

7 Oct 2021

Pay fairness and pay reporting

Find out what fair pay can mean, what pay information UK employers must disclose by law and the opportunities pay narratives bring.

Introduction

To address concerns about fairness in how organisations treat their stakeholders, such as workers, customers, investors, etc, the UK has introduced various regulations. For instance, employers are required by law to treat their employees fairly in terms of people management policies and practices, including how they reward them. More recently, large UK employers are legally required to disclose pay data, such as by gender.

This factsheet covers pay fairness, including high and low pay, and equal pay for equal work. It also looks at pay reporting, outlining what information must be disclosed under UK law (CEO pay ratios and the gender pay gap) as well as ethnicity pay disclosure which might be required in future. It also discusses the benefits of publishing pay narratives, through which employers can show that they're trying to pay their workforces equitably.

Explore our stances on [low pay and financial wellbeing](#), [executive pay](#), [gender equality at work](#) and [corporate governance and transparent reporting](#) in more detail, along with actions for government and recommendations for employers.

What is pay fairness?

There are multiple perspectives on fairness at work. In pay terms, and from an organisation's perspective, we identify three types:

- The fairness of pay outcomes – how the pay budget should be distributed (distributive justice).
- The fairness of the process used in making pay decisions (procedural justice).

- The quality of the treatment people receive when procedures are implemented (interactional justice).

These forms of organisational fairness can create trust because they signal that people are respected and valued. By contrast, if people think an employer's performance management and reward approach is not fair, they might not want to join or stay with that organisation, and may lack motivation.

We explore other perspectives of fairness in our report [The changing contours of fairness](#).

HR teams have an important role to play in formally defining what 'fair' means for their employer. This, in turn, will help guide management's reward decision making (such as how much to contribute to employee pensions). Sharing this with employees will show what they can expect from the organisation and what the organisation expects from them..

Publishing a narrative to accompany pay disclosure data allows people professionals to show the fairness of reward outcomes.

Equal pay

Concerns about the unfair treatment of women in the workplace resulted in the Equal Pay Act of 1970, which outlaws any less favourable treatment between men and women in terms of pay and conditions of employment. This is now part of the Equality Act 2010 that applies in England, Scotland and Wales.

The law gives a woman the right to be paid the same as a man (and vice versa) when carrying out:

- **Like work** – two employees who are doing the same or broadly similar roles, or
- **Work rated as equivalent by analytical job evaluation study** – this could be totally different jobs which have been given the same rating as the result of an analytical job evaluation, or
- **Work of equal value** – when there are two jobs that are very different, but the employee claims that they require a similar level of skill and ability.

The right to make a claim under equal pay legislation applies to employees and to anyone with a contract to carry out any work personally.

The Equality Act 2010 also introduced legislation relating to pay secrecy clauses. Any such clauses in a contract of employment are unenforceable, and if an employee suffers any detriment from discussing their pay, this will be unlawful. It's also unlawful to prevent or restrict workers from discussing their pay, but this is just within an organisation. Employers can require employees to keep their pay confidential outside of work, such as from a competitor.

If an employer is found guilty of pay discrimination, it must carry out an equal pay audit unless an exception applies. The audit must be published on the employer's website and be left there for three years. If an employer fails to comply, a tribunal can impose a financial penalty.

The Equality and Human Rights Commission has published a range of guidance on all aspects of the Equality Act 2010, including a Code of practice on equal pay. Whilst not legally binding, it gives guidance on good practice and failure to follow it may be considered by tribunals or courts. CIPD members can find out more in our Equal pay law Q&As.

As well as gender, the law requires employers not to pay an employee less, or give them terms and conditions that put them at a disadvantage, because of their disability, race, religion, sexual orientation or another protected characteristic.

Low and high pay

It's essential to fairness to establish and understand levels of what we regard as high and low pay.

To protect the most vulnerable, the law requires employers to give workers a certain minimum rate of pay. In the UK, the National Minimum Wage applies to all workers aged 16 and over. The National Living Wage applies to those aged 25 or over, with those aged 23 and 24 eligible from April 2021.

Almost 8,000 organisations employing over 250,000 workers have signed up to the voluntary 'real' Living Wage, which is higher than the legal minimum, driven in part by considerations of fairness and financial wellbeing.

