Closing the gender pay gap
Consultation response

On 12 February 2016, the Government Equalities Office (GEO) and The Rt Hon Nicky Morgan MP issued their response to the ‘Closing the Gender Pay Gap’ consultation which was originally published in July 2015. The response included:

► An overview of responses to the consultation, along with the Government’s conclusion to each question
► The proposed draft regulations, accompanied by a further consultation asking ‘What, if any, modifications should be made to these draft regulations?’

Organisations and individuals have until 11 March 2016 to reply to this consultation, before responses are collated and the draft regulations are enacted. The regulations are then expected to come into effect in October 2016 with employers having to publish the required information on a date of their choosing by 30 April 2018.

Summary of the draft regulations
The draft regulations propose that organisations will be required to report separate, aggregated figures on:

► Pay
► Bonus pay
► Overall pay distribution by salary quartiles

Which organisations will need to report this information?
The reporting regulations will apply to private, public and voluntary sectors across Great Britain for employers who have more than 250 staff.

Pay is defined as:
► 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 does not include pay for a different pay period, overtime pay, expenses, the value of salary sacrifice schemes, benefits in kind, redundancy pay, arrears of pay and tax.
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What pay elements will need to be reported?

Pay
Employers will be required to publish the difference in mean and median pay between male and female employees for cash payments and short and long-term incentives, as defined above.

Bonus pay
► Employers will be required to publish the difference in mean bonus pay between male and female employees, to include short and long-term incentives, as defined above, and
► The proportion of male and female employees who received bonus pay.

Overall pay distribution by salary quartiles
► Employers will also be required to identify the quartiles of the overall pay range (based on the gross hourly rate of pay for all employees), and
► Report on the number of men and women in each four quartiles in order to demonstrate the overall pay distribution.

Who should be included?
Employees who ordinarily work in Great Britain and whose contract of employment is governed by UK legislation will need to be included in the analysis.

When do organisations need to publish?
► Employers will have 18 months after the commencement in October 2016 to publish the required information for the first time, and must publish annually thereafter.

Employers are required to take a snapshot of data for the period including 30 April 2017, and publish the required information on a date of their choosing by 30 April 2018.

Where will this information be published?
► The information will need to be published on the employer’s website and must be accessible to employees and the public.
► The information will need to be searchable, presented in English, and should remain in place for at least three years from publication.

How will this be governed?
► Employers will be required to send evidence of compliance to a government website.
► The signature of a senior responsible person will be required to confirm accuracy of the data.
► The Secretary of State will conduct periodic reviews of the regulations, and will also publish a report within five years of the regulations coming into force.

To ensure compliance, the Government will run periodic checks for non-compliance, produce publically displayed league tables by sector, and identify and highlight employers publishing full and explanatory information. They may also publicise the identity of employers who have not complied.

Implications for employers
Employers should take the opportunity to consider the implications of the proposals and, where appropriate, respond to the consultation with any concerns that they may have. Some of the implications for employers to consider include:

► Given that organisations will be required to take a snapshot of their data in the pay period of 30 April 2017, it is important to start to plan how to access, validate and analyse data, and report on the gender pay gap, from a data and resource perspective. Organisations should consider what level of board involvement will be needed for the appropriate signature to be given.
► Reward functions need to consider how this activity can be built into their existing processes, and consider carefully the best time to publish, given the constraints of the regulations.

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 (including those dependent on company and personal performance), and
► The cash equivalent value of shares on the date of payment
Analyse the data to determine the gender pay gap. The first report will be critical in setting the baseline for future reports.

It is essential to identify the underlying cause of the pay gap, in order to inform an action plan, and support any accompanying narrative and commentary. Two significant points for consideration to understand any gender pay gap will be:

- **Occupational segregation**: Is the pay gap driven by an imbalance in the representation of each gender in certain roles or levels within the organisation? For example, consider assessing the talent pipeline and the types of roles that women are conducting in relation to men and whether there is any inherent bias in recruitment or retention policies (e.g., levels of flexible working).

- **Pay**: Is the pay gap driven by issues relating to pay, grading or performance management? For example, consider a review of pay practice by grade, taking material defence factors (e.g., performance ratings, length of service etc.,) into consideration, and rule out any equal pay issues.

Reward teams undertaking the analysis should work closely with communications, legal, employee relations and diversity colleagues in order to shape the messaging. Consideration should be given to how the pay gap will be communicated to both employees and the external market. Particular emphasis should be given to increasing understanding not only about where the gap in pay lies, but how the organisation is committing to address it.

As organisations will be required to publish annually, a visible reduction in the pay gap from one year to the next will be the most obvious measure of success (but there might be others in a particular business) and this can be achieved by adhering to a transparent action plan to support this goal.

**What next?**

We are hosting a roundtable seminar to debate consultation responses and discuss what the draft regulations and definitions mean to you and your organisation.

**Date**: Wednesday 2 March  
**Time**: 08:30 for 09:00 start, 10:30 end  
**Location**: Central London

To confirm your attendance, please contact Krishna Rathod: krathod@uk.ey.com

We will continue to keep you updated on the Government consultation.

**How we can help**

- Assist in interpreting the regulations and how they apply within your organisation.
- Undertake current state snapshot of pay equality to highlight any areas of risk.
- Undertake or provide an objective review of the pay gap analysis.
- Conduct a diagnostic review to identify the underlying causes and drivers of the pay gap, for example by reviewing pay policies, equal pay risk, talent pipelines and diversity and inclusion practices to ensure no inherent bias.
- Work with you to develop an action plan to help close the gap.
- Help, as appropriate, to develop draft messaging for communication to employees and external publication.

**A good first step but still a long road ahead...**

Through their commitment to closing the UK’s gender pay gap, the Government is trying to tackle a long-standing social challenge around gender inequality. The gender pay gap reporting regulations presents an opportunity to put the issue back in the spotlight, and to push it up the agenda of employers across the UK. Whilst it is only a small step at the start of a much longer journey, implemented effectively it may help to encourage companies to actively address the issue. Although the intent is positive, any spotlight on league table comparisons may encourage unhelpful behaviours. Instead it would be beneficial to focus attention on the action taken by employers to reduce any gap in pay and to ensure that all policies and process are genuinely gender neutral. As the Government has acknowledged, where possible, businesses should look to provide additional context and narrative to the figures published, in order to help illustrate the action being taken.
Further information

To discuss any of the issues raised here, please get in touch with one of the team listed below or your usual EY contact.

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