

## Petitions Committee

Y Pwyllgor Deisebau | Hydref 2018  
Petitions Committee | October 2018

### Gender pay gap reporting

Petition number: [P-05-836](#)

Petition title: Gender pay gap reporting

**Text of petition:** The *Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017* has not been applied in Wales meaning devolved public bodies have not been required to publish gender pay gap reports. We believe that bodies in receipt of public money should publish this information, according to existing guidance, to ensure transparency in public funding.

Currently, **devolved Welsh public authorities (such as health boards and local authorities) are required to collect data on gender pay gaps**, but this data is not required to be published in a specific format or to a specific location.

A [recent review of gender equality](#) in the Welsh Government found that the current requirements are “**poorly drafted, there is poor visibility of published results and monitoring has been weak**”. The review suggested that the Welsh legislation could be improved by learning from the UK Government’s reporting requirements.

The UK Government’s 2017 Regulations (to which the petition refers), only cover English public authorities and non-devolved Welsh and Scottish public authorities (like the DVLA) with more than 250 employees. They require these organisations to publish their gender pay gap data in a specific statistical format to a central [online ‘portal’](#).

#### What is the gender pay gap?

The gender pay gap is the **difference between the average salaries of men and women in a company or organisation**. It is **not the same as equal pay**, where firms are required to pay people doing the same job the same salary whether they are a man or a woman.

## What's the gender pay gap in Wales?

There isn't one single measure that deals adequately with the complex issue of gender pay differences. The most reliable indicator of the gender pay gap is the Office for National Statistics (ONS) gender pay gap measure, which is part of the [Annual Survey of Earnings and Hours \(ASHE\)](#).

The ONS calculate the gender pay gap as the **difference between average hourly earnings (excluding overtime) of men and women as a proportion of average hourly earnings (excluding overtime) of men**. For example, a 4% gender pay gap means that women earn 4% less, on average, than men. Conversely, a -4% gender pay gap means that on average women earn 4% more than men.

The 2017 figures show that the [gender pay gap](#) in Wales is:

- For **full-time employees** (which compares earnings between people that work similar hours), **men are on average paid 95p per hour more than women, which is a pay gap of 7.2%**;
- For **all employees** (which takes into account the fact that women are more likely to work part time), **men are on average paid £1.98p per hour more than women, which is a pay gap of 15.9%**;

In the UK, the pay gap for full-time employees is 9.1% (meaning that on average men earn £1.32p per hour more than women), and for all employees the pay gap is 18.4% (meaning that on average men earn £2.52p per hour more than women).

## Which employers are required to publish their gender pay gaps?

There is a complex framework of legislation that governs the publication of gender pay gaps:

- **Devolved Welsh public authorities (regardless of size) are required to 'collect and identify' pay gaps between people of all characteristics** (not just gender but also race, age, disability, etc.). The legislation also requires authorities to set out what action will be taken to address pay gaps. **This data is only required to be published 'as appropriate', and is not required to be published to a central location**, so most authorities publish it to their individual websites (see [Cardiff Council's annual equality report](#) as an example).
- **English public authorities, non-devolved Welsh and Scottish public authorities, and all English, Welsh and Scottish private and voluntary sector bodies with over 250 employees** are required to publish their gender pay gap data to the [Gender Pay Gap Portal](#).
- **Scottish public authorities with more than 20 employees** are required to publish gender pay gap data, but not to a central location.

- English, Welsh and Scottish private and voluntary sector organisations with fewer than 250 employees are not required to publish gender pay gap data at all. In Wales in 2017, [99.3% of private enterprises](#) had fewer than 250 employees.

The specific legislation, requirements and location of data is summarised in the table below:

Employer	Requirements to collect gender pay gap data	Legislation	Publication of data
Devolved Welsh public authorities	<p>Section 7 of the legislation requires devolved Welsh public authorities <b>to identify and collect information about differences in pay</b>, and the causes of any such differences, <b>between employees who have a protected characteristic and those who do not</b>.</p> <p>The duties also <b>requires authorities to publish an equality objective in relation to addressing any gender pay difference identified</b> or publish reasons why it has not done so. They also <b>require authorities to publish action plans</b> to address pay differences.</p>	Section 7 of <a href="#">The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011</a> (known as the ‘Welsh specific public sector equality duties’). These regulations are made by Welsh Ministers.	<p>The legislation states that this information must be published ‘<b>as appropriate</b>’.</p> <p>Authorities generally publish data on pay differences in annual equality reports – some authorities have also voluntarily published their data to the UK Government’s <a href="#">Gender Pay Gap Portal</a>.</p> <p>There is <b>no central location where gender pay gap data for all Welsh authorities is available</b>.</p>
English public authorities and non-devolved Welsh and Scottish public authorities <a href="#">with more than 250 employees</a>	English public authorities, and non-devolved Scottish and Welsh public authorities with more than 250 employees are required to publish gender pay gap data.	<a href="#">Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017</a> – made by UK Government Ministers.	Published to the UK Government’s <a href="#">Gender Pay Gap Portal</a> in a specific statistical format.
English, Welsh and Scottish private and voluntary sector organisations <a href="#">with more than 250 employees</a>	All private and voluntary sector organisations in England, Scotland and Wales with more than 250 employees are required to publish gender pay gap data.	<a href="#">Equality Act 2010 (Gender Pay Gap Information) Regulations 2017</a> – made by UK Government Ministers	Published to the UK Government’s <a href="#">Gender Pay Gap Portal</a> in a specific statistical format.

English, Welsh and Scottish <b>private and voluntary sector</b> <u>with fewer than 250 employees</u> )	No requirements to collect or publish gender pay gap data.	-	-
Scottish public authorities ( <b>with more than 20 employees</b> )	Devolved Scottish public authorities with more than 20 employees are required to publish gender pay gap data.	<a href="#"><i>The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012</i></a> (known as the 'Scottish specific public sector equality duties) - made by Scottish Ministers	Authorities <b>publish the data to their websites rather than to a central location.</b>

## Gender rapid review

In July 2018, Chwarae Teg published the [phase one report of the Welsh Government-commissioned 'rapid review' of gender equality](#). It concluded that:

“the Welsh Specific Equality Duty on gender pay gaps was intended to be the strongest and most effective of the specific duties on gender pay gaps in the UK. However, **it is the view of the [Wales Centre for public Policy] that the duty was poorly drafted, there is poor visibility of published results and monitoring has been weak.**

There are **opportunities to learn from the UK Gender Pay Gap Regulations**, which include very specific reporting and publishing requirements. The initial reporting deadline of April 2018 has seen a high degree of compliance. There are also options to **extend these to include elements of the current Welsh duty which requires an employment analysis to identify the drivers of pay gaps and an action plan.**”

## Discussions in the Assembly

The Equality, Local Government and Communities Committee recently [recommended](#) that the Welsh Government should collect and **publish gender pay gap data for devolved Welsh public authorities to the UK Government [Gender Pay Gap portal](#).**

The Welsh Government [accepted](#) this recommendation, stating that it “[agrees] it would be helpful for the citizen and other interested parties to be able to access this information from a single location. [...] The Welsh Government will continue to encourage public bodies to publish this data openly and in accessible formats [and] **will also consider further whether the best way to publish Welsh Gender Public Gap data is on the UK Government portal.**”

In evidence to the ELGC Committee, the Leader of the House Julie James AM also [suggested](#) the Fair Work Commission could potentially “set up a piece of work that [...] **allows us to extend**

the duty for our [gender pay gap] reporting. [...] it's 250 employees at the moment, and that doesn't even touch most Welsh companies because they're all much, much smaller than that".

## Welsh Government response to the petition

The Leader of the House (who has responsibility for equality), Julie James AM, wrote to the Petitions Committee, stating that she has:

**"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."

She also notes:

- The **need to review the Welsh public sector equality duties (PSED)** and the reporting arrangements was raised by the Gender Rapid Review;
- She **"expect[s] early action to improve reporting of gender pay gaps in Wales** and [...] this will be done in the context of strengthening the PSED regulations generally";
- Reporting on gender gaps is not enough, and the **current Welsh duties require devolved Welsh authorities to take action to reduce gender pay gaps**;
- The Equality and Human Rights Commission (EHRC) 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, and
- The Welsh Government **'encourages' public authorities to "publish data in openly accessible formats** that Welsh Government can then collate and present in a single location.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.