

# Equal Pay in the Nordic countries

The law and policy strategies



Pay differences between the sexes constitute one of the biggest obstacles to achieving gender equality in the Nordic countries. Nordic Information on Gender (NIKK) has produced this report to highlight and compare the Nordic countries' strategies, policies and law in the area of equal pay. This report is based on interviews and documentation provided by researchers, experts and officials working in government agencies and ministries.

In the Nordic countries, the average gender pay gap is 14.3 per cent according to Eurostat statistics from 2017. A large part of this pay gap is due to a gender-segregated labour market in which men and women work in different industries and occupations and in different positions. But even in the standard weighted statistics on wages and salaries, where corrections have been made for factors that affect pay such as occupation, industry, education and age, gender-based pay differences persist.

There is an awareness of the gender pay gap in all the Nordic countries. It is a gender equality problem that these countries are attempting to solve on a number of fronts, for example through policy objectives and broad strategies which have been developed to promote a labour market where discrimination based on gender does not occur. But despite the fact that the issue is a political priority, change is occurring only slowly. This report highlights the legislation, measures and initiatives taken by the governments of the Nordic countries to come to grips with their gender pay gaps. It also highlights the challenges that NIKK identified based on the current regulatory framework and practice.

According to the legislation in the Nordic countries, men and women are to have equal pay for equal work or work of equal value. However, there is some variation in the content of these provisions and the requirements they impose on employers. In Sweden and Finland, employers are required to produce a pay survey in order to detect, remedy and prevent discrimination in rates of pay. An important aspect of this is comparing wages and salaries, investigating and assessing the causes of the pay differences found, and then taking action. There are similar requirements in Iceland's new Equal Pay Act, which requires employers to create a pay scale which guarantees that wages are set in the same way for men and women. The criteria for setting pay may not discriminate on the grounds of

gender in any form. The legislation in Norway and Denmark has less stringent requirements regarding proactive measures from employers. In Norway, all bigger private employers and all employers within the public sector must submit reports on their gender equality efforts annually, and gender-based pay differences can be highlighted in this report. In Denmark, employers must produce gender-disaggregated pay statistics.

This shows that all the Nordic countries have provisions in their legislation which address equal pay. The challenges to achieving equal pay include the extent to which employers comply with the rules, what resources there are for enforcement of the rules, and the extent to which sanctions are imposed on employers who do not comply with the law – and the general impression is that there is still great potential for improvement. It is still rare that an employer will be subject to checks of compliance, and the risk of sanctions is low. Another challenge is that employers are not always aware of what the rules are.

In several of the Nordic countries, the legislation is based on employers making comparisons to determine what is equal work. This requires knowledge and tools that are not always available to the organisations that are supposed to make these comparisons. Research also shows that it is important for employees to have some influence over the process so that job evaluations and wage setting is correct.

Currently, the legislation focuses on various measures at the workplace level, when in fact the gender-segregated labour market is a large part of the explanation behind structural pay gaps in the Nordic countries. A fundamental problem is the discrepancy between the value attached to women's work in relation to men's work and how this issue should be resolved today. According to the research, the gendered structure of the labour market needs to be problematized more, and linked to the lower pay rates that apply in female-dominated jobs.

The focus of the equal pay legislation in the Nordic countries is gender-based pay differences. Studies show that it is also a need to gather statistics and take action to remedy pay differences based on other grounds of discrimination. These statistics also help to highlight the fact that a number of factors, such as ethnicity and gender, interact.

# Pay and gender equality in the Nordic countries – an introduction

In the Nordic countries, on average women are paid less for their work than men. Gender-based pay differences persist, despite the fact that they constitute a violation of human rights. Over 60 years ago, the Nordic countries ratified ILO Convention No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value. Since then, all of the Nordic countries have adopted legislation that prohibits pay discrimination and have also put the issue high on their equal opportunity policy agendas. The creation of a labour market where there is gender equality is a priority and has been for a long time. In brief, the Nordic countries' family policies have aimed to increase the participation of women in the workforce and get men to take on a greater share of the responsibility for unpaid housework and care work. The Nordic countries have championed reforms that give both parents the right to paid parental leave and created a universal system of subsidised childcare and care of the elderly. Today, women in the Nordic countries have some of the highest rates of participation in the workforce in the world (NIKK, 2018). But at the same time, the goal of equal terms and conditions in working life is still far from being achieved. One of the clearest indications of this is the gender pay gap.

Over the years, a range of different strategies have been employed to combat the problem, with the most recent new strategy being in Iceland, with its new Act and the introduction of an equal pay standard, which made the news in the Nordic

region and globally. Iceland's Equal Pay Act means that employers must certify their pay scales under an equal pay standard, and thus prove that they are paying equal wages and salaries regardless of gender. The other Nordic countries also have legislation in place that places such demands on employers to varying degrees.

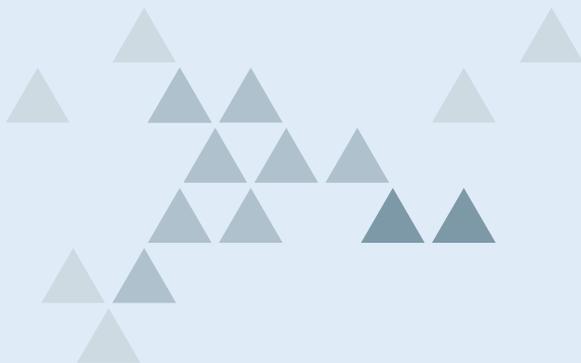
## **The gender pay gap's connection with other equal opportunity challenges**

Gender-based pay differences are closely connected with other equal opportunity challenges in the Nordic region. The first of these is the gender-segregated labour market. In the Nordic region, 46 per cent of women work in traditionally female-dominated professions such as healthcare, education and social care. Only 13 per cent of men work in these industries according to figures from 2017 from the Nordic Statistics database. Female-dominated industries are more often low-paid, while male-dominated industries are relatively highly paid. This structural issue is also the primary reason why the Nordic countries are not top-ranked when it comes to equal pay. In international comparisons, the gender pay gap is less in Italy and Luxembourg, for example. Research shows that this statistic is linked to women's employment rates. In countries where fewer women work outside the home, the gender pay gap is smaller because those women who *are* part of the workforce are more often in highly paid positions than in countries where more women work outside the home. In the Nordic countries, more women are gainfully employed, but many work in lower paid occupations and areas within the public sector (Måwe, 2017).

