

Bird & Bird & Gender Pay Gap Calculations

The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 require employers with 250 or more employees on their "snapshot date" to report their gender pay gap statistics within 12 months of the snapshot date. The data to be published is: (A) the **mean** and **median** difference in **hourly rates of pay**, (B) the **mean** and **median** difference in **bonus pay**, both expressed as a percentage of pay, (C) the **proportion** of male and female employees who **received a bonus**, and (D) the **proportion** of male and female employees in **quartile pay bands**.

Hourly Rate Gap	$\frac{(A - B)}{A} \times 100$	<p>Mean A = mean hourly rate of pay of all male full-pay relevant employees B = mean hourly rate of pay of all female full-pay relevant employees</p> <p>Median A = median hourly rate of pay of all male full-pay relevant employees B = median hourly rate of pay of all female full-pay relevant employees</p>
Bonus Gap	$\frac{(A - B)}{A} \times 100$	<p>Mean A = mean bonus pay paid to male relevant employees during the relevant period B = mean bonus pay paid to female relevant employees during the relevant period</p> <p>Median A = median bonus pay paid to male relevant employees during the relevant period B = median bonus pay paid to female relevant employees during the relevant period</p>
Participation Gap	$\frac{A}{B} \times 100$	<p>Proportion who received bonus (separate calculations for male and female employees) A = number of male [and then] female relevant employees paid bonus pay during the relevant period B = total number of male [and then] female relevant employees</p> <p>Proportion in pay quartiles (separate calculations for male and female employees) A = number of male [and then] female full-pay relevant employees in a quartile B = total number of full-pay relevant employees in corresponding quartile</p>

Note: How to work out the hourly rate of pay:
 Calculate gross **ordinary pay** and **bonus pay** during the **relevant pay period**
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 Exclude any **ordinary pay** that would normally fall to be paid in a different pay period
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 Pro-rate **bonus pay** if necessary so it relates only to the **relevant pay period**
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 Multiply by appropriate **multiplier**
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 Divide by number of working hours in a week for that employee

Note: How to deal with quartiles...
 All employees to be listed in order from lowest hourly rate of pay to highest (using above calculation method)
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 Split the list into quartiles containing same number of employees (where possible)
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 Where employee groups on same rate of pay straddle quartiles: males and females should be apportioned in equal numbers between the quartiles

Glossary

"bonus pay" means any remuneration that: (i) is in the form of money, vouchers, securities, securities options, or interests in securities; and (ii) relates to profit sharing, productivity, performance, incentive or commission. It does not include **ordinary pay**, overtime pay or redundancy or termination payments

"full-pay relevant employee" means a relevant employee who is not, during the **relevant pay period**, being paid at reduced rate or nil because they are on leave

"multiplier" means 7 divided by the number of days in the **relevant pay period**. Note a month is treated as 30.44 days and a year as 365.25 days

"ordinary pay" means: basic pay; allowances; pay for piecework; pay for leave; and shift premium pay. It does not include overtime pay, redundancy or termination payments, remuneration in lieu of leave

or remuneration provided otherwise than in money (e.g. the value of salary sacrifice schemes or benefits in kind)

"relevant employee" means a person who is employed by the employer on the **snapshot date** ("employment" is to be given a broad interpretation)

"relevant pay period" means the pay period (being the usual frequency of payroll e.g. weekly/monthly) within which the **snapshot date** falls

"relevant period" means the period of 12 months ending with the **snapshot date**

"snapshot date" means **31 March** for public employers and **5 April** for private employers in the year to which the annual information relating to pay must be published

Notice: This guide aims to distil the statutory calculations in a user-friendly format. However, it does not constitute legal advice and nor should it be used as a substitute for taking specific legal advice.

Reporting and publishing your gender pay gap data



Publishing your data: points to note

By 4 April 2018 (and every anniversary thereafter), employers who are in scope must:

- publish their gender pay gap data and a written statement on their public website; and
- upload their gender pay gap data and the name/job title of the person who signed the written statement to a government website

The written statement confirms the accuracy of the information and must be signed by a director for a body corporate, a designated member for an LLP or a partner for a limited partnership. The gender pay gap data must be maintained online on the employer's website for a minimum of three years.

Why publish a supporting narrative?

Employers can also choose to publish a supporting narrative on their website. This presents an opportunity to put any gender pay gap into context by explaining underlying reasons for the results and provide details about actions the employer intends to take to reduce or eliminate their gender pay gap. Employers may also want to use this narrative to point out (for the benefit of their employees and potential recruits) that a gender pay gap does not necessarily mean there is inequality of pay. Questions you may want to ask yourself and to address in a narrative include (but are not limited to):

- What challenges do the results present?
- Do the results show any successes?
- What plans are in place to effect long-term change?
- Would it be helpful to provide additional data?
- Are there any employee benefits that provide relevant context but which do not fall within the scope of "pay" for the purposes of the Regulations?
- Is there any evidence of high levels of staff satisfaction in your organisation which is measured in other ways?

What happens if you do not publish a gender pay gap report?

Failure to comply with the Regulations constitutes an "unlawful act" under s34 Equality Act 2006 and the Equality and Human Rights Commission (ECHR) can take action. Formal ECHR enforcement action can include inquiries, investigations and unlawful act notices requiring an action plan to avoid recurrence of breach. Adverse PR consequences are also likely to flow from non-compliance.

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Practical tips

- Employers should be taking steps now to ensure that they are in a position to publish their first gender pay gap report on time
- Remember you will need to activate an online account to upload your data to the government website
- Consider any relevant factors when deciding when your organisation should publish: Could the organisation align their gender reporting obligation with other reporting cycles (such as annual reports)? Consider how readily accessible the relevant data is and whether there are advantages to analysing it whilst remuneration decisions are fresh in managers' minds. Are there any key employee absences which might affect your capture and analysis of the data? Are you aware of what others in your sector are doing?
- "Employment" for the purposes of the Regulations is given a broad meaning to include individuals under a contract to personally perform work. This will capture workers, apprentices and potentially some independent contractors. There is no obligation to include pay data relating to workers or independent contractors where the employer does not have such data and it is not reasonably practicable to obtain it
- Agency workers are factored into gender pay gap data for their agency rather than the organisation that uses their services
- Bear in mind relevant data protection principles when processing employees' personal data

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