

EU Pay Transparency Directive and updates to Gender Pay Gap Reporting



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Introduction

- Mandatory gender pay gap reporting in Ireland is now in its third year
 - threshold for reporting for employers with 250+ employees, reduced to 150+ employees (2024) and threshold will reduce to 50+ employees (2025)
- In scope employers must report the gender pay gap within their organisation and explain the reasons for the gender pay gap and the measures to be taken by the employer to close the gender pay gap
- The EU Directive 2021/0050 on Pay Transparency came into effect on 7 June 2023 and EU member states have three years to transpose its provisions into domestic law

Gender Pay Gap v Equal Pay



- **Gender Pay Gap** – difference in average gross hourly pay of women compared to men, such that it captures whether women are represented evenly across an organisation
- **Equal Pay** – women and men should receive equal pay for equal work



Current Gender Pay Gap Reporting Regime



- Gender Pay Gap Reporting legislation
 - The Gender Pay Gap Information Act 2021
 - Employment Equality Act 1998 (Section 20a) (Gender Pay Gap Information) Regulations 2022
 - Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2024
- ‘Snapshot Date’
- ‘Relevant pay period’ means the period of 12 months ending on the ‘Snapshot Date’
- ‘Reporting date’ “not later than 6 months after the ‘Snapshot Date’
- How should the data be reported?
- How long must the report be available?

What Information must be reported?



- The differences in male and female remuneration as follows:
 - mean and median hourly remuneration for all employees
 - mean and median hourly remuneration for part-time employees
 - mean and median hourly remuneration for temporary employees
 - mean and median bonus remuneration percentage of all employees
 - percentage of male and female employees that received a bonus
 - percentage of male and female employees that received benefits-in-kind
 - percentage of male and female employees in 4 equal quartile pay bands
- Narrative explaining the reasons for the gender pay gap and the measures to be taken by the employer to close the gender pay gap

Gender Pay Gap Action Plan

- Actions to improve the recruitment and promotion of women:
 - Ensuring multiple women are included in shortlists for recruitment and promotions
 - Using skills based assessment task in recruitment
 - Introducing transparency to promotion, pay and reward processes
 - Appointing diversity managers
 - Unconscious bias training
- Actions to support women's participation in the workplace:
 - Introduce flexible work policies for men and women
 - Introduce and encourage shared parental leave
 - Develop mentoring and sponsorship programmes

Pay Transparency Directive



- Mandatory gender pay gap reporting in all EU member states
- Reporting requirements under the Directive go further than the Irish GPG reporting requirement and require reporting of pay gaps by “**categories of workers**”
- “**Categories of workers**” refers to employees carrying out the same work or work of equal value
- Employees, their representatives, WRC and IHREC have the right to request clarifications on gender pay gap information reported and employer must respond within a reasonable time
- Management are required to verify the accuracy of the gender pay gap data reported, after consulting with employee representatives

Pay Transparency Directive *cont'd*



- Directive introduces a new obligation to conduct a **Joint Pay Assessment** (a compulsory equal pay audit) where there is:
 - at least a 5% gender pay gap in any category of workers
 - the gap has not been justified by objective and gender-neutral factors
 - the gap has not been remedied within six months of the gender pay gap report

Pay Transparency Directive *cont'd*



- The Directive requires member states to remove the strict requirement to identify a real **comparator** to bring an equal pay claim
- "**Work of equal value**" means work that is determined to be of equal value in accordance with objective, gender neutral criteria, such as skills, effort, responsibility and working conditions
- Member states will be required to make tools or methodologies available and accessible to guide the assessment of "**work of equal value**"
 - Irish Human Rights and Equality Commission (IHREC) Code of Practice on Equal Pay

Pay Transparency for Job Applicants



- Applicants are entitled to receive information about the “**initial pay or its range**”
 - *What:* based on “objective, gender-neutral **criteria**”
 - *When:* In a manner as to ensure an “informed and transparent negotiation on pay” – e.g. in the job notice or prior to interview
 - *How:* This doesn’t limit employer or employee in negotiating a salary outside the range given
- Employers not permitted to ask applicants about their **pay history**