In the Nordic countries, the proportion of women who have completed higher education is greater than men, but men still dominate in management teams and managerial positions. Research also shows that the gender pay gap is even higher among the highly educated. In Denmark, Iceland and Norway, the gender pay gap is 10 per cent higher than among low-skilled workers. This is shown for example in the OECD report “Is the Last Mile the Longest? Economic Gains from Gender Equality in Nordic Countries” (2018). Another problem is the uneven distribution of unpaid housework and care work. Despite the fact that the Nordic countries have implemented the gender equality policy reforms concerning parental leave and part-time work, the pay gap increases when children come into the picture according to the OECD report. Women take more parental leave and work part-time to a significantly greater extent than men. In Iceland and Sweden, where fathers take the highest amount of parental leave in the Nordic countries, it is still only about 30 per cent of the entitlement. The uneven distribution of unpaid housework and care work has an impact on women’s wage trends, overall rates of sick leave (sjukpenningstal), careers and pensions.

## The Nordic model

The Nordic model is based on the autonomy of the labour market entailing cooperation between the state and the social partners. Employees are largely organised in trade unions, while employers are represented by employer organisations. Wages and salaries are set in negotiations between these parties, without the intervention of the state. Pay and conditions of employment are regulated in collective agreements. A consequence of this model has been a long-lasting consensus that the involvement of the state in wage setting should be avoided as far as possible. It is therefore not surprising that conventions and legislation on equal pay met with resistance from the social partners (see for example Svenaeus, 2017). This circumstance influences the degree to which the state can impose requirements on the employer and also compliance with equal pay legislation.



# Legislation and requirements in the Nordic countries

In the Nordic countries, the gender pay gap is seen as a piece in a bigger puzzle that needs to be addressed through a number of different equal opportunity policy measures. All these countries have equal pay provisions in legislation. But exactly how these provisions are worded, the legislation in which they are enacted, and what requirements they impose on employers varies.

Non-compliance with the legal requirements can have consequences for employers. In Denmark, Finland,

Norway and Sweden, this can be a pecuniary penalty, which is an amount of money that must be paid if the employer does not comply with any of its obligations under a ruling by a competent court or government agency. This penalty acts to exert pressure on the employer to take specific measures within a specified period of time. In Iceland, the model for sanctions has not yet been determined.

**Table 1. Equal pay legislation requirements in the Nordic countries.**

*Legislation requirements translated freely from original Nordic sources.*

	LEGISLATION	REQUIREMENTS	SUPERVISION
DENMARK	Equal Pay Act Section 5a.	Employers with at least 35 employees must produce gender-disaggregated pay statistics with the assistance of Statistics Denmark. They can also choose to submit a statement of wages and salaries.	The Danish Institute for Human Rights is a national human rights body, but has no supervisory powers to check that employers are complying the Equal Pay Act.
FINLAND	Act on Equality between Women and Men Section 6.	Employers with at least 30 employees are required to produce a pay survey every two years in order to discover the existence of unfounded, gender-based pay differences. The employer is then required take appropriate remedial action.	The Gender Equality Ombudsman is a supervisory authority tasked with monitoring compliance with the provisions in the legislation.
ICELAND	Gender Equality Act Section 19	Employers with at least 25 employees must be certified under an equal pay standard. Employers must prove that they have created a pay scale that guarantees equal pay for women and men. Otherwise, they are breaking the law.	Auditors check that employers' pay scales meet the criteria in the equal pay standard. The social partners also have a responsibility to ensure that the employer complies with this standard and that certification is renewed.
NORWAY	Gender and Discrimination Act Chapter 4 Section 26a.	Private employers with more than 50 employees and all employers in the public sector must report annually on their gender equality efforts. Producing gender-disaggregated pay statistics or a pay survey can be part of this, but is not a legal obligation.	The Equality and Anti-Discrimination Ombudsman is to provide guidance and support employers so that they do in fact comply with the law.
SWEDEN	Discrimination Act Chapter 3 Section 8	All employers are required to survey and analyse compliance with the provisions and standard practice as well as actual pay differences between men and women. The aim is to detect, remedy and prevent unfair pay differences and other terms and conditions of employment. Employers with at least ten employees are required to document this work in writing.	The Equality Ombudsman is a supervisory authority with powers to audit employer compliance with the rules.