While UK law doesn't cap the amount of pay employers can provide, large employers are required to disclose the amounts they pay their senior executives and, in the banking sector, there's legislation limiting the size of bonuses in relation to salary. Executives at large firms in receipt of the Coronavirus Large Business Interruption Loan Scheme also face pay restrictions.

In our report [The view from below](#), we explored what employees really thought about their CEO's pay. [Remuneration committees](#) are under pressure to address excessive executive pay.

What is pay reporting?

Pay reporting aims to encourage employers to reward people fairly. All large UK employers are required legally to disclose certain earnings data by gender. Large, listed firms must also disclose data comparing CEO remuneration with the pay of the rest of their workforce. In addition, there are also [voluntary pay disclosure](#) initiatives.

While it's optional for private and voluntary sector employers to issue a statement explaining the reasons behind their gender pay gaps, large, listed businesses must publish a narrative explaining their CEO pay ratios. These narratives can highlight the processes being used to try to make sure pay decisions are fair, such as:

- Job evaluation to determine pay rates.
- Panels to review salary increase decisions made by line managers.
- Data to review pay outcomes, for example analysing results by both gender and ethnicity to identify unexpected patterns.

HR information systems and data analytic capabilities can be costly, but people professionals can make the case for investment based on the benefits it will bring. For instance, current and potential employees will be able to see that contribution is rewarded fairly, investors will be able to identify that the right behaviours are being rewarded appropriately, while regulators will be able to check that reward is encouraging the right kinds of performance.

Gender pay gap reporting

It's possible to have a gender pay gap and to pay men and women fairly. The gender pay gap is calculated by taking all employees in an organisation and comparing the average pay between men and women. By contrast, equal pay looks at the difference in men and women's pay for the same or similar work.

The [Equality Act 2010 \(Gender Pay Gap Information\) Regulations 2017](#) require all private and voluntary sector employers with 250 or more employees in the UK to report their gender pay gap, based on pay data captured on 5 April each year – the 'snapshot' date. The report must contain [particular data](#) and have a signed statement from a director or

someone of equivalent authority confirming its accuracy. It must be published on the organisation's website and (if applicable) in their annual report, and on the government's [government's gender pay gap reporting website](#), within a year of the snapshot date (so by 4 April).

Similar reporting requirements apply to public authorities, including government departments, the armed forces, local authorities, and schools, though their snapshot date is 31 March. Again, they must report within a year of the snapshot date.

Not filing a gender pay gap report breaches the Equality Act 2010 and could prompt enforcement action by the Equality and Human Rights Commission.

Although not obligatory, the government expects most employers to include a narrative report alongside their gender pay gap figures to give relevant context to the figures.

Because of the unprecedented uncertainty and pressures caused by the COVID-19 pandemic, the government suspended enforcement measures on gender pay gap reporting for 2019/20. However, it encouraged those that could submit to do so. Enforcement measures for the 2020/21 reporting period were [suspended by six months](#), until 5 October 2021.

Our [Gender pay gap reporting](#) guide and our advice on publishing gender pay information during the pandemic explains how to measure, report, communicate, and begin dealing with a gender pay gap. We also published [Lessons from reporting the gender pay gap](#).

Read the [CIPD's gender pay gap report](#).

CEO pay reporting

The [Companies \(Miscellaneous Reporting\) Regulations 2018](#) requires all publicly listed firms with more than 250 UK employees to publish the ratio between the total remuneration of their CEOs and the full-time equivalent remuneration of their UK employees on the 25th, 50th (median) and 75th percentile. In other words, the company ranks its UK employees from highest to lowest paid, identifies the 25th, 50th and 75th highest remuneration, then compares this with the remuneration of its CEO.

Firms have three options for calculating their pay ratios:

- **Option A:** determine the total full-time-equivalent (FTE) remuneration for all the company's UK employees for the relevant financial year; rank those individuals from low to high, based on their total remuneration; identify the people whose

remuneration places them at the 25th, 50th (median) and 75th percentile points.

- **Option B:** use existing gender pay gap report data to identify the employees at the 25th, 50th and 75th percentile.
- **Option C:** identify the employees at the 25th, 50th and 75th percentile using other existing pay data.

Firms must also publish a supporting narrative to explain:

- The reasons for any year-to-year reductions or increases in the ratios.
- Whether or not the firm believes the median ratio is consistent with the organisation's wider policies on employee pay, reward and progression.
- Which of the three options it has used to calculate the ratio, and why it chose that option.

