Employment

Gender pay gap reporting

The Business, Energy and Industrial Strategy (BEIS) Committee has published a report on gender pay gap reporting as part of its ongoing inquiry into aspects of executive pay and the gender pay gap in the private sector. Currently, private sector employers with more than 250 employees have to publish details of the differences in pay between male and female employees. BEIS's report recommends extending reporting obligations to companies with 50 or more employees from 2020.

The current drive to make the workplace more female friendly through public and political pressure is apparent. Recently, the Women and Equalities Committee published a report calling for sexual harassment to be put at the top of the agenda. This, in addition with the continuing public pressure of the interminable #MeToo Campaign, makes extending gender pay gap reporting the next viable step in the quest for equality. Moreover, as the obligation is already bound upon employers with more than 250 staff, extending it to smaller companies is likely to be unopposed as the lobbyists representing the bigger companies have no incentive in opposing provisions which already bound them. However, even though this change is likely to occur, it is not going to take place for at least another 18 months giving companies time to prepare and avoid a last minute scramble to comply. Moreover, an early audit can allow a company to alleviate any negative press that may come from a late kneejerk reaction or complete failure to act.

Companies who have a large gender pay gap are being exposed and discredited in the press. Ryanair, JP Morgan and Sports Direct in addition to almost all big commercial banks and law firms are being dragged through the mud. No investigation into whether or not there is a justified reason why men may be being paid more in these specific industries is being undertaken with the persistent message being that any pay gap at all is unjust and an indication of discriminatory employment practices. Moreover, the government website, in addition to many media generated search engines, can be used to instantly unveil a specific company's gender pay gap. Therefore, your company does not need to be specifically mentioned for you to be subjected to negative criticism. A reporter, customer, supplier, employee or job applicant can find out what your company's gender pay gap is and pre-judge your company's practices.

With this in mind, if an early audit exposes such a pay gap, employers may be able to adjust employee salaries slowly throughout the next 18 months to alleviate any glaring pay disparity and significantly reduce any gap. Alternatively, companies who leave compliance until the last minute and then notice a large gap between men and women will have to either (i) face shaming online and in the media, or (ii) make significant salary increases to women across the organisation to lessen the gap.

Neither of these options is favourable. But, the company that fails to act and then makes instant salary increases for women, could face the additional threat of litigation even if they agree to raise women's pay. This is because an immediate pay rise may cause a female employ to question why they have had this so instantly and without explanation. The obvious reason is that the company is doing it to address the pay gap but this will display to a female employee that this probably should have been done a long time ago. Therefore, they may have been underpaid, compared to their male colleagues doing similar work, causing many women to consider a backdated claim for equal pay.

Consequently, a pro-active employer would look to audit their employee pay sooner rather than later and, if it is clear that a gender pay gap exists, consider taking action to address this issue and minimise any negative impact.

If you would like advice on gender pay gap reporting, please contact our employment team.

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