

## CMI spotlight on closing the gender pay gap

5<sup>th</sup> November 2015



Partner **Pulina Whitaker** and associate **Lee Harding** in the labour and employment group at global law firm Morgan Lewis explore a recent CMI survey on discrepancies in pay between genders and the implications of the proposed legislation for employers to disclose equal pay audits

Ensuring equal pay for work of equal value to men and women has been the law since the Equal Pay Act 1970. So why has closing the pay gap between men and women proved so difficult?

It cannot be denied that there has been some progress. In a recent survey by the CMI it was reported that the pay gap between men and women of all ages in professional managerial roles has been narrowed from 23% in 2014 to 22% in 2015. As the CMI indicates, this difference amounts to a female manager working for nearly two hours for free each day. The pay gap, however, increases as women get older and there are still too few women in the most senior roles of FTSE 100 companies.

So what can be done? The government is currently consulting on proposed new legislation to require all employers with 250 or more employees to publish equal pay audits relating to their workforce. The consultation, which closed on 6 September 2015, asks what level of gender pay gap information should be required, how frequently it should be published and how long businesses should be given to prepare for the new changes. The proposal is that the new legislation will be made in 2016 but will come into force later so as to give businesses time to prepare for its implementation.

One concern employers are likely to have about greater pay transparency is that the publication of crude averages is likely to be misleading or confusing. Businesses will therefore need to get better at collecting and reporting on management information relating to any pay differences between men and women. This is likely to require changes to administrative process and IT systems and may be expensive and time consuming. Publishing contextual information alongside gender pay information to clear up any misleading

impression is likely to become an important piece of an employer's public relations strategy.

## **Risks**

The business risks of an employer having to undertake and disclose the results of an equal pay audit could be significant. There is the risk of litigation, the investment of management time and cost to an employer's business, as well as possible reputational damage depending on the results published and where a business ranks alongside its competitors. The results are likely to form a key part of disclosure requirements in a tribunal claim for equal pay or gender discrimination. Employers concerned about the equality of their pay systems might want to carry out an internal audit early on so they can take remedial steps prior to being required by law to put their gender pay equality information into the public domain.

Such data should not be viewed as a means to an end but a tool in eliminating the equal pay gap. The CMI recommends, for example, that employers should use it to assess the talent pipeline and whether there are institutional barriers stopping women from reaching senior roles. They also recommend reviewing starting salaries and note that men often negotiate higher salaries. Crucially, the data should be tracked from one year to the next and targets should be set so as to drive forward change.

As with any data reporting requirement, there is always the risk that there will be a difference in the quality of the reporting from one employer to the next. Employers might be tempted to manipulate the results or, perhaps more likely, simply get things wrong. It is not clear how the government will address this problem but employers are bound to be concerned about the risk to their reputations when their results are published next to those of their competitors.

Gender pay reporting is unlikely to eliminate the gap on its own. The underlying root cause goes beyond conscious or unconscious bias in pay practices and lies partly with gender and cultural stereotypes for men and women. However, better transparency should lead to greater understanding of pay differences and this may, in turn, lead to better solutions to improve equality.

The article was first published in Payroll World.

The original version can be found [here](#)