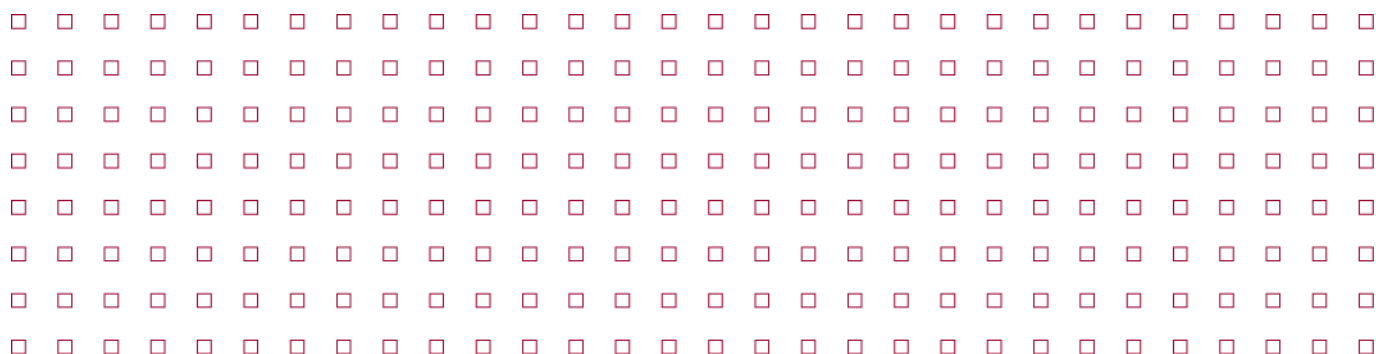


Equal Pay Audit for the core MoJ 2010/11

Full report



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Full report

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1. Background

Introduction and terms of reference

1. An Equal Pay Audit is the most effective way of establishing whether pay systems are free from discrimination. Public organisations are required to regularly audit their pay systems with regards to equal pay.
2. The benefits of conducting regular audits include:
 - establishing whether our pay strategy is delivering as expected
 - identifying where adjustments might be beneficial
 - providing valuable information to defend any Equal Pay claims that go to Tribunal.
3. The Ministry of Justice, formerly the Department for Constitutional Affairs (DCA), committed to annual equal pay audits under the Pay and Grading exercise in 2006/07, to ensure its pay systems are free from bias. This represents the third pay audit since the merger of the former Court Service and the Magistrates' Courts Committees (MCS) in 2005 and the creation of the Tribunals Service a year later.
4. The purpose of this report is to assess the impact of the final year of the Deal, to highlight areas of risk or concern and to assess how the Deal has helped in addressing these risks or concerns. Based on this information the report includes recommendations for further improvements. The report also assesses the progress made on actions laid out in last year's Action Plan and evaluates the success of measures that have been put in place.
5. The report is based on statistical analysis and provides an overview of the impact of the 2010 pay award on Equal Pay in those parts of the Ministry of Justice to which the Deal applies. For pay comparisons we have only analysed in detail the large majority of staff who opted in to the Deal, to give the most meaningful picture of the Deal's impact. 594 staff currently remain on legacy terms and conditions and are not included in this analysis.
6. Senior Civil Servants are not included as they are not covered by the Deal. SCS pay levels are determined centrally.
7. The National Offender Management Service (NOMS) is not included as it has separate collective bargaining arrangements, a different grading system, and salary arrangements designed to meet their distinct business needs.

8. Recognition and Reward under the Deal is only available to staff on Deal terms and conditions, so only Deal staff are considered when analysing the impact of the R&R scheme. However, all staff are included in analysis of the distribution of performance markings, as all staff are subject to the performance management system.

The history of the department

9. The merger of the former Court Service with the MCS in 2005 as Her Majesty's Courts Service (HMCS) was one of the biggest Machinery of Government changes ever to have taken place, bringing into the Department organisations from outside the Civil Service. It was impossible to undertake an equality audit prior to the implementation of a single common pay system. There was no coherent grading structure in place across the DCA, and we would not have been able to carry out meaningful statistical analysis.
10. Prior to the Deal those parts of the DCA which had a traditional Civil Service background had pay systems which were applied uniformly across the country, with pay scales that allowed room for progression without being inordinately lengthy.
11. The 42 Magistrates' Courts Committees, however, had much greater scope for devising pay systems that met their individual business needs without the need to consider pay in other areas. As a consequence, the difference between the highest and lowest paid staff in different MCCs was considerably greater than in the Civil Service-derived parts of the DCA. For example, from data supplied by MCCs prior to 1 April 2005 the average pay in Norfolk MCC was £22,239, while in Suffolk it was £18,210. The lowest mean pay across MCCs was £16,633, the highest £22,239.
12. These pay differences across the new organisation presented problems; some operational in terms of creating barriers to movement and not realising the efficiencies envisaged by the creation of HMCS, and some very real risks of Equal Pay claims.

The Pay and Grading review and the Deal

13. The primary objectives of the 2006/07 Pay and Grading review were therefore to:
 - introduce a single coherent pay and grading structure and replace more than 50 different sets of legacy terms and conditions;
 - promote the development of a high performance culture;
 - provide the necessary flexibility to respond to changing business need; and
 - address pay inequalities over time.

14. This review introduced a new pay and grading structure, the 'Deal' arrangements. The Pay and Grading review was subject to an Equality Impact Assessment which found no potential for direct or indirect discrimination in any of the Deal terms, or in the mapping, appeal or options processes. The same or similar processes were subsequently used to assimilate 700 former Home Office staff to MoJ in 2008.
15. Once the Pay and Grading mapping exercise was complete it became apparent that we had inherited a very wide range of salaries being paid for the same roles. This was as a direct consequence of the different approaches of the 42 legacy MCS employers.
16. Not surprisingly given the legacy situation, our analysis shows there was a significant difference in the gender pay gap between staff on former MCS terms and conditions. The overall median¹ gender pay gap for former MCS staff was 14.72 % in 2007 and 14.29% in 2008, and the equivalent gaps were 8.53% and 8.62% for staff on Civil Service terms and conditions.
17. The legacy pay differences combined with public sector pay constraints meant that the Deal couldn't be expected to address inequalities overnight. Instead, 2007 represented the first step of a 4 year journey to help reduce pay inequalities. A key feature of the Deal has been to reduce range length (that is, the difference between the minimum and maximum in each scale). The shorter the pay scale, the lower the risk of excessive pay gaps between staff at different points on the scale, and the quicker a person can progress from their minimum to their maximum. See Section 4 ii) Pay Progression and Performance Based Pay.
18. A narrowing of the overall mean² gender pay gap which we saw in 2008 confirmed that the introduction of the Deal was beginning to address historical inequalities. Although last year saw a very slight increase in the gender gap (10.52% in 2008 to 10.70% in 2009), this year's audit shows this gap has reduced to 10.34% in 2010 and confirms that continuing erosion of legacy pay differentials has also contributed to narrowing the gap. Pay gaps within bands have also shown further signs of improvement.

¹ See Annex B, 'Pay gap', for a definition of the 'median pay gap' and how this is calculated.

² See Annex B, 'Pay gap', for a definition of the 'mean pay gap' and how this is calculated.

2. Workforce Overview

Overview

19. Excluding the SCS,³ the Ministry of Justice employed 26,279 staff on Deal terms & conditions in six Bands⁴ (A–F, with A being the highest paid and F the lowest) as at 1 August 2010. The split of employees by gender and grade is shown below.

Gender	Band A	Band B	Band C	Band D	Band E	Band F	Total
Female	808	1607	1237	3293	8845	2192	17982
Male	787	900	678	1336	3216	1380	8297
Total	1,595	2,507	1,915	4629	12061	3572	26279

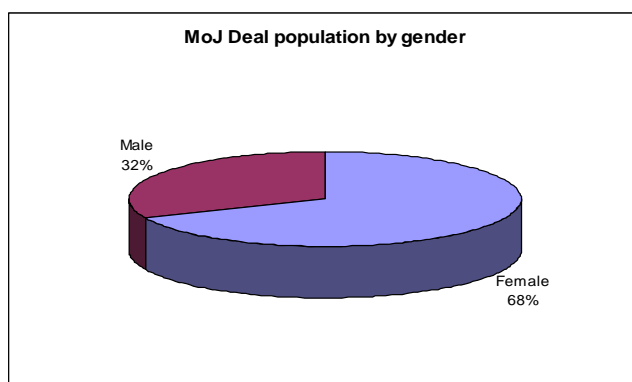
20. The number of staff on Deal terms has reduced by 154 in the last financial year. This may be attributed to the recent freeze on recruitment. It should be noted that the total number of staff leaving the organisation (for example through retirement or transfer to another department) and not being replaced is higher than this figure. We know this because around 200 former Home Office staff who joined the Deal with effect from 2 August 2009 are included in this overview, as are a number of employees who initially opted out of Deal terms and have opted in following organisational restructure.
21. 594 staff remain on legacy terms and conditions, and we anticipate that only a small minority (no more than 70) retain any progression under their legacy scales following the 2010 pay award. Although there are concentrations of staff on legacy terms in particular bands and pay ranges, previous reports have shown that the opt out demographic is broadly commensurate with the departmental demographic as a whole.

