|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Title:  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.  IA No: DCMS\_0001  Lead department or agency:  Government Equalities Office  Other departments or agencies: | |  | | --- | | Impact Assessment (IA) | | Date: 23/07/2015 | | Stage: Consultation | | Source of intervention: | | Type of measure: | | Contact for enquiries:  Kobini Ananth 020 7211 2227  Sharmin Choudhury (GEO) 020 7211 2060 | |  | |  | |  | |  | |  | |  | |
| Summary: Intervention and Options | **RPC Opinion: GREEN** |
|  | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Cost of Preferred (or more likely) Option | | | | |
| Total Net Present Value | Business Net Present Value | Net cost to business per year (EANCB on 2009 prices) | In scope of One-In, Two-Out? | Measure qualifies as |
| -£34.97m | -£34.97m | £3.00m |  |  |
| What is the problem under consideration? Why is government intervention necessary?  The UK's gender pay gap (GPG) has fallen over time but progress has been slow as Parliamentary debates and high profile media campaigns continue to highlight. To accelerate progress, the Government, with cross-party support, intends to follow through on its manifesto commitment to require employers with at least 250 employees to publish information showing whether there is a difference in pay between male and female employees by implementing section 78 Equality Act 2010. Some of the gender pay gap may be due to employers not observing the potential gains from changes to HR policies that make the best use of their female employees. Some employers are not aware that they have a GPG. Transparency can provide employers with greater insight into progress, driving a greater focus on analysis particularly in light of the board level interest that publication of information can generate, thereby prompting changes to, or reviews of, their working practices and policies, catering more to the needs of employees. This could lead to a reduction in their GPGs and accelerate progress in relation to the UK's overall GPG. | | | | |

|  |
| --- |
| What are the policy objectives and the intended effects?  The Government's commitment to closing the UK's GPG is a priority. Causes of the GPG are complex. Women still tend to work in lower paid sectors and are less likely to progress to senior positions. Reasons for this can include women with childcare responsibilities taking career breaks and choosing to work part-time, with more readily part-time opportunities available for lower paid roles. The failure to pay men and women the same for the same job is prohibited by law and the impact of this on the GPG is not certain. This measure is one of a number being considered by the Government to tackle the different drivers of the GPG. The objective of this measure is to raise awareness, encouraging employers to analyse the drivers behind their GPG and explore the extent to which their own policies and practices may have contributed to that gap, as opposed to other factors outside of their control. |

|  |
| --- |
| What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)  The Government currently considers two policy options:  Option 0 - Do nothing: Although there was cross-party consensus to encourage employers to publish gender pay information on a voluntary basis during the Equality Act's Parliamentary passage in 2010, thishas not triggered the widespread changes required to close the GPG. For this reason, no alternatives to regulation have been considered.  Option 1 - Mandatory reporting using (a) single gender pay gap figure (b) single figure and supporting narrative  Option 2 - Mandatory reporting using (a) breakdown of data, e.g: grading structure or full/part-time (b) breakdown of data and supporting narrative.  The Department will use feedback from the consultation in order to arrive at its preferred option. |

|  |
| --- |
| Will the policy be reviewed? It  be reviewed. If applicable, set review date: 5 years after commencement |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Does implementation go beyond minimum EU requirements? | | |  | | | |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base. | **Micro** | **< 20** | **Small** | **Medium** | | **Large** |
| What is the CO2 equivalent change in greenhouse gas emissions?  (Million tonnes CO2 equivalent) | | | Traded: | | Non-traded: | |

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signed by the responsible : |  | Date: |  |  |

# Summary: Analysis & Evidence Policy Option 1

Description: Implement Section 78 by publishing a single gender pay figure. The higher estimate is the cost to publish the figure alongside a supportive narrative which we assume is the best estimate.

FULL ECONOMIC ASSESSMENT

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Price Base Year 2014 | PV Base Year 2016 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
| Low: -34.97 | High: -20.02 | Best Estimate: -34.97 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| COSTS (£m) | Total Transition   (Constant Price) Years | | Average Annual  (excl. Transition) (Constant Price) | Total Cost  (Present Value) | |
| Low | 0.4 |  | 2.3 | 20.0 | |
| High | 0.4 | 4.0 | 35.0 | |
| Best Estimate | 0.4 | 4.0 | 35.0 | |
| Description and scale of key monetised costs by ‘main affected groups’  The familiarisation and implementation costs cover the time taken for a HR manager to learn what the legislation requires, consolidate guidance about the gender pay gap including the general key drivers, understand the impact this publication will have on their business, how to calculate the figure and staff training costs. The main costs employers will face annually is the time spent by HR managers, Chief Executives and legal professionals for the publication and clearance process. | | | | | |
| Other key non-monetised costs by ‘main affected groups’  Employers have expressed concerns about the potential exposure to increased legal action such as equal pay and also sex discrimination cases as a result of publishing results of gender pay analysis. The framework of s.78 leaves open the option for the government to specify penalties for non- compliance. Employers who do not comply with the publication requirements could face civil enforcement procedures or be liable for a criminal offence, punishable by a fine. | | | | | |
| BENEFITS (£m) | Total Transition   (Constant Price) Years | | Average Annual  (excl. Transition) (Constant Price) | Total Benefit  (Present Value) | |
| Low | Optional |  | Optional | Optional | |
| High | Optional | Optional | Optional | |
| Best Estimate |  |  |  | |
| Description and scale of key monetised benefits by ‘main affected groups’  It is not possible to monetise the benefits due to a lack of evidence enabling us to quantify the impact that greater transparency will have on the gender pay gap. For the same reason, we are also unable to quantify the benefits that a lower gender pay gap will give employers such as the effect on business outcomes through increased motivation and productivity of employees (see non-monetised benefits sections below for more detail). | | | | | |
| Other key non-monetised benefits by ‘main affected groups’  Reducing the gender pay gap could help contribute to a more diverse and equal workforce through incentivising more women to work and progress in their careers. If appropriately managed by employers this could result in business benefits (such as greater creativity and problem-solving in the workplace). This is, however, likely to be dependent on factors such as the markets employers operate in, and the actions of managers and leaders. If poorly managed, business costs could increase. | | | | | |
| Key assumptions/sensitivities/risks Discount rate (%) | | | | | 3.50 |
| Assumptions have been made about the time needed for: employers to familiarise themselves with their legal obligations; to train staff, for organisations to re-calculate figures annually, and for the clearance and publication process. Risks: The evidence base we have used to make assumptions derives from employers who voluntarily analysed their gender pay, who may not be a good representation of the full range of employers who fall in scope. | | | | | |

BUSINESS ASSESSMENT (Option )

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Direct impact on business (Equivalent Annual) £m: | | | In scope of OITO? | Measure qualifies as |
| Costs: 3.0 | Benefits: 0 | Net: -3.0 |  |  |

# Summary: Analysis & Evidence Policy Option 2

Description: Implement Section 78 by publishing a breakdown of data such as by grade structure or working patterns. The higher estimate is the cost to publish the figure breakdown alongside a supportive narrative.

