

**The Main Point is this:**

**Large companies are under attack from their own employees,**  
 which is caused by a general misunderstanding of  
**Equal Pay & Gender Pay**

Staff are being told by lawyers that unaccounted differences in pay could represent Illegal Discrimination.

Staff are encouraged to find out if they have a legal case.

**Historic Court case update:**

- a) Birmingham City Council decided to settle in 2012 the female Equal Pay case in which cleaners, carers and cooks claimed equal pay with the Bin-men. One of the key reasons Birmingham lost the case was their reliance on an unfair job evaluation scheme. This case meant that employees were entitled to up to 6 years back pay. **£1bn.**

**Current cases**

- a) Tesco – 200,000 employees difference between shop floor workers and warehouse. £3 an hour, 1000 hours a year, 6 years = **3.6bn.**
- b) Asda – 7,000 staff (likely to be a lot more by the end of the case) shop floor vs warehouse - **£126m.**
- c) NEXT – 300 shop floor workers. **£5.4m.**

**Pending or up-coming**

- a) A number of “Ambulance Chasing” solicitors are seeking multiple-actions by staff against their employers. These companies are trying to get staff to put together a class action in the UK: Pattinson Brewer: Leigh Day:
- b) Glasgow City Council vs Unison – 6,000 claimants. A job evaluation scheme was unfair against women.
- c) McCloud vs Ministry of Justice – employer sought to make changes to the pension scheme based on age of staff member: ruled was discrimination.

**Important update:**

- a) In a recent case Essop vs Home Office – it was established that experience doing a job IS a basis for pay differential.

## What are the risks for the employer?

- a) **Equal Pay** is a legal requirement where individuals in a role are delivering “equal value”. If a job evaluation scheme is used, it must be seen to be “fair” (this failure cost Birmingham City Council £1bn).

Successful defences against individual claims can for instance reference that:

- a) The value of the roles is different.
- b) Experience of the individuals doing roles are different,
- c) Actual performance of the individuals are different

The fact that the individuals may work under different contracts does not mean the roles have different values!

- b) **Discriminatory pay** claims often involve the individual staff member complaining officially, then leaving, and then claiming wrongful dismissal. If they win, they claim under multiple headings – loss of earnings, any lost differential. Individuals have won amounts ranging from £20,000 to £100,000+.

In addition to this actual cash cost - is the reputational loss of the employer.

Trades Unions sometimes see the Gender Pay and Equal Pay issue as a route re-establish their power base with staff.

**Employers should ensure they have full knowledge of what individual staff are paid relative to other staff.**

**The biggest employers are the most at risk – as they are seen as being more likely to settle, and the Lawyers win.**

**TO MINIMISE RISK, Employers must:**

- 1. Identify where there is potential risk exposure.**
- 2. Ensure that the pay and bonus policies are followed.**
- 3. Where you have exceptional activity, generate documentation and justification as necessary.**

**LynchBuchanan**

- a) Take your base data used in the production of your Gender Pay Report and produce a series of documents.
  - a) What Drives Pay in your Organisation
  - b) For all Job Roles, how much Pay is dependent on non-role characteristics (e.g. local market rates)
  - c) Job Roles in which potential risk is high.
  - d) Similarly evaluated Job Roles where there is potential risk.
- b) We will show you which job roles are running potential risks.
- c) Where risk is identified, we can evaluate the options you have available.

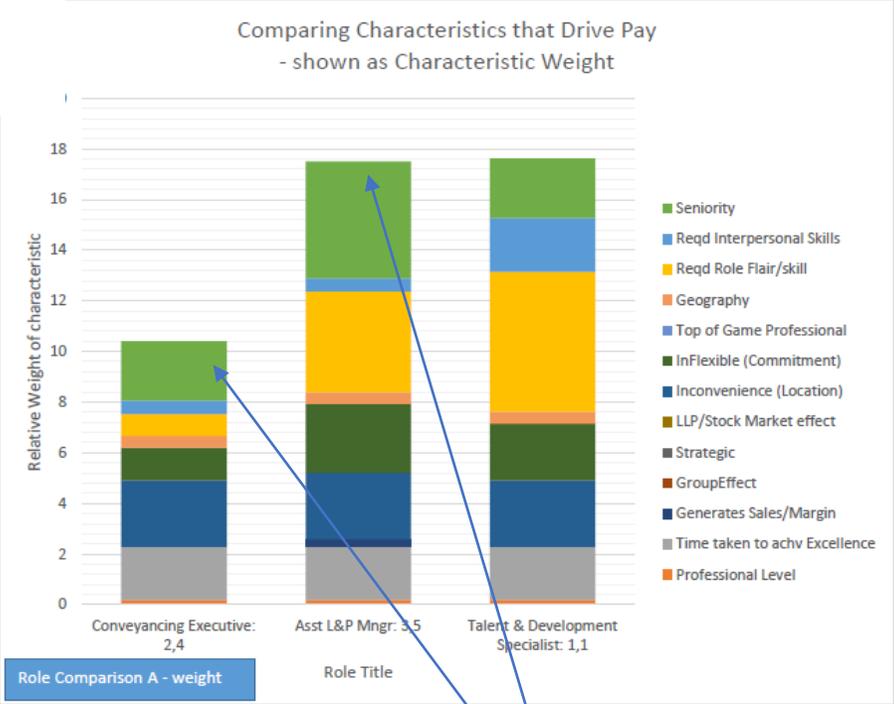
We are numbers and statistical experts. You may rely on our independence from the Law, HR and Payroll.

