

There are concerns that some equal pay claimants may not be aware that they have claims proceeding in the Employment Tribunal. If the claim is brought to their attention, they may want it to be withdrawn.

If NHS organisations consider that this may be the situation in any equal pay claims brought against them, NHSLA advise that they should consider contacting the relevant employees direct to bring the claims to their attention. An appropriate time to make such contact may be when an equal pay questionnaire is served, or a Freedom of Information Act request, or other request for further information is made by the claimant's representative. Under Data Protection Act obligations, claimant employees may be contacted before personal information is given out to ensure that they are willing claimants to the equal pay case.

Extreme care must be taken to avoid offending or antagonising the employees or doing anything that could lead to a claim of victimisation. Therefore, we recommend that:

- (a) the NHS employer reassures employees that bringing the claim will not affect the employee/employer relationship and they will not be treated any differently by reason of bringing the claim;
- (b) legal advice is taken before contacting claimant employees; and
- (c) any approach is made with the knowledge of the relevant local trade union(s).

Note:

This guidance does not attempt to provide a full analysis of those matters with which it deals and is provided for general information purposes only. It is based on the NHSLA's experience of equal pay claims. However, there is the possibility that an Employment Tribunal may take a differing view, depending upon the particular facts of the case. This note is therefore not a substitute for professional advice which takes account of your specific circumstances and any changes in the law and practice. No responsibility can be accepted for any loss occasioned by any person acting or refraining from acting on the basis of this note.