Gender

22. The gender demographic has been stable throughout the Deal's lifetime, with the percentage of women at 68%. The most notable shift is at Band A where, for the first time since the creation of the department the number of women now exceeds the number of men (at the time of the 2009/10 audit 784 men and 767 women were in Band A). This ongoing movement is encouraging as it demonstrates the demographic in Band A is becoming more representative of the department as a whole. This said, as many of the women in Band A will have joined on a lower salary than longer-serving males, this may have the short term effect of maintaining a male pay lead in this band. This will be kept under review (see **Annex A**).

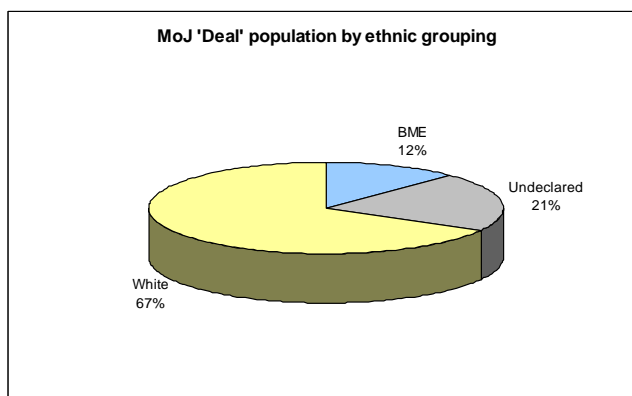
³ Senior Civil Service – see Annex B.

⁴ For a key to MoJ Bands and their Civil Service equivalents, see Annex B.

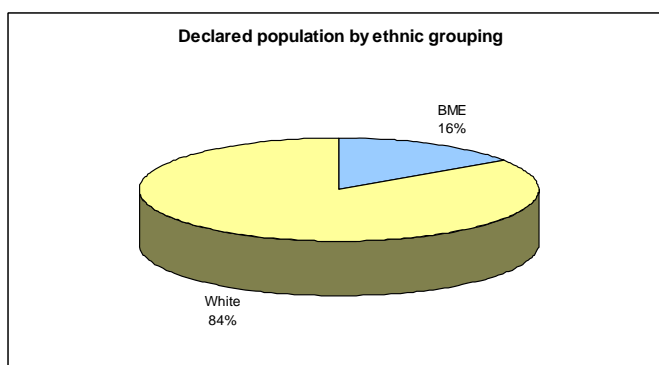


Ethnicity

23. The pie chart below shows the percentage of the Deal population at 1 August 2010 who are declared within the 'Any White' category, 'Any BME' category and who have not declared their ethnicity (21%). This shows an improvement from 2008 when 29% of staff ethnicity status was unknown.

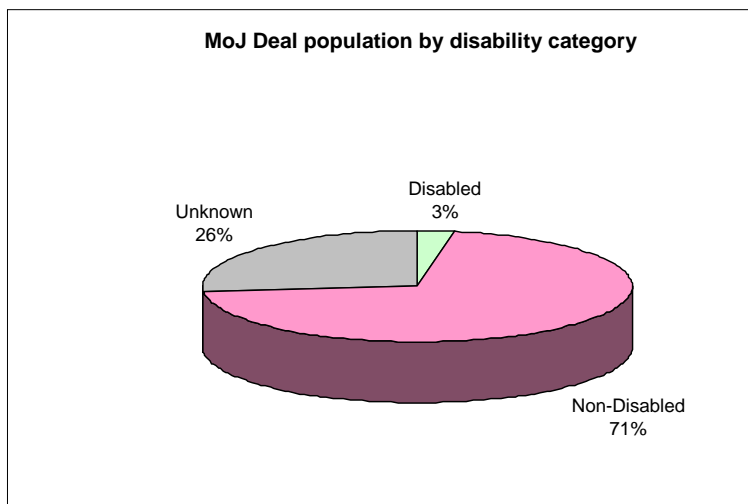


24. The table below gives a breakdown of ethnic grouping, excluding those members of staff who have not declared their status. This breakdown is used as a reference point when analysing the allocation of Recognition and Reward ('R&R') and Temporary Responsibility Allowance ('TRA') (see Section 4 iv) and v)).

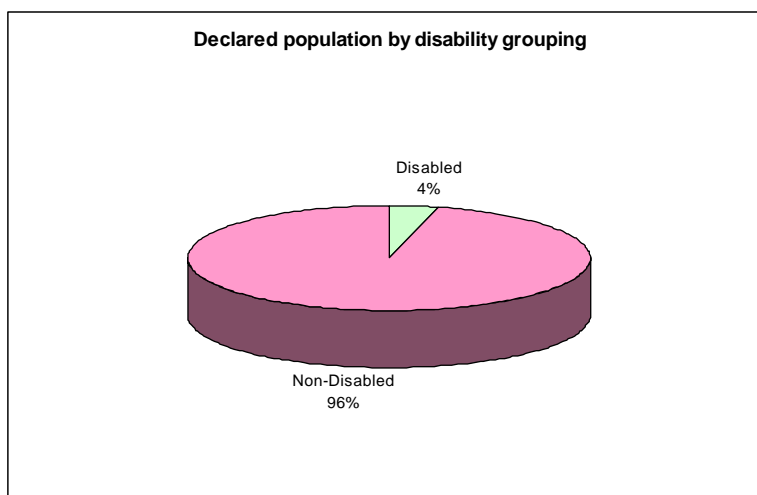


Disability

25. The pie chart below shows the percentage of the Deal population at 1 August 2010 who are declared as 'Disabled', 'Non-disabled' and who have not declared their disability status. 26% of staff have not declared their status. This has only marginally improved since 2008 pay award, when 27% of staff disability status was unknown.

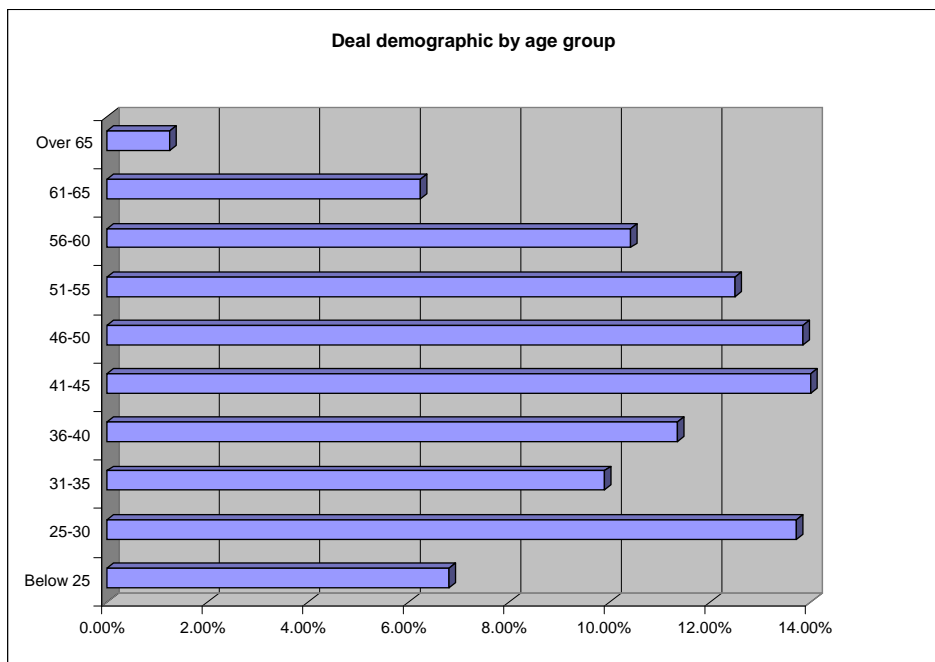


26. The chart below gives a breakdown of disability category, excluding those members of staff who have not declared their status. This breakdown is used as a reference point when analysing the allocation of R&R and TRA (see Section 4 iv) and v)).



Age

27. The table below shows the Deal population by age grouping. This breakdown is used as a reference point when analysing the allocation of R&R and TRA (see Section 4 iv) and v)).



3. Executive Summary

Overall Gender Gap (see Section 4 i))

28. Firstly, it is common practice to consider the gender pay gap across the organisation taking no account of grades or location. Our data shows that the overall pay lead men had over women following the 2010 award was 10.34%. This has reduced from 10.70% in 2009, and compares favourably with the 19.3% mean pay gap across the economy as a whole in 2010 (Source: ONS).⁵

Gender Gap Band on Band

29. This compares all men with women in each Band, and shows significantly less pronounced gaps, with almost no gender gap at the lower grades. This shows that the highest mean gender pay gap is at Band A (-4.47%). This is lower than 2009 (-4.49%) and 2008 (-4.66%). The lowest mean pay gap is Band F (-0.10%)

Gender Pay Gap within each range of the regional pay model

30. A new regional pay model was introduced under the 2007 Pay and Grading review, with five regional pay ranges.⁶ We have compared male and female salaries in each Band, within each range in the regional pay model. This shows that the gap was narrowest in Band C Range 4 (0.10%) and widest in Band A National (7.39%).
31. Overall, the findings of this audit suggest the Deal has continued to address the pay inequalities which existed prior to the Pay and Grading review. The findings indicate that pay gaps for all Bands except Band A are within the EHRC guideline of 3% for the third year running.

