

BRANCH GUIDE TO GENDER PAY REPORTING

Introduction

This guidance sets out the key issues for branches dealing with large private and voluntary sector employers who are covered by Gender Pay Gap Regulations about their obligation to publish information about their gender pay gaps. This advice will outline some of the background and key issues covered by the legislation and provide ideas on how to engage with your employer (regardless of the size of the organisation you work for) in order to review and act on gender pay gap reporting information.

Background

Under new regulations introduced on 1 October 2016 it is compulsory for private and voluntary sector organisations with 250 or more employees in England, Wales and Scotland to publish information about the difference in pay between men and women.

The legislation introduced through the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 will mandate private sector and voluntary-sector organisations to publish details of their gender pay gap in the period which 6th April (the snapshot date) falls every year from 2017.



The government has said they will extend these regulations to also cover the public sector and that these regulations will be phased in gradually over the next two years; with a snap-shot of data on an organisation's gender pay gap beginning 6 April 2017, with a further year to collect and publish their data on their website in April 2018.

The power to make employers publish data on the difference in pay between men and women is nothing new, and was covered under Section 78 of the Equality Act 2010. It was originally done on a voluntary basis, but due to the relatively small uptake of organisations publishing this information, the government has acted to enforce this section of legislation by introducing these new regulations making it compulsory.

Part of the Northern Ireland Employment Bill currently waiting for Royal Assent later this year, will contain Regulations (published by the 30th June 2017) which will stipulate that employers must publish information on their gender pay differences. These Regulations have not yet been published, but it is anticipated that this will bring Northern Ireland in line with the rest of the UK.

Branches should check that their organisation is collecting the data needed; for example some organisations are now looking at additional data including gender profiles and bonus trends.

Key statistics

- Figures from the Office of National Statistics (ONS) in November 2015 show that women in the UK earn 19.1% less than men (this is using a figure looking at all workers in full and part time work from across the UK);
- Using that figure the TUC have calculated at the current rate of progress it would take nearly 50 years to close the gender pay gap;
- The 19.1% UK figure is relatively high compared against the EU figure of 16.4% and according to Eurostat the UK has the 6th largest gender pay gap in the EU;
- The Fawcett Society research shows that women are still more likely to be in low paid, low skilled jobs. Men continue to make up the majority of those in the highest paid jobs and senior roles.¹
- The TUC have calculated that the top 2% of male earners take home a salary of £117,352 a year, whilst women in the top 2% of earners take home £75,745 a year;
- The gender pay gap appears to be starting at the beginning of a woman's career and continues until retirement. A report by the National Institute of Adult Continuing Education (NIACE) and the UK Commission for Employment and Skills highlighted that women get paid 22% less on their apprenticeships than their male equivalents;
- Data from the Living Wage Commission identified that 60% of those earning less than the Living Wage were women.

Gender Pay Reporting Examined - What is covered in the legislation?

Under the Regulations, employers will be required to publish the following – expressed as percentages:

- the difference in mean (hourly) pay between male and female employees;
- the difference in median (hourly) pay between male and female employees;
- the difference in mean bonus pay between male and female employees;
- the difference in median bonus pay of male and female employees;
- the proportion of male and female employees who received bonus pay; and
- the number of male and female employees in each quartile of their pay distribution.

As set out in the regulations, the definition of 'employee' is under Section 83 of the Equality Duty Act 2010, but includes anyone under a contract of employment in Great Britain (not Northern Ireland). This includes contracts of apprenticeships, consultants and workers on zero-hours contracts employed on the 6 April 2017.

Pay

The government have defined pay using the Office of National Statistics (ONS) Annual Survey of Hours and Earnings (ASHE).

¹ <http://www.fawcettsociety.org.uk/policy-research/the-gender-pay-gap/>

Pay is defined as including basic pay, paid leave, maternity pay, sick pay, area allowances, shift premium pay, bonus pay and other pay (including car allowances paid through the payroll, on-call and standby allowances, clothing, first aider or fire warden allowances).

It will not include overtime pay, expenses, the value of salary sacrifice schemes, benefits in kind, redundancy pay, arrears of pay and tax credits.

A welcome addition to the regulations includes the publication of the gender bonus gap and the proportion of male and female employees that receive a bonus on an annual basis. This includes performance and incentive payments, commission and profit shares.

Calculating gender pay gaps

The regulations require employers to publish their mean and median gender pay gaps as indicators. This is to allow employers to get a better understanding of any pay gaps they identify and enable them to make comparisons with national figures.

- When reviewing an employer's full earnings distribution the mean figure can be useful because women are often in low earning jobs and by comparison men in higher earning jobs.
- By identifying the wage of the middle earner, the median is the best representation of the 'typical' difference.

The calculations will be taken in a specific pay period from every April from 2017.

What are salary quartiles?

The regulations also require the employer to report the number of men and women in each quartile of their pay distribution. This will help to identify the numbers of women and men in each quarter by overall pay distribution. These will also assist branches by showing what pay bands women are concentrated in and if there are any issues within the organisation with progression.

