

BLP: LOOKING AHEAD

Key changes in employment law explained

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Gender pay reporting – consultation now out

More than 40 years after the Equal Pay Act 1970, there is still gender pay inequality in the UK. Recent ONS figures suggest that the median gender pay gap for all employees is currently 19.1%, with the disparity significantly higher in specific fields and age bands.

One way to tackle gender pay inequality is to force employers to publish information about the pay of their workforce. The Equality Act 2010 contains a provision imposing mandatory gender pay reporting on private and voluntary sector employers in Great Britain with at least 250 employees, but successive Governments have been reluctant to implement it. A voluntary scheme earlier this decade led to only a handful of employers publishing information. In light of this, cross-party pressure just before the 2015 General Election led to the inclusion of a provision in the Small Business, Enterprise and Employment (SBEE) Act 2015 requiring the incoming Government to make regulations to implement mandatory gender pay reporting.

While a technicality stemming from the implementation of the SBEE Act left the Government some wiggle room, it has, so far, kept its manifesto promise. On 14 July 2015 it published a consultation on how best to implement gender pay reporting. Draft regulations are proposed for the first half of 2016. Employers will then be given some time to prepare before the rules are brought into force.

The proposals

The consultation highlights that the causes of the gender pay gap are complex. It asks extensive questions, both about how the new regime should work and about wider issues on gender pay. Key questions include:

- Whether, and if so where, employers should be required to publish their gender pay information.
 - How the information should be reported. For example, should employers be required to produce one overall figure for their workforce, or should the figures be broken down to show full and part-time employees, or average earnings by grade/job.
 - How often employers should be required to report. The consultation gives options of annually, every 2 years, every 3 years, or invites respondents to suggest another period.
 - Should employers be able to provide additional, contextual information to go with the figures? If so, should this be voluntary or mandatory?
 - What the estimated time and costs for employers will be in complying with the new rules.
 - Whether civil enforcement procedures will be effective in ensuring compliance with the new rules.
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- Interestingly, the final question on the specific reporting requirements asks whether respondents consider that there are any risks or unintended consequences which warrant dropping or modifying the implementation of the mandatory gender pay reporting regime.
- In addition, the Government seeks comments on more general issues, including how it can make sure older women fulfil their career potential and how it can encourage young girls to consider a broad range of careers.

BLP Comment

- The consultation closes on 6 September 2015 and the regulations implementing the new regime are expected to be made during the first half of 2016. However, the consultation envisages that employers will be given a period to prepare, so the first gender pay reports may not be published until some time in 2017.
- As is often the case, this consultation gives an idea of what employers should expect, but not the detail. Until decisions are taken on crucial details, notably the level of granularity that will be required, it is difficult to assess how problematic this will be for employers, both in terms of the time and cost involved in compliance and in terms of the risks arising from the statistics gathered.
- However, the general direction of travel is clear. Last year, employment tribunals were given the power to require employers who have discriminated in gender pay matters to conduct an equal pay audit. The focus of mandatory gender pay reporting is to further encourage employers to close the pay gap.
- This consultation is an opportunity for employers to try to shape the mandatory gender pay reporting regime. BLP will be submitting a response to the consultation. [If you would like to contribute, please register your interest by clicking on this link.](#)

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Getting in touch

If you would like to talk through your project or discuss solutions to your legal needs, please get in touch.

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