



Business Services Association
130 Fleet Street,
London.
EC4A 2BH

BSA - The Business Services Association

Response to the Closing the Gender Pay Gap Consultation

September 2015

The BSA is pleased to have the opportunity to respond to this consultation from the Government Equalities Office on closing the gender pay gap and ensuring that women achieve their full potential in the UK.

The BSA - the Business Services Association - is a policy and research organisation. It brings together all those who are interested in delivering efficient, flexible and cost-effective service and infrastructure projects across the private and public sectors. The business services sector accounts for over 9.3 per cent of economy-wide gross value added to the economy with an annual turnover of around £263 billion, and employs 3.3 million people, or 10 per cent of the UK workforce.¹

The BSA supports the government's aim to close the gender pay gap and to ensure opportunities for women are equal to those for men in workplaces across the country. Many BSA members are signed up to the government's Think, Act, Report framework for promoting workplace equality and have existing initiatives to support and encourage women within their organisations. The proposals to require large companies to publish the difference between the average pay of male and female employees are a step towards greater transparency on gender pay and will increase scrutiny of gender equality issues in the workplace.

However, the gender pay gap remains a complex and multifaceted issue and many factors influence the gap in average pay. For example, part-time roles, workforce structure, regional pay variations and concentration in certain sectors all affect the pay gap, as do wider societal factors including women leaving work to have children, prospects for women returning to work, and the way in which the burden of elderly care often falls upon women. In 2014, the Office of National Statistics found that the gender pay gap for all employees, both full and part-time, was 19.1%, however for full-time workers, the figure fell to 9.4%.² There is also evidence that there is a higher concentration of women in low-wage sectors with stereotypes about men and women's roles affecting workers' choices from a young age. These factors and others influence the way in which women enter the workforce, progress throughout their careers, and the salaries they receive. To close the gender pay gap, the focus must be wider than simply looking at companies' average pay differentials. Education, regulation on parental leave, and flexible working models will all play a role in tackling the gap, and to effect change the government must continue to address the gender pay gap on multiple fronts.

BSA members employ a wide range of workers across a variety of sectors. For example in facilities management, entry-level cleaning jobs are often filled by female staff, while in construction and infrastructure roles, the industry remains male dominated. These factors affect the gender pay gap

¹ Oxford Economics - The UK market for business services, The national, regional and constituency picture in 2013 – January 2015

² Office of National Statistics - Statistical bulletin: Annual Survey of Hours and Earnings, 2014 Provisional Results – November 2014

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and without explanation and context create a misleading picture which can discourage women in the workplace and unfairly impact businesses' reputations. The government therefore needs to allow flexibility within the reporting system to enable companies to analyse and publish data that is meaningful to them: data which can inform internal policies, offer useful comparisons, and lead to actionable insights.

We have structured our response to look at the most relevant questions raised in the consultation.

Q3. Employees or other interested parties (e.g. shareholders) may want to gauge how an employer's gender pay gap compares with similar organisations. How important do you think comparability is?

Gender pay gap information should be comparable within sectors to allow useful analysis. The figures of the gender pay gap for full-time workers and part-time workers are calculated by an agreed formula which allows direct comparison and additionally, as more data is published, trends in companies' data will allow greater long-term comparison.

Q4. Do you think the regulations should specify where the employer publishes their gender pay information - for example, a prominent place on their public website?

Gender pay information should be publicly available but businesses should have the choice as to where it is published, whether that be on their website, in their annual report, in a press release, or elsewhere. This will allow companies to publish information in a manner appropriate to them and in the context in which it was gathered and reported.

Q5. Which of the following measures showing the differences in the pay of male and female employees are you currently able to calculate from existing data and systems?

Producing the gender pay gap for full-time and part-time workers is possible from many employers' systems and data, however the initial cost of collating such information will be in employee hours spent and, for large and complex organisations, may be significant. The government has pledged to reduce regulatory burdens, particularly on small firms, and therefore this new obligation needs to be considered in the light of what is fair and appropriate to business.

Q6. Do you think that any additional narrative information published by employers should be:

- (a) Voluntary and not set out within the regulations or non-statutory guidance.
- (b) Voluntary, not set out in regulations, but set out in non-statutory guidance.
- (c) Set out within the regulations.
- (d) Other, please specify.

Additional narrative information published by employers should be voluntary, not set out in regulations, but set out in non-statutory guidance to assist companies as to what the scope and depth of published information might be. It is important for businesses to have flexibility over additional information and contextual narrative published so the information can best reflect their own business structure and to reduce unnecessary burdensome regulation. Non-statutory

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guidance will also aid comparability of data while allowing businesses to determine what information is reasonable to calculate and useful to inform policies.

Q7. How often do you think employers should report gender pay gap information?

- (a) Every year.
- (b) Every 2 years.
- (c) Every 3 years.
- (d) Other.

It is important for gender pay gap information to reflect the workforce as it changes, however the burden on businesses should be considered when creating new regulation. For gender pay information to be meaningful, companies may need to produce additional narratives and analysis, further adding to the costs, and making reporting difficult over short time scales.