## Denmark

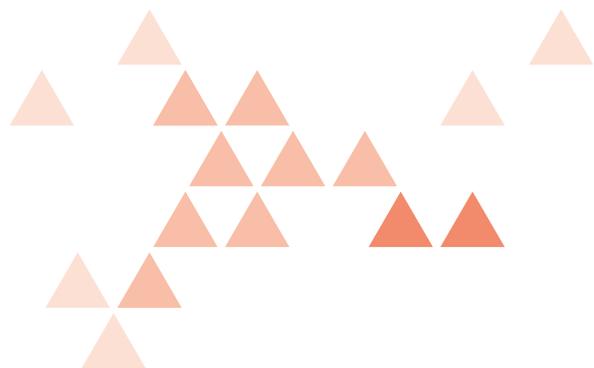
In brief, the Danish Equal Pay Act<sup>1</sup> prescribes that wage and salary setting should be based on the same criteria, regardless of gender. The Act is part of Denmark's fundamental gender equality legislation. The Danish model is based on the social partners controlling the labour market as far as possible through their agreements. The state therefore plays a less active role in reducing the gender pay gap than in Sweden and Finland. On the other hand, there have been more court cases in Denmark that have become significant for case law in this area than in Sweden. The Danish trade unions have taken on and won more equal pay cases than the Swedish trade unions. Research shows that one reason for this may be that, in this area, there has been less control of the social partners by the Danish state, and that the trade unions have therefore felt a greater sense of ownership and responsibility for compliance with the legislation (Bjørst, 2005). At the government level, the Ministry for Employment is responsible for the legislation and for producing information on trends and problems in this area. Under the legislation, the Minister for Employment and the minister responsible for gender equality are duty-bound to report on their efforts every three years. In recent years, the Ministry has initiated a broader pay analysis report and a gender-disaggregated survey of the labour market and also reviewed the legislation in this area.

In 2006, legislation was enacted allowing employers to choose whether they want to produce gender-disaggregated pay statistics every year or submit a broader wages and salaries report every three years, with the aim of generating dialogue and greater transparency concerning pay differences. Workplaces with at least 35 employees are covered by the rules. In 2014, the legislation was amended to cover more workplaces with fewer employees, and was then changed back again in 2015. Studies showed that the majority

of employers in Denmark that are subject to the rules elect the gender-disaggregated statistics option and very few, if any, elect to submit a report every three years. In practice, employers get a summary of the gender pay gap from Statistics Denmark and their employer organisation after having reported their wage and salary statistics broken down by occupational classification code. This was determined when the Act was passed, so as not to burden businesses with too much red tape. But for the statistics to be required, the workplace must have at least ten women and ten men who work within the same occupational classification code.

In Denmark, there is no state supervisory authority responsible for ensuring compliance with the law, but there is the Danish Institute for Human Rights, which works to prevent gender-based discrimination and produces reports and analyses.

The Institute is a national body for equality, and since 2011 its mandate includes gender equality. Their task is to promote, evaluate and monitor gender equality initiatives in Denmark and combat gender-based discrimination. The Institute has no powers to check or monitor employer compliance with the law. However, if employers do not comply with the rules, they may be fined.



<sup>1</sup> *Lov om lige løn til mænd og kvinder.*

## Finland

In Finland, a key gender equality goal for working life is to reduce the gender pay gap. The government and the social partners have joined forces to implement two equal pay programmes. The first ran between 2006 and 2015 and had the goal of reducing the average gender pay gap from 20 per cent to 15 per cent. The programme included a number of R&D projects such as the introduction of pay scales which do not discriminate based on gender. During this period, there were also reforms of the requirements on employers to produce gender equality plans and pay surveys, as well as changes in the law to increase the amount of parental leave taken by fathers. After the first equal pay programme, the gender-based pay gap did decrease by three per cent, but the goal was not reached. In 2016, a new equal pay programme was initiated and lasted until the end of March 2019. It also included many measures that aimed to improve work with gender equality planning in the workplace, increase knowledge and transparency around pay in the workplace, and break the trends in gendered choices of study programmes. In Finland, pay transparency is a topical issue. In the autumn of 2018, the report from an inquiry was conducted by the Finnish Equality Ombudsman concluded that pay transparency in relation to pay and wage setting can be increased by legislative measures in the first instance.

The current provisions on equal pay are found in Finland's Act on Equality between Women and Men<sup>2</sup>. This Act requires all employers to promote gender equality in a targeted and systematic way. Employers who have at least 30 employees are required to draw up a gender equality plan and to survey pay differences every two years in order to discover any unfair pay differences between women and men who are

working for the same employer and engaged in either the same work or work of equal value.

This pay survey is not to be just a description of current pay statistics. An important part of the survey is comparing pay and investigating and assessing the causes of differences in pay. It is to include a specification of the distributions of men and women in different positions in the organisation, as well as a list of job classifications, pay rates, and differences in pay. This assessment of the causes of pay differences is then to form the basis for the measures that are written into the gender equality plan and these measures are to be as concrete as possible. There is also a recommendation that the employer should specify a timetable for the implementation of these measures.

What emerges from the pay survey can also lead to measures which do not relate directly to pay rates. For example, if it is discovered that women are under-represented in a group with higher pay, the employer can direct its attention to seeking a better gender balance.

Finland's Ombudsman for Equality (JämO) is an independent authority whose main duty is to supervise compliance with and the implementation of the provisions in the Act on Equality between Women and Men. A key aspect of its supervision is providing guidance to employers in how to develop a gender equality plan and how to conduct a pay survey. If an employer does not comply with the Act's provisions, JämO can order the employer to fulfil its obligation. If this does not achieve the desired result, the matter can be referred on to a higher instance, which can impose a fine if the requested documentation is not provided.

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<sup>2</sup> 1986:609. *Lagen om jämställdhet mellan kvinnor och män* (Act on Equality between Women and Men)

## Iceland

The issue of pay discrimination has long been high on the equal opportunity policy agenda in Iceland. The rules governing pay discrimination are found in the Act on the Equal Status and Equal Rights for Women and Men, which states that "equal pay" means that pay shall be determined in the same way for women and men – the criteria may not discriminate on the grounds of gender.

