

WATSON FARLEY
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UK: EMPLOYMENT INSIGHT
GENDER PAY REPORTING
MARCH 2016

FOR MORE INFORMATION,
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Women: Like men – but cheaper? In 2015, the gap between male and female pay was 9.4% for full-time employees. The gap for all employees was 19.2%. At the current rate of progress it will take 54 years before men and women are paid the same. To help speed this rate of progress, the Government published The Equality Act (Gender Pay Gap Information) Regulations 2016 in February which are expected to come into force in October.

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Relevant employers and employees

A "relevant employer" is defined as a person who has 250 or more relevant employees on 30 April 2017 (or on any anniversary of that date). The obligation to prepare a gender pay report is triggered by having at least 250 employees working for an individual entity. As currently drafted, group companies will not be required to aggregate employees across different subsidiaries. A large employer could therefore be outside the scope of these requirements if it does not have a single entity that employs 250 or more employees, although there is talk that this might be changed in the future.

The draft Regulations define a "relevant employee" as someone who ordinarily works in Great Britain, and whose contract of employment is governed by UK legislation. Employment means employment under a contract of employment, a contract of apprenticeship or a contract personally to do work.

Duties of Employers

The draft Regulations state that the following information will need to be published by employers:

- The percentage difference in mean pay between men and women;
- The percentage difference in the median pay between men and women;
- The difference in mean bonuses paid to men and women;
- The proportion of men and women who receive bonuses; and
- The gender pay breakdown split between quartile pay bands.

What should be included as pay?

For the purposes of gender pay reporting, "pay" includes basic pay, paid leave, maternity pay (and presumably shared parental pay), sick pay, area allowances, shift premium pay, bonus pay, car allowances and other allowances paid through the payroll. It does not include overtime pay, expenses, the value of salary sacrifice schemes, benefits in kind, redundancy pay, arrears of pay and tax credits. Pay is calculated using gross figures, before any deductions.

Bonus pay is defined as: payments received and earned in relation to profit sharing, productivity, performance and other bonus or incentive pay, piecework and commission; long-term incentive plans or schemes; and the cash equivalent value of shares on the date of payment.

Online publication

Employers must publish the information on their own website and must retain the information online for three years. They must also upload the information to a government-sponsored website. A written statement confirming that the information is accurate must accompany the required information. Employers will have 18 months after the commencement of the Regulations to publish the required gender pay gap information for the first time. Thereafter, they must produce and publish an annual report.

What do employers need to do now?

Employers now have just over a year before having to take a "snapshot" of the gender pay balance in their workplace. Employers should identify and analyse any gender pay gap as soon as possible, as implementing strategies to address the issues identified will take time.

Conclusion

While the introduction of mandatory gender pay gap reporting will be welcomed by many, the government is not introducing any civil penalties for businesses that refuse to comply with gender pay gap reporting, something that the Equality Act 2010 gives them power to do. Instead, the government says it will keep the issue of enforcement under review, depending upon "employers' willingness to comply... during the first few years". We are sure, however, that it won't be long before "league tables" start to appear and large employers who are absent from those tables will be at a competitive disadvantage in recruitment and are likely to be "named and shamed".

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