Performance markings (see Section 4 ii) and iii))

32. The comparison of performance markings (one of the factors which drives pay progression in Bands A–D) by gender shows that the performance management system⁷ appears to be free of gender bias. The proportion of female employees receiving “Outstanding” assessments in Bands A–D was 18.53% compared to 16.59% for male employees. This compares to 2009 where 15.42% of female and 14.20% of male employees received “Outstanding” assessments.

⁵ See Annex B, ‘ONS’, for an explanation and link to the relevant ONS data.

⁶ See Annex B, ‘Regional Pay’, for more detail on this structure, and the change to the model in 2010.

⁷ See Annex B, ‘Performance Management’, for details of the MoJ policy.

33. "Outstanding" allocations have been analysed in relation to a number of different categories such as Gender, Age, Disability, Ethnicity and Reduced Hours working. There are some small variances here and we have identified actions to take to ensure this system is not open to bias. See **Annex A**. We will continue to monitor these figures closely in future audits.
34. We have reviewed "Improvement Required" allocations similarly. The data shows some variances, but the small sample size makes meaningful analysis difficult and we do not believe these variances are marked enough to be considered evidence of any bias within the performance management system.

Recognition and Reward (R&R) (see Section 4 iv))

35. Payments made under the Recognition and Reward scheme have been analysed in relation to Gender, Age, Ethnicity and Disability. There is no reason to believe from the analysis that the system is vulnerable to bias. New arrangements for recording small gifts from January 2011 are expected to improve the quality of data available, and this will form part of future analysis.

Temporary Responsibility Allowance (TRA) (see Section 4 v))

36. The application of Temporary Responsibility Allowance has been analysed in relation to Gender, Age, Ethnicity and Disability. This analysis suggests there is no evidence of discrimination in the allocation of TRA.

4. Analysis and Tables

i) Pay gaps

37. The purpose of this section of the audit is to establish whether historic pay differentials inherited from the former MCS have been eroded over the Deal's lifetime.

Overall gender gap

38. The mean pay gap (full-time equivalent salary) has decreased from 10.70% to 10.34% (see below).

Overall Pay Gap Analysis

	Average FTE Salary 1 Aug 2009	Average FTE Salary 1 Aug 2010
Female	£22,349	£23,187
Male	£25,028	£25,862
All	£23,186	£24,031
Gap (F as a % of M)	-10.70%	-10.34%

39. This is encouraging as a decrease of 0.36% suggests the narrowing of the MoJ's pay scales over the lifetime of the Deal is having a real impact in reducing pay differentials.
40. The departmental gender demographic has been consistent throughout the lifetime of the Deal, with the percentage of women stable at 68% of the workforce. The most notable shift is at Band A where, for the first time since the creation of the department the number of women exceeds the number of men.
41. This movement is encouraging as it demonstrates the demographic in Band A is becoming more representative of the department as a whole. However, the proportionally larger population of new, female Band As may have the short term effect of maintaining a male lead in this band. This is because the majority of staff (predominantly women) promoted into Band A internally during the recruitment freeze will mainly have salaries towards or at the bottom of the relevant pay scale. The numbers being closer to parity will however, **in the longer term**, decrease both the overall gender pay gap and the gap at Band A. This will be kept under review. See **Annex A**.

Gender gap within bands

42. The overall pay gap figure can be misleading as it does not compare 'like-with-like', for example, men and women doing equal work – which should be the basis for a pay audit. This is because men and women are

not spread evenly throughout MoJ bands. The overall gap favours men because they are more heavily represented at senior levels.

43. Further analysis has been carried out by pay band to identify individual pay gaps and the results were encouraging. With the exception of Band A, the greatest gender pay gap across any pay band is 2.43%. EHRC advice for equal pay reviews is that gender grade pay gaps of 5% or more should be treated as significant; gaps of between 3% and 5% could be indicative of gender pay discrimination if they form part of a pattern.
44. Where pay gaps within a particular band and pay range exceeds 3% further analysis has been undertaken with a view to explaining these differentials and, where appropriate, further action has been identified (see **Annex A**).
45. The table below shows that the mean pay gap at **Band A** is decreasing gradually, and is currently at 4.47%.

Average FTE salary						
	2009			2010		
Band A	Female	Male	% Gap	Female	Male	% Gap
Inner London	£54,297	£55,965	-2.98%	£56,634	£58,624	-3.39%
Outer London	£55,908	£54,964	1.69%	£56,857	£55,826	1.85%
National	£50,583	£54,811	-7.71%	£52,107	£56,263	-7.39%
Total	£52,964	£55,453	-4.49%	£55,066	£57,645	-4.47%

46. Legacy terms and conditions have contributed to the male pay lead in this Band. Large differentials and long pay ranges were inherited through the Pay and Grading exercise in 2006-07 as Band A incorporates staff from three former DCA 'spans' (as well as several MCS pay ranges). There is recognition that some Band A posts below the SCS are more heavily weighted than others.
47. It should be noted here that the number of new female Band As will also be skewing the Band A pay gap (see paragraph 41) and so the decrease in pay differentials for Band As who have **not** recently been promoted, will be larger than indicated here.
48. Another factor that may have contributed to the relative persistence of the pay gap at Band A is the allocation of staff to specialist pay ranges. Any staff in Bands A and B who are members of a specialist job family which is judged to attract a market supplement were allocated to a specialist pay range under the Deal. These pay ranges have minima and maxima which are 5, 10 or 15% higher than the generalist Band A minima and maxima. This gives greater headroom for pay progression. Many of these staff will also have had specialist allowances (not payable at these bands under the Deal) consolidated into their base pay on assimilation. Reviews of most of the professional job families completed

in 2009 found no equality issues associated with the reward arrangements for these families.⁸

49. The table below shows that the mean pay gap at **Band B** has also reduced, and remains well within EHRC 3% guidelines.⁹

Average FTE salary						
	2009			2010		
Band B	Female	Male	% Gap	Female	Male	% Gap
Inner London	£38,772	£38,818	-0.12%	£40,163	£40,080	0.21%
Outer London	£41,659	£43,621	-4.50%	£42,708	£44,809	-4.69%
National	£37,443	£38,083	-1.68%	£38,359	£38,932	-1.47%
Total	£38,119	£38,719	-1.55%	£39,195	£39,740	-1.37%

50. The table below shows that the mean pay gap at **Band C** has increased but also remains within this guideline.

Average FTE salary						
	2009			2010		
Band C	Female	Male	% Gap	Female	Male	% Gap
Inner London	£30,291	£30,430	-0.46%	£31,538	£31,611	-0.23%
Outer London	£29,716	£29,136	1.95%	£30,308	£29,397	3.10%
Hotspot	£27,222	£27,512	-1.06%	£28,115	£28,440	-1.14%
National Plus	£26,118	£26,210	-0.35%	£26,716	£26,743	-0.10%
National ¹⁰	£23,722	£24,705	-3.98%			
National Existing	£27,019	£27,434	-1.51%	£26,590	£27,273	-2.50%
Total	£28,168	£28,779	-2.12%	£29,144	£29,870	-2.43%

51. There has been a pay gap at Band C since 2008 and this has increased from -2.12% in 2009. This runs counter to the trends at other grades. There may be a number of factors contributing to the extension of the gender gap at Band C, including the introduction of specialist pay ranges at this responsibility level and/or promotion rates. We have been unable to identify one main contributory factor within our analysis.
52. The table on page 15 shows that the mean pay gap at **Band D** has remained stable.

⁸ See Annex B, 'Specialist Pay', for more information on the pay arrangements for professional job families within MoJ, and the 2008/09 review of specialist pay.

⁹ See Annex B, 'EHRC', for more information and the relevant link.

¹⁰ See Annex B Regional Pay.

Average FTE salary						
	2009			2010		
Band D	Female	Male	% Gap	Female	Male	% Gap
Inner London	£24,490	£24,452	0.15%	£25,401	£25,430	-0.11%
Outer London	£23,704	£23,805	-0.42%	£24,349	£24,309	0.16%
Hotspot	£21,422	£21,547	-0.58%	£22,099	£22,189	-0.40%
National Plus	£20,747	£20,678	0.33%	£21,160	£20,915	1.17%
National ¹¹	£20,834	£20,830	0.02%			
National Existing	£19,586	£19,704	-0.60%	£21,185	£21,226	-0.19%
Total	£22,098	£22,450	-1.57%	£22,741	£23,131	-1.69%

53. There are no significant gaps. Overall the pay gap at Band D is well within EHRC guidelines.

54. The table below shows that the mean pay gap at **Band E** has decreased.

Average FTE salary						
	2009			2010		
Band E	Female	Male	% Gap	Female	Male	% Gap
Inner London	£20,380	£20,331	0.24%	£21,133	£21,092	0.19%
Outer London	£19,628	£19,433	0.99%	£20,199	£20,008	0.96%
Hotspot	£17,645	£17,624	0.12%	£18,277	£18,217	0.33%
National Plus	£17,130	£17,162	-0.19%	£17,727	£17,692	0.20%
National ¹²	£15,356	£15,203	1.00%			
National Existing	£17,551	£17,854	-1.69%	£17,910	£17,994	-0.47%
Total	£17,893	£18,240	-1.90%	£18,540	£18,819	-1.48%

55. There are no significant pay gaps in 2010. Overall the gap at Band E is within tolerable levels.

56. The table below shows that the mean pay gap at **Band F** has remained stable and remains well within tolerable limits.

