with job evaluation, including:

- [Guidance on running panels virtually](#)
- [Maintaining capacity in job evaluation](#)
- [The JEG self-assessment checklist](#)
- [Virtual job matching training.](#)