



# Gender Pay Gap Reporting: What You Need to Know

UK organisations need to prepare for compliance with the new regulations on gender pay differences. It may seem a daunting task but **Elizabeth Lang**, Partner at international law firm Bird & Bird, is here to help



Under regulations that are due to come into force on 1 October 2016, organisations with 250 or more employees in Great Britain will be required to publish gender pay gap statistics on their website as of April 2017.

Despite the draft regulations stipulating that there are no criminal or civil sanctions for failing to publish the data, **Elizabeth Lang**, Partner at law firm Bird & Bird, says it is important for organisations to comply.

She clarifies: "Having a gender pay gap does not mean that there is any unlawful activity going on within an organisation because there can be a number of valid reasons for having a disparity in pay. That's very important to understand."

As the data must also be uploaded to a Government website it should be assumed that it will be monitored. "The Government has also indicated that it may publish league tables, presumably in a move to persuade employers to close

the gender pay gap. In due course, these figures may well be scrutinised by potential clients and prospective new hires, as well as existing employees," notes Elizabeth.

Here, Elizabeth provides her advice on complying with these regulations:

To find out more about the Gender Pay Gap, please contact Elizabeth through: [www.criticaleye.com](http://www.criticaleye.com)

## Who Does it Affect?

The legislation affects all UK employers (including charities) with 250 or more employees as at 30 April 2017 and each subsequent anniversary. The draft regulations define 'employees' as those who ordinarily work in Great Britain and whose contract of employment is governed by UK legislation. The Government has indicated that it intends to include a wider definition which may include, for example, LLP members. This is yet to be clarified.

## Reporting Requirements

The draft regulations require employers to report their employee gender pay gap by making five different calculations on an annual basis.

"Because of the way the Government has come up with these five different measures, I don't think there's going to be a lot of hiding room for employers. Everyone is quite surprised at the detail and amount of work that's going to be involved," says Elizabeth.

These calculations are:

1. The difference in mean pay between men and women
2. The difference in median pay between men and women
3. The number of male and female employees according to quartile pay bands
4. The difference in mean bonus pay
5. The proportion of male and female employees who received a bonus

The report must be certified with an accompanying statement of accuracy signed by a prescribed director and employers must publish the information on their UK website so that it is accessible to employees and the public. They must retain this information online for three years and upload it to a Government-sponsored website.

## COMMUNITY COMMENT

Boards need to be up to speed with a number of new rules and regulations that are coming into effect around culture and social responsibility – and the new gender diversity rules are just part of that.

I think the problem with the [gender pay gap] requirements is that they don't take into account different businesses and the way men and women lean towards certain roles within them. The challenge for businesses will be to explain their figures properly so that their statistics are not read out of context or with them seeming defensive.



**Mel Rowlands**  
Deputy Group General Counsel and Company Secretary, Smiths Group



## Determining Pay

In order to find the hourly rate of pay used for the first three calculations, each employee's pay will have to be calculated individually.

As Elizabeth explains: "The different elements to be taken into account regards pay have caused some consternation because you're potentially going to have very different calculations for each person in the organisation. For example, with someone on maternity leave, you don't look at their salary but at what they've actually been paid."

### Pay includes:

- Basic pay
- Paid leave
- Maternity pay
- Sick pay
- Area allowances
- Shift premium pay
- Bonus pay
- Allowances including car/standby allowance

To get to the **gross hourly rate of pay** (relevant to the mean, median and quartile pay calculations) you look at the **pay period** in which 30 April 2017 (and each anniversary) falls. For monthly paid employees it is the monthly payroll covering this date.

## TIMELINE

**1 October 2016:** Final regulations to be published

**30 April 2016 – 30 April 2017:** Period relevant to gender pay gap calculations on bonuses only

**30 April 2017:** Companies with 250 or more employees on this date qualify for reporting

- Number of men and women employed on this date to be divided into quartiles
- The 'pay period' relevant to the mean and median pay calculations

**30 April 2017 – 30 April 2018:** Companies to produce first report at some point within this period

**Annually from 30 April 2018:** Reports to be published annually at some point in the 12 months following 30 April

**Within five years of 1 October 2016:** The Government is to review how effective the reporting has been and may make amendments to the regulations.

## What is Bonus Pay?

For bonus pay calculations you must look at data from the full year as of 30 April 2016, which means figures must be collected from April this year.

"One of the quite open ended questions is 'what is bonus pay?' This is going to be of great concern to many organisations," says Elizabeth. "When you're looking at a senior employee's remuneration, so much of it is not immediate but will include long-term incentive schemes subject to retention, performance and other conditions. So it is really not at all clear what is included in a particular bonus calculation."

This is how the Government has determined bonus pay so far:

1. Payments received and earned in relation to: profit sharing; productivity; performance and other bonus or incentive pay; piecework; and commission
2. Long term incentive plans or schemes (including those dependent on company and personal performance)
3. The cash equivalent value of shares on the date of payment.



**Elizabeth Lang**  
Partner  
Bird & Bird

Elizabeth is a partner in Bird & Bird's International Employment Group, based in London. She advises on all aspects of contentious and non-contentious matters with clients in a variety of sectors including airlines, advertising, information technology, financial services and manufacturing. She also acts for executives.

She works on a wide range of issues including redundancy programmes, executive terminations, and union recognition disputes including representation at CAC hearings.

Contact Elizabeth through:  
[www.criticaleye.com](http://www.criticaleye.com)