Gender pay reporting

In 2017 the government introduced gender pay gap reporting for the vast majority of businesses with the aim of addressing a systemic cultural issue. This briefing paper will inform on the requirements and explore some of the issues behind the gap and the role of internal audit.

Background

In 1970 the Equal Pay Act prohibited less favourable treatment between men and women in terms of pay and conditions of employment. The Equality Act 2010 replaced previous legislation and also included making it unlawful to prevent employees from having discussions to establish if there are differences in pay.

Even though it has been unlawful for over 40 years to pay one person more than another based on their gender when doing the same role, it happens, the Office for National Statistics found that male financial managers and directors earn 32.4% more than women in the same occupation. The testimony from staff at the BBC following the release of figures in 2017 further demonstrates the fact that this is a very real issue.

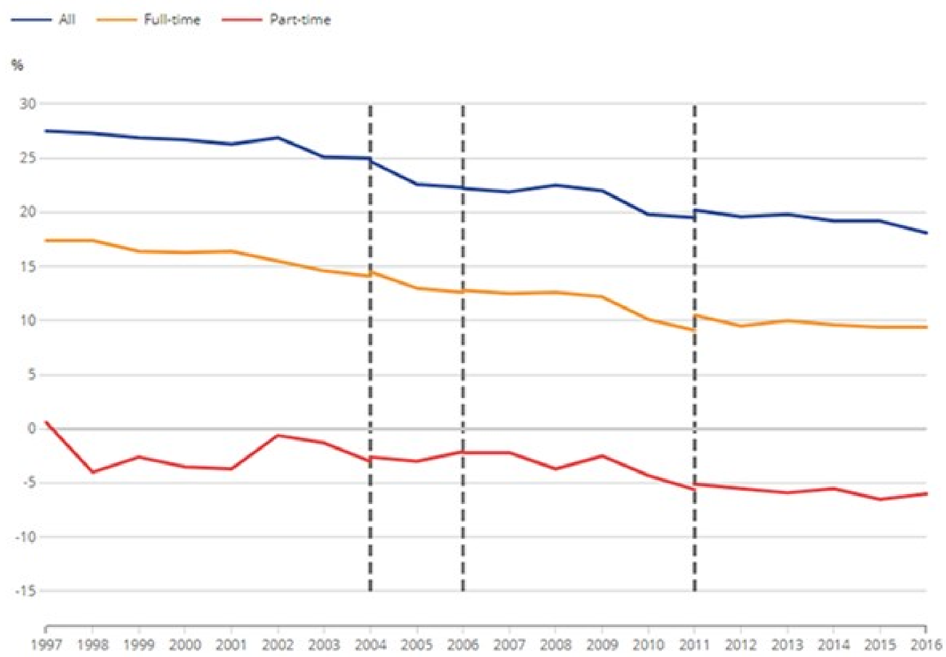
The amendment to the Equality Act seeks to address this - The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 and The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, apply to private/charity and public sector respectively.

The gender pay gap differs from equal pay as it is concerned with the differences in the average pay between men and women over a period of time no matter what their role is. Equal pay deals with the pay differences between men and women who carry out the same or similar jobs.

The government defines it as the difference between the average earnings of men and women, expressed relative to men’s earnings. For example, ‘women earn x% less than men per hour’.

The World Economic Forum has been reporting on pay disparities for over a decade and in 2016 determined the global gender pay gap, taking into account all industries and countries to be 75%. They also issued a stark declaration that it could take 217 years for that gap to close. In the UK the ONS reported that in April 2017, the gender pay gap decreased to 9.1%, from 9.4% in 2016. They stated that this was the lowest since the survey began in 1997, when the gender pay gap was 17.4%, although noting that the gender pay gap has changed relatively little in recent years.

Gender pay gap over time, by full-time and part-time work, UK, 1997 to 2016



Source: Annual Survey of Hours and Earnings, ONS

Gender Pay Gap Reporting Requirements

The government and Acas have worked together to produce detailed guidance which has been summarised below for convenience, we recommend reading the elements within the link that apply to your organisation.

Who does it apply to?

- Organisations with 250 or more employees who are based in England, Scotland or Wales. *Note: gender pay reporting will apply to Northern Ireland but going into 2018 legislation was still delayed due to assembly issues, once authorised, it will extend further to include ethnicity and disability reporting in addition to gender. Members in NI are advised to check latest regulatory updates.*
- There are no sector exclusions.
- Organisations with payrolls for different functions report one set of figures (merged data).
- Organisations with multiple legal entities report individually not as a group; corporate groups can voluntarily report combined data.
- Organisations with less than 250 employees are encouraged to report voluntarily.
- The legislation sits alongside existing requirements for Public Sector Equality Duty.
- Reporting obligations already apply to public sector bodies in Scotland and Wales, members working in this sector are advised to read the full guidelines for clarity on variances to existing requirements.

When does it need to be done?

- First report was required by 30 March 2018 for public sector.

- First report was required by 4 April 2018 for private sector.
- Annually thereafter.

Where does data need to be reported?

- All sectors are required to register data on an online reporting service.
- Non-public sector organisations are required to publish the data and a written statement on their public website, the information must remain accessible for three years.

How is it enforced?

