

# Mind the Gap: New Gender Pay Gap Reporting Requirements are clarified

Details of the new Gender Pay Gap Reporting regime that will apply to public and private sector employers with 250 or more employees were released by the Government today. In scope employers will not have to produce a report until April 2018. Work will, however, have to be done before then to ensure that relevant pay data (including pay data on bonuses) is available and consideration given to what additional narrative information will be produced on a voluntary basis alongside the new Gender Pay Gap Reports.

## Key issues

- Who is caught?
- What pay data is covered?
- Contextualisation
- Where does the data have to be published?
- Consequences of non compliance
- Guidance

Key aspects of the new regime are as follows:

- The first Gender Pay Gap Reports (GPG Reports) must be published by April 2018 based on a snapshot of pay data in April 2017
- Employers with at least 250 employees will be required to publish mean and median pay information on the whole workforce
- GPG Reports must detail how many men and women appear in each quartile of pay in the workforce
- The GPG Report must separately analyse all bonus payments made in a 12-month period
- The GPG Report information must be published every year on a searchable UK website that is accessible by the public and employees
- The Government must be separately notified of compliance by uploading relevant information to a Government sponsored website
- Employers who do not comply may be 'named and shamed'

## Who is caught?

Initially only employers with 250 or more relevant employees will be subject to the new gender pay gap reporting regime, however, the Government will review the position after five years to determine whether other employers should be brought in scope. In practice it appears that each qualifying employer within a group will have to produce a GPG Report rather than data being aggregated across the group. So in scope employees within a group will have to produce individual GPG Reports, an aggregated GPG Report for the group covering all in scope employers will not be sufficient.

A "relevant" employee is an employee who ordinarily works in Great Britain and whose contract is governed by UK legislation. LLP's who employ more than 250 relevant employees will be caught by the new regime but they will not have to publish gender pay gap data about the LLP partners.

## What pay data is covered?

Employers will be required to take a snapshot of pay data on 30 April with the first snapshot date being 30 April 2017. The Employer will then be required to analyse and publish its GPG Report any time within 12-months of the snapshot date. Employers will therefore be able to analyse and publish their data at the most convenient time for them during the year. The first report will have to be produced by April 2018.

'Pay' includes: basic pay, paid leave, maternity pay, sick pay, area allowances, shift premium pay, LTIPs, bonus pay and other pay (including car allowances paid through the payroll). It does not include overtime pay, expenses, the value of salary sacrifice schemes, benefits in kind or redundancy pay.

The GPG Report will have to include both the mean and the median gender pay gap figures. To generate an average earnings figure for these purposes the employer will have to calculate an hourly pay rate for each relevant employee.

In order to provide a sufficient level of granularity to explain pay differences within their organisation employers will also be required to report on the number of men and women working across salary quartiles. Employers will calculate the salary quartiles themselves based on their overall pay range. There will, however, be no requirement to publish more granular gender pay gap data.

Employers will also be required to separately analyse all bonus payments made in a 12-month period and publish the difference between women and men. The proportion of male and female employees receiving a bonus will also have to be set out in the GPG Report.

### Contextualisation

Employers can provide additional narrative alongside their GPG Report to provide context, to explain for example any pay gaps and what actions will be taken and/or details of any initiatives they have taken to recruit more women or improve their female talent pipeline. Such narratives will be purely voluntary, but will be strongly encouraged by the Government.

### Where does the data have to be published?

An in scope employer will be required to:

- Publish its GPG Report in English on a searchable UK website that is accessible to employees and the public
- The GPG information will have to be retained online for a three year period
- Accompany the GPG Report with a written statement signed by the senior responsible person (e.g. director, LLP Partner) to confirm that the data being published is accurate
- Notify Government that they have published their data by linking the details to a Government-sponsored website

### Consequences of non compliance

The Government seems to be adopting a 'carrot' rather than a 'stick' approach to non compliance. It proposes to produce publically displayed tables by sector of employers' reported pay gaps. In addition it also aims to identify and highlight employers publishing particularly full and explanatory information.

The only proposed 'stick' is the possibility that it may name and shame employers known not to have complied.

At this stage the Government is not proposing to impose civil penalties in the event of non compliance, however, it will keep the position under review.

### Guidance

The Government has committed to developing a package of guidance and support for employers in relation to these new reporting requirements.

*[Draft Equality Act 2010 (Gender Pay Gap Information) Regulations 2016]*

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