



Mind the gap: how gender pay operates in the wider context of equality

The importance of promoting equality within the workplace

Special Report: Mind the Gap

AIMS



Our special report aims to tackle the obstacles that employers have identified in relation to gender pay reporting and assessing equal pay across their businesses. We outline the dangers of ignoring the equality issue and the benefits to organisations in addressing whether they have any equal pay issues.

KEY FINDINGS



- Our UK Reward Management Surveys track employers' views on gender pay and equal pay.
- In 2015 51.3% measured differences in gender pay, increasing to 54.8% in 2017.
- No one reported externally in 2015 whereas in 2017, 22.1% published data externally.
- In Autumn 2017, 25% said it was too early to tell when they planned to publish and 34% aim to publish around the deadline during March and April 2018.
- According to the government portal, only 1,000 out of 8,000 companies have published their data by February.
- The above figures show that companies are uncertain about the reaction to their gender pay gap figures and have therefore delayed publication.

Introduction

The countdown is on to the gender pay gap reporting deadline of 6th April 2018. We are working with employers to prepare them, both by calculating their figures and supporting the narrative behind them. The requirement to publish gender pay gap figures only applies to organisations who have over 250 employees, but the gender pay gap signals a wider movement towards examining equality in the workplace.

THE GENDER PAY GAP IS PART OF A WIDER SPOTLIGHT ON EQUALITY

The conversation about equality has been a hot topic in the media and has in many respects only just begun. Identifying pay discrepancies is the start of the journey. It is proving a highly emotive debate which is expanding to include wider women's rights. The issue of fair pay is being scrutinised and discussed in the context of the Hollywood-led 'Time's Up' and 'me too' movements in which women are sharing their experiences of being discriminated against at all levels. Large corporations like the BBC are holding their hands up to the fact that more needs to be done to address gender pay disparity. This is our contribution to the conversation.

EMPLOYERS FACE INCREASING SCRUTINY

The fact that the volume has been turned up on this debate is increasing employers' apprehension as they prepare to publish their gender pay gap figures. In some respects, those that have published beforehand are in a better position as the debate intensifies. When the National Living Wage was introduced and the government published a list of employers paying under the minimum wage, organisations faced equally intense scrutiny. There was a surge of employers wanting to show how they had rectified the problem.

Whilst there is a similar fear among employers that they need to be able to explain any gender pay gap, the key in any communication is the awareness piece that is the government's ultimate aim of shining the spotlight on equal pay. Each employer must acknowledge that they are on the path towards promoting equality at work and their accompanying next steps.

OVERCOMING OBSTACLES TO EQUALITY IN THE WORKPLACE

We attempt to clear the muddying of the waters in the media coverage of gender pay and equal pay, setting out the short and long-term solutions that organisations can consider to get ahead of the curve in relation to the question of equality.

We hope that it provides a useful summary of the HR landscape when considering your equal pay risks.



We are contacted every week by companies that are keen to understand the key facts behind Gender Pay and Equal Pay. We felt that the best way to help those affected by the latest legislation is to collate both our and employers' experiences over the past few years into an invaluable document."

TIM KELLETT,

Director at Paydata, with over 10 years' experience in conducting Equal Pay Audits.

UK Reward Management Survey – State of the Nation

Our bi-annual survey has tracked organisations' reactions to the increasingly publicised issues of gender pay gap reporting and equal pay over a number of years.

During 2015

53.5%



of organisations predicted that it was unlikely or very unlikely that they would conduct an equal pay study.

However, by Spring 2016

67.5%

of organisations said it was very likely or likely they would conduct an equal pay study during 2016.

51.3%



of organisations measured differences in gender pay when asked in Autumn 2015

but only **23.1%**



of organisations published internal data on this and no organisations at all published external data.

At this point, only

7.7%



of organisations thought the gender reporting requirements would cause problems or issues

48.7%



thought they wouldn't

43.6%



thought it was too early to tell

By Autumn 2017

22.1%

of organisations said they were publishing data externally.

Considering over 90% of the organisations asked will have to do so from April 2018, this is still a low number.

This suggests that the majority of companies are not ready for these changes. Opinion on whether the compulsory reporting would cause problems or issues stayed consistent with slightly more saying yes...

11.4%



saying yes

50.0%



saying no

38.6%



thought it was too early to tell

Gender Pay versus Equal Pay

GENDER PAY GAP



VS

EQUAL PAY GAP



DEFINITION

Captures the average difference in pay between genders across a whole organisation using mean and median figures to represent this gap.