The CEO pay ratio data and accompanying narrative must be published in the company's annual report, as part of the directors' remuneration report.

The Department of Business, Energy and Industrial Strategy (BEIS) has published [guidance on the regulations](#).

In addition, all listed firms (not just those with more than 250 people) must explain in their annual reports:

- How future share price increases could affect executive pay outcomes.
- Any discretion that the remuneration committee has exercised in respect of share price appreciation or depreciation during the relevant performance periods.

The Financial Reporting Council's [Guidance on the Strategic Report](#) covers everything companies should include in their annual reports. For more on the pay reporting requirements and guidance for listed and non-listed large firms, see our [Corporate governance factsheet](#).

Ethnicity pay reporting

The UK government launched a [consultation on ethnicity pay reporting](#) which closed in January 2019 – [read our response](#). However, since then, no decision has been taken to require large employers to report on ethnicity pay data in a similar way to gender pay data.

In July 2020, the government set up the [Commission on Race and Ethnic Disparities](#) to

review inequality in the UK, focusing on education, employment and enterprise, health, crime and policing. It published its report in March 2021 recommending that: *all employers that choose to publish their ethnicity pay figures should also publish a diagnosis and action plan to lay out the reasons for and the strategy to improve any disparities. Reported ethnicity pay data should also be disaggregated by different ethnicities to provide the best information possible to facilitate change. Account should also be taken of small sample sizes in particular regions and smaller organisations.*

To support employers undertaking this exercise, it called for the Department for Business, Energy and Industrial Strategy (BEIS) to produce guidance from which employers could draw.

Until BEIS produces advice, we have produced [guidance](#) to help employers report on pay by ethnicity. We have used this guidance in our own report disclosing pay data by ethnicity.

Read the [CIPD's ethnicity pay report](#).

Useful contacts and further reading

Contacts

[Acas – Equal pay](#)

[Acas – Gender pay gap reporting](#)

[GOV.UK – Corporate governance: new reporting regulations](#)

[GOV.UK – Gender pay gap reporting](#)

Books and reports

ARMSTRONG, M. (2019) *Armstrong's handbook of reward management practice: improving performance through reward*. 6th ed. London: Kogan Page.

HOUSE OF COMMONS LIBRARY. (2018) *The gender pay gap*. Briefing paper.

INCOMES DATA SERVICES (2017) *Equal pay*. Employment law handbook. London: Thomson Reuters.

LOW PAY COMMISSION. (2019) *The National Living Wage: beyond2020*. The Commission.

PERKINS, S.J. and JONES, S.E. (2020) *Reward management: alternatives, consequences and*

contexts. 4th ed. London: CIPD Kogan Page.

RUBENSTEIN, M. (2020) *Discrimination: a guide to the relevant case law*. 33rd ed. London: Michael Rubenstein Publishing.

THE COMMISSION ON RACE AND ETHNIC DISPARITIES. (2021) *The report of the Commission on Race and Ethnic Disparities*. 31 March.

Visit the [CIPD and Kogan Page Bookshop](#) to see all our priced publications currently in print.

Journal articles

BROWN, J. (2021) [Experts lament 'unnecessary delay' as gender pay reporting extended by six months](#). *People Management* (online). 24 February.

COTTON, C. (2019) [Pay transparency: what is driving the interest and how should people professionals respond?](#) *CIPD Voice*. Issue 21, October.

JONES, A. (2017) [Tackling the root causes of mass equal pay claims](#). *People Management* (online). 4 October.

MARGOLIS, D. and PAREKH, R. (2019) [What can businesses do to ensure equal pay?](#) *People Management* (online). 26 March.

OWEN, J. (2020) [Gender pay gap falls to record low, ONS figures show](#). *People Management* (online). 5 November.

OWEN, J. (2020) [Quarter of large firms now calculating ethnicity pay gap, research suggests](#). *People Management* (online). 10 September

THOMAS, R. (2020) [How to conduct an equal pay analysis](#). *People Management* (online). 25 February.

WILLMOTT, B. (2020) [Why ethnicity pay gap reporting has to be introduced](#). Blog. 24 June.

CIPD members can use our [online journals](#) to find articles from over 300 journal titles relevant to HR.

Members and *People Management* subscribers can see articles on the [People Management](#) website.

This factsheet was written by Charles Cotton.