

GENDER PAY GAP REPORTING - WHAT DOES THIS MEAN?



Highlights from the Major Projects Association event held on **9th March 2016**

From October 2016 gender pay gap reporting will become a mandatory requirement for companies with over 250 employees. Using a snapshot of overall pay data taken in April 2017 firms will have just 12 months to publish their gender pay gap. As part of its Gender Balance Initiative, the Major Projects Association asked employment law experts Charles Urquhart and Heidi Watson of Clyde & Co to explain what it will mean for companies affected.

The hard-hitting message is that companies need to start working on this now. Misleading media reports have led some to understand that the requirements will not have an impact until 2018, but Clyde & Co were quick to point out that firms that wait until the reporting deadline to scrutinise their salary information will be too late.

'This is a 2016 issue. We can safely say that firms that wait until 2018 to look at this will miss the boat entirely.'

Charles Urquhart, Partner, Clyde & Co

DATA CAPTURE

In just one year from now companies must capture overall pay data by gender. Calculated as an hourly rate, the information must include bonuses, maternity pay, sick pay, shift premiums and benefits such as car allowances. Firms then have 12 months to report their pay gaps both as an average and a median figure. Not only will companies have to publish the information on their own websites and update them annually, the Government will produce a league table that compares gender pay gaps by sector and gives companies a ranking.

This naming and shaming strategy, which will use social pressure to drive change, is a result of the July 2015 '[Closing the gender pay gap consultation](#)', where David Cameron pledged to end the gender pay gap in a generation. Draft regulations to enforce gender pay gap reporting were revealed in February 2016, with final regulations to be published ahead of roll-out in October 2016.

HOW BIG IS THE PROBLEM?

Data from the Office for National Statistics from April 2015 shows that the gender balance gap in the UK is currently 19.2%, but the bonus gap is much higher at 57%, prompting government to demand that firms

report this separately. Clyde & Co gave eight key reasons as to why the gender pay gap exists, and highlighted that there is often an assumption that unlawful discriminatory practice is occurring. Although there are occurrences of unlawful practice such as women being paid less than men for the same job, or women's roles being undervalued compared to the male equivalent, the more common issues are cultural.

Interestingly, government statistics highlight that the gender pay gap hits over the age of 40, pointing to the lack of women in both highly paid industries and senior positions as being major influencing factors behind the pay gap. Further findings show that women are less likely to push for, and receive bonuses, and that they are more likely to work part-time or leave the workplace for family reasons. This failure to retain female staff is particularly crucial for companies, because if women are not progressing to senior levels within an organisation the gender pay gap will rise further

'The lack of women in highly paid sectors is a huge factor behind the gender pay gap. Only 6% of engineers are women, and 20% of architects. In lower-paid sectors such as childcare 94% are female, and 84% of health and social care workers are female. These societal issues are bigger than your companies but there are things that you can do – like attracting more females into STEM subjects.'

Heidi Watson, Partner, Clyde & Co

GENDER PAY GAP HEADLINES

- The regulations will apply to all companies with over 250 employees in the UK
- First reported week is a data snapshot from April 2017
- Overall pay must be calculated as an hourly rate
- Firms must report mean and median pay for each gender
- Bonus payments by gender must also be reported
- Companies have 12 months, until April 2018, to reveal their gender pay gap
- Data must be signed off by a company director
- Government will publish league tables ranking companies in sectoral groups

CLOSING THE GAP

Clyde & Co are advising clients to begin working on the requirements this year, recommending that a 'dummy run' is undertaken using data from April 2016. By undertaking this analysis firms are looking to ensure that there is no discriminatory behaviour going on, and to identify key cultural issues. Crucially they will also be ready to explain their numbers once they are published. Once the gap has been identified there are several steps that can be taken to reduce it, including reviewing how salary structures are negotiated; improving maternity benefits; encouraging flexibility and part-time working in senior roles; recruitment initiatives aimed at senior women – and, importantly, unconscious bias training for managers.

FUTURE IMPACTS

Although the regulations will be mandatory, there is no penalty for non-compliance – but Clyde & Co warn that by not reporting gender pay gap information companies will make it more difficult to defend themselves against equal pay claims. But a more wide-ranging impact is that many companies will use the opportunity to spread the news about the positive work that they are doing to promote their firms to women. Firms with narrower gaps will be able to show themselves as equal opportunities employers with strong diversity and inclusion policies, something that will help them recruit more diverse employees, further narrowing the gender pay gap year on year. Those that truly embrace the opportunities offered by the new regulations will also be able to prove their inclusivity at a commercial level, with major project entities already telling the Major Projects Association that they are considering requesting the information in their contract documents.

So the message then is that reporting is mandatory. Those that start early will undoubtedly perform better; those that leave it to the last minute will be unable to do much about their gender pay gap. The clock is ticking.

'We need to attract women into engineering and I hope that companies see this as an opportunity to show that this is an inclusive culture. It is easy to massage the numbers but there has to be cultural change. I hope that the companies in construction, engineering and all STEM organisations – science, technology, engineering and mathematics – will take this as an opportunity to push forward that agenda.'

Zuzanna Jakubczak, Learning & Development Coordinator, Arcadis

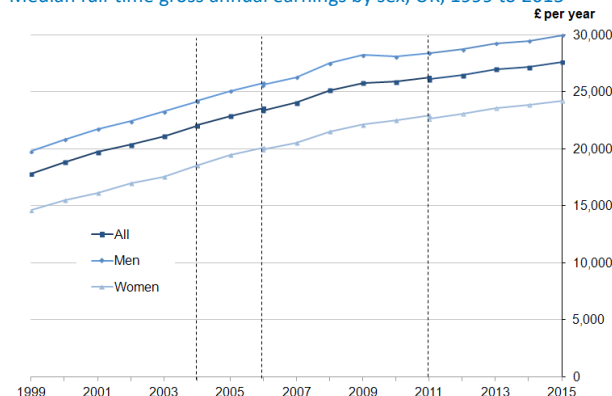
DISCUSSION: WILL THE REGULATIONS ELIMINATE THE GENDER PAY GAP?

Participants at the event were largely positive about the effect that gender pay gap reporting would have, noting that in the major projects sphere there was already an appetite to address gender inequality and attract more women into the sector. However, concerns were raised that the data required to be reported is minimal and only if firms choose to delve deeper will the underlying causes of the gap be addressed. Although it is expected that some companies will embrace the opportunities for transparency and action on gender balance, some will seek to manipulate the numbers and ignore the issues. Of the 700 responses to the Government's gender pay gap consultation, 82% agreed that the publication of gender pay information would encourage employers to take action to close the gender pay gap.

'Some organisations will embrace this as an opportunity to enhance their capacity to recruit and retain. I fear some organisations may see this as inappropriate government interference and do everything they can to manipulate their reports because they don't see this as an issue.'

Sue Pritchard, Senior Research Associate, UCL

Median full-time gross annual earnings by sex, UK, 1999 to 2015



Source: Annual Survey of Hours and Earnings (ASHE) – Office for National Statistics

POINTS FOR FURTHER DISCUSSION

- How should our company address this issue?
- Would adopting 'legal privilege' enable us to explore the figures without potentially exposing the company to negative reactions or law suits?

With grateful thanks to Clyde & Co for hosting this event.

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