

## Employment

### Gender Pay Reporting

#### What is gender pay reporting and why is it necessary?

The “gender pay gap” is a measure of the difference between the average earnings of men and women within an organisation based on a comparison of what men and women get paid for doing the same job. The right of men and women to receive equal pay for equal work is contained in the Equality act 2010. In order to try to close this gap the government will soon be introducing rules surrounding gender pay reporting.

#### Who will the gender pay reporting rules apply to?

Any employer in the UK with 250 or more *relevant* employees. A relevant employee means someone who ordinarily works in Great Britain, and whose contract is governed by UK employment law. For these purposes an employer does not have to count certain groups including: workers and self-employed sub-contractors. In addition, employees in sister or associated companies throughout a corporate group do not have to be counted.

#### When do the new rules come into force?

The rules will be introduced in October 2016. We strongly recommend that employers start planning now because all applicable employers will need to take a snapshot of their gender pay data in April 2017 and annually thereafter. In order to reduce the risk of equal pay or discrimination claims, employers are advised to audit their data and rectify any issues now, well in advance of the snapshot.

#### What will an employer need to publish?

- 1) The difference between men’s and women’s *mean* pay for the month of April 2017. Employers are not obliged to break down the data by role, or make a distinction between full and part-time etc. or provide any kind of narrative. The figure should be provided as a percentage. For example, if all women’s hourly earnings average £8 and all men’s hourly earnings average £10, there is a 20% mean gender pay gap.
- 2) The difference in men and women’s *median* pay for the pay period of April 2017. The employer should identify the hourly rate of the median man’s pay (the median man will be the man in the middle position when all male employees are listed in order of pay rate) and the median woman’s pay, and express one as a percentage of the other. The aim here is to reduce the influence of outliers, for example very high salaries which may skew the information.
- 3) The difference in bonuses calculated over the course of a whole year to April expressed as a percentage.
- 4) The proportion of men and women who receive bonuses. This is so that employers cannot pay a very large bonus to one woman to try to hide unequal practices.
- 5) The gender pay split breakdown between quartile pay bands. This will show, for example, scenarios where the number of men earning the highest 25% greatly outweighs the number of women in that quartile.

Note that some variable elements, such as overtime pay, do not need to be included, but others, such as bonus pay, shift premium pay and area allowances are included.

#### Where, when and how should employers publish the information?

The information will need to be made available on the employer’s website and kept there for 3 years. It will need to be signed off by a director or other appropriate person. The information will be required annually.

Employers will want to present their data with relevant information so that they can field questions from the media, unions and interested campaigning groups. There will also be a mandatory obligation to upload the 5 pieces of information to a government website. The government is likely to publish league tables of the best and worst Companies, possibly by sector.

#### What are the penalties for non-compliance?

Currently there are no enforcement measures in the regulations, but this will be reviewed in a few years. Companies may find themselves named and shamed by the media if they do not comply, which could do damage to their reputations. They also run the risk of losing valuable female talent to competitors.

#### What should employers do now?

We recommend taking legal advice about gender pay reporting. Instructing a firm such as 3HR Corporate Solicitors at the outset will ensure that your data is protected by legal privilege and therefore remains confidential during this crucial process. We will be able to identify any risks you may have in relation to your data and advise on matters such as how to close your gap, and how much detail to go into when you notify employees of the data. We can also advise on any ensuing employee relations issues.

For more information, contact your usual 3HR consultant.

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