

THE GENDER PAYGAP

BY DEIRDRE MALONE, ASSOCIATE PARTNER, HEAD OF EMPLOYMENT LAW, EY LAW IRELAND
AND JACKIE GILMORE, EY IRELAND PARTNER PEOPLE ADVISORY SERVICES

“With the “great resignation” and talent availability coming under sharper focus, it is incumbent on organisations to ensure practices are in place and visible to meet legislative requirements.”

Designed to ensure accountability and transparency, the long-awaited Gender Pay Gap Information Act 2021 (the Act) was signed into law in July and marks a major step forward in addressing gender-based pay disparity in Ireland. The finer details around the reporting obligations must be prescribed by regulations. The Minister for Children, Equality, Disability, Integration and Youth had confirmed that it is intended to have these published by the end of 2021 but they are still awaited and it is expected that they will be published soon.

According to a 2020 OECD Eurostat report¹, Ireland is ahead of the curve with an estimated gender pay gap (GPG) of 8.3%. This compares to a European Union average of 12.5%. Not to be confused with the issue of equal pay for equal work, GPG refers to the difference in the gross average hourly pay between men and women within an organisation. This information will capture whether women are equally represented at every level across a business. While the statistics show that there are far more men than women in top paid jobs in Ireland, perhaps more telling is that only a quarter of Irish companies have published a GPG policy or action plan. With the obvious events of the past 20 months, the gender pay issue may not have been a priority for Irish businesses up to now, but that will have to change rapidly under the new legislation, or the consequences could be significant and long lasting. Under the new law employers will be required to publish relevant pay differences based on gender, including any bonuses, together with a statement explaining the employer's opinion as to why there is a difference. They would also need to set out details of the measures they are taking to reduce those differences. Mirroring the UK GPG legislation, the Act will initially apply to public and private sector organisations of 250 or more employees in year one. It will then be extended to organisations of 150 plus in year two and then to those with 50 employees or more in year three.

AN OPPORTUNITY FOR ORGANISATIONS

The Act is the first step on a journey for employers to prove their social governance credentials and position themselves as an inclusive, equal opportunities workplace. Failure to comply exposes employers to court action by the Irish Human Rights and Equality Commission or by employees themselves, who may complain directly to the Workplace Relations Commission.

Of potential greater concern to employers is the adverse impact to business reputation with regard to investor/shareholder/customers and the ability to attract top talent. Leading global employers are thinking far beyond gender and moving to transparency around ethnicity, age, disability, and LGBTQ+.

“Organisations can use this as

an opportunity to put the mechanisms in place to ensure that women are being promoted and attracted into senior positions. It is an opportunity to show that appropriate supports and structures are in place to allow that to happen, including talent development programmes, formal or informal mentoring initiatives and visible senior role models, both male and female. At the same time, organisations also need to make sure that the gender pay gap is always brought to the fore when discussing reward packages,”

explains Jackie Gilmore, Partner, EY Ireland, People

TIME TO ACT

The time to act is now. “Irish organisations need to start preparing immediately to ensure that they can meet the requirements of the new legislation. They don't want to scramble when the regulations are published in the next couple of weeks and realise that they don't have the technology or software required to report, for example,” said Deirdre Malone, Associate Partner, Head of Employment, EY Law Ireland.

This means they need to engage with all stakeholders across the organisation to collect, analyse and record relevant data. In addition to ensuring that they are compliant with the new legislation, this data can also be used to assess capability, identify any potential discriminatory issues that may exist, and help with policy formulation. This a great opportunity and organisations need to use their time productively to ensure that they are prepared. The new Act marks the beginning of a long journey towards equality which will eventually go far beyond just gender pay. It is an ongoing process

and one of the main challenges facing businesses going forward will be how they engage with third parties - suppliers, clients, and employees - with equality and inclusivity issues set to be front and centre of the discussion.