Exactly when and how often must the breakdown be published?

The breakdown must be published annually every April starting from 6 April 2017.

How must it be made available (to either the public or unions)?

The breakdown must be published annually on an employer's website, as well as uploaded onto a government sponsored website – which is still in the process of being set up. The government have also released a [new website tool](#) which reveals gender pay gap by occupation which allows you to find out the gender pay gaps and average earnings in a wide range of jobs. The government intends to use this data to identify gender pay gap statistics and report on them.

What penalties are there, if my employer does not comply with the regulations?

Currently there are no civil penalties for employers who do not comply with these regulations. The government has said they will keep a watching brief on this while the regulations are in their years of implementation. It is hoped that large employers covered by the regulations will be concerned by reputational damage if they do not comply with the regulations and will publish the data on their website and the government sponsored website, which will be set up to monitor the data.

What can branches do?

The regulations encourages transparency – Although the current regulations only cover employers in the private and voluntary sector in England, Wales and Scotland with more than 250 employees, branches should encourage all employers, regardless of size, to publish data on their gender pay gap. Discuss these regulations with your employer and request that all information is shared with the trade unions in order to facilitate an action plan or equal pay audit and lead discussions on how the organisation will work to close the pay gap and create a transparent pay system.

Protection for the employer against equal pay claims – If smaller organisations, which are not covered by these regulations, are hesitant about publishing their gender pay gap information, explain that by following the regulations they are protecting themselves from possible equal pay claims in the future and it will make reporting easier for the organisation when the government rolls the regulations out to cover all employers.

Publication of other data – As well as gender pay gap data, branches can work with their employer to publish other data. From April 2018 employers will have to provide an explanation for the gender pay gap figures and therefore it may be prudent if employers explain some of the differences and reasons for the gaps when they publish their data. Although employers may be hesitant to add an explanation to their data, through fear of equal pay claims, it may help employers explain why there is a gender pay gap in a particular pay quartile or differences in part time and full time work that may explain some pay gaps - employers can also add what measures they are putting in place to address the issue.

In order to provide a fuller picture of the gender pay gap breakdown within the organisation branches could request:

- An explanation of the reasons behind any differences;
- Number of full time male and female employees;
- Number of part time female and full time male employees;
- The distribution of men and women by grade and job role and age;
- The gap in basic pay and additional earnings – bonus payments, honoraria, overtime, expenses and other supplements which can hard the true figure;
- Hidden earnings – for example additional annual leave based on seniority or continuous service.
- Publish pay information by ethnicity and disability.

Determine which jobs are equal – The branch should work with the employer to determine which groups of employees are doing ‘equal work’. The Equality Act defines equal work as “like work” and “work of equal value”.

Determine the causes – Once the branch has determined which jobs are equal and have identified pay gaps, the branch should work with the employer at identifying the reasons why. Is it because of gender? It might mean that the branch needs to look at the pay structure, pay progression within the organisation, performance related pay procedures (if applicable), premium pay and allowances. If a branch needs some advice and guidance at this stage they should contact their regional officer.

Encourage collaborative working – working with the employer on identifying pay gaps will help to promote collaborative working between UNISON, the employer and other staff side unions and will go a long way to help close the pay gap.

Recruitment and organising - using gender pay gap issues to organise your members

- The gender pay gap continues to be an important campaigning issue for UNISON branches to organise around and in the process recruit new members. A campaign should encourage members and non-members to speak out about this issue and support members with equal pay claims.
- The campaign should aim to raise awareness of the gender pay gap within the workplace and publicise the branch’s efforts to work with management to publish the data and work through an equal pay audit to close the pay gap and establish a transparent pay system.
- The campaign will promote closing the pay gap which is good for employees and the employer, as it will protect them from any future equal pay claims!
- Branches should hold workplace meetings where they can speak directly with members about gender pay gap issues and discuss possible solutions to put to management.
- Branches can raise awareness by emailing all members and promoting the campaign. As part of the campaign the branch should circulate a confidential on-line pay survey or paper questionnaire. The findings of this survey can then be reported back to members. The results obtained from the survey can be used to put forward a case to management the need for pay and grading reviews.
- Establishing equal pay in the workplace would be a good win to promote UNISON within the workplace. It may also help encourage and promote positive collaborative working with other trade union colleagues in the organisation.

Further Information

Equal pay audit toolkit (Health Branches)

UNISON workplace guidance on conducting an equal pay audit can be found [here](#)

Workforce re-profiling (Health Branches)

UNISON guidance on Annex X on workforce re-profiling can be found [here](#)

Job evaluation advice for college staff

UNISON guidance on job evaluation for college staff can be found [here](#)

Public sector equality duty factsheet

UNISON guidance on the public sector equality duty can be found [here](#)

Closing the pay gap consultation

The government's guidance on closing the pay gap can be found [here](#)

EHRC guidance on pay gaps

The equality and human rights commission guidance on equal pay audits and pay gaps can be found [here](#)