Average FTE salary						
	2009			2010		
Band F	Female	Male	% Gap	Female	Male	% Gap
Inner London	£17,991	£17,864	0.70%	£18,560	£18,221	1.86%
Outer London	£16,907	£16,799	0.64%	£17,183	£17,110	0.43%
Hotspot	£15,030	£14,905	0.83%	£15,413	£15,259	1.01%
National Plus	£14,827	£14,750	0.52%	£15,202	£15,145	0.38%
National ¹³	£13,047	£13,011	0.28%			
National Existing	£15,125	£15,115	0.06%	£15,208	£15,160	0.31%
Total	£15,368	£15,382	-0.09%	£15,758	£15,774	-0.10%

¹¹ See Annex B Regional Pay.

¹² See Annex B Regional Pay.

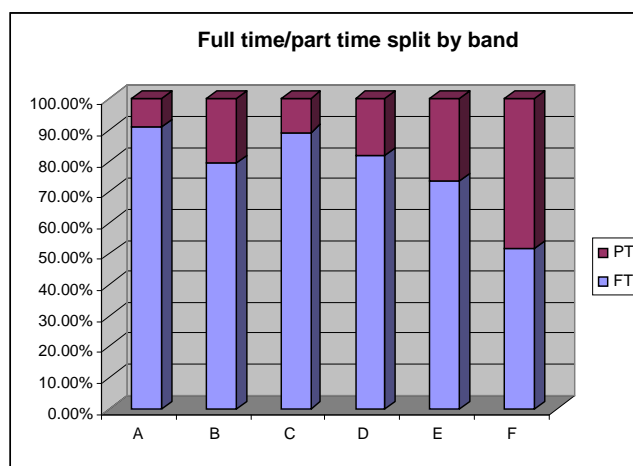
¹³ See Annex B Regional Pay.

57. There are no significant pay gaps in 2010. Overall the gap at Band F is the lowest of the bands.
58. It is notable that Band F continues to boast both the lowest pay differential and the shortest pay scale, demonstrating the success of the Deal in narrowing pay gaps through shortening pay scales.

Reduced Hours Workers

59. For the first time we have audited the pay gap between reduced hours and full time employees of the Ministry. Across the department there is a clear gap between the average salaries of full time and reduced hours workers (see below). This can be explained by considering the distribution of reduced hours workers within each band (see the following graph). The proportions of reduced hours workers are greatest within Bands E and F.

Full Time average FTE	£24,979
Reduced Hours average FTE	£21,216
% Gap	-15.07%



60. Indeed when we drill down further and analyse the pay gaps between full time and reduced hours workers by grade (see below), it is clear that there is no bias inherent in the Deal pay structures with respect to reduced hours workers.

	Full Time	Part Time	% Gap
Band A	£56,434	£55,397	-1.84%
Band B	£39,036	£40,752	4.40%
Band C	£29,404	£29,374	-0.10%
Band D	£22,931	£22,508	-1.84%
Band E	£18,604	£18,641	0.20%
Band F	£15,937	£15,580	-2.24%

61. We also know from our analysis that the large majority of reduced hours workers are female (see below). This is another factor to be borne in mind when considering the Ministry's movement towards a gender-neutral pay environment. Historically the reduced-hours workers population has been more female-dominated than it currently is. The concentration of reduced hours-workers in Band E and F posts will have contributed to the historical gender pay differentials.

Gender	Full Time	Part time
Female	68.31%	31.69%
Male	88.92%	11.08%

Disability

62. We have also audited the pay gap between disabled and non-disabled employees of the Ministry for the first time. As you will see from the table below, there is a clear pay gap between disabled and non-disabled staff.

Declared Disabled	£22,294
Declared Non-Disabled	£23,683
% Gap	-5.87%

63. Breaking the analysis down to pay band level, it is clear that the pay structure is non-discriminatory in respect of staff with a disability, who have a pay lead in three of the six pay ranges.
64. The disparity between the overall disability pay gap, and the fact that the analysis by individual band shows general parity, can be explained by looking at the Deal demographic.

Grade	% disability pay gap
Band A	-1.32%
Band B	1.29%
Band C	-0.13%
Band D	4.69%
Band E	0.95%
Band F	-0.26%

65. The table below shows that of the population of employees who have declared their disability status, proportionally more declared disabled staff can be found in the lower grades. This explains the overall pay gap we have seen at paragraph 62.

Grade	Disabled	Non-Disabled
Band A	2.78%	97.22%
Band B	2.98%	97.02%
Band C	2.97%	97.03%
Band D	3.24%	96.76%
Band E	4.13%	95.87%
Band F	5.88%	94.12%
Grand Total	3.94%	96.06%

Ethnicity

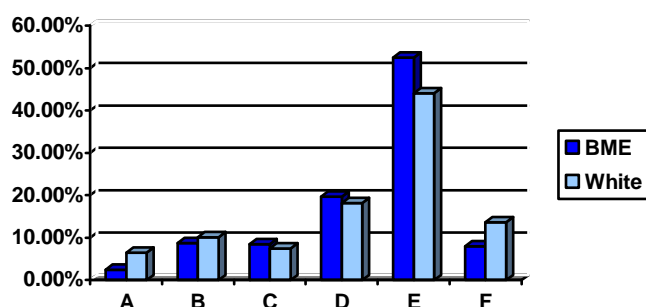
66. We have also audited the mean pay gap between BME and white employees of the Ministry for the first time. As you will see from the table below, there is a small pay gap between these groupings.

Ethnic group	Average 2010 Salary
BME	£23,841
White	£24,148
Pay gap	-1.27%

67. The average BME salary is lower than white employees. Again, this may be due to a higher proportion of white employees at higher bands (see below).

Proportion of BME and White staff by pay band

Grade	BME (%)	White (%)
Band A	2.47	6.48
Band B	8.78	10.13
Band C	8.5	7.51
Band D	19.64	18.19
Band E	52.57	44.06
Band F	8.04	13.64



68. When we break the pay gap down into individual grades, we see that at most grades (with the exception of Band A), BME staff have a pay lead (see below). This suggests that the pay system is free from any bias against BME staff.

Band	Ethnicity pay gap (%)
A	-0.09%
B	1.41%
C	5.64%
D	7.94%
E	6.03%
F	3.63%

ii) Pay Progression and Performance Based Pay

69. Pay progression is an important feature of pay systems and, since the introduction of the Age Discrimination Regulations, an important aspect of an Equal Pay audit.
70. The Deal introduced two separate pay progression systems based on grade. For staff in Bands E and F we introduced Incremental Steps whilst for Bands A–D we have a pay/performance matrix.
71. For staff in Bands E and F, the introduction of increments provided a clear and transparent system of progression under the Deal arrangements. The number of steps in 2007 was greater than our ideal position but the legacy pay differentials, allied to affordability issues, prevented a shorter scale. However, we have clearly demonstrated commitment to improvement by reducing the number of incremental steps. In Band E the number of increments has reduced from 8 to 5 and in Band F from 7 to 4.
72. Over the course of the Deal this has had the effect of raising most steeply the pay of the lowest-paid members of MoJ staff. This has also allowed progression to the maximum in less than 5 years
73. Bands E and F have the smallest pay gaps and, particularly in Band F, this is connected with shortening of the scales. It is this premise that has driven the Deal and the higher Bands also demonstrate benefits deriving from the changes brought in by the Deal.
74. For Bands A–D range length (the difference between the Minimum and the Target Maximum), just as with the lower grades, is greater than we would have ideally liked – again due to affordability. We have addressed this over the life of the Deal by increasing Minima by significantly more than Target Maxima. This has a similar effect to that mentioned above though the progression timelines are longer.