Pay Transparency – Right to Information

- Employees (or their representatives) have right to request and receive information on individual and average pay levels, broken down by gender, for categories of workers doing the same work or work of equal value and information must be provided within two months of the request
- Criteria used to determine pay and pay progression must be made easily accessible to employees. Member States may exempt employers with less than 50 employees from making the pay progression criteria available
- Member States, will be obliged to put measures in place to prohibit contractual terms that restrict employees from disclosing information about their pay (**pay secrecy clauses**)

Pay Transparency – Redress



- Currently in Ireland, the Employment Equality Acts provide all employees with a right to bring a claim in respect of equal pay
- Where a claim is successful, the amount of back pay the WRC or the Circuit Court may award is limited
- Under the Directive, employees will be entitled to full recovery of back pay.
- The equal pay regime in Ireland is currently focused on individual enforcement through equal pay claims. However, the Directive requires Member States to set out rules on effective penalties, including fines



Getting Ahead

- The Directive introduces significant new pay transparency measures including the requirement to conduct assessments of work of equal value and in some circumstances the potentially onerous requirement to conduct joint pay assessments in cooperation with employee representatives
- Employers should start planning their compliance strategy now and assess how the Directive will impact their current recruitment, pay, progression and reporting practices and take steps to address any issues identified

Gender Pay Gap Report – An overview

Dates

- Snapshot in June, with data considered over the previous year and report due six months later.
For example, if 20 June 2024 was selected
 - Report deadline is 20 December 2024 (*the 2025 deadline may move to November*)
 - Calculations in reference to those employed on 20 June 2024
 - Remuneration period in scope is 19 June 2023 to 20 June 2024 inclusive.

Format

- publish the report on the company website, accessible to all employees and to the public
- In the absence of a website, publish in physical form, available to the employees and the public at principal place of business or registered office.
- Report should be accessible for no less than 3 years from the date of publication

Gender Pay Gap Report – An overview

Content

- The differences in male and female remuneration for the following metrics:
 - mean and median hourly remuneration for all, part-time, and temporary employees
 - mean and median bonus remuneration percentage of all employees
 - percentage of male and female employees that received a bonus and that received benefits-in-kind.
 - percentage of male and female employees in 4 equal quartile pay bands
- A narrative explaining the reasons for the differences relating to remuneration and the measures (if any) being taken, or proposed to be taken to eliminate or reduce such differences

Hourly Remuneration

$$\text{Hourly Remuneration} = \frac{\text{Ordinary Pay} + \text{Bonus Remuneration}}{\text{Total Working Hours}}$$

Ordinary Pay

- basic pay, allowances, pay for piece-work, shift premium pay, or overtime pay
- Ordinary pay does not include remuneration related to redundancy or termination or any remuneration other than money.

Bonus Remuneration

- remuneration in the form of money, vouchers or shares relating to profit sharing, productivity, performance, incentive or commission,
- Bonus remuneration does not include benefits in kind or ordinary pay

Total Working Hours

- Where hours are fixed and do not vary, the total is the number based on the employment contract.
- Where hours are not fixed or they vary:

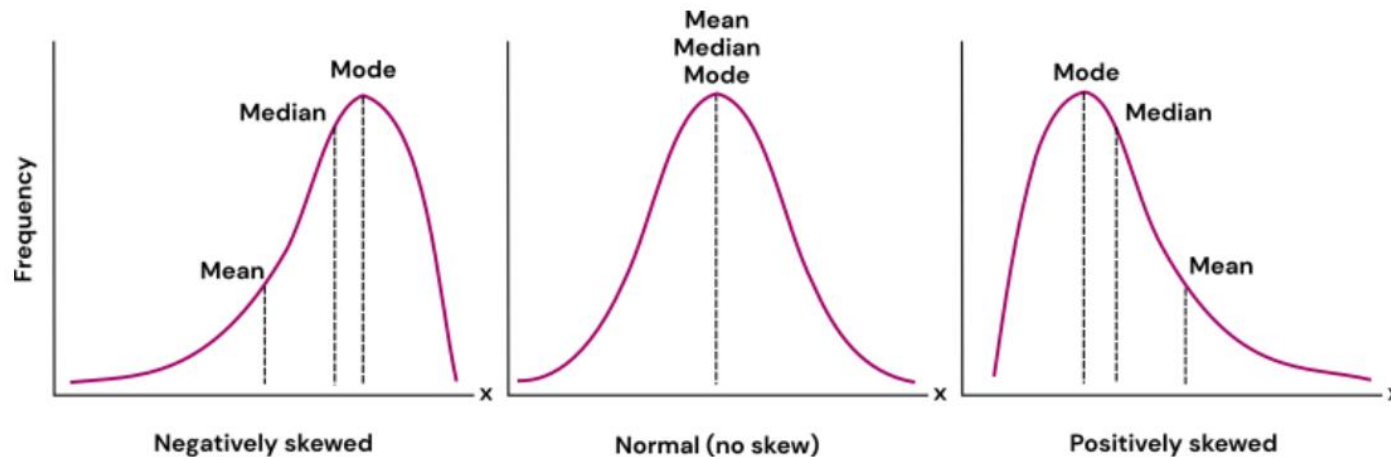
$$TWH = \frac{\text{Hours (last 12 weeks)}}{12} \times 52.18$$

Means and Medians

Mean: Or simply, the average, is found by summing all remunerations within a set and dividing by the total number of employees in that set.

Median: The median is found by ordering the group characteristics in ascending value and selecting the middle one.

*Example: We have a set of 5 employees, with the following hourly remuneration: €18, €20, €5, €7, €30
The mean is €16 and the median is €18*



Quartiles

Quartile pay bands requires ordering the relevant hourly remunerations from low to high, and dividing them into:

- lower remuneration quartile pay band,
- lower middle remuneration quartile pay band,
- upper middle remuneration quartile pay band, and
- upper remuneration quartile pay band,:

Example: We have a set of 20 employees, with the following hourly remuneration:

€18, €20, €5, €7, €30, €26, €18, €27, €35, €32, €8, €40, €32, €11, €9, €21, €39, €26, €22, €14

<i>Lower remuneration quartile:</i>	<i>€5, €7, €8, €9, €11</i>
<i>Lower middle remuneration quartile:</i>	<i>€14, €18, €18, €20, €21</i>
<i>Upper middle remuneration quartile:</i>	<i>€22, €26, €26, €27, €30</i>
<i>Upper remuneration quartile:</i>	<i>€32, €32, €35, €39, €40</i>

Metrics - Differences

$$\text{Difference in hourly remuneration} = \frac{(A - B)}{A} \times 100$$

A: mean or median remuneration of male employees.

B: mean or median remuneration of female employees.

This formula will be used for 8 required statistics in the report, namely the difference in male and female remuneration in:

- *Mean hourly remuneration for all employees*
- *Mean hourly remuneration for part-time employees*
- *Mean hourly remuneration for temporary employees*
- *Median hourly remuneration for all employees*
- *Median hourly remuneration for part-time employees*
- *Median hourly remuneration for temporary employees*
- *Mean bonus remuneration*
- *Median bonus remuneration*

Metrics - Percentages

$$\text{Percentage} = \frac{C}{D} \times 100$$

C: Number of male or female employees who received remuneration

D: Number of male or female employees

This formula will be used for 4 required statistics in the report, namely:

- *Percentage of all relevant male employees who were paid bonus remuneration*
- *Percentage of all relevant female employees who were paid bonus remuneration*
- *Percentage of all male employees who received benefits in kind*
- *Percentage of all female employees who received benefits in kind*

Metrics - Quartiles

$$\text{Percentage} = \frac{E}{F} \times 100$$

E: Number of male or female employees in the quartile

F: Total number of employees in the quartile

This formula will be used for 12 required statistics in the report, namely:

- *Percentage of relevant male employees who fall within a relevant quartile pay band*
- *Percentage of relevant female employees who fall within a relevant quartile pay band*

Questions?



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