EXAMPLE

An organisation that is over-populated by men in senior roles and women in junior roles will have a gender pay gap.

LEGISLATION INVOLVED: The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 require larger organisations to publish a snapshot of the overall pay for male and female employees on an annual basis.

SCOPE

Only applicable to organisations with over 250 “relevant” employees.

Covers “full pay relevant employees”, excluding those on leave.

PENALTIES FOR NON-COMPLIANCE

Fines (to be confirmed)

Reputational damage by being named and shamed, for example, non-compliant national living wage employers.

BUSINESS CHALLENGES

- Complex legislation to navigate.
- Understanding the key drivers behind the gap and how the gap compares in the market.
- Creating a compelling narrative.

DEFINITION

Deals with comparing one job with another – comparing like for like work.

EXAMPLE

- Asda faces a £100m claim – employees argue that work in retail stores is perceived as ‘women’s work’ because they are paid less than colleagues who work in the distribution depots.
- Tesco faces a £4bn claim – shop floor workers and warehouse staff’s roles are under scrutiny in an Employment Tribunal.

LEGISLATION INVOLVED

Employees have the right to equal pay and contractual terms of employment (including pension schemes and related benefits) under the Equality Act 2010.

SCOPE

Applicable to all organisations with limited exceptions for the armed forces.

Covers all “workers” including permanent and temporary employees.

PENALTIES FOR NON-COMPLIANCE

Employment Tribunal Equal Pay claims brought by employees seeking a financial award to legally remedy the gap and back pay.

BUSINESS CHALLENGES

- Duty to publish any audits undertaken to assess the situation.
- Scale of work involved in assessing equal pay: the lack of organisational structure.

BOTH INITIATIVES HAVE COMMON AIMS



Shine a light on equal opportunities in the workplace by encouraging transparency in the pay practices of organisations.