With the “great resignation” and talent availability coming under sharper focus, it is incumbent on organisations to ensure practices are in place and visible to meet legislative requirements. They also need to ensure the employee experience is

unrivalled, caters to the changing needs of employees post-COVID-19, and encourages greater participation in the workforce. This includes the provision of additional job-sharing arrangements, childcare facilities, or a contribution to childcare services. It is also imperative for organisations to be clear on their narrative around any perceived and actual

gender gap, and the steps towards closing this.

Those organisations which look ahead to the future and identify those areas that may be subject to reporting - for example, gender pay gap reporting for those who return from maternity leave - will be on the front foot in retaining talent as Generation Z joins the workforce. Whilst the legal framework is key, it is the application of the Act along with other inclusive measures and the implications for business, customers, community, and employees that will ensure organisations deliver on their commitments and remain relevant.

This article was first published on EY's website on 8th December 2021. Please click [HERE](#) to read the original piece.

“ON A BROADER LEVEL, THIS POLICY NEEDS TO BE INCORPORATED INTO A COMPANY'S OVERALL TALENT MANAGEMENT STRATEGY, FROM INITIAL TALENT ACQUISITION STAGE THROUGH MANAGEMENT AND RETENTION, SO THAT ALL STAFF CAN BE ONBOARDED, SUPPORTED AND REWARDED APPROPRIATELY THROUGHOUT TO CREATE A BETTER AND MORE MEANINGFUL EMPLOYEE EXPERIENCE. THIS GOES BEYOND COMPENSATION AND REWARD AND ENSURES THAT THEY ARE GETTING THE OPPORTUNITIES THEY DESERVE,” SAID JACKIE GILMORE.

“MANY COUNTRIES HAVE ALREADY MOVED BEYOND THE GENDER PAY GAP TO ADDRESS OTHER EQUALITY AND INCLUSIVITY ISSUES, INCLUDING ETHNICITY AND ABILITY. SO, WE STILL HAVE A LOT OF WORK TO DO TO CREATE A LEVEL PLAYING FIELD FOR ALL,” - DEIRDRE MALONE

While there is still some information lacking around the legislation, here are some steps organisations can take to prepare for reporting and to get a holistic understanding of issues they may need to address.

STEP 1

ENGAGE STAKEHOLDERS

GPG reporting should be on the board or leadership agenda. Senior leaders across the organisation should also be engaged in ongoing discussions on the topic.

STEP 2

ESTABLISH A WORKING GROUP

Your working group or steering committee should comprise leadership representation from across the organisation, the relevant talent leaders, and team members with the expertise to accurately conduct the analysis. If you do not have this expertise in-house, consider engaging an external expert.

STEP 3

WHAT IS THE GENDER SPLIT?

Analyse the gender split of your employees by level. This will give an indication of how the picture may look if you can see obvious imbalances across levels.

STEP 4

ANALYSE YOUR PAYROLL DATA

Analyse total rewards (including bonuses) for all employees. While the detail is lacking, this exercise will allow you to understand whether a gap exists or roughly how big the gap may be.

STEP 5

ANALYSE YOUR TALENT DEVELOPMENT PROGRAMMES

Examine the makeup of talent development programmes. Where possible/appropriate, consider whether a dedicated development programme for high potential female employees is an option.

STEP 6

ANALYSE RECENT AND FUTURE PROMOTION CANDIDATES

Understand whether there is parity across promotions and whether your pipeline is balanced. If not, start discussions on how this should be addressed. How this is done will depend on the circumstances of each organisation and the preferred leadership approach. While some organisations will favour quotas, others will opt for alternative routes and initiatives.

STEP 7

EXAMINE YOUR RECRUITMENT PROCESSES

GPG and diversity, equity and inclusion reporting should be woven into all processes. Additionally, propensity analysis of those likely to retire, whilst leveraging data analytics or insights platforms and a forensic examination of “leavers” from the organisation, will help put mitigating actions in place and get ahead of the curve.