But despite these rules and initiatives, just like in the other Nordic countries, the pace of closing the gender pay gap has been relatively slow. Over the last ten years, Iceland has therefore focused on developing a new model to close the gender pay gap. In 2008, representatives of the Government, the Icelandic Confederation of Labour and the Confederation of Icelandic

Employers joined forces to develop an equal pay standard. Icelandic Standards (IST) undertook to manage the project. It was agreed that they would develop an international standard based on the same model as an ISO standard for environmental management systems that assists companies to improve their environmental efforts. In 2012, this standard was complete and a committee – the action group on equal pay – was set up by the Icelandic Government to prepare the implementation of the standard. The action group also conducted two extensive studies of the structure of the gender pay gap in Iceland which analysed the impact that gender, education, age, work experience and industry have on pay rates. A pilot project with the new standard was carried out at several workplaces and evaluated.

In 2018, a new rule came into force in Iceland which means that all employers with at least 25 employees must certify their pay scales under the Equal Pay Standard. The purpose of this mandatory certification is to speed up closing the gender pay gap. The Government's goal is that the gender pay gap will

disappear entirely by 2022. The Equal Pay Standard is being phased in gradually, with first out being the big employers (more than 250 employees) who were to be certified by the end of 2018. Employers with 150-249 employees must be certified by the end of 2019, and those with 90-149 employees by the end of 2020. Lastly, employers with 25-89 employees must be certified by the end of 2021.

According to the Icelandic Act<sup>3</sup> employers must set up a pay scale which ensures that pay is set in the same way for men and women. The criteria for setting pay may not discriminate on the grounds of gender in any form. The Standard itself describes a process that companies and public institutions can follow to achieve fair pay. The employer ought to map the tasks involved for each position and make a valuation. It is fundamental that the wage is set based on the position, not the person, and that therefore there should be no scope for pay discrimination. The aim of the standard is to make wage setting in the workplace clearer and more transparent.

This system with the Equal Pay Standard is still new and under development in Iceland. In practice, accredited auditors check that employers' pay scales meet the criteria set in the Equal Pay Standard. Once the employer has passed this check and been certified, the certification is sent to *Jafnréttisstofa* (Gender Equality Agency) which is a national agency responsible for administering the Act on the Equal Status and Equal Rights for Women and Men. *Jafnréttisstofa* then grants the employer the use of an equal pay symbol. Every third year, the employer's activities are checked again and the certification is renewed. Concerning oversight, the social partners have a responsibility to ensure that employers become certified and comply with the Equal Pay Standard, and that the employer's certification is renewed every three years.

<sup>3</sup> 2008:10. *Lög um jafna stöðu og jafnan rétt kvenna og karla* (Act on the Equal Status and Equal Rights for Women and Men).

## Norway

In Norway, the issue of equal pay has been investigated in a number of government inquiries which have analysed the gender pay gap, obstacles to equal pay and possible solutions. In 2012, a report from an inquiry into gender equality policy was presented, which identified the key factors affecting the gender pay gap in Norway. This inquiry showed clearly that the key factors that contribute to maintaining the gender pay gap are the gender-segregated labour market and the gender pay gap which develops during the years of parenting young children. In January 2019, the Norwegian Government submitted a new policy platform, which includes the development of a strategy to help create a more gender-equal education sector and labour market. This platform stresses that gendered choices of study programmes contribute to maintaining the gendered labour market. The Government must implement stimulus measures to encourage more people to choose non-traditional study programmes and careers so that work becomes less divided along gender lines. Among other things, this ought to be done by making efforts to break down these norms such as “Menn i helse” (Men in healthcare) and “Jenter og teknologi” (Girls and Tech) nationwide initiatives.

The Norwegian Equality and Anti-Discrimination Act<sup>4</sup> states that women and men in the same undertaking are to receive equal pay for the same work or work of equal value. Pay is to be set in the same way, without regard to gender. According to the Act, employers are to make active, targeted and systematic efforts to promote equality and prevent discrimination. These efforts are to encompass pay and working conditions. The preparation of pay statistics or a pay survey may be part of these efforts, but currently the employer has no clear legal obligation to do either of these things. In Norway, all public undertakings, regardless of size, as well as private undertakings that ordinarily employ more than 50 persons, have a duty to issue an annual

statement on their efforts to promote gender equality. The statement is to describe the current state of affairs with regard to gender equality in the undertaking, and equality measures implemented or planned to promote the Act's purpose of equality irrespective of ethnicity, religion, belief, disability, sexual orientation, gender identity and gender expression. To meet the requirements in the Act, for example the employer can submit an equal pay overview as part of the statement, where their employees' wages and salaries are reported by gender per position and type of work. The equal pay overview can then form the basis for future efforts to promote gender equality in that workplace.

The Equality and Anti-Discrimination Ombudsman (LDO) is to provide guidance on this duty and support employers so that they do comply with the law. The LDO can review annual reports and budgets to determine if employers are complying with the law in this area. The LDO can also initiate a dialogue with the employer, and provide tips and information on how they can meet these challenges. If the employer does not comply with the law, the employer may in fact be fined, but this has never occurred in practice.

In order to strengthen active efforts to promote gender equality, the Norwegian Government has tabled a new Bill concerning more rigorous oversight of the duty to issue a statement and the duty to actively promote equality, which was presented for consideration in the Storting (the Norwegian Parliament) in the spring of 2019. The Bill places greater demands on employers to conduct pay surveys with a view to identifying whether there are gender-based pay differences within the undertaking. In such cases, employers are to identify the causes of these differences and evaluate whether initiatives are needed to prevent gender-based discrimination. If the change in the law is passed, it will enter into force on 1 January 2020.