BENEFITS TO AN ORGANISATION



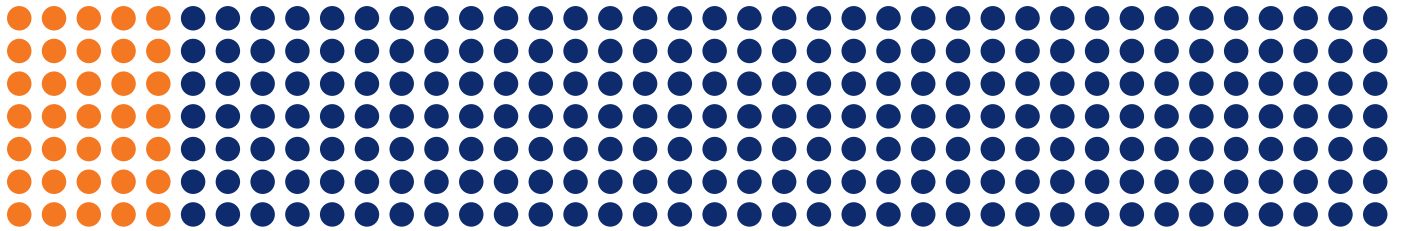
Tapping into a wider talent pool

Creating opportunities that resonate with the organisation’s values

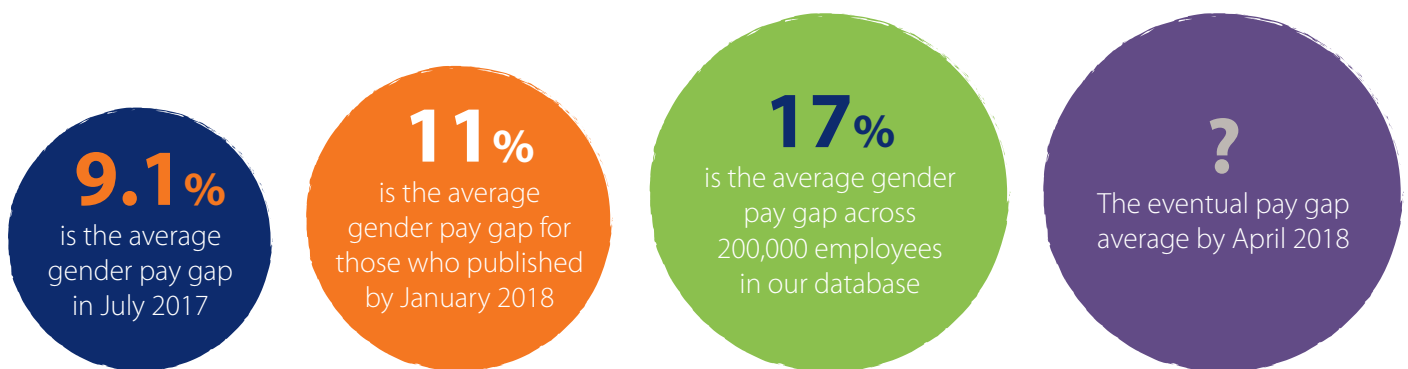
Removing discrimination

Map the Gap: the problems employers face in assessing the Gender Pay Gap and Equal Pay

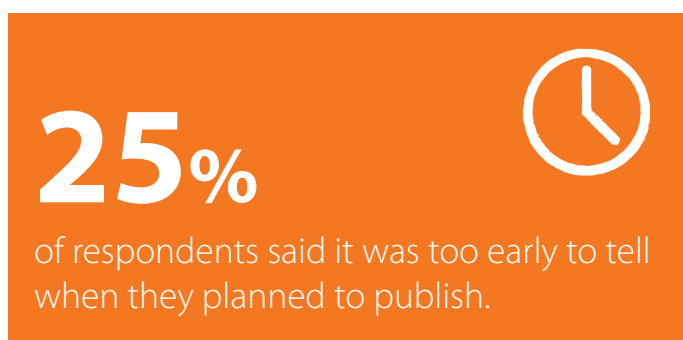
The reluctance to publish Gender Pay Gap figures



1,000 out of **8,000** companies have published their figures on the government portal by February.



Figures suggest that many companies may be holding back on reporting up until the deadline so that their narrative is not interrogated too much, blending in with the deluge of companies publishing altogether in April. Our Autumn UK Reward Management Survey supported this too, with 25% of respondents saying it was too early to tell when they planned to publish and 34% aiming to publish around the deadline during March and April 2018. The reported gap is also gradually increasing as the deadline approaches, with our own database revealing that the average gap is 17%.



The wider challenges employers face in assessing the landscape

1) Navigating the legislation governing the Gender Pay Gap

OBSTACLE

Understanding the remit of the data and definitions involved.



Reward consultant Joe Price notes that, "gender pay gap reporting is even more complex than companies first thought. Considering the breadth of information that has to be included, for instance the different categories of who comes into the definition of 'employee', it has been much harder than they anticipated." Collating the data in the first place is often a bigger task than expected by HR teams who may use multiple payrolls, databases and systems to capture the pay records across the business. This makes calculating the gap a time-consuming process.

SOLUTION

Ask the experts.



Interpreting certain aspects of the legislation has required careful analysis, such as what information should be included in calculating the figures that our team fully understand. We can calculate the figures within 10 days and advise that you leave time to run the resulting figures past your in-house legal departments who can provide a legal perspective.

2) Concerns about explaining Gender Pay Gap figures

OBSTACLE

Developing a compelling narrative.



Many employers have voiced their frustration about the press coverage of equal pay claims and the gender pay gap which have confused the two. This has left them with grave concerns that any narrative they go on to develop will be of limited help. In addition to public perceptions, customers have wider concerns about how to explain the gap to their staff and trade union representatives.

SOLUTION

Understand the issues the narrative needs to address.



Our recommended action plan is three-fold:

1. understand the drivers behind the figures for your own organisation;
2. understand how this fits with the wider industry's experience;
3. write a narrative that acknowledges any issues and has a compelling action plan to robustly address the organisation's future.

A COMPREHENSIVE NARRATIVE

Company narratives that explain the figures need to acknowledge the key drivers behind the statistics and how they compare in the context of male-dominated industries. This ensures that the narrative is also an education piece for stakeholders, enabling the organisation to take control of how they talk about equality.

Importantly, a gender pay gap provides a useful comparison to support equal progression within the workforce, but it does not necessarily signify unlawful discrimination. There are a number of non-discriminatory reasons why pay gaps might exist including pay progression, pay protection, performance pay, competency pay, premiums and allowances. Rational and well-planned communications are critical in handling the publication of data in a proactive and positive way.