FULL ECONOMIC ASSESSMENT

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Price Base Year 2014 | PV Base Year 2016 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
| Low: -67.47 | High: -35.39 | Best Estimate: -67.47 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| COSTS (£m) | Total Transition   (Constant Price) Years | | Average Annual  (excl. Transition) (Constant Price) | Total Cost  (Present Value) | |
| Low | 0.5 |  | 4.1 | 35.4 | |
| High | 12.2 | 6.4 | 67.5 | |
| Best Estimate | 12.2 | 6.4 | 67.5 | |
| Description and scale of key monetised costs by ‘main affected groups’  These are the same as set out for policy option 1, although on a larger scale due to the granularity of data required. In addition, we have considered implementation costs of working with an external consultant if the option was to breakdown by grading structure. | | | | | |
| Other key non-monetised benefits by ‘main affected groups’  These are the same as set out for policy option 1. | | | | | |
| BENEFITS (£m) | Total Transition   (Constant Price) Years | | Average Annual  (excl. Transition) (Constant Price) | Total Benefit  (Present Value) | |
| Low | Optional |  | Optional | Optional | |
| High | Optional | Optional | Optional | |
| Best Estimate |  |  |  | |
| Description and scale of key monetised benefits by ‘main affected groups’  These are the same as set out for policy option 1. | | | | | |
| Other key non-monetised benefits by ‘main affected groups’  These are the same as set out for policy option 1. | | | | | |
| **Key assumptions/sensitivities/risks** Discount rate (%) | | | | | 3.50 |
| These are the same as set out for policy option 1. | | | | | |

BUSINESS ASSESSMENT (Option 2)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Direct impact on business (Equivalent Annual) £m: | | | In scope of OIOO? | Measure qualifies as |
| Costs: 5.8 | Benefits: | Net: -5.8 |  |  |

**Context**

The Prime Minister has set out his ambition to close the gender pay gap “in a generation”[[1]](#footnote-1). To meet his commitment, the Government will take a range of measures to tackle the drivers of the pay gap. As part of these efforts, the Government will use the power in the Equality Act 2010 (section 78) to make regulations requiring large employers to publish gender pay. Recent research by IFF (No.2 in table 1) found that just two-fifths (41%) of employers with 250 or more employees currently analyse pay data to explore the gender pay gap. By making these regulations, all employers of this size will undertake gender pay analysis and report on the difference in pay between their male and female employees.

#### Evidence Base

Table 1: Evidence base used in this IA

|  |  |
| --- | --- |
| **No.** | **Legislation or publication** |
| 1 | Equality Act Impact Assessment - April 2009 |
| 2 | Company Reporting: Gender Pay Data - IFF Research (2014)  <https://www.gov.uk/government/publications/company-reporting-gender-pay-data>    This survey of employers investigated the extent to which employers across Great Britain with 150 or more staff collect, report and publish data on pay by gender and to assess the awareness and impact of *Think, Act, Report* three years on from its publication. The research comprised 855 telephone survey conducted in September 2014 with private and voluntary sector employers. This research will be published alongside the consultation. |
| 3 | Enhancing *Think Act Report* – GEO officials hosted a series of ‘Chatham House’ rule roundtable discussions on gender pay analysis to encourage more *Think, Act, Report* companies to collect, analyse, and report significant gender pay information. |
| 4 | Equality and Human Rights Commission Proposals for Measuring and Publishing information on the gender pay gap.  In 2009, the then Government invited the EHRC to consult on proposals for measuring and publishing information on the gender pay gap, research into what employers in the private and voluntary sectors were doing to measure and report on gender pay gaps and to explore the reasons for measuring and reporting (or for not doing so) among these employers.  <http://www.equalityhumanrights.com/sites/default/files/documents/research/gender_pay_gap_proposals_final.pdf> |
| 5 | Telephone interviews conducted with those who had previously taken part in IFF research on reporting gender pay gap data. Forty four companies were contacted and **11 interviews** were conducted. |
| 6 | Telephone interviews with 3 companies from *Think, Act, Report* who have published gender pay gap data. |
| 7 | Face to face conversation with a large employer. |
| 8 | Age supplement to EHRC Code of Practice on discrimination in the provision of goods and services Impact Assessment 2014 |

**PROBLEM UNDER CONSIDERATION**

**The Gender Pay Gap**

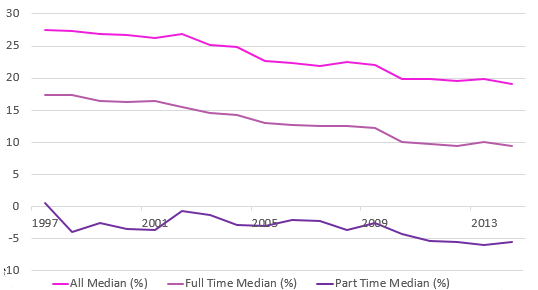
Gender Pay Gap over time, for full/part-time employees and different age groups

(Data used in the first part of this section is from the Annual Survey of Hours and Earnings)

The gender pay gap is the difference in earnings received by men and women. It does not include self-employed people. The ONS currently calculate the gap using the difference between the median gross hourly earnings excluding overtime of men and women as a percentage of men's earnings. In 2014, the gender pay gap was 19.1% for all employees working full or part time in any occupation. This means that women are paid on average 19.1% less than men.

While there is no single measure that adequately deals with the complex issue of the differences between men and women’s pay, the ONS prefer to use median hourly earnings (excluding overtime) for full-time employees. Including overtime can skew the results because men work relatively more overtime than women, and using hourly earnings better accounts for the effects of different part time / full time working patterns for men and women. Out of the population who work full-time, 60.5% are men and only 39.5% of women. If weekly, monthly or annual earnings were used, this would result in a much larger pay gap, almost entirely due to different working patterns. The median level of earnings is the preferred measure for comparing average earnings as it is less affected by a small proportion of high income earners.

Figure 1: Time series of the gender pay gap for all, full-time and part-time employees



The gender pay gap has fallen from 27.5% in 1997 to 19.1% in 2014 due to a number of structural changes. The part time gender pay gap is negative as there has been a large rise in average part time earnings for women between the 20-29 and 30-39 age groups which indicates higher skilled and better paid women are taking part time work to fit around childcare responsibilities. This has led to a negative pay gap currently at -8.2% for part time workers in this age group.

The gender pay gap has narrowed for full-time employees, to 9.4% compared with 10.0% in 2013. Despite a relatively large increase between 2012 and 2013, there is an overall downward trend, from 17.4% in 1997. For part-time employees, the higher rate of pay for women than men results in a ‘negative’ gender pay gap, although this figure can be misleading as women represent 75 % of all part-time workers and part-time work attracts significantly lower pay than full-time work.

The gender pay gap is relatively small up to, and including, the 30-39 age group (with the exception of the 16-17 age group). In fact, the gap is negative for the 22-29 and 30-39 age groups, meaning that women earn on average more than men. There is some evidence of a cohort effect where the pay gap has fallen first for younger age groups, before falling for older age groups. For example, the pay gap for somebody in the 30 to 39 age group in 1997 was 25.1%. Ten years later, these people would be in the 40 to 49 year old age group, which had a pay gap of 30.3% in 2007, much lower than it had been for that age group in 1997 (37.2%).

However, this cohort effect is unlikely in itself to close the pay gap within a generation. The gender pay gap peaks for those aged 40-49 years old.[[2]](#footnote-2) This is likely to be connected with the fact that many women have children and take time out of the labour market (motherhood gap). The IFF research found that only around a third of employers collected information on the proportion of mothers who return following maternity leave (35%); this was most common in larger companies (50% of employers with 1,000 or more staff).

Causes of the gender pay gap

The gender pay gap **is not** primarily about men and women being paid differently for the same job. That is unlawful and has been prohibited by equal pay legislation for many years. The Equality Act 2010 protects the right to equal pay, meaning there should be no difference in the contractual terms of a woman and a man doing equal work, who both work for the same employer. Equal work is work that is the same or broadly similar, work rated as equivalent under a job evaluation study, work found to be of equal value in terms of effort, skill or decision making. Payincludes basic pay as well as overtime pay, non-discretionary bonuses, holiday pay, occupational pensions and benefits such as a company car, health insurance, free meals etc. However, despite the legal framework for equal pay being in force since 1975 there is still a significant gender pay gap.

Therefore, the gender pay gap may not necessarily be driven by discrimination but be due to other factors, some of which reflect cultural norms or established practices that impose a disadvantage on women without being explicitly discriminatory. For instance, females may choose to work in part-time roles due to childcare responsibilities and there may be part-time positions more readily available for lower paid and less skilled positions than for higher paid positions. Occupational segregation is also a factor to consider. For example, women are disproportionately employed in poorly-paid professions (cleaning, catering, childcare), and under-represented in well-paid ones. Women also make up 94% of secretaries and 95% of child care assistants, but only 6% of engineers and 14% of architects, town planners and surveyors.

