



Governance *in brief* Gender pay gap information – draft regulations issued

Headlines

- Draft regulations call for pay and bonus information across genders to be reported publicly by all employers with 250 or more relevant employees.
- New analysis of pay information will help employers understand the extent of any gender pay gap in their organisation.
- It is proposed that the first data should be collated as at 30 April 2017, just one year away, and reported within twelve months of that date.

Background

The government believes that employers are losing out by not effectively utilising women's academic achievements, experience and talents. It is hoped that increasing transparency around gender pay differences will enable the impact of workplace policies and practices promoting gender equality to be monitored and remedial action to be prioritised.

Tackling the gender pay gap is a key priority for the current government. The Prime Minister has made clear the government's ambition to eliminate the gender pay gap in a generation, and the Government Equalities Office has now published draft regulations, along with its response to the '*Closing the Gap*' consultation on gender pay disparity which closed in September 2015. Interested parties were invited to provide comments by 11 March 2016. The government intends to lay the regulations before Parliament over the summer.

The headline requirements

Employers are being asked to publish the following information for each financial year:

- the percentage difference in **mean** pay between male and female employees;
- the percentage difference in **median** pay between male and female employees;
- the percentage difference in the **average bonuses** received by male and female employees;
- the proportion of men and women who receive **bonuses**; and
- the number of men and women in each **quartile of pay** within the workforce.

Which companies will be caught by the new regulations?

Employers with 250 or more relevant employees will fall within the scope of the regulations. A relevant employee means someone who ordinarily works in Great Britain and whose contract is governed by UK legislation.

When will the new regulations apply?

The proposed timing of the disclosure is as follows:

- The regulations will commence on 1 October 2016.
- Each year, on 30 April, employers will be required to take a snapshot of the pay for each employee in relation to a specific pay period. This period should encompass 30 April and should relate to the period over which that employee is usually paid (e.g. weekly, fortnightly, monthly).
- Taking a snapshot in April avoids seasonal fluctuations in the data and avoids the need to capture all those employed during a twelve month period. Employers will have six months from the date of commencement to prepare for the first snapshot which must be taken in April 2017.
- Employers will then have a twelve month period to analyse and publish the required information and this can be on a date of their choosing during that period. The first disclosures will therefore be required by April 2018.

How will “pay” be defined?

The regulations define pay to include basic pay, paid leave, maternity pay, sick pay, allowances, shift premium pay, bonus pay (which includes long term incentives) and other pay including car allowances. It does not include pensions, benefits in kind or redundancy pay. This definition of pay is in line with that used by the Office for National Statistics (ONS) for the Annual Survey of Hours and Earnings.

Overtime is to be excluded from gender pay data. The paper states that this is because men are often more able to work overtime and the government does not want employers to force women into working more overtime.

The regulations require employers to publish overall gender pay gap figures calculated using both the mean and the median. The median is intended to illustrate ‘typical difference’ and is the measure used by the ONS in its gender pay data publications. The mean is intended to give a better picture when looking at the distribution of pay throughout an organisation.

The regulations aim to capture average earnings figures which are not impacted by the number of hours worked and therefore employers will need to calculate an hourly pay rate for each relevant employee.

Although calculating separate gender pay gap figures for full-time and part-time employees may be useful for employers with a large workforce, the Government believes publishing separate figures for full-time and part-time workers may not be appropriate for many employers or employees and therefore this is not a requirement. The Government also believes publishing gender pay gaps by grade or job type is not workable as many employers do not have standardised grading structures.

How will bonuses be treated?

Bonuses may be paid at different times of the year and therefore may not always be captured in the snapshot of pay. Employers will therefore also be required to separately analyse all bonus and long term incentive payments made in a 12 month period and publish the difference between the mean for women and men.

This will encourage employers to scrutinise their remuneration and reward policies and ensure bonus practice is fair and transparent. Only employees that receive bonuses should be included in this calculation. Employers will also be required to publish the proportion of male and female employees that receive a bonus.

New disclosure on salary quartiles

Additional detail on pay differences within an organisation will be captured by requiring employers to disclose the number of men and women within each salary quartile range. The salary quartiles should be calculated based on the gross hourly rate of pay. The draft regulations are unclear on how the quartiles would be constructed, i.e. whether they would be based on salary ranges or number of employees or some other basis?

Strong encouragement, but no requirement, to provide supporting commentary

There is no requirement to include any commentary but the Government expects that employers will want to provide additional narrative that provides context, explanation for pay gaps and sets out what actions will be taken. This will be strongly encouraged within the guidance accompanying the regulations.

Publication of gender pay information

Employers will be required to publish their gender pay information on a searchable UK website, accessible to employees and the public. Employers will also be required to notify the Government of publication by uploading evidence of compliance to a Government-sponsored website, providing the signature of the senior responsible person to confirm that the data being published is accurate. It will also be a requirement to retain this information online for three years in order to show that progress has been made.

The Government intends to use the data submitted to their website to identify employers who have complied and run periodic checks to assess for non-compliance. Tables of the reported pay gaps will be publicly displayed by sector and employers publishing particularly full and explanatory information will be highlighted. The Government may also publicise the identity of employers known not to have complied.

Trailblazing Transparency: Mending the Gap

On 8th February 2016 Nicky Morgan, the Secretary of State for Education and Minister for Women and Equalities, launched a joint report by the Government Equalities Office and Deloitte called '*Trailblazing Transparency: Mending the Gap*' (link below). This publication sets out some of the challenges, opportunities and innovative action businesses are taking to successfully tackle the problem of gender pay disparity.

For further information

The draft regulations can be found here https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504398/GPG_consultation_v8.pdf

The Government's response to the '*Closing the Gap*' consultation can be found here. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/500087/Government_response_-_Closing_the_Gender_Pay_Gap.pdf

Trailblazing Transparency: Mending the Gap, the joint report by the Government Equalities Office and Deloitte, can be found here. <https://www.gov.uk/government/publications/trailblazing-transparency-report-on-closing-the-gender-pay-gap>

Deloitte View

The draft regulations and the behavioural change that transparency will encourage are important steps in achieving greater gender parity, for pay and representation, at all levels within larger businesses. This new legislation will stimulate companies to review their reward strategies.

For many companies, this will be quite some work, and this will emphasise the importance of good data within HR and payroll systems.

Contacts and feedback:

Human Capital

Deloitte's market leading Human Capital practice advises on reward strategy, organisation design, systems evaluation and implementation.

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Executive pay

Deloitte's executive remuneration practice help clients develop executive remuneration strategies in line with corporate objectives as well as advise remuneration committees on the corporate governance and the regulatory framework that applies to executive remuneration in the UK.

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