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<sup>4</sup> *Likestillings- og diskrimineringsloven* (Act relating to equality and a prohibition against discrimination - Equality and Anti-Discrimination Act).

## Sweden

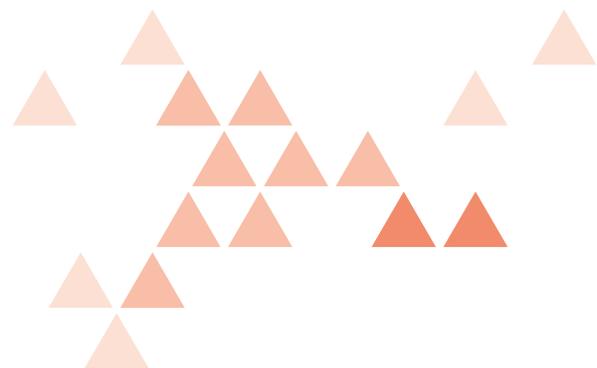
Sweden's gender equality policy encompasses the issue of the gender pay gap under the Government of Sweden's Sub-target 2: Financial gender equality. Women and men must have the same opportunities and conditions with regard to education and paid work, which gives financial gender equality throughout life. The Government of Sweden is working with measures to promote equality in incomes over the course of working life on several fronts in order to strengthen the position of women in the labour market. These include measures within the education sector to break down gender segregation, make full-time work the standard across the labour market, reduce gender differences in the distribution of paid and unpaid work, and efforts to review work environment problems in female-dominated industries. The Swedish Gender Equality Agency was established on 1 January 2018 for the implementation of this gender equality policy.

In Sweden, the rules governing equal pay and pay surveys have been part of the Discrimination Act<sup>5</sup> since 1994. These rules have been strengthened a number of times, with the most recent change being enacted on 1 January 2017. According to the Discrimination Act, all employers are required to conduct goal-oriented work to actively promote equal rights and opportunities in working life regardless of sex, ethnicity, religion or other belief. These active measures are to include surveying and analysing the criteria for wage setting and for fringe benefits and bonus systems in relation to all grounds of discrimination. There is also a requirement to survey differences in pay between women and men. This must be done by all employers and is intended to discover, remedy and prevent unfair gender differences in pay. The analysis is to relate in particular to differences in pay between women and men performing work that is to be regarded as equal or of equal value. But the analysis must also look at the differences in pay between women and men among

groups of employees performing work that is or is generally considered to be dominated by women and work that is not dominated by women; as well as situations where work that is not dominated by women attracts higher pay despite the requirements of the work being assessed as lower. In this analysis, pay rates are assessed based on the requirements of the work – for the individual and for groups of employees – using the criteria knowledge, skills, physical and mental strain and the responsibilities and effort that the work requires.

All employers with at least ten employees must also document their pay surveys and report the results of their surveys and analyses. This documentation is to indicate the pay adjustments and other measures that need to be implemented in order to remedy gender-based pay gaps. It must also include a cost estimate and a schedule based on the goal of implementing the necessary pay adjustments as soon as possible and within three years at the most.

The Equality Ombudsman (DO) is the supervisory authority tasked with supervising compliance with the Act. The DO can audit employers to ensure that they conduct their pay survey correctly and that employers with at least ten employees document this work. If the DO discovers that the employer's reporting does not fully comply with the law, the authority can request additional

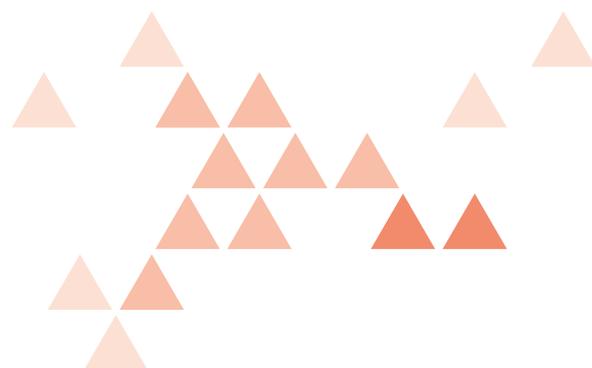


<sup>5</sup> 2008:567. Discrimination Act.

information. If the employer fails to comply with the provisions in the Act, ultimately the employer may be subject to a pecuniary penalty.

The Government of Sweden's *Handlingsplan för jämställda livsinkomster* (Action plan for gender equality in lifetime income) from 2017 concluded that there is evidence to suggest that employers are failing to comply with their legal obligations to survey pay and employment conditions pursuant to the Discrimination Act. In 2018, a commission of inquiry was set up to analyse and review the need

for more effective sanctions for non-compliance with the requirements for active measures, including the work required for the pay survey. According to the DO, there is a need for additional sanctions in the legislation which, unlike pecuniary penalties, may be issued directly in instances of non-compliance.



# Efforts to achieve equal pay in the Nordic countries

Efforts to achieve equal pay in the Nordic countries in the political sphere have not always been as self-evident as they are today. On the contrary, historically the governments of the Nordic countries have partly contributed to the persistence of the gender pay gap. In Sweden, there were “women’s wages” that were 30 per cent lower than men’s wages written into collective agreements in the 1950s. In Finland, national recommended wages were published in 1945, which covered the entire labour market. These recommended wages, which were lower for women than for men, were then enshrined in collective agreements. In Norway and Iceland too, lower wages for women were permitted. At the end of the 1950s and the early 1960s, the Nordic countries ratified the ILO Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. This was something of a turning point. The ILO Equal Remuneration Convention meant that these countries were required to take action, and in the 1970s and 1980s, major projects focused on closing the gender pay gap by developing strategies for job classification. In brief, these strategies required employers to classify and assess jobs on the basis of their degree of difficulty. In assessing whether jobs were of equal value, the tasks and demands they imposed on the employee were the basis. Job classification was to be gender-neutral and not be based on who performed the work. Thus, a job classification system was not permitted to reward characteristics traditionally associated with one sex. The goal of this method was to create fair wage setting, where there was no room for discrimination.

