

GENDER PAY GAP REPORTING: EARLY INDICATION OF FINAL STRUCTURE OF REGIME

When the gender pay gap reporting regime was first proposed, the Government indicated that finalised regulations would come into force in October 2016, following a detailed response to the consultation exercise undertaken earlier this year. The Government Equalities Office has since confirmed that, while the consultation response is still expected this autumn, the legislation itself may not be ready until April 2017. In a further, slightly confusing twist, the Government appears to have given an early indication of how the final regime will operate by pre-emptively including further details of the way it will work for private employers in a consultation paper on the impact of the regime for the public sector. Despite the document's target audience, it contains details relevant to all sectors, some being materially different from the regime as originally conceived.

WHICH ORGANISATIONS ARE COVERED?

There is no change here - only employers with 250 or more employees are within scope.

WHAT DOES 'EMPLOYEE' MEAN?

As foreshadowed in the course of consultation, the Government seems to have opted for the wide definition of employee found in the Equality Act. It is likely to include workers, apprentices and even some contractors. The status of LLP members is not specifically addressed, but unless they are expressly excluded, the wide definition is likely to capture them as well. The feasibility of including these groups is likely to differ from business to business, and may be a distorting factor when the data are published.

WHAT DATA NEEDS TO BE PUBLISHED?

The initial plan was for firms to publish:

- ◆ the mean and median hourly pay rate for men and women;
- ◆ the mean bonus for men and women;
- ◆ the proportion of men and women receiving a bonus; and
- ◆ the number of men and women in each quartile.

This week's public sector document appears to have added new details to the scope of the regime:

- ◆ As well as publishing the mean bonus, firms will also now have to disclose the median bonus for men and women.
- ◆ There had been debate over how pay quartiles were to be assessed: whether the total pay range in a firm should be broken into four, or whether the workforce should be split into four equally-sized groups. The Government's initial documents favoured the former, but the public sector document reverses the position. Each quartile simply contains 25 per cent of the workforce, from the lowest paid to the highest paid.

WHAT ARE THE KEY DATES?

The initial plan was for employers to run all the calculations using 30 April 2017 as the first calculation date. The public sector document suggests this will change to 5 April 2017 for all employers. This is unlikely to affect the hourly rate calculations for salaried employees, as these are likely to remain based on April's monthly salary, but will affect the calculations for weekly paid staff. It will also affect the bonus calculations, which will now need to take account of payments made in the 12 months to 5 April.

Similarly, the original proposal for firms to publish their data by no later than 30 April 2018 appears to have been changed. The deadline will now be 4 April 2018.

Employers covered by the new gender pay gap reporting regime will have to wait for the publication of the final regulations to be certain of the details of their obligations, but this week's document seems to have given us a useful early indication of the Government's thinking.

CONTACT DETAILS

To discuss the impact of the regime for your business, please feel free to get in touch:

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