

# UK Delays Deadline for Employers to Report Gender Pay Gap Data

By Leah Shepherd

April 14, 2021

**T**he U.K. government recently extended the deadline for employers to submit their data on the gender pay gap.

A regulation from the U.K.'s Equality and Human Rights Commission requires employers with at least 250 employees to publish their gender pay gap information on their own websites for at least three years. The information must be presented in a manner that's accessible to employees and the public. Employers also must upload their gender pay gap information to a government website called the Gender Pay Gap Service. Everyone can search this database by company name and employment sector.

Due to the COVID-19 pandemic, the government pushed back the reporting deadline by six months to Oct. 5. The government will not take any enforcement action before that date. It previously suspended the reporting requirements for the 2019-20 reporting year.

"We know businesses are still facing challenging times," said Kishwer Falkner, chair of the U.K.'s Equality and Human Rights Commission. "Starting our legal process in October strikes the right balance between supporting businesses and enforcing these important regulations. ... Reporting provides an opportunity for employers to demonstrate their commitment to gender equality, which will be more important than ever as the effects of the pandemic continue."

One immediate challenge for employers and HR professionals will be understanding how to account for employees who were furloughed last year during the pandemic, said Charles Wynn-Evans, an attorney with Dechert in London. Guidance issued in December addresses the proper way for employers to report on furloughed employees.

"Furloughed employees should be included when assessing whether the 250-employee threshold for triggering the gender pay gap reporting obligations is met, and they should also be included in the bonus pay calculations," said Monica Kurnatowska, an attorney with Baker McKenzie in London. "However, if the employer did not top up their furlough pay above the government grant, furloughed employees should not be included in the hourly pay calculations." For some employers, the impact of furloughs may significantly affect their data. Those employers may wish to include an accompanying explanation for the change from previous years in their report, she said.

## Consequences for Noncompliance

The law does not include an enforcement mechanism or sanctions for noncompliance.

Nonetheless, when employers violate the regulations by reporting inaccurate data or failing to report on time, the Equality and Human Rights Commission (EHRC) can investigate and order employers to take remedial action, which may be enforced by a court order if the employer does not comply. If the employer fails to comply with a court order, it may be subject to fines.

The commission will first try to resolve the issue by writing to the employer, reminding it of its obligations and asking it to publish its gender pay gap report within 28 days. "In May 2019, for example, the EHRC wrote to 47 private- and public-sector organizations who had failed to report their gender pay gap information on time," Kurnatowska said.

Beyond the legal ramifications, "there may also be a reputational risk to an employer who fails to report or does not report on time," Wynn-Evans pointed out.

"Any employer's failure to publish is likely to be noticed by existing employees, and potential recruits may be discouraged from [submitting] applications," Kurnatowska said. "In addition, the media may pick up the story, shining an unwelcome spotlight on the business and its management."

### A Lasting Impact

When countries implement a reporting requirement for the gender pay gap, the goal is usually to close the gap by calling more attention to it and tracking the metric over time.

"Shareholder and employee activism have shown how the data can be used, and clearly many believe the requirement to report pay data to be of value in achieving equity," Kurnatowska said.

When they track the metric over time, employers will find out if certain business strategies worked to shrink their gender pay gap, she said.

"The ongoing reporting obligation not only provides a useful indicator of an organization's progress in dealing with both gender representation and pay equity more generally, it also provides an opportunity for an employer to communicate its objectives and actions to its staff along with the other measures that it may be taking in this context, such as pay audits and efforts to improve diverse recruitment," Wynn-Evans said.

### Pay Gap Is Shrinking

The gender pay gap is 15.5 percent in the U.K. This number has shrunk each year since 2017, Wynn-Evans noted.

When asked about the main factors contributing to the gender pay gap, Kurnatowska cited the ratio of women and men in senior positions, the types of work commonly undertaken by men and women, how society values that work, and the impact of maternity leave and motherhood on women's careers.

"Pay equity is a hot-button issue for employers in both the U.S. and the U.K. for a number of reasons," she said. "Aside from legal developments, there are increasing employee and shareholder demands for transparency, and investor groups are pushing companies to disclose and act on gender pay data."

*Leah Shepherd is a freelance writer in Columbia, Md.*

## HR DAILY NEWSLETTER

News, trends and analysis, as well as breaking news alerts, to help HR professionals do their jobs better each business day.

**CONTACT US ([WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX](http://WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX)) | 800.283.SHRM  
(7476)**

© 2021 SHRM. All Rights Reserved

SHRM provides content as a service to its readers and members. It does not offer legal advice, and cannot guarantee the accuracy or suitability of its content for a particular purpose.

[Disclaimer \(www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer\)](http://www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer)

Feedback