Some of the drivers and how much they contribute to the gender pay gap can be broken down as follows[[3]](#footnote-3):

* 10 per cent of the overall pay gap can be attributed to occupational sex segregation. Having 10 percentage point greater share of men in an occupation is associated with 2 per cent higher average hourly wages.
* 12 per cent of the gap is due to the industries in which men and women work.
* 21 per cent of the gap is due to differences in years of experience of full-time work.
* 16 per cent of the gap is due to the negative effect on wages of having previously worked part time or of having taken time out of the labour market to look after family.
* Only 5 per cent of the pay gap is due to formal education levels.
* 36 per cent of the pay gap could not be explained by any of the characteristics that were controlled for in the study that these findings are from.

**Section 78 Equality Act 2010**

In order to accelerate progress being made to improve the gender pay gap, the Government has committed to requiring greater transparency in this area. The principle of greater transparency on gender pay has cross party support, having been the subject of numerous recent Parliamentary debates and featuring as a commitment in the manifestos of [the Government and] all the main parties. We will therefore be consulting on the best way of achieving this through regulations under Section 78 of the Equality Act 2010.

Section 78 contains a power to make regulations requiring private and voluntary sector 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.

This could mean publication of a single figure for full-time, part-time and overall gender pay gap; or the difference between men and women’s starting salaries. There are varying levels of granularity and break down in figures that could be considered.

The regulations may also specify, among other things, the form and timing of the publication, which will be no more frequently than annually. The regulations may also specify penalties for non-compliance. Employers who do not comply with the publication requirements could face civil enforcement procedures or be liable for a criminal offence, punishable by a fine.

**Consultation and improving the evidence base**

Implementation of section 78 clearly represents a significant shift away from voluntary reporting. As it will apply to employers (both private and voluntary organisations) with at least 250 employees, around 7,855 employers employing around 11m people would fall within the scope of this secondary legislation. 6,745 private sector employers and 1,110 voluntary organisations that fall in scope).[[4]](#footnote-4) Section 78 will only apply to Great Britain. The figures for costs in this IA are based on the number of businesses and voluntary organisations in the UK. Costs will therefore be slight overestimates due to the inclusion in costings of organisations in Northern Ireland which will not be affected by the legislation.[[5]](#footnote-5)

This Impact Assessment therefore accompanies a public consultation which will seek to ensure the proposed regulations meet their objectives. The consultation will allow the Government to explore exactly what information should be published within the scope of section 78 and how often this should be published. In addition, the consultation will identify what enforcement mechanism (if any) should be set out in the Regulations.

The consultation will be seeking views on the different kinds of gender pay information that we could require employers to analyse and publish. For example, this could be a single figure or broken down further, for instance by grade. The consultation will also seek views on what further measures the Government should take to close the gap.

Analysis of the consultation responses will also assist in creating a firmer evidence base for further cost benefit analysis. Currently, there is a very limited evidence base for monetising costs and benefits. In order to gain a better understanding of the costs employers will face, we contacted five employers who signed up to the *Think, Act, Report* initiative and also ten employers previously sampled in the 2014 IFF survey to ask questions that have assisted in monetising these costs.

Assumptions based on that evidence have been used to calculate costs in the Impact Assessment. However, there are some limitations to this approach as the evidence may not be a good representation of the 7,855 employers that fall in scope. During the consultation period we will ask employers to predict how much it will cost them to analyse and publish their gender pay gap. It is expected that this will enable us to provide a more robust cost benefit analysis for future Impact Assessments.

Some employers say they lack comparable pay grades as a result of expanding through acquisitions. As a result they tell us that job titles are also not standard - that different roles can hold the same title and roles often change significantly while the title stays the same.

As part of their 2009 consultation, the EHRC worked with the IES who conducted a telephone survey with 33 employers with at least 250 employees.

55% of IES respondents saw the single figure as the easiest to measure and 67% stated it would also be the cheapest. The EHRC concluded that the single figure;

“…*is seen as a simple, cheap and easy measure, but not very useful or revealing….The use of a single figure could present a misleading picture, for example after mergers, acquisitions or re-structurings….would provide a starting point for national comparability of common information”.*

24% of IES respondents had used a breakdown of the full time/part time measure to analyse their gender pay gap. 9% chose it as their preferred measure in terms of ease of application and 12% thought it would be cheapest to implement. The EHRC concluded that:

*“It is most useful to organisations with large part time workforces but irrelevant to those with few or no part time employees”.*

The majority of IES respondents and those responding to the EHRC consultation considered it “useful and important” to break down the pay gap at each grade level. 30% of IES respondents had used this approach and perceived it to be informative and meaningful, as it reveals where pay gaps lie and enables greater like for like comparisons. IES respondents did raise concerns about the limited comparability with other employers and that it assumed robust human resources systems and grading structures were already in place. The EHRC concluded that:

*“It was rated (in terms of expressed preference) as a relatively easy measure to implement (particularly by large employers). It was not perceived to be a particularly cheap measure to implement”.*

It is intended that the consultation will provide a firmer evidence base of the effectiveness and impact on employers of these different options. That will inform a decision as to what information large employers should be required to publish under section 78 regulations.

**RATIONALE FOR INTERVENTION**

The time series graph in the previous section shows that although there has been some progress in reducing the overall gender pay gap in the longer term, the rate of progress has slowed down over the past few years.

We realise that as awareness of the business case for improving women’s employment opportunities has increased, this is creating some positive change to HR policies. This will have contributed to the decreasing trend. Given the trends to date, we predict that at the slow rate of continuing decrease, women of the next generation will see only limited improvements to the workplace that will help them realise their earning potential.

The evidence above shows that there are different reasons for the gender pay gap. Employers make choices given the information available and the prevailing labour market conditions such as occupational and working pattern preferences, which as discussed above, are drivers of the gender pay gap. It is also highly likely that some of the gender pay gap may be due to employers not observing the potential gains of making the best use of their female employees.

Therefore we still see a much greater proportion of men in senior positions than women (women make up 34% of managers, directors and senior officials and only 18% of FTSE 250 board members). Part-time work also remains concentrated in lower paid roles, indicating that employers may not be optimising the skills of their workforces, thereby, limiting women’s earning potential. The Government wants employers to understand the relative position of men and women in their organisation and to take action where discrepancies are identified; this includes, but will not be limited to, discrepancies that relate to unlawful pay discrimination. Encouraging employers to collect evidence on their gender pay gaps and understand both, the underlying reasons and potential gain from addressing those reasons, could lead to the employers implementing new HR policies aimed at improving development and promotion prospects for women and offering more flexible working options.

The requirement to report pay data will ensure all employers are undertaking gender pay analysis and the additional transparency will benefit current and prospective employees as well as other stakeholders such as shareholders and clients. As with any government supported information intervention we do not argue that all employers will realise benefits.

The evidence set out above does show variation in the gender pay gaps of different age groups. However, we are not complacent, as the progress that has been made to date in some age groups could be lost without continued focus. Analysis of their pay gaps will help firms understand the causes as much for older age groups as those in younger age groups.

In addition, by making regulations under section 78, the Government will also send a strong signal to employers about the importance of fair pay.

Benefits of transparency

The evidence base for the benefits of transparency is mainly derived from the IFF research, GEO’s roundtable discussions and the EHRC Proposals for Measuring and Publishing information on the gender pay gap (No. 2, 3 & 4 in Table 1). There is currently limited evidence that systemically assess the benefits of, or provide quantitative estimates as to the impact of transparency on the gender pay gap.