## Different laws imposed different requirements

The review of the situation in each of the Nordic countries above shows that the legislation varies, as do the requirements imposed on employers. Unlike the other Nordic countries, Denmark has a specific Equal Pay Act. However, the requirements it imposes on employers in terms of proactive measures are not as great as in Iceland or Sweden. In Sweden, these rules are found in the Discrimination Act. They require employers to implement active measures to promote equal rights and opportunities and combat discrimination, regardless of the grounds of discrimination. Similar content can be found in Norway’s Equality and Anti-Discrimination Act, which also imposes requirements on employers to implement preventive and active measures against discrimination. Sweden’s Act contains provisions requiring employers to conduct a pay survey, whereas similar provisions are currently lacking in Norway’s Act.

In Finland and Iceland, the provisions governing equal pay are in the Act on Equality between Women and Men, and the Act on the Equal Status and Equal Rights for Women and Men, respectively. Finland’s Act has similar requirements to Sweden’s Act that employers are to conduct a pay survey, analyse the causes of gender-based pay differences and remedy the problem. The Icelandic model is different in that its new Act requires employers to certify their pay scales under an Equal Pay Standard. This is a process that imposes significant demands on employers to draw up and systematise pay scales that do not discriminate on the basis of gender. If they fail to do so, they are breaking the law.

## Failures to comply with the law

A challenge in many of the Nordic countries is that a proportion of businesses are failing to comply with the law. This is evident from the supervisory authorities' own evaluations as well as in official government reports. In Iceland, the legislation is far too new for compliance to be assessed. In Denmark, the report Gender-based Earnings Statistics and Report on Equal Pay – Evaluation of relevant legislation (SFI, 2011) for instance shows that only one third of businesses are complying with the law and keeping gender-disaggregated pay statistics or issue statements. Many of these employers were not aware of the law or did not know that they were affected by it, while others did not believe that there were gender-based pay differences in their operations. There are also failures to comply with the law in Norway. According to the Norwegian Equality and Anti-Discrimination Ombudsman (LDO), it is problematic that many employers are not aware of their duty to issue a statement nor of their duty to actively promote gender equality. Since breaches of the law rarely have consequences, it can be challenging to get employers to give priority to these issues.

According to experts and researchers, there is room for improvement in the models being employed in the Nordic countries with regard to the design of the legislation, its enforcement and sanctions. In Finland, the Ombudsman for Equality (JämO) claims that its resources are insufficient to carry out anything other than sporadic enforcement efforts. Generally speaking, very few employers are audited by the regulatory authorities in these countries, and the likelihood of being fined is almost non-existent. In Finland and Norway for example, there has not been a single case where an employer has had to pay a pecuniary penalty.

This lack of enforcement impacts the power of the legislation, which is evident from Sweden's *Miljongranskningen* ("Million Audit", the intention

being to audit the wages of roughly one million employees) for example. It was carried out by the then Gender Equality Ombudsman between 2006 and 2008, and surveyed 568 employers resulting in a total of about 750,000 employees' wages being scrutinized. The results showed that after the audit, 44 per cent of employers identified and remedied unfair differences in pay between men and women. The employers' action plans indicated that the necessary pay adjustments amounted to approximately SEK 70.3 million. Since the "Million Audit", no effort of a similar scale has been initiated in Sweden.

## Gender-based hierarchical structure

Strategies to achieve equal pay for equal work or work of equal value in the Nordic countries are mainly concerned with various measures at the workplace level such as pay surveys and other reporting requirements. However, many researchers and analysts are of the opinion that the fundamental problem is that work traditionally done by women is undervalued (see for example Koskinen Sandberg, 2016). Research shows that a very basic problem influences the gender pay gap: the gender-based hierarchical structure of the labour market, where women's work and female-dominated occupations are undervalued. This pattern is based on the fact that women and femininity are not valued as highly in the community as men and masculinity. This explains why employees in male-dominated industries are better paid than those in female-dominated industries, even when the level of education, work experience and the demand for labour are the same. Despite the fact that health and care services are crucial for the communities in the Nordic countries, work in these industries continues to be valued lower than many other occupations with a similar degree of difficulty. For instance, a report from the Swedish network *Lönelotsarna* (Wages and Salaries Guides) has shown that female-dominated jobs in Sweden are

systematically undervalued when wages are set and that these occupational groups are in the lowest paid tier of employees. Men who work in female-dominated occupations are also affected.

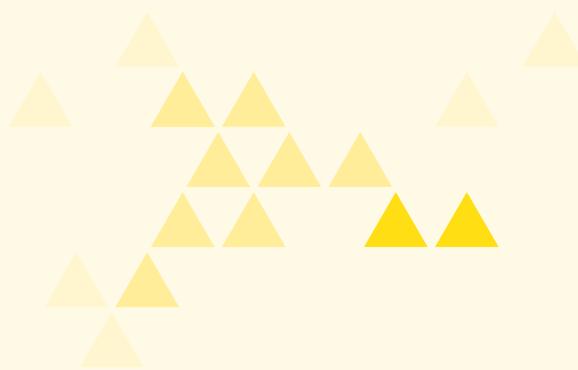
### **Gender awareness and the influence of workers**

The legislation in the Nordic countries is largely based on employers surveying and analysing the gender pay gap and then adjusting the pay within their own undertakings. But can these models close the gender pay gap in the workplace? In this context, a number of researchers have emphasised the importance of job classification being done correctly. A challenge in both Finland and Sweden is that organisations find it difficult to understand what work of equal value is and how to compare wages for different jobs (see for example Fransson and Thörnqvist, 2006). According to the Finnish Ombudsman for Equality, the provisions governing pay surveys in Finland ought to be revised and clarified. The problem today is that employers can base their pay surveys on a classification already made when they compare the pay rates of different groups in the workplace. They do not need to evaluate anew to determine which tasks are of equal value and make comparisons between them.