	2007	2010
Band A	11 Years	7 Years
Band B	9 Years	5 Years
Band C	8 Years	4 Years
Band D	7 Years	4 Years
Band E	7 Years	4 Years
Band F	6 Years	3 Years

75. The progression timescales shown above are calculated using the Deal Minima and Target Maxima for each Band for the period 2007–2010 based on “Effective” performance. Progression timescales for “Outstanding” performers will be shorter than the above.

iii) Performance Markings

a) “Outstanding” Markings for Performance Year 2009–2010

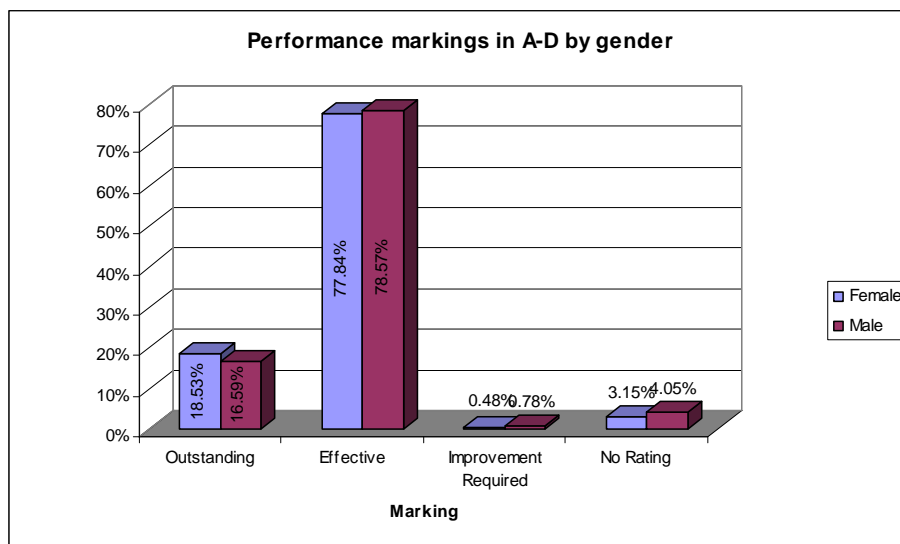
76. Staff in Bands A–D are eligible to be awarded an “Outstanding” mark if their performance throughout the course of the year is judged to have exceeded the objectives set.

Gender

77. The analysis of performance mark data for the reporting year 2009–10 has confirmed that a higher proportion of female employees receive “Outstanding” performance marking than their male colleagues. In carrying out this analysis we have limited the sample to staff in Bands A–D, as the “Outstanding” performance marking is only available to staff whose substantive band is A–D.

	Total Staff	Outstanding	% Outstanding
Female	6945	1287	18.53%
Male	3701	614	16.59%
Total	10646	1901	17.86%

78. In recent years it has consistently been the case that a slightly higher proportion of women have been assessed as “Outstanding”, although this year the margin has increased upon previous years. We do not believe that this variance is marked enough to be considered evidence of bias within the performance management policy and processes.



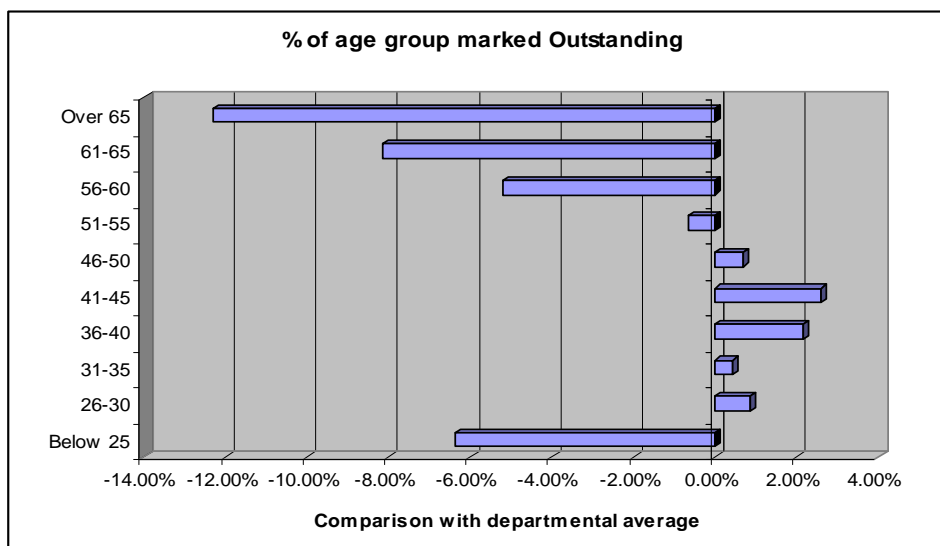
Reduced Hours Workers

79. The data shows that reduced hours staff are less likely to receive an “Outstanding” mark than full time staff. This is a concern, but it is also true that the proportion of reduced hours staff receiving “Improvement Required” markings is significantly lower than full time staff (see **Annex A**).

	Total staff in A-D	Outstanding	% Outstanding
Full Time	8932	1723	19.29%
Reduced Hours	1714	178	10.39%
Total	10646	1901	17.86%

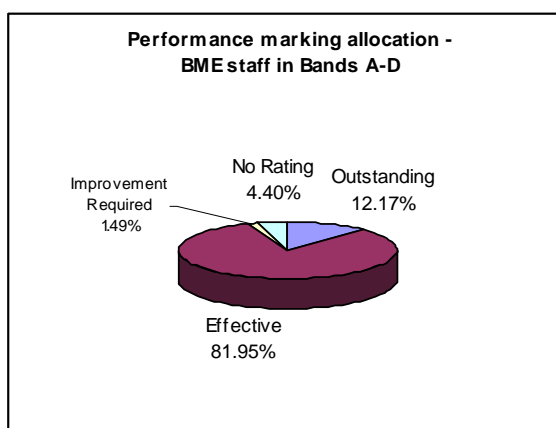
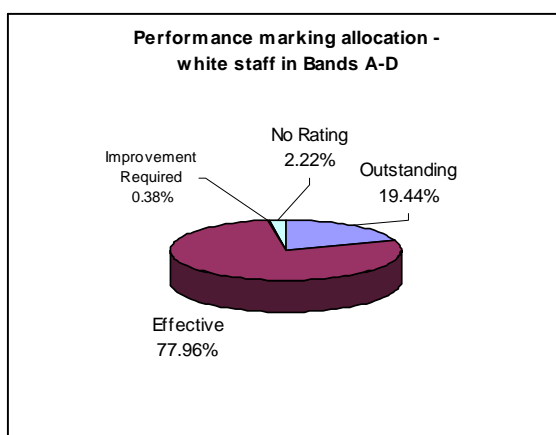
Age

80. Analysis of Band A–D suggests staff are most likely to receive an “Outstanding” marking between the ages of 36 and 45. This analysis reveals a similar pattern to previous years. Although this pattern is not uncommon when large organisations analyse performance marking allocation, this data will be fed into the review of the performance management system (see **Annex A**).



Ethnic background

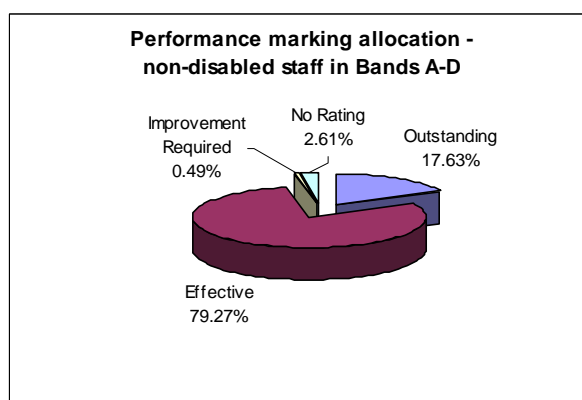
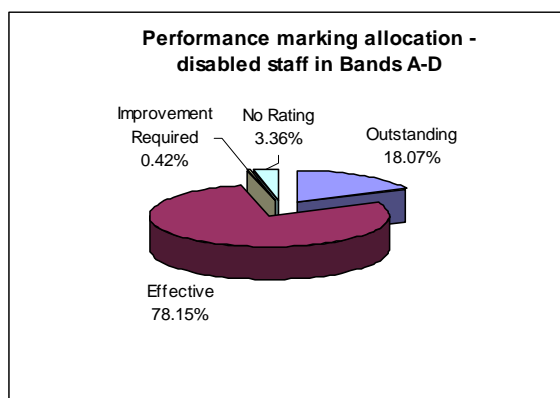
81. The analysis suggests staff with a BME background are less likely to be awarded an “Outstanding” marking than staff with a White background (12.17% compared to 19.44%). This disparity is cause for concern and this will form part of a review of performance marks (see **Annex A**).



82. It should be noted, however, that despite improvements in the data held, currently around 21% of staff ethnicity remains unknown. Work continues to ensure that this information is effectively captured for new entrants, and that the existing gaps in coverage are plugged as far as is possible.

Disability

83. Analysis shows that there is no evidence of discrimination against staff at Bands A to D who have declared themselves as Disabled. The proportion of staff declared disabled achieving “Outstanding” markings is almost identical to that of staff declared non-disabled.
84. It should be noted that 26% of staff have not declared their status. Work remains ongoing to ensure that this information is more effectively captured.



b) “Improvement Required” Markings for Performance Year 2009–2010

85. At the end of the 2009/2010 performance year 0.46% of staff received “Improvement Required” appraisal markings – that is to say that over the course of the Performance Year their performance did not meet the objectives set for them at the start of the performance year.

86. The allocation of “Improvement Required” markings have been analysed against a number of different criteria to assess whether there are any indications of discrimination within the performance management system.

Gender

87. Our analysis (below) gives a similar result to 2008/9 where a total of 0.52% of staff (0.44% of women and 0.69% of men) received “Improvement Required” markings. This year fewer staff overall were marked “Improvement Required” (0.46% of staff), and the proportion of men receiving “Improvement Required” markings is almost double that of the proportion of women. We do not believe that this constitutes evidence of bias within the performance marking system given the number of staff being awarded “Improvement Required” is so small in comparison with the Ministry’s population.