Transparency has been used to positive effect across other areas. For example, listed companies are required to report on board room diversity in their annual reports. Cranfield University also publishes an annual report that tracks progress further to the Lord Davies Review recommending a target of 25% of women directors serving on FTSE 100 boards by 2015. Through consistent attention to the data on progress by FTSE 100 companies, the target of 25% has been met. This provides evidence linking transparency with results and the achievement of a government ambition.

The Equality and Human Rights Commission concluded further to its 2009 consultation that transparency alone could not change workplace cultures, but that it could encourage dialogue and spur the action necessary to reduce the gender pay gap.

The EHRC report also discusses some of the benefits to employers that increased transparency may provide. For instance, it could lead to employers making more robust and consistent decisions about who gets paid what and why. It may also create more meaningful and clearer links between performance and remuneration, sending a message that managers are striving to reward people in accordance with their contribution to the organisation’s business objectives.

Increasing transparency around gender pay differences in the private and voluntary sectors will enable the impact of workplace policies and practices to be monitored and discussed. Transparency may encourage employers to analyse the drivers behind their gender pay gap and explore the extent to which their own policies and practices may have contributed to that gap, as opposed to other factors outside of their control.[[6]](#footnote-6) Publication of information may generate greater board level interest, driving forward a greater focus on analysis. This transparency could lead to employers reviewing their internal policies if needed, for example, company culture, flexible/part-time working patterns; support for maternity returners; unconscious bias in recruitment/promotion; inconsistency in awarding bonuses and how accessible senior roles are for women. All of this can contribute to reducing the gender pay gap over time, not just within individual organisations but across the whole economy. While proper benchmarking requires enough detail to facilitate like for like comparisons, the information that employers publish may be able to support some basic benchmarking across employers within a sector and across sectors.

Having published information about their gender pay differences, many employers will be encouraged to establish an effective talent pipeline that helps women to fulfil their earning potential. Publication of a gender pay gap can ultimately increase employee confidence in the remuneration process and enhance an employer’s corporate reputation.

By identifying those employers that are consistently and successfully ensuring that their women employees are achieving their full potential, we can recognise, collate and disseminate good practice.

Reducing the gender pay gap might help contribute to a more diverse and equal workforce through incentivising more women to work and progress in their careers. If appropriately managed this could result in benefits to employers. However, this is likely to be dependent on factors such as the markets employers operate in, and the actions of managers and leaders. If poorly managed by employers, it could also increase business costs. A possible benefit to employers of a more diverse workforce, is the potential for greater creativity and problem-solving derived from a wider range of perspectives, and, which will have a positive effect on the productivity of employees and business outcomes.[[7]](#footnote-7)

The IFF survey findings relating to perceptions about reporting among those who do not conduct analysis (paragraphs 5.19 -5.34) indicated some of the concerns employers have about transparency. The main reason for being ***opposed*** to both internal and external reporting was a stated company policy not to discuss pay (38% of employers against internal reporting and 44% of those against external reporting cited this as a reason). There were also a considerable number of employers in both cases who didn’t recognise gender pay gaps as an issue to address (32% in respect to internal reporting, 22% external). The other reasons for being against external reporting that were mentioned by more than 5% were: concerns about competitors having that information about them (11%), concerns about uncovering problems (9%), and being unsure how to go about doing it in the right way (5%).Other concerns regarding internal reporting included worries about uncovering problems (21%) and problems or ill-feeling it could cause among staff (12%).

However, the IFF research found that none of the employers approached by IFF said reporting gender pay had negative consequences for the organisation. 54% said reporting externally had been positive for the organisation. 36% said reporting externally had little effect either way.

In addition to this, GEO official discussions with employers about the gender pay gap in the latter part of 2014 highlighted that benefits of reporting gender pay information include competitive advantage, improved employee engagement and risk management by avoiding equal pay breaches from occurring or continuing.

However, it is also clear that the Government will need to balance transparency with the rights of individual privacy. This is because an individual does not have the automatic right to know what another colleague earns, but does have the right to know how remuneration calculations are made. Publishing data in aggregate form is clearly one method of balancing transparency with the need for confidentiality.

**POLICY OBJECTIVE**

By implementing Regulations under section 78 Equality Act 2010, this Government aims to introduce workable requirements to publish particular data with a view to enhancing progress being made by business on gender equality.

The Government's wider aim is to reduce the gender pay gap in the UK and help ensure that women’s potential is effectively utilised and fairly rewarded. This measure is one of a number being considered by the Government to tackle the different drivers of the pay gap. The overarching objective of this measure is to ensure employers are aware of any differences between the pay of men and women in their organisation, consider why this is and take appropriate action to address the causes where pay analysis highlights anomalies, for example, issues with the recruitment, retention, progression, pay and/or maternity support of women.

Equally, the intention is to ensure any burdens on business are recognised and mitigated where possible. In formulating the regulations, compliance arrangements should also be proportionate.

**DESCRIPTION OF OPTIONS CONSIDERED (including doing nothing)**

**OPTION 0: Do nothing**

This option relies on employers continuing to publish information voluntarily showing whether there is any difference in the pay of male and female employees. However, only 5 out of almost 280 employers who signed up to the previous government’s voluntary initiative have published their gender pay data. To date, this option has therefore not been very effective. The UK gender pay gap has fallen at a slow rate the last five years. It has decreased from 19.85% in 2010 by 0.75% to 19.1%. Under a voluntary approach, the trends to date indicate that the gender pay gap will likely continue to decrease over time but it will not improve the trajectory needed for a more accelerated pace of change.

**OPTION 1: Implement section 78 regulations requiring employers with at least 250 employees to publish:**

**a) Single gender pay gap figure**

A single figure could be expressed as the percentage difference in average earnings between males and females, the difference in average hourly pay rates or annual pay rates between males and females. It could also take into account any difference in working patterns (part-time versus full-time) as employers can calculate all their staff salaries to full-time equivalent figures. One large employer has told us they use the single figure pay gap as their starting point for assessing pay gaps. They mentioned that the data required to calculate the single figure was easy to access and the calculation itself is simple and does not require a lot of resource. 55% of IES respondents saw the single figure the easiest to measure and 67% stated it would also be the cheapest. The IFF research found that of the six in ten employers (61%) that report gender information internally, 12% reported on a single figure of average pay gap

**OR**

**b) Narrative with the single gender pay gap figure**

Supplementing the figures with narrative will help employers to avoid presenting misleading data and provide some context for the data. One large employer has provided us with some insight into how a single figure could be misleading without a narrative. For instance, pay within an organisation could be directly related to performance ratings which may vary across gender for a number of reasons. One reason is that there is usually a higher proportion of females working part-time and performance may be harder to measure for part-time employees. Also, the gender pay gap may be higher due to the demographic structure of the organisation and fewer women being represented in higher paid jobs. Having a supporting narrative gives the employer an opportunity to explain the drivers behind their gender pay gap and if they are changing any of their working practices to reduce their gender pay gap.

**OPTION 2: Implement section 78 regulations requiring employers with at least 250 employees to publish:**

1. **Breakdown of data, for example, by full and part time or pay grading structure.**

This option takes account of the different ways gender pay data can be broken down. We have considered full time and part time, grading structure and age because employers have told us that these are the datasets used for gender pay analysis. This approach could consider relative number of employees at each grade which is one of the key drivers of employers having a higher single gender pay gap figure where there are more male employees than female employees in senior positions. There are however limitations to this option. This assumes that all employers will already have information required and clearly defined grading structures in place. One large employer who has conducted analysis for other employers found that some had incomplete data and it could take many months to gain access to this data. We are seeking further information on what proportion of employers have grading structures in place. During the consultation period we will consider whether different datasets broken down will be more informative. This option currently assumes that employers will be considering one set of data for analysis. We will consider the use of a combination of these datasets during consultation.