To classify and assess different jobs also requires specific skills, not least in relation to gender. Otherwise there is a risk that female-dominated occupations will continue to be undervalued in job classification systems. An example is Iceland, where the new Equal Pay Standard means that all employers are required to create a system in which work functions are assigned a value – but where there are no actual tools available for how they should classify jobs in a way that takes gender into account. Previous research shows that there are risks of gender bias in job classifications, resulting in employers placing a lower value on paid work that is traditionally performed by women (Burton,

1991). According to the Icelandic researcher Guðbjörg Andrea Jónsdóttir, it is important that the Equal Pay Standard is specific so that this can be avoided.

Another aspect is the importance of involving employee representatives in equal pay and job classification processes. It is difficult to include all aspects of a job in the job's description, unless the employee who actually does the job is involved in the process. Research shows that this is a weakness of the new Icelandic Act – that it does not safeguard the participation of employees in the process (Bjørst, 2019). This also applies to the Danish Act whereby employers are required to provide their employees with adequate information on matters of great importance to them – but it is the employer who determines when this is the case.



# Outlook

Since the ILO Convention was introduced, various strategies and legislation have been applied all over the world to achieve equal pay. A country which is often referenced within equal pay research is Canada. In Canada, the province of Ontario's systematic equal pay efforts are often held up as a model and have inspired other countries. Unlike in the Nordic countries, in Ontario the employer is required to set aside at least one per cent of the previous year's payroll expenses to address unfair pay differences that are discovered. In Ontario, there is also a special supervisory authority, Ontario's Pay Equity Commission, which specifically monitors compliance with the equal pay legislation.

In Europe, there are various models for achieving equal pay for equal work or work of equal value. Increasing the transparency of wage setting is one path that the European Commission prescribes<sup>6</sup>. The Commission's recommendation from 2014 states that Member States should encourage employers to adopt transparency policies on wage composition and structures. This means that employers are required to take a variety of steps, including giving employees access to information about wages and salaries for other categories of employees who perform the same work or work of equal value.

Another model is public self-reporting to provide increased transparency. Examples of countries that use this model are the UK and Germany, which have legislated on pay transparency and pay reporting. A third way is Iceland's certification model.

## The Ontario model

In the Canadian province of Ontario, the Pay Equity Act was passed in 1987; an Act which covers all public and private sector employers with at least ten employees in the province. The Act requires that comparisons are made between female- and male-dominated occupational groups. Its primary purpose is to close the pay gap between men and women doing equal work at the same employer (Stüber, 2018). But the Act also allows for comparisons to be made between different workplaces.

Under the Act, employers in Ontario are required to draw up a pay equity plan. This plan must specify the method used for comparing occupational groups as well as how these should be classified by gender (male- or female-dominated). The size of the pay adjustment is a matter of negotiation at the workplaces where the unions are represented. However, the Act stipulates that the employer must allocate at least one per cent of the previous year's payroll expenses to address unfair pay differences.

At a workplace in Ontario, there may be a number pay equity plans. Each trade union organisation that has been approved to represent employees at the workplace has the right to its own plan for the unit(s) in which employees represented by the trade union organisation work. A separate pay equity plan must also be drawn up for any part of the undertaking that lacks trade union representation.

<sup>6</sup> COMMISSION RECOMMENDATION of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency.

Ontario's Pay Equity Commission, which was established at the same time as the Act was passed, is tasked with monitoring compliance with the Act. If employers do not take the steps that the Act requires, in the first instance employees or trade union organisations submit a complaint to the Commission. Each year, the Commission handles approximately 100 complaints. The Commission also has a supervision programme and a large number of employers in certain sectors are audited every year. According to the Commission itself, over the six-year period from 2011 their work has resulted in pay adjustments for just over 8,400 employees totalling just over SEK 184 million. The total of recent years' annual pay adjustments has been between SEK 3.5 and 6.5 million.

### **Wage transparency in the United Kingdom**

In 2017, the British government introduced a new Act requiring all employers with 250 or more employees to publish their statistics on the gender pay gap. These statistics are to cover the differences in pay and bonuses. Reports are to be prepared annually and the figures published on the government's website. The aim of the Act is to generate pressure on employers, drive women's pay higher, and thus speed up the trend towards equal pay.

The response rate among employers has been good. The first deadline for reporting was in April 2018, and by then 92 per cent of the affected employers had published their statistics. The new

rules and statistics from employers have also sparked a lively debate in the UK – on the gender pay gap and on transparency as a method for tackling gender-based differences in pay. In March and April 2018, the website on which employers' statistics on the gender pay gap are published had over half a million visitors. The report entitled "The fair pay report: How pay transparency can help tackle inequalities" (2018) is based on interviews with UK employers and shows that the new Act has stimulated efforts to reduce the gender pay gap among employers. Many have involved their employees and even reviewed additional measures for closing the gap. The report notes that the Act appears to have had positive effects, but that employers ought to also be required to report on their views of pay differences in the business and their plans for how to close the gender pay gap. It also recommends that the Act should cover medium-sized employers with over 50 employees. Another proposal is that the rules for pay transparency should be extended to include other grounds of discrimination, such as pay differences based on ethnicity and disability.