Q8. If you are an employer, what is your assessment of the costs of conducting gender pay analysis and publishing relevant information?

Calculating and publishing gender pay gap information may have a significant cost impact on organisations with a large number of employees. Additionally, the publication of gender pay gap information may include further data to illustrate how this breaks down in the context of their business. Breaking down figures by grade or job type would enable like-for-like comparison of gender pay in broadly similar roles, however this would require significant additional resource and investment and may be especially challenging for companies without a set pay structure, or in businesses with separate departments and acquired subsidiaries.

In the business services sector, many companies work across a range of industries, such as facilities management and care, or business process outsourcing and ICT. Comparing the pay of different workers in different sectors is often impossible to do fairly, but breaking down comparisons by sector adds an extra layer of complexity and cost. Furthermore, for those in the business services sector, there may be additional challenges following the transfer of employees via TUPE regulations where workers' rights and terms are protected and carried over to the new employer.

The costs of conducting gender pay analysis are therefore complex and government legislation should recognise and reflect the need for flexibility over prescription so that companies are able to provide meaningful information without incurring unreasonable costs.

Q10. Private and voluntary sector employers in Great Britain with at least 250 employees may fall within the scope of the proposed regulations. Do you think this threshold is appropriate?

In order to ensure the burden of new regulation does not negatively impact smaller businesses, the initial threshold of 250 employees is appropriate in line with current government definitions of large businesses. As in the auto-enrolment rollout, implementation could be phased from larger to smaller businesses to allow more time for the smaller companies involved to adapt to the legislation. Following implementation, this figure could be reviewed to explore the impact

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of the regulations on business and the feasibility of extending measures on gender pay transparency to smaller companies to aid greater gender pay awareness.

Q11. The cut off period for any calculation of the gender pay gap will need to be specified in the regulations. Which of the following do you consider preferable:

- (a) 1 January.
- (b) 6 April.
- (c) 1 October.
- (d) The year-end date for each business.
- (e) No preference.
- (f) Other (please specify, including reason).

Businesses should be able to calculate the gender pay gap to the year-end date for their business to ensure data aligns with their annual report and other published information.

Q12. The Government is considering a number of actions to help support employers implement the proposed regulations. How helpful do you think the following measures would be?

- (a) Helping employers to understand the new regulations (e.g. through workshops or seminars).
- (b) Helping employers to calculate their organisation's gender pay gap (e.g. through access to software).
- (c) Helping employers with other types of supporting analysis (e.g. analysis of representation of women at different levels within the workforce).
- (d) Helping employers to address the issues identified by a pay gap analysis.
- (e) Other, please specify.

Employers would appreciate workshops or seminars from government on publishing gender pay information and on calculating gender pay information. Strategies for addressing issues identified by a pay gap analysis would also be welcome as businesses create policies and action plans based on new information

Q13. Do you think there are alternative ways to increase transparency on gender pay that would limit the cost for employers, for example reporting to the Government via the existing PAYE system?

The PAYE system as it stands would limit any additional narrative which would be vital in the publication of gender pay gap information. The BSA welcomes any measures that reduce the burden of reporting, however, unless the PAYE system can be reasonably adapted, the publishing of gender pay gap information may be simplest through other channels.

Q14. Do you think that introducing civil enforcement procedures would help ensure compliance with the proposed regulations?

Any civil enforcement procedures to ensure compliance with the proposed regulations must be fair and not increase the burden of regulation upon businesses disproportionately. Therefore

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regulation must reflect the initial difficulty of introducing processes to calculate and publish the gender pay gap, and give due consideration to the burden on businesses that new regulation will create. Civil enforcement procedures should be targeted at repeat non-compliers or those who can be proved to have wilfully misrepresented the information, rather than companies who have made honest mistakes or struggled to publish the information due to internal challenges.

Q15. What, if any, do you consider to be the risks or unintended consequences of implementing section 78?

There are risks associated with introducing regulation around the publication of gender pay gap information which the government will need to consider when forming the regulation. For example, in a business such as cleaning or catering, where lower-wage roles are disproportionately filled by women, the gender pay gap will appear large, even if at management level and above pay and the workforce are broadly equal. The publication of a gender pay gap figure which does not reflect the equal opportunities offered throughout the company may, in the extreme, have the unintended consequence of encouraging companies to even out the distribution of males and females in lower wage roles, making women less attractive applicants than men. The government must therefore give businesses the flexibility within published information to explain their gender pay gaps in a meaningful way, which may need to be specific to each company.

Additionally, there is a risk that, as part-time workers have the potential to skew a whole-workforce gender pay gap figure, businesses may wish to reduce the number of part-time female workers in favour of full-time roles. We believe that this risk can be mitigated by regulating that companies publish separate full-time worker and part-time worker gender pay gap figures to more accurately reflect any differences that may exist in their workforce.

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Appendix - List of BSA Members

Full Members:

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Berendsen plc
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Capita plc
Carillion plc
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