

Gender pay gap – where are we now?

Closing the gender pay gap worldwide and achieving parity between men and women will take an estimated 135.6 years (World Economic Forum *Global Gender Gap Report 2021*), a timeline that has grown by 36 years over the last 12 months.

In Ireland, the Gender Pay Gap Information Act 2021 was passed last July and set out the areas that employers would have to report on while giving the power for Regulations to be drafted that will provide the necessary clarity for employers on the reporting requirements.

What will employers have to report?

Employers will have to report:

- the mean and median gender pay gap
- the mean and median bonus pay gap
- the mean and median gender pay gap of part-time employees
- The percentage of male and female employees who received bonuses and benefits in kind

Employers will be required to include a narrative alongside the figure explaining the reasons the employer believes are relevant for the figure and the actions they have or may take to address it.

The gender pay gap is the difference in the average hourly wage of men and women across a workforce – it compares the pay of all working men and all working women; not just those in same jobs, with the same working patterns or the same competencies, qualifications or experience.

It does not indicate discrimination or bias, or even an absence of equal pay for equal value work – but it does report a gender representation gap – so for example if women hold more of the lower paid jobs in the organisation than men, the gender pay gap is usually bigger.

What will the Regulations examine?

While gender pay gap reporting has been discussed for some time, what has been missing are the details of the methodology and how the information will be reported. The Regulations stage will be important for answering many of the methodology questions regarding the calculations of the gender pay gap including:

- What constitutes an employee?
- How the number of employees and pay is to be calculated?
- Whether temporary employees are to be included in the mean and median hourly pay calculations?
- Whether the percentage of male and female employees in each of the four quartiles (lower, lower middle, middle and upper pay bands) are to be published and/or information regarding occupational categories.

Who will have to report?

The intention is that a phased introduction of reporting will occur starting with public and private sector employers of 250+ employees. The following year reporting will include employers of 150+ employees and then finally the employers of 50+ employees will be due to report.

It is expected that employers will have to publish their gender pay gap information to a central website (the Department will put this out to tender) in addition to hosting it on their own website. These details will be set out in the Regulations.

Enforcement issues

If an employee believes that their employer has failed to comply with the requirement to publish gender pay gap information, they can make a complaint to the Workplace Relations Commission (WRC). If the complaint is upheld, the WRC may grant an order instructing the employer to comply with its gender pay gap reporting obligations. There is no payment of compensation to the employee or fines imposed on the employer.

The Act also provides that where the Irish Human Rights and Equality Commission (IHREC) has reasonable grounds to believe that an employer has failed to comply with the Regulations, it may apply to the Circuit or High Court for an order to ensure compliance. If the employer fails to comply with the Circuit Court or High Court order the can be held in contempt of Court.

Conclusion

Work on the Regulations stage is due to be completed in early 2022 and as such employers with 250+ employees are likely to have to report their gender pay gap details in late 2022.

Until the Regulations stage is completed there is still a lack of clarity as to the calculations of the gender pay gap elements. Ibec remain engaged in this process with the Department and an update will be provided once the Regulations are drafted.

Further details on the gender pay gap and what you can do to prepare can be found at <https://www.ibec.ie/playback/2020/07/28/the-gender-pay-gap> and <https://www.ibec.ie/influencing-for-business/labour-market-and-skills/gender-pay-gap-report>

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