

Gender Pay Gap Reporting: What you need to know

What is it all about?

The Gender Pay Gap Information Regulations (“Regulations”) are now in force and employers must publish gender pay gap details, highlighting the difference in gross pay and bonus payments made to female and male employees.

The Regulations require employers to take a ‘snapshot’ of any gender pay gap on 5 April 2017, by analysing pay and bonus details over the previous 12 months, and each year thereafter.

Who is affected?

All employers in the private, public and voluntary sectors are required to report on their gender pay gap if they have 250 “relevant employees” or more at the snapshot date.

Relevant employees can include full time employees, part time employees, workers and some self-employed people who have to personally carry out work for your company.

Agency workers are included in the definition of relevant employees but should be counted by the employer which they have the contract of employment with. This will usually be the employment agency rather than the end user.

What about group companies and overseas employees?

The Regulations require that each legal entity within a group structure should publish a report on their gender pay gap. Some companies within a group may have under 250 employees, and therefore there is no obligation on them to publish a report. However, it may be good practice to produce a report in the event the government decide to reduce the threshold, or to enable employers to take proactive action to address any gender pay gaps.

In relation to overseas employees, as a general rule they must be taken account of if they have an employment contract that is governed by UK legislation.

When do companies need to publish this information?

Specified public authorities need to publish this information by **30 March 2018** and private sector employers no later than **4 April 2018**, and annually thereafter.

Where should the information be published?

Pay gap details should be signed off by a director of the company, or equivalent, to certify that the information is accurate. The information must then be published, in English, on the employer’s

website and should be accessible to their employees and the public. The information must remain on the website for 3 years.

The information must also be published on a designated government website (www.gender-pay-gap.service.gov.uk), together with the name of the person who certified the accuracy of the information.

What is pay?

Pay includes basic salary, paid leave, maternity pay, sick pay, bonus pay and other pay (including car allowances paid through payroll). Pay does not include overtime, expenses, benefits in kind, redundancy pay, arrears of pay and tax credits.

What needs to be published?

Each affected company needs to publish the following information:

1. the difference between the mean hourly pay of relevant male and female employees;
2. the difference between the median hourly pay of relevant male and female employees
3. the difference between the mean bonus pay to relevant male and female employees;
4. the difference between the median bonus pay to relevant male and female employees;
5. the proportions of relevant male and female employees who were paid bonus pay; and
6. the proportions of relevant male and female employees split between quartile pay bands.

The difference between mean and median

The mean is the average and the median is the middle value in the list of numbers.

To calculate the mean pay gap, an employer should take each gender specific group and add up the gross hourly pay for each female employee, for example, and then divide the total by the number of female employees in that group. This should then be calculated for male employees and the difference be shown as a percentage.

To calculate the median pay gap, arrange the gross hourly pay rates for one gender, starting at the lowest and ending at the highest. The median figure is the employee in the middle. As with the mean calculation, the difference between the median hourly pay of male and females should be shown as a percentage.

Pay Quartiles

In order to calculate pay quartiles, employers should list all relevant employees from the lowest paid to the highest paid, according to their hourly rate of pay and split them into 4 bands, each comprising the same number of employees. The purpose of this is to identify the number of women and men in each quartile and is intended to help employers consider where women are concentrated in terms of remuneration and any blocks to their progression.

Statements

Employers are not obliged to publish a narrative of their report, but it is strongly encouraged. Providing a narrative will give employers an opportunity to give an explanation of the report and any gaps, as well as detailing any steps they are taking, or proposing to take, to close any gaps in pay between male and female employees.

Which employers do not need to comply with the Regulations?

Employers with under 250 employees do not need to publish information on their gender pay gaps, as well as some small public authorities. Most Scottish and Welsh public authorities are subject to their own gender pay gap reporting obligations.

Will there be penalties for non-compliance?

The Regulations do not provide specific sanctions for non-compliance with the Regulations. However, it has been suggested that this will be reviewed and in future a name and shame policy will be introduced.

The guidance notes that accompany the Regulations indicate that a failure to comply will constitute an “unlawful act”, which empowers the Equality and Human Rights Commission to take enforcement action.

Whilst any legal enforcement is not a serious risk at the moment, there are other risks involved with failing to publish your gender pay data. Failing to publish may be a point raised by claimants pursuing equal pay or sex discrimination cases. Also consider the reputational issues and, inevitably, employees and trade unions will be examining the reports and it may be inferred that an employer has something to hide if they are not transparent about the results of their report.

What should employers do now?

Although information for private sector employers does not need to be published until 4 April 2018, there is a significant amount of work for employers to do before then. Employers need to be proactive and in particular employers should:

- allocate a team to take responsibility for complying with gender pay reporting;
- identify all “relevant employees”;
- review all current pay practices across the business to understand any differences that may exist; and
- analyse the reasoning behind the current pay arrangements.

How can we help?

Specifically, we can:

- calculate gender pay gaps and compile pay quartile information;
- assess the information to understand the causes of any pay gaps;
- help employers to remedy any gaps; and
- put together communication and a report strategy to explain the published information.

If you would like to discuss how we can help your business with gender pay gap reporting, please get in touch with our employment team by telephone on 0161 926 9969 or by email employment@mplaw.co.uk. Don't forget to follow us on Twitter @HRGuruUK for regular Employment Law updates.