**OR**

**(b) Breakdown of data with supporting narrative.**

The supporting narrative under this option can be less detailed than the narrative supporting the single figure as more information is available. One large employer also provided us with some insight into how a breakdown by grade structure with no narrative could also be misleading. For instance, when an employee is promoted to a higher grade, they may be moving from the highest salary available in the lower grade level to the lowest salary available in the higher grade level (depending on the grading structure of the employer). Where this involves female employees, such a move could have a more significant effect and negative impact on the average gender pay gap figures at both grade levels. As with option 1b), having a supporting narrative gives the employer an opportunity to explain any such drivers. We make no assumptions at this stage about the length and detail of supporting narrative but have considered the range of approaches have taken. Some employers may produce detailed reports while others take a minimalist approach.

**MONESTISED AND NON-MONETISED COSTS AND BENEFITS OF EACH OPTION**

**OPTION 0 – Do Nothing**

**Costs**

There is a net zero cost as this is a continuation of the current scenario (voluntary approach).

**OPTION 1: Implement section 78 regulations requiring employers with at least 250 employees to publish:**

**1a) Single gender pay gap figure**

**1b) Single gender pay gap figure with supporting narrative**

**Costs**

**Employers:**

Section 78 applies only to employers with at least 250 employees. This means around 7,855 employers could fall within the scope of these regulations.

The costs to employers are broken down into three parts:

• Transitional one-off familiarisation costs

• Transitional one-off implementation costs

• Annually recurring costs

It is assumed that “familiarisation”, in the great majority of cases and for most employers and individuals will mean familiarisation with or through guidance and advice provided by the EHRC (Equality and Human Rights Commission) and/or by other advisory bodies such as ACAS (Advisory, Conciliation and Arbitration Service). It is also assumed that “familiarisation” means reaching the point where a manager or relevant employee of a firm is aware of the changes in the law. We will assume that the costs of familiarisation for option 1 and 2 will be equal as it is the time taken to understand what the legislation requires.

The one-off implementation cost may involve the set-up of new collection and reporting processes to comply with the legislation and the annually recurring costs will be the ongoing costs associated with the legislation.

Evidence from further telephone interviews with companies who took part in Think Act Report and companies in the IFF survey sample showed no correlation between time taken and size of employer.

However, there are limitations to this evidence base as it is a very small sample.

There also appeared to be a variation in what constituted a gender analysis as companies were at different stages in their thinking and had their own ideas of what constituted a gender pay review. Although each ‘review’ would be fit for purpose for their employer, they may not be producing breakdowns that are directly comparable with one another and which we think will subsequently affect the time spent conducting analysis. We will examine this issue during the consultation period.

Transitional costs - one-off familiarisation costs

It is not known how long it will take companies to familiarise themselves with the legislation and what information they are required to publish.

The Impact Assessment that supported the Equality Bill in 2009 estimated that on average, it will take a personnel manager (or equivalent) 10 minutes (0.17 hours total) to familiarise themselves with legislation under section 78 Equality Act 2010. Responses to the 2009 EHRC consultation released subsequent to that Impact Assessment suggested that this was an underestimate.

The Impact Assessment submitted to the RPC in 2014 on ‘Age supplement to EHRC Code of Practice on discrimination in the provision of goods and services’ made assumptions that familiarisation of that new legislation would take 1 hour. We therefore assume that the familiarisation time of 1 hour is also an appropriate estimate for this Impact Assessment as employers are likely already to have a basic understanding and awareness of gender characteristics.

The main limitation on the accuracy of this Impact Assessment is due to the lack of evidence of cost and resources required to produce a gender pay gap figure, conduct gender pay analysis and publish the results. This estimate therefore remains imprecise, and is based on sources not specifically related to gender pay transparency.

If the time required is less (more), the overall cost of the requirement will be correspondingly less (more).

From further conversations with employers, we have learned that generally someone of relative seniority within HR would lead this activity so we will calculate costs using the hourly rate of an HR manager. The cost per hour of a HR manager’s time is taken to be the hourly rate, £23.65 (as given in the Annual Survey of Hours and Earnings 2014 code 1135), uplifted by 30[[8]](#footnote-8) per cent to cover non-labour costs £30.75.

Per employer the cost is therefore:

Hours taken X hourly rate = cost per employer

1 X £30.75 = £30.75

The total cost of familiarisation with the new duty is therefore:

Cost per employer X number of employers = total cost

£30.75 X 7,855 = £241,501.98

Transitional costs - one-off Implementation costs

Employers have told us that the information needed to calculate the gender pay gap figure is generally collected as part of existing Management Information systems for HR and payroll.

The ONS prefer to use hourly rates to calculate gender pay gap figures. However, we are aware that some employers may not have this information readily accessible on their systems. Ease of access to such information is likely to vary between sectors. We are advised that using the overall salaries to calculate the full time equivalent is a viable alternative to using hourly rates. We are told that salary information is part of that already generally collected. We have therefore not considered this further here but will be exploring during consultation.

The IFF survey also provides evidence of the information already collected by employers and the systems they use to manage that information. The survey (paragraphs 3.36 to 3.40) found that the vast majority (99%) of organisations kept their HR and payroll information on a computerised system. Nearly all employers surveyed had a computerised system and 61% felt that it would be easy to combine. We do not have evidence that a combined system is needed to produce gender pay data and we have no evidence of how much combining systems will cost. For this reason we have not monetised any potential costs of combining HR and payroll systems and we will consider the need for this during consultation.

We have assumed that the salary or wage data needed to calculate and publish the employers’ gender pay gap is already collected and available.

There are some limitations to this assumption as the publication of a gender pay gap may involve a one-off cost for some employers who have never produced or published their gender pay gap figure in the past. These employers may need to implement new processes such as collating the relevant data. There may also be one-off costs for employers who currently conduct some analysis but do not currently publish the results. We are unable to monetise these costs from the evidence base we currently have but will be researching this further for the final IA. Therefore, the implementation cost calculated below may be an underestimate.

We assume that each employer will have to provide some training for their staff in calculating and understanding the drivers behind the break downs. As we had no evidence on the time this could take, further to a discussion with the HR department within the Department for Culture Media and Sport and gaining an understanding of the process involved, we have estimated it would take one member of HR personnel one hour. We will therefore make the assumption that it will take one hour to train one member of staff but we acknowledge that this is a weak assumption and therefore will be having further discussions with employers to gather more evidence on this. As this assumption has not been derived from evidence obtained from employers in the private/voluntary sector, we have halved and doubled the training time to see what impact it will have on the overall net cost to business per year and net present value for the **single figure with narrative** option (see table below).

The IFF survey (at paragraphs 4.1 – 4.20 of the report) provides evidence of the proportion of employers that already conduct some analysis of the gender pay gap. It found that two-fifths of employers (41%) currently analyse pay data to explore the gap between average pay by gender (of which 42% of those have 250 or more employees). It also found an increase in the proportion of employers analysing gender pay data: from 36% in 2009 to 41% among those with 250 or more employees. Therefore, we will make the assumption that 59% of employers who do not currently analyse gender pay data will need to spend an hour on training staff.

Per employer the cost is therefore the cost of training staff.

Hours taken X hourly rate = cost per employer

1 X £30.75 = £30.75

The total cost of implementation for this option is therefore:

Cost per employer X number of employers X percentage of employers affected = total cost

£30.75 X 7,855 X 0.59 = £142,486.17

The effect of doubling/halving training time on single gender pay figure with narrative option

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Time (hours)** | **Cost per employer (£)** | **Total Implementation Cost (£m)** | **Net Cost to Business Per Year (£m)** | **Total Net Present Value (£m)** |
| 1 | 30.75 | 0.14 | 3.00 | -34.97 |
| 0.5 | 15.37 | 0.07 | 2.99 | -34.90 |
| 2 | 61.49 | 0.28 | 3.22 | -35.12 |

Halving and doubling the training time has a limited impact on the net cost to business per year and net present value.

