

Businesses in Great Britain with 250 employees or more are required to publish information annually showing the difference in average pay between their male and female employees – the “gender pay gap” (GPG).

Last year, the reporting obligation was suspended due to the additional pressures placed on employers by the COVID-19 pandemic, but as anticipated (see our recent [blog](#) on this issue), the government’s [updated gender pay gap reporting guidance](#) confirms, sort of, that employers will be expected to report their gender pay gap figures for the reporting year 2020/21. Rather unhelpfully, the updated guidance does not expressly state (at the top or elsewhere) that the reporting obligations are back on. It is more a case that there is nothing in there to say that employers will not be required to report this year, and some of the examples used also clearly anticipate that employers will be required to report this year. It is not impossible that adverse developments in the fight against the pandemic may lead this to be shelved again, but the odds are very much against it. Affected employers should, therefore, ensure they are collating and analysing their data now, with the 4 April 2021 deadline firmly in their calendars.

Those employers that had staff on furlough in April 2020 should note that they may be able to exclude such staff from their gender pay gap (hourly) calculations. The updated [guidance](#) states that employees on furlough who received less than their full pay will not count as “full-pay relevant employees” for GPG reporting purposes and should, therefore, be excluded when calculating: (i) the mean gender pay gap using hourly pay; (ii) the median gender pay using hourly pay; and (iii) the percentage of men and women in each hourly pay quarter. They do have to include employees then on furlough if at that time they were topped-up to full salary. This exclusion is unlikely actually to make a material difference to the GPG itself, but it may be fertile grounds to explore for employers seeking something to say in their narrative to explain an increase in the gap if it does.

However, do note that the updated guidance also confirms that any employees on furlough will have to be included when it comes to calculating: (i) the percentage of men and women receiving bonus pay; (ii) the mean gender pay gap using bonus pay; and (iii) the median gender pay gap using bonus pay. This is because for these calculations, an employer takes into account “relevant employees,” namely all employees employed on the snapshot date (5 April 2020). In other words, even if the pandemic has forced you to make redundancies since April, which bring your staff numbers below that threshold, you are still obliged to report.

See our previous [blog](#) for a fuller discussion of the issues to consider when preparing your figures for the reporting year 2020/21. There is no obligation to say anything about the “lost year” 2019/20 but, equally, no bar to doing so if you did actually collect your stats for that period or, in that time, you took steps to reduce the GPG that you want to talk about, or you suffered some untoward event outside your control that made it worse.

If you have any questions on the updated guidance or require any assistance in producing your gender pay gap reporting figures or the voluntary narrative to support them, please speak to your usual contact in the Labour & Employment team.

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