

# Mandatory Gender Pay Gap Report

## Key Facts for Employers

### Background

Pay Data is an independent reward consultancy that has conducted Equal Pay Audits for over 10 years. Recently we have seen a significant rise in interest from employers about pay equality. The primary driver for this has been the launch of the '**Closing the Gender Pay Gap**' Government Consultation in July 2015 that requires:

*Employers with over 250 employees to publish information about the pay of their male and female employees*

With the publication of the draft regulations on the 12<sup>th</sup> February 2016, we have summarised below the key facts that concern employers.

### Proposed timescales

The proposed commencement date for the regulations will be the 1<sup>st</sup> October 2016, although employers will not be required to publish their information for the first time until April 2018. Whilst this may seem some time off, the first publication will cover information from a 12-month period that commences on the 30<sup>th</sup> April 2017.

From 2018, the legislation requires employers to publish their information for three consecutive years, on the anniversary of the 30<sup>th</sup> April.

**Paydata's observations** – For many employers, their 2016 pay review represents their first opportunity to reduce their pay gap figure. The 2018 publication will no doubt generate a lot of (potentially negative) publicity as the inevitable comparisons between employers and sectors are made. From 2019 onwards the focus will turn to whether employers have started to reduce their pay gap or not.

### Who is affected by the legislation?

**Employers** will be the chief stakeholder directly affected by this latest legislation.

1. **"Employers"** are defined as those with 250 or more employees.
2. **"Employees"** within a relevant organisation are defined in the legislation as:

*Those who normally work in Great Britain and whose contract of employment is governed by UK legislation*

3. **"Senior management"** – Depending on the ownership of the organisation, a Director or General Partner is required to sign a written statement, accompanying the figures, stating they are accurate.

**Paydata's observations** – Whilst employers are obviously directly affected, a wide range of stakeholders (such as employees, competitors, unions, and the general public) will be especially interested in the published figures.

## What information is published?

Pay and bonus information is to be analysed and published separately:

1. **Pay** is defined as:
  - o Including basic pay, paid leave, maternity pay, sick pay, area allowances, shift premium pay, bonus pay and other pay, such as car allowances, on-call and standby allowances, clothing, first aider or fire warden allowances
  - o Excluding overtime pay, expenses, the value of salary sacrifice schemes, benefits-in-kind, redundancy pay, arrears of pay and tax credits
  
2. **Bonus** is defined as:
  - o Including profit sharing, productivity, performance and other bonus or incentive pay, piecework and commission
  - o Including Long term incentive plans / schemes
  - o Including shares – their cash equivalent value on the date of payment

Employers must publish a “gross hourly rate of pay” figure that ensures it is not affected by the number of hours worked.

**Paydata’s observations** – Interestingly the pay figure to be published includes bonuses and car allowances. This increases the potential for pay gaps as, for bonuses in particular, the amounts received are often individually-determined. Likewise, the inclusion of LTI and shares may particularly affect pay gaps at senior levels.

## How are males and females pay compared?

Employers are required to publish four different pieces of information:

1. **Pay** – The Mean and Median differences between males and females

Gross hourly rate of pay (% difference)	
Mean	Median
25%	18%

2. **Pay** – The number of male and female employees paid in each quartile:
  - o Band A is the lowest-paid employee to the 1<sup>st</sup> quartile employee (25<sup>th</sup> percentile)
  - o Band B is the first quartile to the 2<sup>nd</sup> quartile employee (25<sup>th</sup> to the 50<sup>th</sup> percentile)
  - o Band C is the second quartile to the 3<sup>rd</sup> quartile employee (50<sup>th</sup> to the 75<sup>th</sup> percentile)
  - o Band D is the third quartile to the 4<sup>th</sup> quartile employee (75<sup>th</sup> percentile to the highest paid employee)

Gross hourly rate of pay (No. of employees)					
Gender	Band A (0 – 25pc)	Band B (25 – 50pc)	Band C (50 – 75pc)	Band D (75 – 100pc)	Total
Female	10	20	15	5	50
Male	5	30	40	30	105

3. **Bonus** – The Mean difference between males and females
  - o Excluding those employees who did not receive a bonus

Bonus pay received (% mean difference)
30%

4. **Bonus** – The proportion of employees (% of total) who received a bonus

Bonus received	
Gender	% of total number of employees
Female	10%
Males	12%

To calculate the mean or median differences, subtract the Female figure from the Male figure, then divide by the Male figure, and finally multiply by 100.

**Paydata’s observations** –The inclusion of both mean and median figures is welcome as they are affected differently by the distribution of the sample population. Including the quartile pay figures also provides further detail on the pay distribution across male and female employees. Including bonus figures places greater emphasis on the potential gaps in total package. However, some employers may find it more difficult to collate the bonus information as, unlike pay, it is not always stored on payroll.

Furthermore, the latest legislation is focused on top-level gaps in gender pay progression, as opposed to gaps in like-for-like work. From their discussions with employers and HR experts, the government have cleared recognised the difficulties in making like-for-like comparisons given that employers use different job evaluation systems or have no grading at all.

## Where is the information published?

The legislation states that employers must publish their information:

- On their website
- In the UK
- In English
- Accessible by both their employees and the public
- Be available for 3 years

The information must also be submitted to the government through another designated website.

## What will the government publish – League tables?

The government state that they will periodically publish a review of the information collected before the 1<sup>st</sup> October 2021 and at least once every five years thereafter. The aim of the report will be to highlight whether the objective of reducing the pay gap has been achieved, or whether the legislation has imposed an unnecessary burden on employers.

**Paydata's observations** – There has been much discussion in the media about the government publishing “league tables” to name and shame offending specific employers. In reality the government has only currently proposed to publish league tables of industry sectors. However, given that employers are required to submit their information directly to the government, it would be unsurprising if, insufficient progress is not made towards closing the pay gap; offending employers are eventually named. Given that it will not be until 2019 that the government can test this, it may be some time before employers need to feel concerned. Having said this though, there is nothing to stop a third party, for example a trade union, from collating and comparing information directly from different employer websites. It is also interesting that the government have left the door open to updating or removing legislation in future if it proves too much of a burden to employers.

## Conclusion

Although the government are collecting comments on these draft regulations until mid-March, it appears likely that legislation will come into force by the 1<sup>st</sup> October.

Whilst many employers will generally not find it too time consuming or and resource-heavy to fulfil this new legislation, publishing imprecise figures could potentially result in negative publicity. The legislation forces employers to publish potentially alarming pay gap figures that do not exist when examined in more detail and on a like-for-like basis.

Regardless of Gender Pay Reporting, it remains illegal for employers to operate unequal pay practices and the risks of ignoring equality are significant. The dangers of ignoring equal pay are: potentially significant financial damage from tribunals, disclosure of sensitive data, adverse impact on employee engagement and therefore retention, and most importantly the reputational damage / negative PR for employers who are exposed as unequal payers.

This latest legislation is another step from the government in forcing employers to address pay equality within their organisations. Indeed as a result, since July we have found pay equality moving higher up employers' agendas, with more wanting to be pro-active on the issue.

If you have any questions or require further information on conducting an equal pay audit please contact Tim Kellett on 01733 391377 or via [timk@paydata.co.uk](mailto:timk@paydata.co.uk).