
Employers in Great Britain, with at least 250 employees, to publish mean and median gender pay gap figures, gender bonus gap figures and a table with the number of males and females in quartile salary bands

Department for Education – Government Equalities Office

RPC rating: fit for purpose

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

Description of proposal

The Equalities Act 2010 includes a power to introduce regulations requiring employers with at least 250 employees to publish information for the purpose of showing whether there is a difference in pay between male and female employees. Section 78 of the Act was not implemented at the time. Instead, since 2011, government has encouraged businesses to report this information voluntarily.

The Department proposes to require companies with more than 250 employees to publish the following figures annually:

- Mean and median gender pay gaps.
- Gender bonus gaps.
- The number of men and women in each quartile of the company's pay distribution.

Impacts of proposal

Costs

The Department explains that the proposal will affect 7,960 businesses and has identified the following three direct costs imposed on these businesses:

- One-off familiarisation costs: The Department estimates that it will take HR managers four hours to familiarise themselves with the legislation. This will consist of two hours of time on gender pay gap, one and a half hours on the gender bonus gap and half an hour of time on the number of each gender in

each pay quartile. This will impose one-off costs of nearly £1 million on business.

- One-off training costs: The Department estimates that HR managers in the 38% of businesses that do not currently analyse gender pay gaps will require four hours of training time to learn to produce the mean and median gender pay gap figures. The Department assumes that in all businesses HR managers will require an additional four hours of training to learn to produce gender bonus gap figures and the number of men and women in each salary quartile. This will impose one-off costs to business of nearly £1.4 million.
- Annual calculation and publication costs: The Department estimates that it will take 13.5 hours of HR managers' time to collate the information, produce the required estimates and prepare the narrative and accompanying information necessary to contextualise the figures and make them suitable for publication. It also estimates that one hour of the CEO's time will be required to review the estimates and 15 minutes of a telecommunication expert's time will be required to upload the estimates to the internet. This will impose costs on business of £3.7 million each year, of which £1.7 million can be attributed to reporting gender pay gaps, £1.3 million comes from reporting gender bonus gaps and £0.7 million is needed to report the numbers of each gender in each pay quartile.

The Department explains there may also be costs to firms seeking optional legal advice prior to publication because of potential concern over increased discrimination actions and the reputational effects of misleading results arising from comparing simple gender pay gap figures across companies. These costs have not been monetised.

Benefits

The Department claims that, the proposed reporting requirement will encourage businesses to analyse the causes of any gender-based pay and bonus gaps and factors influencing the salary progression of women. The Department states that these causes could be: company cultures, flexible working patterns, support for maternity returners, unconscious bias in recruitment/promotion and accessibility of senior roles to women. The Department's claims that, if the proposal leads to reduced gender pay and bonus gaps it could provide stronger incentives for women to work and advance their careers, which might in turn lead to a more diverse and equal workforce. It also argues that reducing gender pay and bonus gaps could

create other benefits such as greater motivation and increased productivity. These benefits are indirect and are not monetised.

The Department therefore estimates a total equivalent annual net cost to business of £3.93 million. Based on current working assumptions, the RPC expects this to be a qualifying regulatory provision that will score under the business impact target.

Quality of submission

The RPC highlighted two concerns in its initial review. The RPC stated that the rationale for requiring reporting of the number of men and women in each quartile of a company's pay distribution was insufficient. The RPC acknowledges that the Department now includes a fuller discussion of the rationale for the policy and identifies that it wants to highlight gender representation across the entire pay distribution. However the Department should provide evidence for, or remove, some of the statements that support publication of the number of men and women in each quartile pay band, such as: '*Publishing this information alongside the overall gender pay gap figures will motivate employers and tackle any blockages in the talent pipeline that limit progression for women employees*' (page 6). The RPC also stated that the Department should discuss the costs of any legal advice that employers may choose to take as a result of the proposal. The IA now includes a sufficient discussion on this area at this stage. At final stage, the Department must use consultation evidence to assess the scale of the costs of reputational effects and obtaining optional legal advice to businesses.

At final stage, the Department must use consultation evidence to assess the scale of any indirect costs resulting from mistaken inferences based on comparing simple gender pay gap figures across companies. This issue was highlighted as an area for improvement, but not a red-rated point, in the RPC's initial review.

The Department explains that it has not been able to monetise the potential benefits due to a lack of evidence on the impact of greater transparency on the gender pay gap, the gender bonus gap and the salary progression of women. It also recognises the uncertain nature of the policy's potential benefits in these areas. This appears reasonable at this stage but, at final stage, the Department must make use of consultation evidence to assess the scale of these benefits.

The Department's cost estimates are based on stakeholder evidence. Where different sources are inconsistent, the Department uses conservative estimates. This appears reasonable.

This is the second time that the Department is consulting on a variant of this proposal. This is because the Department has changed the policy options in

response to the first consultation and is seeking further information from stakeholders. These changes consist of removing the requirement to publish gender pay gaps for each grade/job title and adding requirements to publish a gender bonus gap and the number of men and women in each quartile of the company's pay distribution.

Small and micro business assessment

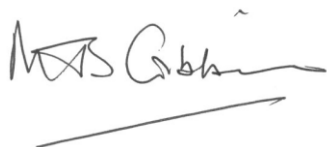
The Department states that there will be no effect on small and micro businesses as the legislation will only affect those businesses with a minimum of 250 employees. The SaMBA is, therefore, sufficient.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net cost to business (EANCB)	£3.93 million
Business net present value	-£34.41 million
Societal net present value	-£34.41 million

RPC assessment¹

Classification	Qualifying regulatory provision (IN)
Small and micro business assessment	Sufficient
RPC rating (of initial submission)	Not fit for purpose



Michael Gibbons CBE, Chairman

¹ The RPC verification of the estimated equivalent annual net cost to business (EANCB) and assessment of whether the measure is a qualifying regulatory provision are based on current working assumptions.

Sarah Veale did not participate in the scrutiny of this case to avoid a potential conflict of interest.