Annually Recurring Costs

It is our understanding that Management Information systems can produce the information in the correct format required to calculate a gender pay gap figure. Following a discussion with a large employer, we have made an assumption that it will take 10-15 minutes (0.25 hour) to calculate a single gender pay gap figure each year.

Whether the regulations require publication of a single figure or a single figure with narrative, we anticipate that senior managers will need discussions about the drivers behind the figure itself if the requirement is to publish a single figure ahead of clearing for publication.

From our discussions, we have learned that a typical large employer’s clearance process over a number of months will involve initial activity led by an HR manager. This will be followed by Chief Executive and lawyer consideration and discussions. This would be ahead of further discussion at a regular Board meeting and possible communications team activity.

We do recognise that the complex structures of some employers will mean that more than one member of HR personnel will lead analysis activity. For example, this could involve one HR employee for each business area. However, we are unable to ascertain all the possible variations of this. For publication of a single figure, using our discussions as a basis, we have therefore assumed that the lead person on this activity, an HR manager, will spend 4 hours on producing what is needed for publication of a single pay gap figure and 6 hours with a supporting narrative.

We have assumed this activity will take up 2 hours of a Chief Executive’s time and 2 hours of a lawyer’s time. The time taken for all involved will need to be doubled to produce and agree narrative content and wording.

These assumptions have limitations as this evidence is based on a very small sample of employers. We will seek to improve this as part of the consultation.

We have not monetised the time spent by the Board in considering as we have assumed this will form part of the agenda for a regular meeting. We also cannot monetise the cost of communications team activity as the format of publication will be considered as part of the consultation.

We know that 41% of employers have conducted some form of gender pay analysis but have insufficient evidence to indicate the proportion that do this annually. We have therefore not included this in monetised annual recurring costs but it is important to note that this means the monetised could be considered an overestimate (the scale of which we are uncertain) as it assumes these costs be additional for all employers affected. For those that do already conduct this analysis annually, only costs relating to publication will be additional annual costs.

The cost per hour of a legal professional’s time is taken to be the hourly rate, £23.10 (as given in the Annual Survey of Hours and Earnings 2014 code 241), uplifted by 30 per cent to cover non-labour costs £30.03. The cost per hour of a Chief Executive/Senior Official’s time is taken to be the hourly rate, £38.33 (as given in the Annual Survey of Hours and Earnings 2014 code 111), uplifted by 30 per cent to cover non-labour costs £49.83.

**Single gender pay gap figure**:

Cost per employer:

(cost of re-calculating annual figure) + (cost of publishing)

= (cost of HR manager) + (cost of legal professional) + (cost of CEO)

= (hours taken by HR manager X hourly pay) + (hours taken by CEO X hourly pay of) + (hours taken by legal professional X hourly pay)

= (**4.25** X £30.75) + (**2** X £30.03) + (**2** X 49.83) = £290.38

The total annual recurring cost is therefore:

Cost per employer X number of employers= total cost

£290.38 X 7,855 = £2,280,968.28

**Single gender pay gap figure with supporting narrative**:

Cost per employer:

= (**6.25** X £30.75) + (**4** X £30.03) + (**4** X 49.83) = £511.59

The total annual recurring cost is therefore:

Cost per employer X number of employers= total cost

£511.59 X 7,855 = £4,018,557.12

We will assume at this stage that the best estimate of the annual average recurring cost is the single pay gap figure with supporting narrative because employers will want to avoid presenting misleading data and explain the drivers behind their gender pay gap to the public and their employees. This will help to decrease the potential exposure to increased legal action, which, we found from discussions, is one of the biggest concerns employers have the implementation of section 78.

**Non-Monetised Costs**

Employers have expressed concerns about the potential exposure to increased legal action such as equal pay and also sex discrimination cases as a result of publishing results of gender pay analysis. Employers tell us the greater the granularity of the data published, the greater the risk. It is important to recognise that an employer’s gender pay gap and any information published that shows whether there is a difference in the pay between male and female employees is not of itself evidence of discrimination. Nor is it evidence that the employer is breaching any equal pay laws. As discussed in previous sections there can be a number of other factors and drivers of such differences in pay. We have assumed that employers will seek legal advice on risks prior to publication of results and this cost has been absorbed as part of the pre-publication costs.

The IFF survey found that “*no employers who had reported information internally said it had been a negative thing for the organisation….none of the 32 employers in the survey that had taken this step reported a negative impact for their organisation, and more often than not it has been a positive experience”.*

We have therefore assumed that the concerns of employers who have not chosen to conduct and/or report the results of gender pay analysis, have not been realised by those who have reported that information.

Costs of Enforcement

The framework of s.78 leaves open the option for the government to specify penalties for non- compliance. Employers who do not comply with the publication requirements could face civil enforcement procedures or be liable for a criminal offence, punishable by a fine.

As part of the consultation we will be exploring enforcement options further with the Equality and Human Rights Commission and seeking views on what would be considered proportionate to ensure compliance.

On the current assumption that the EHRC will be best placed to monitor and take the lead role in enforcing compliance with these regulations, any additional cost incurred would be on the public sector which we will be able to assess following the consultation.

**Benefits**

Increased transparency could lead to employers becoming more aware and attentive towards their gender pay gap, what contributes towards it and the extent to which their own practices and policies can influence it (as opposed to factors outside of their control). The gender pay analysis may lead to employers reviewing their internal policies and part of this could be addressing any discrimination issues they find whilst also looking into and implementing policies that may have an impact on other contributors to the gender pay gap. An example of this could be making senior roles more accessible to females, possibly through offering more part-time opportunities to cater for those who have childcare responsibilities which will have a positive effect on the gender pay gap.

Furthermore, gender pay transparency will also enable better identification of occupational segregation across regions and sectors which will provide the government with evidence to design and implement wider policies in the future that can target those particular regions or sectors to even further accelerate the narrowing of the gender pay gap.

Over the longer term, these effects should have a positive impact on the overall gender pay gap of the economy. However, as the impact transparency has on employers’ gender pay gaps cannot be quantified at this stage, the effect on the overall gender pay gap cannot be quantified.

An independent study of gender equality, economic growth and employment across Europe has estimated that a transition to full gender equality in the labour market (i.e. bringing women’s productivity and employment up to men’s levels) has the potential for increased gross domestic product of between 15% and 45% in the EU member states, with an estimate of the potential increase to the UK’s gross domestic product of 35%.[[9]](#footnote-9)

If the gender pay gap remained at its current level, an average woman working full time from age 18-59 would lose £206,656[[10]](#footnote-10) in gross earnings over the course of her working life, as compared to an equivalent male. Closing this gap and incentivising women to reach their full economic potential could provide benefits to employers through increased motivation, employee engagement and productivity in the workplace as well as employers benefitting from greater diversity in the workplace. It should, however, be noted that the gender pay gap is just one factor that contributes to gender inequality in the labour market and reducing it on its own is unlikely to lead to the full GDP benefits estimated above.

This information will also highlight any pay inequalities. Employers will therefore be able to more effectively manage risk by preventing equal pay breaches from occurring.

Furthermore, the IFF research found that 54% said reporting externally had been positive for the organisation.

Respondents to both the IES survey and the EHRC consultation strongly supported the inclusion of narrative in reporting on the differences between men’s and women’s pay. Views on the importance and possible components of the narrative varied but the majority considered that it should comprise a mix of qualitative and quantitative information.

The benefits of accompanying the metrics with a narrative can therefore be considered as a continuation of the benefits of providing metrics alone. However, supplementing the figures with narrative will also help employers to avoid presenting misleading data and provide some context for the data. It follows that this will decrease the potential exposure to increased legal action which we found was a big concern for employers.

**OPTION 2: Implement section 78 regulations requiring employers with at least 250 employees to publish:**

**(a) Breakdown by full and part time or pay grading structure.**

**(b) Breakdown with supporting narrative.**

**Employers:**

We have approached this in the same way as for Option 1.

