

That's Asda price: Tribunal considers that retail roles are of equal value to distribution centre jobs

28 February 2025  William Carter

The Equality Act 2010 allows employees to claim that they are performing work of equal value to higher-paid colleagues of the opposite sex.

In this instance, female retail staff argued that they performed work of equal value to staff in the distribution centre roles, which were predominantly undertaken by male employees.

This is the latest hearing in a saga which commenced in 2014. In 2021, the Supreme Court upheld that retail roles could be compared with distribution centre roles for equal pay purposes. Now, an Employment Tribunal has determined that 11 roles (from the lead claimants) are of equal value, including employees in sections including the bakery, customer service desk and George (the clothing department).

The claim will now proceed to a further hearing which will determine the reason for the difference in pay, concluding whether it is due to sex discrimination or another reason. If the reason is found to be sex discrimination, it is anticipated that 11,000 to 60,000 employees will be affected, with an estimated outlay of £1.2bn for Asda.

Broader implications for employers

This is a flagship case, for which other cases are due to be determined in the background and which retailers and others are watching closely. There is also a draft bill which seeks to extend equal pay rights to protect workers suffering discrimination on the basis of race or disability. Employers should be mindful to review their current pay structures. If pay disparities based on sex (or race or disability) are identified, employers should consider if the work is similar or of equal value and ensure that fair pay is implemented.

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