There are no penalties for non-compliance although the government is keeping this under review. Avoiding negative publicity and stakeholder dissatisfaction is likely to ensure compliance.

What needs to be reported?

The minimum data requirements:

- Mean gender pay gap in hourly pay.
- Median gender pay gap in hourly pay.
- Mean bonus gender pay gap.
- Median bonus gender pay gap.
- Proportion of males and females receiving a bonus payment.
- Proportion of males and females in each pay quartile.

In addition to statistics, non-public sector organisations must also produce and publish a written statement. The government encourages organisations to contextualise the information; the Acas guidance includes advice on how to do this.

How is this calculated?

This cannot be concisely summarised as there is specific data that must be included in calculations and rules for making the calculations.

Examples of reporting

We suggest using the government portal to view the reporting statements of organisations that are similar to your own as the narrative reports can run to several pages of A4. A few examples have been included at the end of the paper although these should not necessarily be considered best practice.

It is noted that organisations are taking advantage of the ability to contextualise the required data. Explaining results is important as organisations with disproportionate gender workers in lower paid roles will see higher differentials; fashion retail is an example of this. Likewise, organisations that have gender diversity issues at a senior level will also see higher differentials.

Role of internal audit

The risks this presents to an organisation may lead to both assurance and consultancy opportunities for internal audit.

Risk: Management unaware of obligations and importance

Counsel: chief audit executives discuss requirements with relevant stakeholder(s), bringing issue of non-reporting to their attention and supporting the development of actions to ensure minimum requirements are met.

Risk: HR and payroll data is incomplete or inaccurate data

Process reviews: it may be appropriate to increase the frequency of scheduled compliance reviews of HR data systems, particularly payroll systems. Whilst a certain amount of HR data is already publicly available in annual reports and corporate social responsibility reports, the profile of gender pay raises the bar on the necessity for systems to be as robust as financial reporting tools.

Risk: Results are manipulated to appear more favourable

Risk: Calculation errors

Validate calculations: performing an independence check over the robustness of data and the calculations made. Where organisations use external audit to validate calculations, internal audit can add much deeper assurance by reviewing the processes that determine the data sets.

Risk: Results are manipulated to appear more favourable

Risk: Unsupportable information is used to explain data

Validate narrative statements: as with the calculations, performing a standard data review of the wider facts to ensure information being reported is timely, accurate, complete, valid, relevant and reliable.

In addition to the obvious compliance reviews internal audit is also presented with an opportunity to legitimately begin to delve into the ethereal world of corporate culture. The government has produced a guide to help organisations address closing the gap.

Risk: Unfavourable gender pay gap reporting leads to employee dissonance

Counsel: discussions with key stakeholders based on the scoring of this risk, planned communications, actions to demonstrate remedial activities

Risk: Inability to attract and retain talent due to perceived gender inequality

Recruitment: review of recruitment practices to ensure that starting salaries do not reflect gender bias, that gender neutrality is encouraged for all roles, that positive discrimination does not become an issue, etc. Looking specifically at gender and other diversity issues beyond the routine aspects of recruitment. This should extend across all levels, with particular focus on areas of known disparity if the issue has been highlighted.

Performance Management: review of process to ensure that there is gender neutrality, that there is no covert discrimination for people having taken maternity breaks, suppression of talent due to gender, etc. Looking specifically at gender and other diversity issues such as ethnicity and disability beyond the routine aspects of performance management.

Facilitation: supporting a risk assessment of high risk individuals, identification of key players regardless of gender, ensuring targeted management of situations where pay differentials have been identified to prevent loss of talent.

Risk: Financial cost of obtaining parity cannot be sustained

Counsel: review risk appetite for achieving parity, could negative impact outweigh finding a cost solution, should all roles be reviewed to rebalance the equation, explore risk scenarios and set realistic but achievable targets for gender parity.

Whilst CFOs will undoubtedly look at the increase to the bottom line, CAEs should be aware of research by McKinsey claiming that gender parity will also increases the UK GDP.

Risk: Board members reluctant to change

Governance: As at January 2018 only 7 of the FTSE 100 CEOs were women. Reviewing the pay and performance culture from a diversity angle could be a sensitive way to approach the need for board members to embrace the need for change in ways of working. There are clear guidelines for directors that internal audit can use as a basis for the audit.

Closing thoughts

According to the World Economic Forum women traditionally enter low paid work than their male counterparts, have less access to education, are penalised for maternity breaks and are more likely than men to take time away from work to become carers for family members. Whilst these are all societal issues, there is a need for organisations to look at their policies and practices to ensure that systemic discrimination is not going to impact their ability to outperform their gender pay reporting in the years to come. The independence and objectivity of internal audit will be critical in this and where better to start than navel gazing…how many female chief audit executives did we see at the international conference last year?

> *"No two leaves are alike, and yet there is no antagonism between them or between the branches on which they grow."*

- M.K.Gandhi

Examples of published reports

3M Gender Pay Report

Network Rail Gender Pay Gap Report 2017

RNIB Group and RNIB Charity Gender Pay Report

Promoting equality in the Co-operative Bank

Related Chartered IIA guidance

Culture and the role of internal audit

Other useful links

The Equality Act 2010

Equal Pay Portal

Critics warn that measures forcing firms to reveal gender pay gaps do not go far enough