Transitional costs - one-off familiarisation costs

We have assumed that familiarisation costs will be the same as for option 1.

Transitional costs - one-off Implementation costs

Conducting analysis of broken down data, for example, by full time and part time, or grading structure, and the publication of that information may involve a one-off cost for employers who have not conducted gender pay analysis in the past. It may also incur costs for those who will be required to conduct analysis in a different way. Those employers may need to implement new processes such as collating relevant data for the different metrics or installing specialist software. There may also be one-off costs for employers who currently conduct some relevant analysis but do not currently publish the results.

We are aware that some employers already conduct analysis using a combination of these broken down datasets and also other datasets, such as starting salaries and ethnicity analysis. Whilst this approach can be considered as best practice examples for addressing wider inequalities, we are not currently seeking to require such detailed analysis within the scope of the new regulations. We have not monetised the cost of employers using a combination of datasets as we will be considering this further during consultation.

This Impact Assessment therefore considers analysis of datasets for full and part time and grade separately.

The 2014 IFF survey, the follow up telephone calls to 11 of those employers and also the TAR employers who have published their gender pay gap, indicated that employers prefer to carry out gender pay analysis in-house.

The IFF survey indicated that, of the 41% of employers that currently analyse pay data, they may each collect data of various levels of detail and may therefore face different additional costs depending on what the section 78 regulations require.

From our discussions, we have learned that management information systems will already collect relevant data and also distinguish between full time and part time.

If the regulations require break down by full time and part time, we have assumed there will be no additional costs for adapting or installing systems.

We have been told that some employers do not have clearly defined pay grade structures. In response to the IFF survey, of the six in ten employers (61%) that report some of this gender information internally, 25% reported on a breakdown of pay gap data by job role or pay grade.

If the regulations require break down by grading structure, we have made the assumption that 25% of employers, will therefore have appropriate systems in place to conduct analysis on this type of break down. These employers will not face the burden of implementing new processes because they have already carried this out in the past.

As discussed, costs would vary depending on the nature of the breakdown. We envisage that breakdown by grading structure would be the most challenging for ensuring consistency in reporting across employers. This is because employers tell us that structures vary, that structures could be manipulated to present more favourable results, and some employers have no clearly defined grading structure in place. However, consistency may not matter as much if employers operate different grading structures as it may be more useful for each employer to see how the gender pay gap varies at each grade level. There is some indication from the follow up telephone calls that employers with no clearly defined grading structure may seek advice from external consultants on installing new reporting software such as specialist spreadsheets to help with job evaluation for setting out salary banding and job specifications. The cost of consultancy, including these spreadsheets were estimated at £2000. The consultancy fee was only quoted by a couple of employers from the follow-up phone calls. This fee may not be necessary for all employers and may vary greatly depending on the software systems employers choose to install and we will research this further for further Impact Assessments.

As with Option 1, we assume that each employer will have to provide some training for their staff in calculating and understanding the drivers behind the break downs. As we had no evidence on the time this could take, further to discussions with the HR department within the Department for Culture Media and Sport we have estimated it would also take one member of HR personnel 1 hour. We will therefore make the assumption that it will take one hour to train staff but we acknowledge that this is a weak assumption and therefore will be having further discussions with employers to gather more evidence on this. For this option, as the training cost is such a small proportion of the overall implementation cost (due to there being a cost of consultancy), it will have a negligible impact on the net cost to business per year and net present value. For that reason, we have not analysed the impact on halving and doubling the training time like we have with option 1.

**Breaking down by full/part-time:**

Cost per employer = cost of training

= Hours taken X hourly rate

= 1 X £30.75 = £30.75

The total cost of implementation is therefore:

Cost per employer X number of employers = total cost

£30.75 X 7,855 = £241,501.98

**Breaking down by pay grading structure:**

Cost per employer = cost of training + consultancy fee

= Hours taken X hourly rate + consultancy fee

= (1 X £30.75) + £2000

= £2030.75

The total cost of implementation is therefore:

Cost per employer X number of employers X percentage of employers affected = total cost

£2030.75 X 7,855 X 0.75 = £11,963,626.48

We predict that the best estimate (in summary sheet) at this stage will be the cost of breaking down the data by grading structure with narrative, as from our discussions with employers, this breakdown has been the most helpful in explaining their gender pay gap. To produce a narrative, we anticipate that employers will also look at the proportion of females across grading structures which will be a contributor to their overall gender pay gap (from our discussions, we expect there to be a higher concentration of females in lower paid positions and grades).

Annually Recurring Costs

We found from the telephone interviews with employers that once appropriate systems are configured, it appeared that a report could take from a few hours to a week to produce. Most of the responses about time spent were ‘guesses’ and was not well informed. We assume, using the discussions as a basis, that those employers that quoted a week referred to the time period it took and only spent a few hours during the week on calculations. There is also the limitation as some employers may have included the cost of publication in this time estimate as well. Based on our findings from the interviews and discrediting some of the estimates that we felt weren’t very well informed, we assume it will take 3 hours to re-calculate the breakdowns.

As previously discussed, management information systems will already collect relevant data and also distinguish between full time and part time. If they can also produce data relating to grading structures, the only annual recurring costs will relate to making calculations and publication.

Given the nature of the information required under this option, the time spent making calculations will be greater than in Option 1.

As with Option 1, we know that 41% of employers have conducted some form of gender pay analysis but have insufficient evidence to indicate the proportion that do this annually. We have therefore, again, not included this in monetised annual recurring costs. However, it is important to note that this means the monetised could be considered an overestimate (the scale of which we are uncertain) as it assumes these costs be additional for all employers affected. For those that do already conduct this analysis annually, only costs relating to publication will be additional annual costs.

Using our existing knowledge base of clearance processes involved in publication combined with our discussions, we have assumed that the clearance process and resource involved for publication will be the same as with Option 1. Additionally, we consider that the greater granularity of the data, and greater volumes of information being published will likely require more time than estimated for Option 1. For publication of a breakdown with no narrative, we have therefore assumed that the lead person on this activity, an HR manager, will spend 6 hours on producing what is needed for publication of a single pay gap figure and 8 hours with a supporting narrative. We have assumed without a breakdown, it will take up 3 hours of a Chief Executive’s time and 3 hours of a lawyer’s time and the time taken for all involved will need to be doubled to produce and agree narrative content and wording.

As before, these assumptions have limitations as this evidence is based on a very small sample of employers. We will seek to improve this as part of the consultation.

As with Option 1, we know that 41% of employers have conducted some form of gender pay analysis but have insufficient evidence to indicate the proportion that do this annually. We have therefore not included this in monetised annual recurring costs but it is important to note that this means the monetised could be considered an overestimate (the scale of which we are uncertain) as it assumes these costs be additional for all employers affected. For those that do already conduct this analysis annually, only costs relating to publication will be additional annual costs.

**Breakdown of data**:

Cost per employer:

(cost of re-calculating annual figure) + (cost of publishing)

= (cost of HR manager) + (cost of legal professional) + (cost of CEO)

= (hours taken by HR manager X hourly pay) + (hours taken by CEO X hourly pay of) + (hours taken by legal professional X hourly pay)

= (**9** X £30.75) + (**3** X £30.03) + (**3** X 49.83) = £516.28

The total annual recurring cost is therefore:

Cost per employer X number of employers= total cost

£516.28 X 7,855 = £4,055,395.11

**Breakdown of data with supporting narrative**:

Cost per employer:

= (**11** X £30.75) + (**6** X £30.03) + (**6** X 49.83) = £817.35

The total annual recurring cost is therefore:

Cost per employer X number of employers = total cost

£817.35 X 7,855 = £6,420,276.40

For the same reason as set out under Option 1, we assume the best estimate will be breakdown of data with supporting narrative.

