



Legal update — March 2018

Employment

Gender pay reporting trends in the housing and care sectors

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The 4 April deadline for organisations to submit their first gender pay report is fast approaching! While it seems that lots of employers are leaving it until the last minute, various trends are beginning to emerge which will, no doubt, be reinforced in reports which have yet to be submitted.

In the meantime the press has been busy reporting on those who have already published, singling out fashion retailer Phase Eight, whose figures show men being paid nearly 65% more per hour than women, while at Easyjet the figure is almost 53% more per hour.

Recent analysis from the Young Women's Trust of data from a survey of hours and earnings last year reveals that collectively, the UK's 15 million working women are missing out on £138 billion each year, with the gap widening further when part-time work is taken into account. It is clear that there is still a long way to go, but mandatory gender pay reporting will go some of the way to introducing a greater equality.

What needs to be done

The Equality Act 2010 (Gender Pay Information) Regulations 2017 came into force on 6 April 2017 and private or voluntary sector employers with at least 250 employees must report their gender pay gap data by 4 April 2018.

As a quick reminder employers are required to report:

- the overall gender pay figures calculated using both the mean and the median based on the snapshot date of 5 April. The median is thought to be the best representation of the typical difference between the genders as it is not distorted by the small number of very high earners;
- the number of men and women in each of four salary quartiles, based on the employer's overall pay range. This will show how the gender pay gap differs across the organisation, at different levels of seniority; and

- separate information on the mean and median gender pay gap relating to bonuses.

The report must be signed by the CEO and will appear on the Government's dedicated website and the employer's own website for at least three years. The employer can also include a narrative explaining their figures and any plans to address the gender pay gap.

Emerging trends in the housing sector

To date just over thirty housing providers have submitted their gender pay gap reports, but even so certain trends are beginning to emerge. Generally the median pay gap is not too high, with a handful of exceptions, including one organisation reporting a 31.7% gap and four organisations reporting gaps between 20 to 30%. In a few organisations the data actually reveals there to be no gender pay gap! Although the gender pay gap in this sector is not a glaring one, it is still an issue which providers will have to tackle.

The housing sector as a whole has some high profile women in Chief Executive and other senior roles, though it is not uncommon for them to be under-represented across senior management. Another common theme is the prevalence of women in part-time roles in comparison to men.

The gender imbalance in repairs and maintenance roles has been highlighted. These types of role sometimes offer additional payments and enhancements for overtime, standby and callouts. Historically these have been more male dominated leading to larger gaps for the employers whose maintenance teams or DLOs remain in house.

Pay discrepancies can often exist due to historical reasons. Employees who have been with an employer for a number of years and have had the opportunity to progress up their pay scales have a tendency in some organisations to be predominantly male. There's also the issue of those who have transferred over to an organisation, in some instances following a stock transfer from a local authority, on better terms, who again happen to be predominantly male.

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Another reason which has emerged for the trend for a higher representation of men in the upper salary quartile is the fact that they tend to inhabit specialist technical roles. One organisation puts this down to the impact of gender on job and career choices, with men being more likely to be appointed to roles in finance, IT and project management. These roles tend to command a higher salary.

Around half of those organisations who have reported so far award bonuses. Interestingly in a number of these organisations the median bonus gap is zero, and occasionally negative. Those organisations commenting on the median bonus gap explain the higher figures for men as being due to historical terms and conditions, sometimes just contained in one part of an organisation, which are currently in the process of being addressed

Emerging trends in the care sector

The care sector is notable for reports of a zero or negative gender pay gap. This is due to a predominance of women in the care sector as a whole and, according to the narrative of one provider, a general shortage of suitable qualified males who wish to join the sector.

The picture is different for housing providers with care businesses. Comparisons may not always be consistent because sometimes there isn't a single employer for the two functions; but there are examples of employers with both housing and care businesses having a higher gender pay gap because of the historically better terms for men in repairs and maintenance and asset management, and poorer terms for women in social care. Lower salaries in social care are often due to external market factors, such as the contract price set by the commissioners of the services over which the provider has little control.

Another factor identified is the fact that the services provided by an organisation can span a wide range covering, for example, care and support, repairs and maintenance, new homes development and central services (such as IT, Finance and HR). In each of these areas the required skills and the market rate for pay is very different.

Possible solutions

The majority of those who have submitted their gender pay gap report have provided some fairly detailed plans of action to redress the balance.

Lack of female career progression is a key issue. Proposed solutions include putting extra support in place, such as mentoring programmes and coaching to encourage women to develop the skills and knowledge required to obtain more senior positions.

The implementation of a "Women in Leadership" programme aimed at improving skills and opportunities is another solution. Some organisations also plan to put in place cross-organisational working groups of men and women to discuss the challenges, barriers, opportunities and support required to close the gender pay gap.

A conscious effort is being made on the part of some organisations to attract women to construction and maintenance roles which have traditionally been held by men, and also to actively encourage more men into care roles. One organisation is working on a wider diversity and inclusion programme that seeks to make what is traditionally seen as "women's work" more attractive to men.

Other things which employers state that they have found useful include mandatory diversity training, and having a wide range of flexible working options to enable employees to manage their work/life balance. Something being considered by a few of those who have reported is enhancing maternity provision to encourage women taking maternity leave to return to work.

There has been a commitment to review existing recruitment and development practices in order to encourage women into higher paid roles, and also to move towards gender neutral job evaluation tools to ensure that salaries are defined and assessed by responsibility.

A couple of larger organisations have set up apprenticeship schemes which have positively encouraged women to apply to internal maintenance service teams. These aim to continue their work to redress the gender pay imbalance.

The importance of having a narrative

Although the provision of contextual information about the findings of a gender pay gap report is entirely voluntary, providing a narrative is a useful way of explaining any particular circumstances or anomalies that have led to any gender pay gap that is discovered.

It's important to remember that evidence of a gender pay gap does not equate to an equal pay complaint. The issues are separate, and generally any pay gap discovered will be as a result of people carrying out different roles.

A narrative can explain discrepancies in pay across the organisation, the existence of skills shortages for any roles which may lead to a salary premium, the extent to which overtime is routinely worked and the proportion of men and women regularly working overtime. It can also contain details of planned initiatives to combat the gender pay gap.

Once an employer has committed to an action plan it is important to follow it through. As gender pay information has to remain on the employer's website for three years it will be obvious if the action plan has not been implemented, or has had little impact.

Sanctions for failure

There are no sanctions against employers who fail to comply contained in the Regulations themselves, however the Equality and Human Rights Commission (EHRC) has published a draft enforcement strategy for pursuing employers who fail to comply with their gender pay reporting duties. Initially the EHRC will seek to engage cooperatively and informally with employers in breach. They will then use their wider enforcement powers which may culminate in the issuing of unlimited fines and summary convictions for those employers who have failed to comply.

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