



*Championing better  
work and working lives*

## **Gender Pay Gap Reporting (GPGR) enforcement policy consultation**

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Submission to the Equalities and Human Rights Commission

**Chartered Institute of Personnel and Development (CIPD)**

**February 2018**

## **Background**

The CIPD is the professional body for HR and people development. The not-for-profit organisation champions better work and working lives and has been setting the benchmark for excellence in people and organisation development for more than 100 years. It has over 145,000 members across the world, provides thought leadership through independent research on the world of work, and offers professional training and accreditation for those working in HR and learning and development.

Our membership base is wide, with 60% of our members working in private sector services and manufacturing, 33% working in the public sector and 7% in the not-for-profit sector. In addition, 76% of the FTSE 100 companies have CIPD members at director level.

Public policy at the CIPD draws on our extensive research and thought leadership, practical advice and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers, to improve best practice in the workplace, to promote high standards of work and to represent the interests of our members at the highest level.

## **Introduction**

The CIPD's worldwide community of over 145,000 HR professionals has the potential to play a pivotal role in promoting the importance of balances and inclusive workforces and with our organisation purpose being to 'Champion better work and working lives' we continue to champion diversity and inclusion.

Not only will HR professionals be responsible for performing the gender pay gap data calculations, they are also able to offer unique workforce insight to understanding the causes of the gap in a particular organisation context. HR plays a critical role in developing a subsequent action plan to address the gap and therefore in driving sustainable change.

We have been supporting our membership to report on their figures, producing a practical guide on gender pay gap reporting with Sheila Wild of the Equal Pay Portal as well as other practical resources, such as webinars, events and articles. Through social media we have supported efforts to raise employer awareness of the need to report and the deadlines. We have also been working with the Government Equalities Office (GEO) to produce a toolkit for employers about the actions they can take to close the gap in their workplace.

Here we provide our views on EHRC's enforcement proposal as well as ideas of how to increase employer awareness of possible enforcement action on various kinds of non-compliance. We have not commented on every statement in the consultation survey, but added our views where appropriate. We would be happy to continue to engage with you.

## **Our response**

### ***Statement 1: The policy is clear about the enforcement action that the Commission will take***

We feel the policy is clear about the action the Commission will take. However, we are not sure that many employers know of its existence and the current document is long and some may be put off from reading all of it. We are keen to see how the Commission plans to raise employer awareness of the possible action that could be taken depending upon the various kinds of non-compliance.

Before the start of automatic workplace pension-enrolment, a range of communication methods were used to reach the target audience. We would like to see a similar approach being adopted for gender pay gap reporting to boost awareness and engagement among employers and employees.

### ***Statement 2: The policy is clear about when the enforcement action will be taken***

Building on our response to Statement 1, given the document has a lot of detail, we feel it would be helpful for employers to represent visually the timeline of possible action and ensure this is communicated clearly.

### ***Statement 3: The Commission is taking sufficient steps to encourage compliance with the GPGR***

In terms of encouraging compliance, we feel this should be a primary focus until the deadline, in line with the Commission's aim to, 'promote compliance without the need for formal enforcement action'. Essentially, the greater the number of organisations that comply by the deadline, the less need there is for subsequent enforcement action. The practical tool and resources provided by GEO could be publicised via, for example, professional bodies, regulators and the Charity Commission. We recommend that some organisations who have already reported could be asked to record a short video of their

experiences, including the importance of a narrative, a proposed action plan to close the gap over time, and any response they've had to their figures. These can be hosted on the GEO and EHRC's websites. The commission's stakeholder network could be asked to assist in reminding employers of their obligations and the deadline. In addition to what EHRC does, compliance can be encouraged through government supply chains and procurement.

We would encourage GEO and EHRC to commission research to find out where the 'sticking points' may be for organisations that contribute towards them delaying reporting, which would then help inform where and how the Commission and GEO can target their awareness campaign. For example: do some find the number crunching process difficult; is it the fear of potential legal repercussions; or is it the sign off process through the organisation pre-publication? If the latter, perhaps professional bodies representing public relations professionals or marketing professionals could be engaged to raise awareness of the reporting requirements with their members?

In addition, the learning from the behavioural sciences literature could prove useful to encourage more organisations to report by the deadlines. For example, working with the behavioural insights team, HM Revenue & Customs applied behavioural science insights to their tax letters. There was an increased positive response to letters from people who hadn't paid their tax when they told that they were one of the few people in their hometown who hadn't done so. The findings suggests people are more likely to comply if they think they think everyone else is complying.

***Statement 4: Taking enforcement action against non-compliant employers will encourage more employers to comply with the GPGR***

We agree with this statement. Without any action on non-compliance, those who have complied may feel disgruntled that they have publicly declared their figures. The effect of not taking any action could have a detrimental effect on compliance rates in year two.

***Statement 5: The Commission will prioritise enforcement action against those who do not publish any information in the first year (see page 7 of the policy). This is a reasonable approach***

Until the deadlines, it won't be clear how many organisations are non-compliant and, therefore, the scale of the challenge. Some organisations may leave it to the deadlines to do their reporting and a few may report slightly after these dates if they come up against

unexpected issues, for example, getting the data signed off internally taking longer than expected, or needing to seek help with some calculations.

It will depend very much on EHRC resource to enforce the regulations as to how much investigation is possible. Therefore, the proposed initial focus on organisations publishing data is reasonable. Checking the accuracy of data will be much more labour intensive and time consuming and so not realistic in year one. For example, we understand that some employers may have to make judgements about which members of their workforce to include in their figures and which to exclude, given the wide range of modes of atypical employment.

***Statement 6. If a staged approach to enforcement is necessary, the Commission will contact tranches of employers randomly selected from each industry. This is a reasonable approach.***

Whether this is a reasonable approach will depend on the numbers who have complied. If the rate of compliance is low, then this appears to be a reasonable approach. However, some employers that have been randomly selected may feel aggrieved that those who have not been randomly selected have escaped the process. It must be stressed that this is not the case and that they will eventually be dealt with.

***Statements 7 to 28: Timelines applied to each stage of proposed enforcement action.***

It would be useful to clarify if these deadlines are working days or not. For instance, does an employer have 14 working days to respond or 14 days (including weekends and public holidays)? Also, how should an employer respond? For instance, will there be a phone hotline, will the process be digital, or will there be a number of ways of responding? If the process is set up from scratch, how and when will it be tested prior to launch? Our question is when an employer responds, will EHRC have the resources to act on this response in a timely manner? It would be helpful to notify employers of the timelines in which they can expect a response.

**Statement 15: The policy is flexible enough to take account of the specific circumstances of individual employer**

There appear to be opportunities at different stages for employers to flag an issue and request help in reporting their data. The ways in which employers should make contact and where they can go for help need to be clearly communicated.

We suggest that it would be worthwhile making it clear to employers the relationship between EHRC and GEO, given that some will get communications from both organisations. Some may get letters from GEO reminding them about GPG reporting, but communications about non-compliance will come from the EHRC.

**CIPD**  
**February 2018**