David Lynch MBA FCMA CGMA

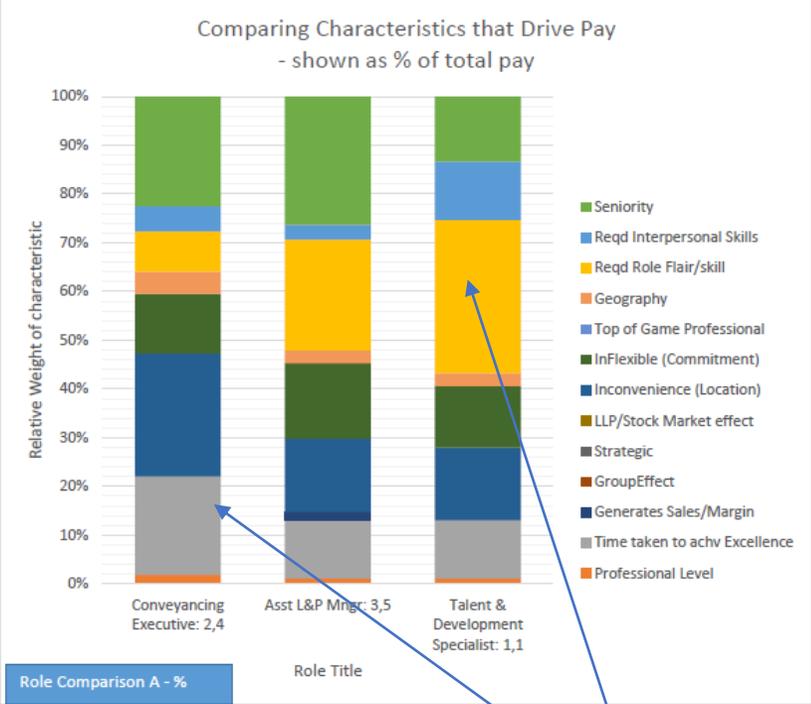
Director. LynchBuchanan Ltd.

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# Comparing Three Roles.



This chart shows the total level of Basic Pay (total height) and how it is made up from evaluated characteristics.



This chart shows the different levels of importance of the characteristics in the role.

# Assessing Risk.

Examples of Role Pay variances - calculated, predicted values versus actual

Role	Predicted Pay	M Act. Pay	F Act. Pay	Ave. Against Predicted pay			M / F Diff	Explanation
				Ave Diff	from Predicted			
Regional Chairman	£ 125.80	£ 406.52	£ -	£ 280.72	223.1%	0.0%	Market Rate, Personal added value	
Regional Solicitor	£ 26.97	£ 68.54	£ 51.73	£ 33.16	123.0%	-24.5%	Experience, specialist knowledge	
Assistant DLM	£ 13.52	£ -	£ 26.11	£ 12.59	93.1%	0.0%	Experience	
Planning Manager	£ 16.73	£ 28.95	£ 28.82	£ 12.15	72.6%	-0.5%	Experience, specialist knowledge	
Service Desk Analyst	£ 12.64	£ 19.40	£ 18.26	£ 6.19	49.0%	-5.9%	Experience, specialist knowledge	
Health & Safety Advisor	£ 29.58	£ 28.30	£ -	£ 1.28	-4.3%	0.0%	Market rate	
Conveyancing Executive	£ 10.42	£ 11.00	£ 7.04	£ 1.39	-13.4%	-36.0%	Experience, market rate	
Health & Safety Manager	£ 34.79	£ 27.02	£ 28.95	£ 6.80	-19.6%	7.1%	Experience, market rate	
Non Executive Director	£ 43.54	£ 20.92	£ 43.64	£ 11.26	-25.9%	108.6%	Market rate	

To assess risk, Basic Pay is predicted using evaluated characteristics, and compared to average actuals (M/F).

**The 'from Predicted' column:**

is the variation from Predicted Pay to Actual Pay. Where this is more than 30% we recommend further analysis.

**The 'M / F Diff' column:**

is the Pay Difference between Male and Female with the same Job Title. Where this difference is more than 5% we recommend further analysis of those roles.

Generally, further work involves taking personal information for the role incumbents, and analysing for the following personally based characteristics:

- Experience
- Specialist knowledge
- Personal Added Value
- Bonuses

and

Employment Market conditions

Role Comparison B

If there is a difference, the explanation is shown. In some cases this needs further analysis.