MIND THE GAP - GENDER PAY GAP REPORTING - A MANDATORY REQUIREMENT

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Closing the gender pay gap continues to be high on the political agenda and routinely in the media spotlight. In an attempt to ‘close the gap’ the Government is placing employers under greater scrutiny and putting in place more onerous measures on them, such as mandatory gender pay gap reporting.

The disparity at a national level between men and women’s pay is reducing but still stands at an alarming gap of 19% *. However, according to the Inquiry into Sex Discrimination in the Finance Sector compiled by the Equality and Human Rights Commission in 2009, the gender gap for full time workers stood at a huge 55% and the EHRC reported that no improvements appeared to have been made in the Sector.

HR professionals will know that gender pay reporting is not a new concept. Measures were put in place in 2010 with the introduction of the Equality Act 2010, which contains powers to make gender pay gap reporting mandatory. However, these powers were not utilised and instead a voluntary reporting approach was favoured. In 2011, the Government introduced the “Think, Act, Report” scheme, in an attempt to encourage employers to voluntarily publish gender pay information as part of a culture of transparency. This proved not to be particularly successful. Whilst over 200 employers signed up to the scheme, only a handful published information about their gender pay gap.

WHERE ARE WE NOW?

New measures are set to be enacted in Spring 2016 requiring employers with at least 250 employees to publish information about their gender pay gap within their business within 12 months, under the Small Business, Enterprise and Employment Act 2015. The precise details of these new measures have been subject to Government consultation, which was closed on 6 September 2015. We anticipate an update to be released soon, which will draw upon specific details, for example:

- the data employers will be required to publish about pay, for instance, a detailed breakdown across the employer, e.g. by grade/job or full-time/part-time roles; and
- where the information needs to be published, for example, on the employer’s website.

WHAT DOES THIS MEAN FOR THE FINANCIAL SERVICES SECTOR?

The challenges will lie in collating the data and presenting it in a statistical format, which is compliant. However, carrying out a disclosable equal pay review and publishing an adverse gender pay gap could also have a number of significant and harmful implications for employers, which include:

- reputational damage and negative publicity;
- difficulty in attracting talent (especially amongst women);
- disclosure of sensitive financial data; and
- the risk of significant liability resulting from employee claims for equal pay.

The proposed penalty for non-compliance with the new measures is a relatively meagre fine of up to £5,000. However, the associated negative publicity and employment relations risks would likely be far more damaging.

WHAT CAN BE DONE TO LIMIT THE IMPACT ON EMPLOYERS?

Identifying problem areas early will allow them to be addressed discreetly as part of any annual...
salary review process before mandatory reporting comes into force. We recommend employers, particularly in the financial services industry, take the approach adopted by some of the big four accountancy practices who have pre-empted the change in the law and reviewed and reported on their pay gaps. Employers should be proactive and consider undertaking equal pay audits now to close the gaps that cannot be legally justified. Taking a proactive approach will allow employers to be on the “front foot” and reduce legal and commercial risks before this legislation comes into force.

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* Data drawn from the ONS Annual Survey of Hours and Earnings (the Annual Survey), 2014

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