	Staff	Improvement Required	Percentage
Male	8297	58	0.70%
Female	17982	64	0.36%
Total	26279	122	0.46%

Reduced Hours Workers

88. The possibility of reduced hours workers receiving an “Improvement Required” marking was no higher than those of Full Time employees. Indeed statistically it was significantly lower.

	Staff	Improvement Required	Percentage
Full Time	19661	102	0.52%
Reduced Hours	6618	20	0.30%
Total	26279	122	0.46%

Age

89. The analysis shows that staff below 25 are most likely to receive “Improvement Required”. However the numbers of individuals in each age group are so small that we are precluded from publishing them because of the risk that individuals could be identified. The small numbers also make meaningful statistical analysis impossible. However, we will monitor this area to ensure that any trends which may develop are identified (see **Annex A**).

Ethnic background

90. 0.37% of staff declaring their ethnicity as white received an “Improvement Required” mark. This is less than the 0.80% of staff who declared membership of one of the BME groups. The sample size is too

small to be statistically significant, but this result will be included in the review of allocation of performance markings to ensure that the system is not vulnerable to bias (**Annex A**).

	Staff	Improvement Required	Percentage
BME	3234	26	0.80%
White	17570	65	0.37%
All	20804	91	0.44%

Disability

91. The analysis shows that disabled staff are not disproportionately likely to receive an “Improvement Required” marking. However the numbers of individuals in this group are so small that we are precluded from publishing them because of the risk that individuals could be identified. The small numbers also make meaningful statistical analysis impossible. We will monitor this area to ensure that any trends which may emerge are identified.

iv) Recognition and Reward (R&R)

92. A new system of recognising exceptional commitment and performance was introduced as part of the Pay and Grading review in 2007. The ‘Celebrating your Success’ scheme introduced a range of methods for managers to access the department’s Recognition and Reward budget in order to acknowledge performance and loyalty. These methods included:
- Special bonuses of £100 or more
 - Small bonuses of less than £100
 - Small gifts
 - Team celebrations
 - A loyalty award payable to staff who have served 25 years in the Civil Service.
93. Payments under this scheme were available only to staff who have opted in to the Deal, although team awards could be made to all members of a team regardless of their individual options decision.
94. The Recognition and Reward scheme has recently being refreshed with the introduction of a centralised provider of “Recognition Vouchers” to replace existing arrangements for vouchers/small gifts. Special Bonuses are now limited to £500. Currently few awards are made for over £500 but (and in the current climate) the limit is considered appropriate to ensure we continue to make best use of the R&R budget.
95. Small Bonuses (less than £100) and Special Bonuses (£100 or more) awarded between 1 April 2009 and 31 March 2010 have been analysed,

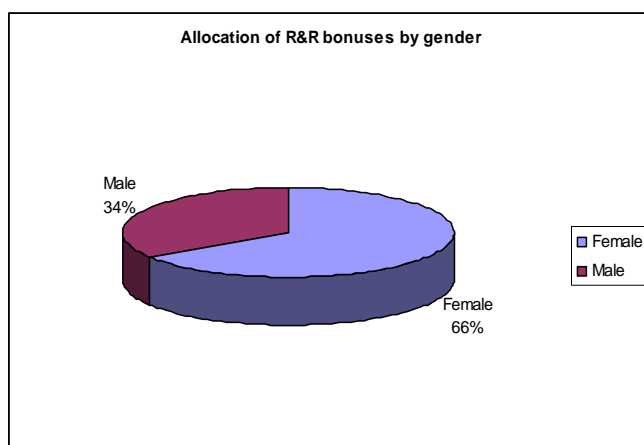
to establish whether the allocation of these payments is open to bias. This analysis was easier than in previous years as a result of improved recording following the 2008 equal pay audit.

Small and Special Bonuses

96. 5,531 Small and Special Bonuses were awarded to staff in the financial year 2009–10 under the Recognition and Reward arrangements. This compares with 5,719 awards in the previous financial year (the true figure for 08–09 may be in excess of this because of the inaccuracies in recording).
97. We have analysed the allocation of Small and Special Bonuses by gender, age, ethnicity and disability groupings. In summary, our analysis shows that the allocation of bonuses is broadly commensurate with the diversity groupings within the Deal demographic.

Gender

98. Women received 66% of the Special and Small Bonus awards in 2009–10, and make up 68% of the workforce. We do not believe that this variance is marked enough to constitute any evidence of bias within the allocation of R&R.

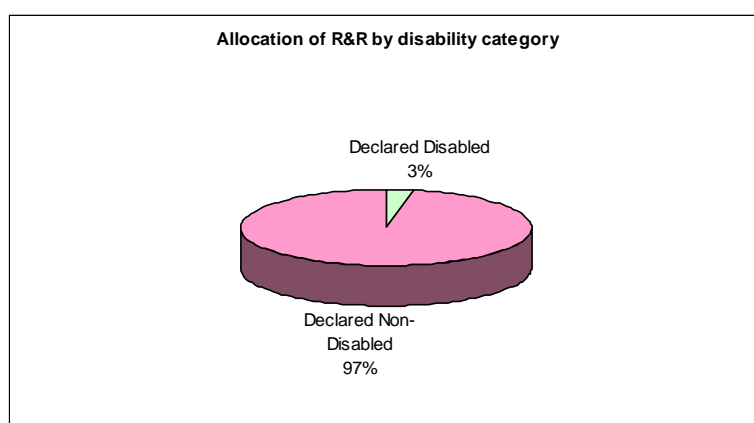


99. Of the total sum awarded in Small and Special Bonuses, 62% was awarded to women (65% in 2008–9). This may be attributable to the lower proportion of female staff in senior managerial grades, where the value of the special bonuses paid is generally higher.

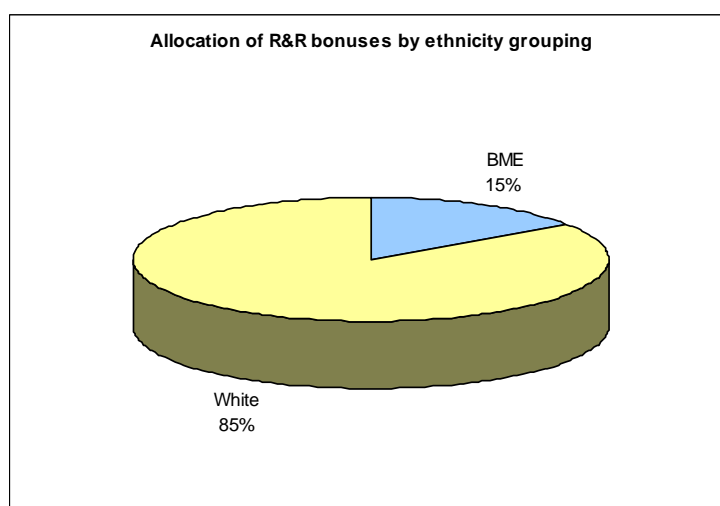
Ethnicity and Disability

100. For the purposes of the breakdown by ethnicity and disability groupings, staff who have not declared their ethnicity or disability status are not included. This assists in drawing comparisons with the Deal demographic in Section 2 'Workforce Overview'.

101. The analysis shows that 3% of the recipients of R&R bonuses within the 09–10 financial year, who declared their disability status, were declared disabled. This is broadly commensurate with the Deal demographic (where 4% of staff are declared disabled). We do not consider the variance to be marked enough to constitute evidence of bias within the scheme.

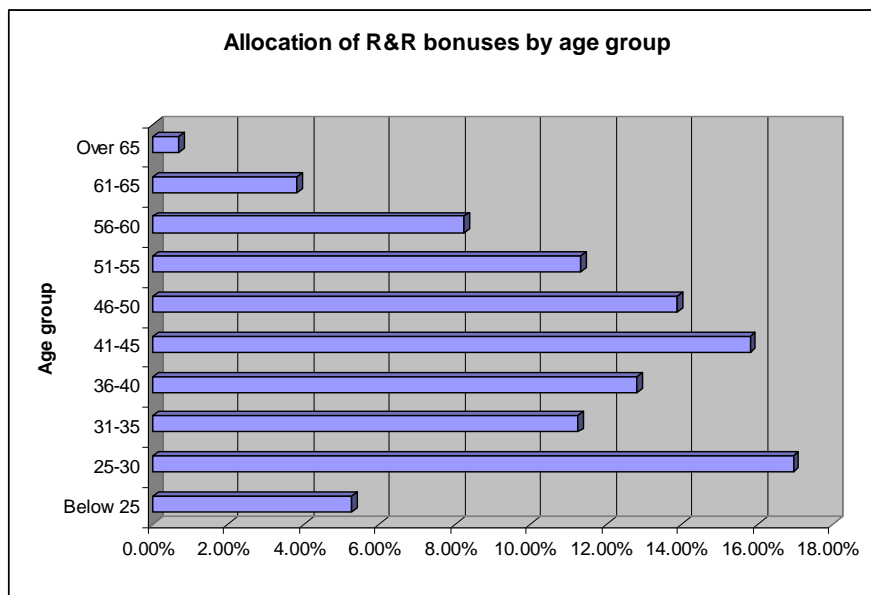


102. The analysis shows that 15% of the recipients of R&R bonuses within the 09–10 financial year who declared their ethnicity grouping are BME staff. This again is commensurate with the Deal demographic (16% of staff who have declared their ethnic grouping are BME staff). We do not consider that the slight variance constitutes evidence of bias within the scheme.



