

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

Department for Education – Government Equalities Office

RPC rating: 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. This power was not used at the time. Instead, since 2011, government has encouraged businesses to report this information voluntarily.

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

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

Impacts of proposal

Costs

The Department expects 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 on the gender pay gap, one and half hours on the gender bonus gap and half an hour on the proportion of each gender in each pay quartile. Consultation responses indicated these assumptions were reasonable. 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 mean and median gender bonus gap figures and the proportion of men and women in each salary quartile. Consultation responses indicated these assumptions were reasonable. 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 14 hours of HR managers' time to collate the information, produce the required estimates and make them suitable for publication. The Department 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 to upload the estimates to the internet. Consultation responses indicated these assumptions were reasonable. This will impose costs on business of £3.8 million each year, of which £2.7 million is attributable to completing the required calculations and £1.2 million is attributable to publication.

The Department explains that there may be costs to firms that voluntarily choose to prepare a narrative contextualising the reasons for the organisation's gender pay gap, and developing communication activity around the publication of their figures. The Department also explains that there may also be costs to firms seeking optional legal advice prior to publication because of potential concern over increased discrimination action and the reputational effects of misleading results arising from comparing simple gender pay gap figures across companies. These costs are considered indirect and have not been monetised.

The Department explains that the public sector will incur costs from monitoring compliance and enforcement action. These costs are expected to total £0.3 million in the first year, and £0.1 million in each subsequent year. As these costs are to the public sector they are not included in the EANDCB.

Benefits

The Department claims that the proposed reporting requirements 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 causes within a company could include company cultures, flexibility of working patterns, support or lack thereof for maternity returners, unconscious bias in recruitment/promotion and accessibility of senior roles to women. The Department

also considers wider societal causes such as women choosing to more frequently take career breaks or work part time to facilitate childcare, and the concentration of women in relatively low paid sectors. The Department 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 work force. It also argues that reducing gender pay and bonus gaps could have growth implications by encouraging organisations to ensure that all employees are in roles that best match their productive potential. These benefits are indirect and have not been quantified or monetised.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of £3.8 million. This will be a qualifying regulatory provision that will score under the business impact target.

Quality of submission

Following the second and most recent consultation, the Department have amended their proposal to require the publication of a median, as well as mean, gender bonus gap figure. This is because the two figures provide complementary insights on the underlying distribution of bonus payments in an organisation. For example, if the mean bonus payment is much higher than the median bonus payment, this suggests that there are a small number of employees who have received a relatively large bonus. The Department expects that publishing the median gender bonus gap will not impose any additional one-off costs on businesses, but will take HR professionals an additional half an hour to calculate annually. This appears reasonable.

The RPC's opinion of 22 January 2016 stated that the Department must use the consultation to attempt to gather evidence on the scale of the costs to business in the following three areas:

Reputational effects and any indirect costs resulting from mistaken inferences based on comparing simple gender pay gap figures across companies

The Department explains that employers felt there could be both internal reputational impacts, for example a reduction in morale affecting staff retention, and external reputational impacts, for example shareholders' and customers' perceptions. However, given that the scale of any associated costs depends substantially on a range of factors, including how the figures are reported in the press, stakeholders were not able to provide a sense of scale of any potential reputational impacts.

Obtaining optional legal advice

The Department explains that some consultation respondents anticipated they would seek legal advice to ensure they were compliant with the regulations. Larger firms indicated they would utilise in-house legal capability, while some organisations indicated they may incur additional external legal costs. However, respondents were not able to provide a monetised estimate of these indirect costs.

Potential benefits

The Department explains that the potential benefits are long term in nature, which makes it difficult to monetise them at this stage. This appears reasonable. Realising these potential benefits relies on firms understanding the reasons for the gender pay and bonus gaps in their organisations. This would require businesses to incur additional costs from interpreting and contextualising the figures as well as taking significant actions in response to them. The IA would, therefore, benefit from more clearly acknowledging the relationship between the costs of interpreting and acting on the figures, and the realising of these potential benefits.

The Department does not discuss whether the number of businesses with over 250 employees will increase over the ten-year appraisal period. The IA would benefit from estimating the increase in the number of businesses based on historical turnover data, and including the cost to these businesses of complying with the proposal in the EANDCB.

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 businesses with a minimum of 250 employees. The SaMBA is, therefore, sufficient.

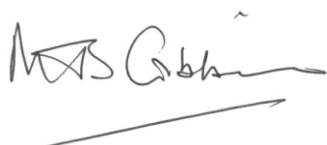
Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£3.8 million
Business net present value	-£35.4 million
Societal net present value	-£36.8 million

RPC assessment

Classification	Qualifying regulatory provision (IN)
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EANDCB – RPC validated ¹	£3.8 million
Business Impact Target (BIT) Score ¹	£19.0 million
Small and micro business assessment	Sufficient



Michael Gibbons CBE, Chairman

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

¹ For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.