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Gender pay gap reporting—a ‘seminal moment’ and a ‘driver for change’

LNB News 05/04/2018 113

The Business, Energy and Industrial Strategy (BEIS) Committee has called for written submissions to the gender pay gap inquiry, after the final gender pay gap figures for UK companies have been revealed, finding that, on average, 78% of firms pay men more than women. Lawyers from Charles Russell Speechlys, Lewis Silkin LLP, and Stewarts have described the reporting as a ‘seminal moment’ but warn that action against companies who fail to report by the deadline of 10 April 2018, may be ‘little beyond naming and shaming’.

BEIS seek to examine the extent of compliance of businesses with gender pay gap reporting, how effective sanctions for non-compliance are, and if the annual information related to pay required under the Equality Act 2010 is sufficient.

The statistics ‘do not tell the whole story’

Michael Burd, partner at Lewis Silkin LLP, says that gender pay gap reporting marks a seminal moment for us all: ‘It is shining a spotlight on this important issue, and will undoubtedly be a driver for change.’

‘Not surprisingly, the statistics demonstrate that there are more highly paid men than women. That is important to know but does not tell the whole story.’

Burd continues that it is vital that employers understand why their gender pay gap exists, in order to get the most out of gender pay reporting:

‘There is a danger that some employees may believe that a gender pay gap at an organisation means that men and women doing the same job are not being paid equally for equal work. It does not. A different analysis is needed to determine that.’

‘The simple fact is that there are more women in lower paying jobs than men, which is a different issue and no doubt requires different solutions.’

Joseph Lappin, solicitor at Stewarts, says: ‘A large gender pay gap does not necessarily point to an equal pay problem because the figures do not focus on differences in gender pay for comparable jobs.’

‘However, never before has the issue of gender pay been reported as extensively in the media as it has been in the last few weeks.’

‘Therefore, in a sense, the reporting regime has achieved one of its key objectives and never before have companies in the private sector invested so much time in considering the issue of gender pay.’

Nick Hurley, partner at Charles Russell Speechlys, discusses the potential impact of the findings: ‘It seems likely that this will lead more women to question whether they are being paid less than those men in their organisation doing similar work, and it is likely that this will lead to an increase in equal pay claims as women test the water.’

However, Burd notes a potential tension: ‘In some cases there will be things that employers may be able to do to improve their gender pay gap statistics which would not, in fact, be helpful to their female employees.’

‘For example, many good and responsible employers have well-developed flexible working schemes which are popular with working parents, and which by a large margin are taken up by women.’

‘Many employers could probably improve their bonus gap percentage, which compares actual bonus amounts and does not adjust for part-time working, by simply clamping down on part-time arrangements.’

‘But that would not benefit women in the workforce and it would be unfortunate if the reporting requirement drove such behaviours.’

What about companies who failed to report?

Hurley notes that there are 2000 companies now in breach of their reporting obligations: 'The figures published are relatively blunt, in that they show average pay gaps in companies without looking at specific roles, so do not give details of whether women and men are being paid the same when in the same role.'

Hurley also warns that any action that can be taken against these companies may be limited: 'In the short term it may be little beyond naming and shaming.'

'While the Equality and Human Rights Commission (EHRC) state they have powers to fine under the existing legislation, it is questionable whether the current regime actually extends this far.'

'What seems likely however is that, in the current climate, an increase to the powers of the EHRC will come if required and those that have not yet done so, should take the opportunity to get their house in order.'

Source: Press release: Companies questioned on gender pay gap after reporting deadline expires

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