Age

103. The results of an analysis of the allocation of R&R bonuses by age grouping show the allocation of bonuses by age broadly follows a similar pattern to the departmental demographic as a whole (see Section 2 Workforce Overview).



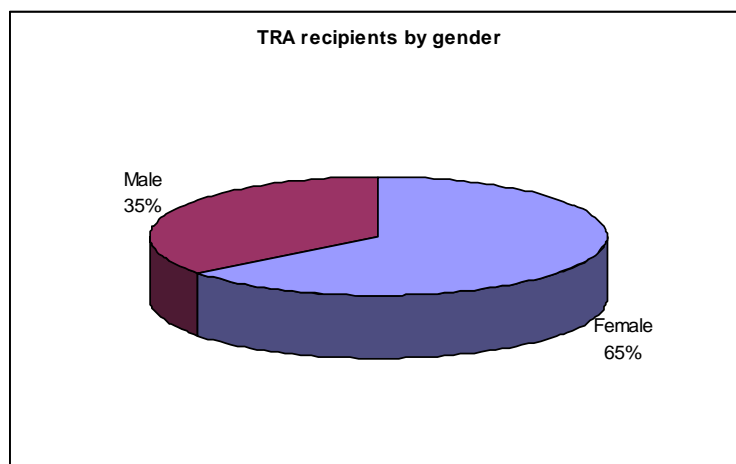
104. In conclusion, the allocation of R&R bonuses appears to be free from bias. This will be kept under review.
105. New arrangements for processing small gifts from January 2011 are expected to improve the quality of data about these awards. Analysis of the allocation of small gifts will be a feature of future audits.

v) Temporary Responsibility Allowance (TRA)

106. Temporary Responsibility Allowance was introduced as part of the Deal replacing Temporary Promotion, which existed in the former DCA, and other legacy arrangements.
107. The rates are 5%, 10% or 15% of base salary depending on the level at which additional responsibility is being assumed.
108. Currently, the allowance is payable for a minimum of five working days to staff taking on additional responsibilities either at their own band or in a higher band. The maximum period for which TRA may be allowed is two years.
109. As at 1 December 2010, 913 cases of TRA were ongoing – these typically involve staff working at a higher level to contribute to a particular project or to replace a more senior colleague on a longer term basis. In addition to the impact on salary, TRA, in particular when used over longer periods, may be an indication of the development opportunities afforded to staff.
110. The incidences of TRA at the point of reporting have decreased significantly from the same point last year – this is attributable to an HR audit of allowances in place.

Gender

111. Analysis of staff in receipt of TRA by Band suggests that men are marginally more likely to be in receipt of TRA when compared to the demographic as a whole (in receipt of 35% of TRA incidences while making up only 32% of the workforce). Although we do not believe that the variance is significant enough to be considered evidence of bias, we will be reviewing this area as and when any changes to the current TRA arrangements are made.



Age

112. The tables below compare the percentage of TRA recipients within each age group, and the departmental demographic. It appears that proportionally more staff in the younger age groups (i.e. up to 45 years old) are currently in receipt of TRA. Conversely, staff in the older age groups are less likely to be receiving TRA.
113. We do not believe that this amounts to evidence of discrimination, since younger employees may be more likely to seek out development opportunities. However we will be reviewing this area as and when any changes to the current TRA arrangements are made.

Percentage of TRA recipients within each age group	
Age Band	Total
Below 25	9.20%
Age between 25 to 30	21.91%
Age between 31 to 35	13.91%
Age between 36 to 40	11.50%
Age between 41 to 45	15.33%
Age between 46 to 50	12.81%
Age between 51 to 55	8.00%
Age between 56 to 60	5.04%
Age between 61 to 65	1.86%
Over 65	0.44%
Grand Total	100.00%

Percentage of Deal workforce at each age group	
Age Group	Total
Below 25	6.81%
Age between 25 and 30	13.71%
Age between 31 to 35	9.89%
Age between 36 to 40	11.36%
Age between 41 to 45	13.99%
Age between 46 to 50	13.83%
Age between 51 to 55	12.50%
Age between 56 to 60	10.40%
Age between 61 to 65	6.24%
Over 65	1.26%
Grand Total	100.00%

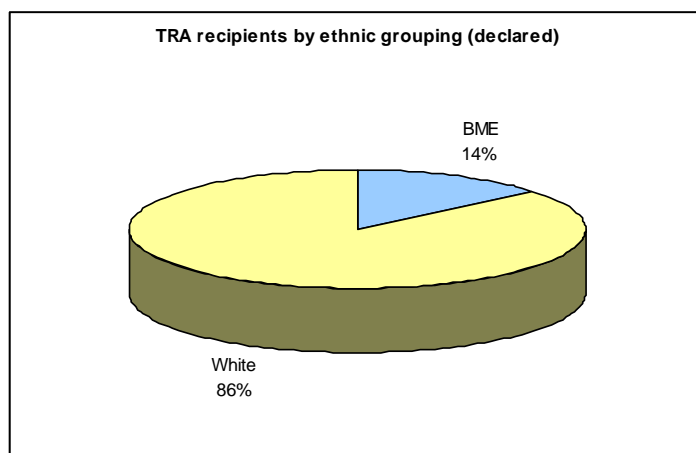
Ethnicity

114. The comparison (below) between the percentage of TRA recipients within each ethnicity grouping, and the departmental demographic, shows that BME staff are slightly under-represented in the award of TRA.

TRA recipients	
BME	11.28%
Undeclared	17.96%
White	70.76%
Total	100.00%

Workforce	
BME	12.31%
Undeclared	20.83%
White	66.86%
Total	100.00%

115. After removing staff who have not declared their ethnicity, it appears the breakdown of TRA recipients is broadly commensurate with the Deal demographic (see chart below). We do not believe that the variance (BME staff make up 16% of the 'declared' demographic) is marked enough to constitute evidence of discrimination in the award of TRA.



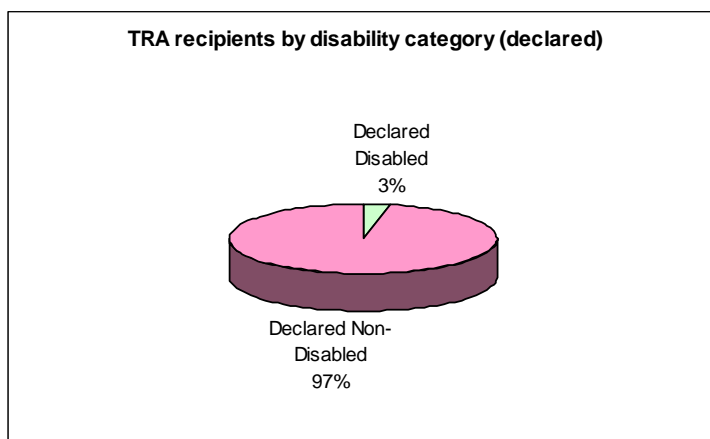
Disability

116. The comparison (below) between the percentage of TRA recipients within each disability grouping, and the departmental demographic, demonstrates no evidence of discrimination in the allocation of TRA.

TRA recipients	Total
Declared Disabled	2.90%
Declared Non-Disabled	70.72%
Status Undeclared	26.37%
Grand Total	100.00%

Workforce	Total
Declared Disabled	2.30%
Declared Non-Disabled	69.44%
Status Undeclared	28.26%
Grand Total	100.00%

117. After removing staff who have not declared their disability status, it appears the breakdown of TRA recipients is broadly commensurate with the Deal demographic. We do not believe that the variance (staff with a disability make up 4% of the 'declared' demographic) is marked enough to constitute evidence of discrimination in the award of TRA.



118. Based on the results of this analysis the allocation of Temporary Responsibility Allowance remains free of any form of bias. This aspect of reward is currently under review. Should this result in any changes to policy or processes, these will be audited for any equality impact.

