

# Asda equal pay claims get a green light

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Asda's female shop-floor workers are able to compare themselves to their male colleagues in the distribution centres for the purposes of an equal pay claim.

The equal pay claims relate to the fact that a number of female workers in Asda's stores learned that male operatives in the retailer's distribution centres were paid higher hourly rates. The female employees argued that their jobs were

comparable with those in the distribution centres such that there should not be a pay disparity. Asda, on the other hand, argued that the two kinds of job could not be compared for equal pay purposes, in part because terms and conditions for each arm of the business came from different sources.

The employment tribunal held that the retail employees were entitled to compare themselves with employees in the distribution centres. It found that there was a single source for the terms and conditions applicable in retail and distribution. Whilst they were separate operations, the Executive Board had control and oversight over both of them. The terms and conditions under which the retail staff worked were broadly similar to those applicable to distribution staff, and that sufficed to found an equal pay claim.

This case is still very much in its early stages; however, it is helpful to know that workers in different operations within the same large company can be comparators in an equal pay sense. Given the size of the potential award at stake (estimated to be in excess of £100 million), much hinges on this preliminary decision and Asda may choose to appeal.

*Brierley and others v Asda Stores ET/2406372/2008*

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