

# **Employers in Great Britain, with at least 250 employees, to publish information showing whether there are differences in pay between their male and female employees**

**Government Equality Office**

**RPC rating: Fit for purpose**

## **Description of proposal**

The IA is now fit for purpose as a result of the department's response to the RPC's red opinion issued on 10 July 2015.

The Equalities Act 2010 includes a power under section 78 to introduce regulations requiring large 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 was not commenced at the time. Instead, since 2011, government has encouraged businesses to report on this information voluntarily.

The Government Equality Office (GEO) believes that the current voluntary approach has not led to sufficient progress. The GEO, therefore, proposes to invoke section 78 using secondary legislation.

The Equality Act 2010 sets out that employers with fewer than 250 employees are to be excluded from the requirements and that information on the gender pay gap cannot be required to be published more frequent than annually. It does not prescribe what the requirements are in detail.

The GEO is consulting on two options. The first is the publication of a single gender pay gap figure per business, while the second requires a more detailed breakdown, for example by staff grade. The IA explains that the figure(s) presented in either option could be presented either with or without supporting narrative.

## **Impacts of proposal**

The GEO explains that the requirement to report on the gender pay gap would affect 7,800 businesses, which in total account for 40% of private sector employment, and has identified three main costs imposed on these businesses.

- *Annually recurring costs:* The GEO estimates that businesses would have to analyse the data and that the reported figures would have to go through a clearance process. Depending on the level of detail required and, therefore, on the complexity of the data, this cost is estimated to be between £2.2 and £6.4 million each year.
- *One-off implementation costs:* Businesses that currently do not analyse pay gap data for internal purposes will need to train a member of staff to undertake this task. Businesses may also need to set up processes allowing them to provide more

detailed data. The total costs to business depend on the required level of detail in the data and is estimated to be between £140,000 and £12 million.

- *One-off familiarisation costs:* The GEO estimates that it will take an HR manager one hour to familiarise themselves with the legislation, resulting in total one-off costs of £240,000 to business.

### Benefits

The GEO explains that, as a result of the proposed reporting requirement, businesses will analyse causes behind any potential gender pay gap and explore to what extent internal factors might contribute towards the gap. Such internal factors could include company culture, flexible working patterns, support for maternity returners, unconscious bias in recruitment/promotion and accessibility of senior roles to women. Identifying those employers that successfully ensure that female employees achieve their full potential could enable the GEO to recognise, collate and disseminate good practice.

The GEO explains that, if the proposal reduced the gender pay gap, it could provide stronger incentives for women to work and advance their careers, which might lead to a more diverse and equal workforce. The GEO also explains that increased transparency could result in employers reflecting more on their working practices, which could result in more consistent remuneration decisions. It also argues that reducing the gender pay gap could create other benefits such as greater motivation and increased productivity.

The GEO explains that it has not been able to monetise such potential benefits due to a lack of evidence enabling it to quantify what impact greater transparency will have on the gender pay gap. It also recognises that not all employers will realise benefits as a result of this policy.

### **Quality of submission**

The GEO explains that a limited evidence base for monetising costs and benefits is available at this stage. It explains that it has interviewed a selected group of businesses to provide some evidence for the estimated costs to business. The IA highlights that most of the evidence base presented is derived from businesses that are already analysing the gender pay gap voluntarily and that these employers might not be representative. Overall, the GEO has identified costs and benefits to business, acknowledged shortcomings in the current evidence base and has provided proportionate monetisation for this stage.

The GEO has responded to the RPC's concerns about the rationale for intervention by revising its assessment around potential benefits arising as a result of the policy. It does now explain that the reporting requirement acts mainly as a tool to incentivise businesses to analyse data about potential internal factors contributing to a potential gender pay gap. The IA does not make strong claims about potential benefits to individual businesses and the wider economy, but focusses much more on explaining potential benefits arising from the gathering of additional evidence.

In particular, the IA sufficiently addresses the following previous 'red points':

- *Businesses reporting on gender pay gap.* The evidence presented suggests that many businesses (41%) already analyse gender pay gap data for internal purposes, but only very few have signed up to voluntary external reporting. This suggests that most businesses themselves do not believe that the reporting duty would create sizeable benefits to them individually. Any benefits associated with increased motivation and productivity appears to rely on two factors. First, increased transparency has to lead to a decrease in the gender pay gap, and second, the decrease in the gender pay gap must cause an increase in motivation and productivity. The GEO now recognises more specifically in the IA that the evidence to establish either causal link does currently not exist. Any such benefits arising to both individual businesses as well as the wider economy are, as previously, not monetised.
- *Trends in the overall gender pay gap.* The IA provides evidence showing a decrease in the overall gender pay gap from 27.5% in 1997 to 19.1% in 2014. It further provides evidence showing that the gap is negative (i.e. that women are paid more) for part-time work and non-existent for younger workers below the age of 39. The IA explains that the decrease in the pay gap has slowed down in recent years. However, a slowing down in the process could be expected and natural as any pay gap converges to its target. The IA now explains that intervention is still seen as necessary, because overall progress is seen to be too slow.

The IA does not address the following third concern raised by the RPC in the previous opinion:

- *Equivalent annual net cost to business and societal net present value.* The GEO presents an estimate for the equivalent annual net cost to business (EANCB) of £3.0 million each year and a societal net present value of -£34.97 million in the summary sheet of the IA. However, these are the figures associated with option 1 presented in the impact assessment. The IA does not make an argument or state that the GEO considers option 1 to be the preferred option at this stage. It is, therefore, not clear why the GEO did include these figures, rather than the estimates associated with option 2 in the summary sheet. These would suggest an EANCB of £5.8 million and a societal net present value of -£67.47 million. The IA shows that many businesses are concerned about misleading results arising from comparing simple gender pay gap figures across companies. The GEO should take these concerns raised by business into consideration during consultation to ensure that potential benefits can be realised without imposing an unnecessarily high burden on business.

On balance, the RPC thinks that the IA has sufficiently addressed previous concerns. The IA does now present the evidence base and explains the rationale for intervention sufficiently. It is, therefore, deemed to be 'fit for purpose'.

### **Small and micro business assessment**

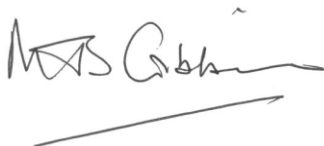
The IA says there will be no effect on small and micro businesses as the legislation will only affect those businesses with a minimum of 250 employees. The SaMBA is sufficient. The exemption of businesses with fewer than 250 employees is set out in the Equality Act 2010. The businesses covered by this requirement will account for 40% of private sector employment.

### **Initial departmental assessment**

Classification	In scope
Equivalent annual net cost to business (EANCB)	£3.0 million
Business net present value	-£34.97 million
Societal net present value	-£34.97 million

### **RPC assessment**

Classification	In scope
Small and micro business assessment	Sufficient



**Michael Gibbons CBE**, Chairman