Annexes

Annex A Equal Pay Action Plan

ID	Issue	Action to take	Status	Progress
1	Largest pay lead at band A, due to large pay differentials inherited from legacy systems	To be reviewed as part of the Ministry of Justice Reward Strategy	Open	The issue of highly-weighted Band A roles will be reviewed after restructuring within HMCTS & HQ has been concluded and bedded in.
2	Concerns over proportion of BME staff/reduced hours workers and staff outside 36-45 age group receiving Outstanding/Improvement Required performance markings.	Under new ownership. Equality & Diversity are planning research into perceptual issues 2011/12. HR Policy to feed into the review of performance management pending 2011/12 under Next Generation, with a view to harmonising system/processes across Civil Service.	Open	To be assessed under future audits
3	Management Information on ethnicity is incomplete and this makes it more difficult to establish/follow trends with certainty when auditing. Need to improve data collation & analysis particularly ethnicity and disability	Improve through external benchmarking including with private sector and international comparators	Open	1) Targeted mailout to all existing staff not already declared was run in 2010 and is complete. 2) E&D planning further communications to encourage better coverage. 2) The Secretary of State committed to undertake a review of disability data collection across the department in 2009. The MOJ also committed to representation at the Cabinet Office convened Working Group on data collection. Further improvements to data capture to be delivered in 2011/12 through employee self service/Phoenix.
4	Need to ensure that the narrowing of the Deal range lengths and the pay progression system is delivering the predicted benefits of the pay and grading review	Analyse impact of pay award on the trends established in this audit – report on any developments	Closed	Contained here

ID	Issue	Action to take	Status	Progress
5	Difficulties around reporting on R&R for audit purposes because backfeed to CHRIMSON does not include payroll R&R payments	Northgate/CHRIMSON interface to be updated so data can be fed through backfeed and we can guarantee accuracy and ease of reporting for future audits	Closed	An exercise has taken place to refine data and an online voucher scheme has been launched to improve data capture on small gifts
6	Concerns over application of pay for specialists, how it relates to market value and any Equal Pay implication	The Deal's formulation of pay for specialists to be reviewed as part of the Ministry of Justice's Reward Strategy	Open	Limited recommendations/interventions from reviews as current arrangements deemed 'good fit'. No equality issues identified.
7	Inconsistency in recording bonus payments on payroll	Take this forward with payroll business support – ensure these are being correctly recorded	Closed	Now complete enabling more efficient analysis of awards in 2009-2010 pay year.
8	Ensuring continued consistency of promotion	Achieved through increased training & advertising through staff networks	Closed	Panel members now recorded on Chrimson. 2009/10 Resourcing Plan contains monitoring & analysis of recruitment activity
9	To identify occupational gender segregation	Collect & analyse data on middle management grades	Open	This is being done at a local level and is ongoing

Annex B Glossary of frequently used terms and acronyms

Bands	<ul style="list-style-type: none"> • A new six broad-banded grading structure was introduced under the Pay and Grading review of 2006-07. • These six bands are broadly equivalent to traditional Civil Service grades, with the exception of the single broad band A which encompasses Grades 6 and 7. • Key: Band F – AA, Band E – AO, Band D – EO, Band C – HEO, Band B – SEO, Band A – see above.
BME	<ul style="list-style-type: none"> • Black and Minority Ethnic Grouping
DCA	<ul style="list-style-type: none"> • Department for Constitutional Affairs, the Ministerial department which predated the Ministry of Justice.
Deal (the)	<ul style="list-style-type: none"> • See Pay and Grading (Review)
EHRC	<ul style="list-style-type: none"> • Equality and Human Rights Commission. • The EHRC has a statutory remit to promote and monitor human rights; and to protect, enforce and promote equality. • The EHRC provides advice and guidance on conducting equal pay remits. Amongst this is the guidance that pay gaps between 3 and 5% may be symptomatic of discrimination and that gaps of 5% or above should be investigated further. See http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers-pre-october-2010/equal-pay/equality-impact-assessments/step-2-calculating-average-basic-pay-and-identifying-pay-gaps/ for further information.
HMCS	<ul style="list-style-type: none"> • Her Majesty's Courts Service. An Executive Agency of the DCA and latterly the MoJ, responsible for the administration of the civil, family and criminal courts in England and Wales
MCC	<ul style="list-style-type: none"> • Magistrates' Courts Committees. Bodies historically responsible for the local delivery of criminal justice and which had autonomy over local salary-setting in Magistrates' Courts prior to the 2006-07 Pay and Grading review.
MCS	<ul style="list-style-type: none"> • Magistrates' Courts Service. Historically responsible for the administration of criminal courts in England and Wales.
Mean	<ul style="list-style-type: none"> • The 'arithmetic mean' is the most typically used measure of the 'average' of a set of values. This is calculated by dividing the sum of the values by the number of values. This report uses the mean for its calculations of pay gaps, for consistency with previous audits.
Median	<ul style="list-style-type: none"> • In comparison, with 'mean' above, the median is another way to find the 'average' of a set of values. This is calculated by ordering the values and taking the central value as the average.
MOJ	<ul style="list-style-type: none"> • Ministry of Justice

NOMS	<ul style="list-style-type: none"> National Offender Management Service, and Executive Agency of the MOJ NOMS is a distinct bargaining unit with its own pay structures and its staff do not fall within the scope of this report
ONS	<ul style="list-style-type: none"> Office of National Statistics. The ONS produces independent statistical information to improve understanding of the UK's economy and society. Amongst this are regular updates on the gender pay gap across the Civil Service and/or economy as a whole One such update in December 2010 explained that the mean pay gap across the economy stood at 19.3% (see the following link: http://www.statistics.gov.uk/CCI/nugget.asp?ID=167&Pos=3&ColRank=2&Rank=1000)
Pay and Grading (Review)	<ul style="list-style-type: none"> The DCA reviewed its pay and grading structures over 2006-2007. The resulting set of terms and conditions, the 'Deal' arrangements, were introduced on 1 August 2007 and all former DCA staff were given the opportunity to adopt these terms by way of an individual Options exercise.
Pay gap	<ul style="list-style-type: none"> The mean pay gap is calculated by taking the mean salary of each grouping (e.g. the male mean salary and the female mean salary within the MoJ). The difference between these two figures is then divided by the mean salary of the 'advantaged' group to give the pay gap e.g. mean male salary (£22,000) less mean female salary (£20,000), divided by the mean male salary, multiplied by 100, gives a pay gap of 9.1%. This is the methodology used by the ONS. The median pay gap is calculated in the same way but using as inputs the median male salary and the median female salary.
Performance Management	<ul style="list-style-type: none"> A new performance management system, policy and processes were introduced under the Pay and Grading Review. Staff at Bands A–D can be assessed as 'Outstanding', 'Effective' or 'Improvement Required', and these markings are linked to pay progression through a matrix. The expectation is that around 15–20% of staff achieve the Outstanding marking. These staff qualify for an annual performance payment, the value of which is dependent on a number of factors (this payment was £1,200 under the 2010 award). Staff at Bands E-F are either marked 'Effective' or 'Improvement Required', and only receive incremental progression if they achieve the 'Effective' marking. Staff at Bands E/F can be recognised for exceptional performance through use of the R&R budget.

R&R	<ul style="list-style-type: none"> • Recognition and Reward Scheme. The method by which line managers within the MoJ can recognise exceptional in-year performance. • Through the R&R scheme introduced under the Pay and Grading Review, line managers could recognise exceptional performance through Special bonuses of £100 or more; Small bonuses of less than £100; Small gifts or Team celebrations. • A loyalty award is also payable to staff who have served 25 years in the Civil Service. • These arrangements have recently been reviewed and a centralised provider of "Recognition Vouchers" has been introduced to replace existing arrangements for vouchers/small gifts. Special Bonuses are now limited to £500.
Regional Pay	<ul style="list-style-type: none"> • A new regional pay model was introduced under the Pay and Grading review. There are five regional pay ranges with corresponding salary scales. These are Pay Range 1 (Inner London), Pay Range 2 (Outer London), Pay Range 3 (Hotspot), Pay Range 4 (National Plus), and Pay Range 5 (National Existing). • The allocation of courts and offices to these pay ranges is based on a range of economic and statistical data and this allocation has been reviewed through the annual review of the Deal arrangements. • The footnotes in Section 4 i) of the report refer to the removal of the 'National' pay range under the 2010 pay award. From the introduction of the Deal in 2007 there were two different pay ranges in operation for staff in Pay Range 5 locations. There was one pay range (National Existing) for staff already in post prior to the Deal's introduction (1 August 2007), and one (National) for new starters post-1 August 2007. The 'National' pay range was deleted at 1 August 2010 and all staff moved to the National Existing pay range. This explains the lack of 2010 pay gap figures for the 'National' range.
SCS	<ul style="list-style-type: none"> • Senior Civil Servants are the most senior managers within the Civil Service. • They fall outside the scope of this report as they are not covered by the 'Deal' arrangements introduced under the Pay and Grading review. The salary levels for SCS are set centrally by the Senior Salaries Review Board.
Specialist pay	<ul style="list-style-type: none"> • A new pay structure to recognise the market value of professional skills and qualifications was introduced through the Pay and Grading review in 2007. • 'Specialist pay ranges' which sit 5%, 10% and 15% above the 'generalist' pay scales were introduced to replace allowances for professional staff at Bands A and B. Allowances were retained for professional staff in other bands. • These arrangements were reviewed in 2008-2009 and found to be a good fit for the department, although some changes were made to Analytical/Audit staff pay arrangements.
TRA	<ul style="list-style-type: none"> • Temporary Responsibility Allowance. This allowance was introduced under the 2007 Pay and Grading Review to replace various legacy temporary promotion arrangements. • TRA can currently be paid at 5%, 10% or 15% of base pay depending on the level of the additional responsibilities being undertaken

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