**Non-Monetised Costs**

As with Option 1, employers’ concerns about the potential exposure to increased legal action will still be relevant under this option. We continue to assume that employers will seek legal advice on risks prior to publication of results and this cost has been absorbed as part of the publication costs.

Costs of Enforcement

As with Option 1, the framework enables provision for employers who do not comply with the publication requirements to face civil enforcement procedures or be liable for a criminal offence, punishable by a fine.

As part of the consultation we will be exploring enforcement options further with the Equality and Human Rights Commission and seeking views on what would be considered proportionate to ensure compliance.

On the current assumption that the EHRC will be best placed to monitor and take the lead role in enforcing compliance with these regulations, any additional cost incurred would be on the public sector which we will be able to assess following the consultation.

**Benefits**

As with Option 1, we expect the same benefits will be realised but the increased information available for employees/those looking for work will enable them to make even better informed choices.

Supplementing the breakdown with a narrative provides the same benefits as discussed for option 1.

**PROPORTIONALITY**

We have estimated a £3m net cost to business per year. At this stage, a limited evidence base for monetising costs and benefits is available. In order to gain a better understanding of the costs businesses face, we contacted and interviewed five employers who signed up to the *Think, Act, Report* initiative and 10 employers previously sampled in the 2014 IFF survey to ask questions that assisted in monetising these costs. Assumptions derived from that evidence have been used to calculate costs in this Impact Assessment.

However, there are some limitations to this approach as the evidence is not a good representation of the full range of 7,855 employers that fall in scope. These employers will already have a more forward looking approach to the gender pay gap than the average employer. During the consultation period we will be asking employers to predict the cost of analysing and publishing their gender pay gap. It is expected that this will assist in creating a firmer evidence base and enable us to provide a more robust cost benefit analysis for the final stage Impact Assessment.

**RISKS AND ASSUMPTIONS**

Assumptions

Assumptions have been made with regard to:

* How long it would take employers to familiarise themselves with their legal obligations;
* How long it would take employers to train staff
* How long it would take organisations to re-calculate figures annually
* How long the clearance and publication will take and who will be involved
* Haven’t accounted for any cost of actually publishing
* That publishing will take place annually
* For option 1 - that only 59% employers who do not analyse gender pay currently will need to spend time training staff
* For option 2 - that the cost on consulting on and installing new software for breakdown by grade structure is £2000 and only 75% will face implementation costs under the option to breakdown by pay grade/structure

Risks

The IFF survey results indicate that organisations with 1,000+ employees were the most likely to analyse gender pay data (45%) so there may be a higher burden on those organisations with less than a 1000 employees. The survey also found that those in the finance and business services sector were more likely than average to conduct this analysis (47%), while those within distribution, hotels, and restaurants were the least likely (35%) so burden to business may be shared differently across different sectors.

Estimated staff training/clearance for employers could vary greatly as we have assumed that staff will spend some of this time understanding the background behind gender pay. Employers taking a minimalist approach could potentially just spend training time learning how to extract and calculate the data whilst others may spend this time doing this whilst additionally comparing how they are doing against the national average, what are the main factors contributing to their gender pay, how they are doing against their competitors etc.

Those employers with large and complex structures may use a number of HR team members, for example, within each business area or region to be involved in analysis activity. However, given the difficulty with ascertaining all the possible variations of how this may work in practice, we have monetised training costs and annual recurring costs based on one member of HR personnel. This may therefore be an underestimate of costs to employers.

We have based our assumption on the clearance process only from discussion with a few large employers who have quite a forward looking approach to the gender pay gap. Some employers may take less time for producing and discussing what is published, particularly in the case of a narrative as this depends on the length and detail employers choose, and may take a minimalist approach to just meet the legislation requirements. Furthermore, there may be occupational differences in how employers approach this and those employers in male-dominated industries may feel that the gender pay gap publication will have very minimal impact on their public image within that industry and therefore won’t believe a reduced gender pay gap will necessarily give them a competitive advantage.

Furthermore, the time taken to re-calculate annual figures can vary depending on the systems employers choose to install.

Cost: The consultancy fee was only quoted by a couple of employers from the follow-up phone calls. This fee may not be necessary for all employers and may vary greatly depending on the software systems employers choose to install. As mentioned before, Section 78 will only apply to great Britain. The figures for costs in this IA are based on the number of businesses and voluntary organisations in the UK. Costs will therefore be slight overestimates due to the inclusion in costings of organisations in Northern Ireland which will not be affected by the legislation.

We are aware of free software available for employers in EU countries that conducts a gender pay analysis for that employer and produces a detailed report which includes a range of breakdowns by different variables. The equal pacE web tool enables companies to check if a gender pay gap exists, identify its potential size and find the causes. The web tool uses a gender variable, the number of standardised years in education, the tenure, the (potential) employment experience, the job complexity and the management level. Users receive information on the proportion of the gender pay gap accounted for by each of these characteristics. Several calculations allow the presentation of comprehensive gender-related data on the link between earnings and employees' characteristics. By using the equal pacE web tool, companies get information not only on their pay structures, but also on other relevant issues of human resource management. This software was launched in March 2015 and therefore we have very little evidence of its effectiveness to date. There is therefore the possibility that we have overestimated the costs of gender pay analysis which may be reduced if employers choose to use this software. However, we do note that this software appears to require different information, such as educational attainment which may be more challenging for employers to collect and that we consider might not be necessary for the gender pay analysis these regulations are likely to require. We will consider the use of this software further during consultation.

**WIDER IMPACTS**

Domestic competition

Employers with fewer than 250 employees may gain a competitive advantage due to not facing the extra costs of GPG analysis. Those who just meet the 250 employee mark, may face a higher cost burden than larger employers. This could potentially lead to an indirect effect where *relatively* smaller employers try to keep their number of employees below 250 and overwork their current employees.

Employers who are on the cusp of 250 employees will face an extra cost of calculating annually whether they fall in scope of the legislation.

International competition

UK employers may be at a competitive disadvantage internationally compared to employers in other countries who do not face the extra costs of GPG analysis. There are equal pay reporting requirements in other countries in the EU such as Germany and Austria. The effect on UK employers will be dependent on the size of the extra cost, the costs other countries who have reporting requirements face and will vary across markets for different goods and services.

**SMALL AND MICRO BUSINESS ASSESSMENT**

There will be no effect on these businesses as the legislation will only affect those businesses with a minimum of 250 employees. 5,308,640 number of businesses are not affected by this legislation.

1. The Times: July 14 2015 ‘Women’s raw deal on pay has to end now’ [↑](#footnote-ref-1)
2. Secondary Analysis of the Gender Pay Gap, March 2014 https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/295833/Analysis\_of\_the\_Gender\_Pay\_Gap.pdf [↑](#footnote-ref-2)
3. http://webarchive.nationalarchives.gov.uk/20100505211508/http:/www.equalities.gov.uk/pdf/GPAYGAP\_gpg\_summary\_FINAL.pdf [↑](#footnote-ref-3)
4. <https://www.gov.uk/government/statistics/business-population-estimates-2014> [↑](#footnote-ref-4)
5. This is due to lack of granularity in data to show number of businesses broken down by sector and country [↑](#footnote-ref-5)
6. Discussion of the factors that may cause the gender pay gap are included in the background section above [↑](#footnote-ref-6)
7. http://www.raeng.org.uk/publications/other/the-business-case-for-equality-and-diversity [↑](#footnote-ref-7)
8. <http://www.oecd.org/gov/regulatory-policy/34227698.pdf> page 19 [↑](#footnote-ref-8)
9. Gender equality, economic growth and employment, Åsa Löfström, Department of Economics, Umeå University, 2009 [↑](#footnote-ref-9)
10. *ASHE 2014 Table 6, ONS, November 2014 Lifetime-equivalent earnings are calculated from median gross annual full-time earnings at each year of age from 18-59 using 2014 data disaggregated by age group* [↑](#footnote-ref-10)