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Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: JJ/00804/18

David John Rowlands AM
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6 September 2018

Dear David

Thank you for your letter of 15 August regarding the petition concerning gender pay gap reporting (P-05-836).

Our equality duties are set out in the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and came into force in April 2011. The legislation applies to all public sector employers listed in Section 19 of the Equality Act 2010. This includes, for example, local authorities, education bodies, health bodies and the Welsh Government.

We were the first government to bring in specific equality duties in order for public bodies to better perform and demonstrate their compliance with the Public Sector Equality Duty (PSED). The regulations cover equality impact assessments, publishing and reviewing Equality Objectives and Strategic Equality Plans, engagement, pay differences, procurement, reporting arrangements and equality and employment information.

Simply reporting the gender pay gap is not enough. The Welsh specific duties require appropriate action to be taken. As well as the duty to have an equality objective to address employment or pay differences, all public sector employers in Wales are required to report annually on the different distribution of men and women between grades, occupations, working patterns (full and part time) and contract types (permanent, temporary/fixed, casual), which sustain pay gaps.

Public authorities that identify a gender pay difference must either set a gender pay equality objective to address the cause or causes of the pay difference or explain publicly why they have not done so. The relevant requirements under the Welsh specific duties are set out in the Annex to this letter.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Equality and Human Rights Commission (EHRC) is the regulator of the PSED. The Commission in Wales is currently undertaking a monitoring exercise which will cover 79 public bodies in Wales and will be conducted between June and the end of September. The monitoring aims to clarify potential areas of non-compliance and examine work undertaken in specific areas, by each sector, to meet the requirements of the general PSED duty. In addition, all listed bodies will be monitored on their work in relation to the recruitment and employment of disabled people, and work undertaken to comply with the pay duty to narrow pay gaps.

Officials will continue working closely with the EHRC to consider the outcomes of the monitoring for this work, with a view to ensuring that in future reporting arrangements are robust and sufficient to ensure that the way listed bodies publish their data is transparent, user-friendly and accessible – in line with our desire to promote and encourage greater use of open data across Welsh public bodies.

Aligned with this ambition, as agreed in the National Assembly for Wales debate on Open Data in September 2017, we would want to encourage public bodies to publish data in openly accessible formats that Welsh Government can then collate and present in a single location. To do otherwise would add additional burdens on public bodies and the requirement for an expensive centralised data collection process.

This is an approach we have already begun to adopt through the work on public sector employment data in partnership with Data Cymru on behalf of local authorities, and wish to expand to cover the PSED information. See:

<https://digitalanddata.blog.gov.wales/2018/07/31/opening-up-on-our-public-sector-workforce-data/>

The need to review the Welsh PSED regulations and the reporting arrangements has also been raised, directly and indirectly, in several of the recommendations resulting from the first phase of the Gender Equality Review. The reports, produced by Chwarae Teg and the Wales Centre for Public Policy, were published on 10 July and can be accessed on the Welsh Government website (<https://gov.wales/topics/people-and-communities/equality-diversity/review-of-gender-equality/?lang=en>). We have welcomed the reports and are actively considering the recommendations. I have indicated that I expect early action to improve reporting of gender pay gaps in Wales and that this will be done in the context of strengthening the PSED regulations generally.

I have made a clear and public commitment to publish gender pay gap data in a more open, user-friendly and accessible format. It would certainly be helpful for interested parties to be able to access the information from a single location. Work is already underway to ensure this happens at the earliest possibility and I will keep Assembly Members informed of progress.

Yours sincerely



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Annex

The EHRC monitors and regulates listed public bodies in Wales. Listed bodies are those listed in Part 2 of Schedule 19 of the Act as supplemented and amended by the Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011. In practice, this is the majority of devolved public bodies. This includes local authorities.

The requirements on listed bodies are contained in the regulations and summarised in the EHRC's *EHRC's essential guide to the public sector equality duty: a guide for listed public authorities*.

This is an extract from the essential guide:

<https://www.equalityhumanrights.com/en/publication-download/essential-guide-public-sector-equality-duty-overview-listed-public-authorities>

6.5 Employment information

A listed body in Wales must collect and publish on an annual basis the number of:

- people employed by the authority on 31 March each year by protected characteristic
- men and women employed, broken down by:
 - job
 - grade (where grading system in place)
 - pay
 - contract type (including permanent and fixed term contracts)
 - working pattern (including full time, part time and other flexible working patterns)
 - people who have applied for jobs with the authority over the last year
 - employees who have applied to change position within the authority, identifying how many were successful in their application and how many were not
 - employees who have applied for training and how many succeeded in their application
 - employees who completed the training
 - employees involved in grievance procedures either as a complainant or as a person against whom a complaint was made
 - employees subject to disciplinary procedures
 - employees who have left an authority's employment.

All of the information above must be presented for each of the separate protected groups. The exception to this requirement is the data on job, grade, pay, contract type and working pattern, which must be broken down only in relation to women and men.

An authority may use its annual report to publish this employment information.

An authority cannot require any employee or applicant to provide any information in relation to their protected characteristics.

6.6 Pay Differences

A listed body in Wales must:

- when drawing up equality objectives have due regard to the need to have objectives that address the causes of any difference in pay between employees who are from any protected group and those who are not, if it appears reasonably likely that the reason for the difference is related to the fact that those employees share a protected characteristic
- make appropriate arrangements to identify and collect information about differences in pay, and the causes of any such differences, between employees who have a protected characteristic and those who do not. This information must be published as appropriate.

6.6.1 Gender pay differences

A listed body in Wales must:

- publish an equality objective in relation to addressing any **gender** pay difference identified or publish reasons why it has not done so
- publish an action plan in respect of gender pay setting out:
 - any policy it has that relates to the need to address the causes of any gender pay difference
 - any gender pay equality objective it has published (including any revisions). Where it has identified a gender pay difference amongst its staff, but has not published an equality objective to address the causes of that pay difference, the action plan must set out the reasons for not doing so
 - a statement about the steps it has taken or intends to take to fulfil its gender pay objective and how long it expects to take.