A CAREFULLY CONSIDERED ACTION PLAN

Whilst it is important that companies can identify how they will move forward to close the gap, any responses which intend to move over or underpaid employees in the pay scale must be carefully considered in light of current employment obligations to staff and in terms of staff engagement. Breach of contract and constructive dismissal are all claims that could be triggered by a rushed response, whilst reducing pay is certainly a potential source of dissatisfaction in the workplace. Considered responses are key to working towards the ultimate goals of the legislation in achieving a fair pay and reward environment.

3) Hesitance to conduct an equal pay audit

OBSTACLE

The duty to act on audit results.



Many companies we have spoken with say that an audit exposes them to risk because of the duty this places them under to publish their findings or disclose this information if they find themselves in an Employment Tribunal situation. They also fear that they have to act on the findings of the equal pay audit immediately.

SOLUTION

Make the findings legally privileged.



When instructing an independent third party (such as Paydata) to undertake the equal pay review, if this is done through legal representatives then the information can be kept confidential. This removes the obligation on the company to act on the data imminently, enabling them to assess the situation and take the time to develop an action plan. It is important to remember that this is a question of policy for the government – they are seeking to encourage employers to promote equality. These issues will not be resolved overnight, an employer needs to demonstrate that they are on the path to promoting equal opportunities.

OBSTACLE

The lack of organisational structure.



Organisation-wide, there is not a consistent framework in place in many organisations to define 'like work'. Indeed, organisations that grow organically often find themselves taking on different contracts and HR practices that vary, resulting in inconsistent job evaluations and pay decisions across the organisation.

SOLUTION

Take a snapshot across the business.



In the short term, we have provided some of our customers with an underlying framework to compare equal roles across the organisation. In other cases, our customers have selected a pilot sample of five or six key roles for us to assess, giving an indication of the potential equal pay issue in part of the business.



The government does not necessarily expect employers to resolve their gender or equal pay issues overnight. Rather, they can show that they are starting to take initial steps to firstly identify and then address any potential issues found.”

TIM KELLETT,
Paydata Director

The benefits of committing to equality at work

Our UK Reward Management Autumn Survey identified that the majority of our customers see the value in the aims of the legislation and think it is important. Gender pay figures tell one aspect of the organisation's story regarding equality. For many, a more in-depth analysis of their equal pay position is critical to be able to create a wider picture of how open the business is to equal opportunities.

ATTITUDES AND PRACTICES

The key is to identify any gap sooner rather than later so that an action plan can be developed on the facts. Remedial action is often more about addressing practices and attitudes as opposed to hitting the bottom line. Some initiatives in fact save money by improving staff retention. Global consultancy McKinsey estimates that bridging the UK gender pay gap in work has the potential to create an extra £150 billion on top of 2025 business-as-usual GDP forecasts.

A FRAMEWORK FOR EXAMINING VALUES AND RECOGNITION

Qualifications, outstanding achievements and a certain amount of relevant experience may be perfectly valid business reasons to reward people – but an employee's gender is not one of them. Equal pay issues can extend to service, disability, religion, sexual orientation and whether an employee works full or part time. The reporting raises an organisation's awareness so that they can identify if they could be drawing on a wider talent pool than they currently are and address any practices that are creating equal pay issues. It is an opportunity to examine the company values that are central to recognising talent and flexible working practices that are offered by companies.

UNDER-REPRESENTATION AND ITS EFFECT ON DIFFERENT INDUSTRIES

The dominance of women and men in particular sectors can be addressed by the transparency gender pay gap reporting offers. The Office for National Statistics has revealed that male financial managers and directors still earn 32.4% more than women in the same occupation with the average pay gap being 9.1% in 2017. Whilst in the modelling industry, women are reportedly earning 75% more than men. This under-representation of either gender in each industry can highlight the huge talent pool that can be drawn upon by employers and inform proactive recruitment policies.

DIVERSITY ON THE HR AGENDA

Attracting the right calibre of people through the promotion of diversity is firmly on the HR agenda. Joe Price explains, "the gender pay gap is so topical not just because of the legislation, but because of the wider opportunities legislation like this is trying to create across all organisations. There is a genuine feeling that employers want to do something with their data and whilst calculating their gender pay gap, they often go on to consider age, race and disability."



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JOE PRICE,
Reward Consultant

These key trends emerging from working with our customers highlight the importance of planning ahead when it comes to promoting equality in the workplace. Find out how we can help you meet your reporting requirements

**Call Tim Kellett on
+44 (0)1733 391 377.**