This UK report also proposes that companies ought to be required to report the pay ratio between their CEO and the median employee for the company and the proportion of their workforce earning below the living wage.

## Need for intersectionality

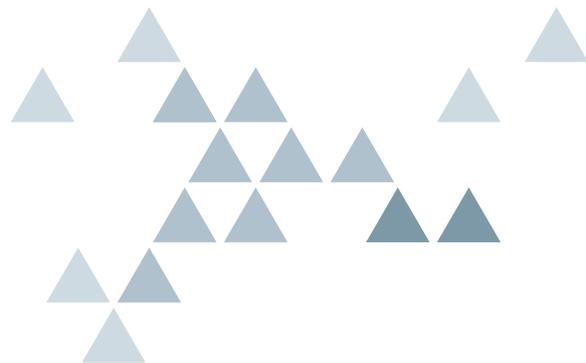
The systems being used in Canada and the UK may be relevant for the Nordic countries from multiple points of view for achieving equal pay. An additional aspect is that there are openings for intersectionality in the models. According to the Federal legislation in Canada, employers are required to report the range of wages and salaries paid to different occupational groups and indicate where persons belonging to different minority groups are found in this range. In the UK, there are proposals that pay transparency ought to be extended to include pay differences on other grounds such as ethnicity and disability.

This perspective is also relevant to the Nordic countries, where the proportion of the population that is foreign-born has increased significantly in the 2000s. Studies show that in the Nordic countries, the employment gap between people born in the country and those who are foreign-born has grown, and that foreign-born women are the biggest group not in the labour market. In Norway, Statistics Norway has produced new statistics on foreign-born persons' pay, which shows that employees born in Africa have the lowest rates of pay of all immigrant groups.

The Swedish report “Anti-Black Racism and Discrimination in the Labour Market” (2018) shows significant differences in pay between Afro-Swedes and the rest of the population in Sweden. The pay gap is the largest in the private sector: persons born in Sweden, but with at least one parent born in sub-Saharan Africa have 36

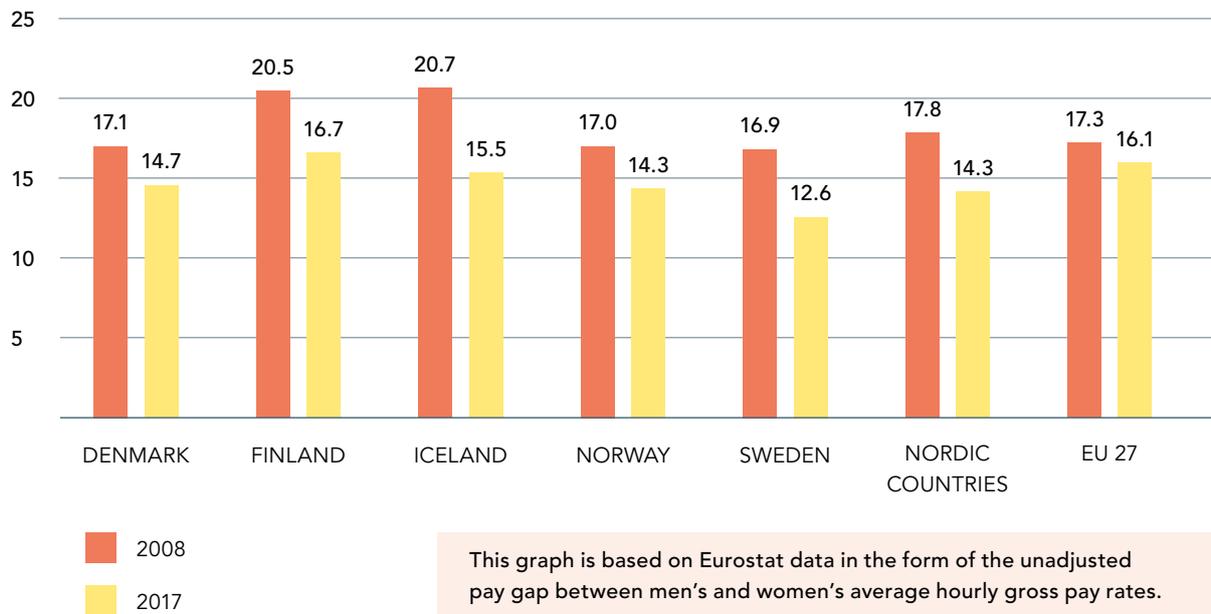
per cent lower pay than the population in general. The same patterns were discovered in the wage dispersion for civil servants in employed by the state, county council and municipal tiers of government. One of the recommendations in the report is that the Government of Sweden should investigate how it might broaden the scope of the employer's responsibility in relation to pay surveys and action plans to also cover pay differences between employees based on other grounds of discrimination, including “national or ethnic origin, skin colour or other similar circumstance”.

A clear pattern in the equal pay legislation in the Nordic countries is that it is the gender gap that is key. However, the research indicates that there is also a need to gather statistics and take action on pay differences based on other grounds of discrimination. With such statistics, it would be possible to see how multiple grounds of discrimination might interact and impact wages and salaries.



# Facts in brief

PAY GAP IN %, TREND OVER TIME 2008–2017



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*This report is also based on interviews with researchers, experts and officials within government agencies and ministries.*

Pay differences between the sexes constitute one of the biggest obstacles to achieving gender equality in the Nordic countries. *Equal pay in the Nordic countries – the law and policy strategies* sheds light on the Nordic countries' policy strategies and legislation in the area of equal pay.

The publication is produced by NIKK, Nordic Information on Gender, and is based on interviews with researchers in the field, experts and professionals.

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– the law and policy strategies**

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