Title: Employers in Great Britain, with at least 250 employees, to publish mean and median gender pay gap figures, mean and median gender bonus gap figures and a table with the breakdown of the number of males and females by salary quartiles.	Impact Assessment (IA)
IA No: RPC –GEO -3023(4)	**Date: 26/04/2016**
Lead department or agency:	**Stage: Final**
Department for Education – Government Equalities Office	**Source of intervention: Domestic**
Other departments or agencies: NA	**Type of measure: Secondary legislation**
	Contact: Beth Walker 02073407779

Summary: Intervention and Options

RPC Opinion:

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2014 prices)	**In scope of One-In, Three-Out?**	**Measure qualifies as**
-£36.80m	-£35.44 m	£3.80m	No	IN

The UK gender pay gap (GPG) is the lowest since records began, but progress has been slow and voluntary action has not driven the change needed as highlighted by Parliamentary activity (including a recent Select Committee Inquiry) and media reports. To accelerate progress, the government, with cross-party support, intends to deliver its manifesto commitment to require employers with at least 250 employees to publish information showing whether there is a difference in pay between male and female employees by implementing section 78 of the Equality Act 2010. The causes of the GPG can have a significant cumulative impact on a woman's earning potential during her lifetime. There is compelling evidence that employers can do more to promote gender equality - some may not be aware that they have a pay gap. Transparency can drive change by providing employers with greater workforce insight – e.g. workplace cultures that have historically favoured men (and hindered women's progression), unconscious bias among recruiters and line managers and the lack of well-paid part-time work that fits with the availability of childcare.

What are the policy objectives and the intended effects?

The government's commitment to closing the UK's GPG is a priority. Causes of the GPG are complex. Women still tend to work in lower paid sectors and are less likely to progress to senior positions. Reasons for this can include women with childcare responsibilities taking career breaks and choosing to work part-time, with more readily part-time opportunities available for lower paid roles. The failure to pay men and women the same for the same job is prohibited by law and the impact of this on the GPG is not certain. This measure is one of a number being progressed by the government to tackle the different drivers of the GPG. The objective of this measure is deliver transparency, encouraging employers to analyse the drivers behind their GPG and explore the extent to which their own workplace policies and practices may have contributed to that gap, as opposed to other factors outside of their control.

What policy options have been considered, including any alternatives to regulation?

The government currently considers two policy options:

Option 1 - Do nothing. Although there was cross-party consensus to encourage employers to publish gender pay information on a voluntary basis during the Equality Act's Parliamentary passage in 2010, this has not triggered the widespread changes required to close the GPG. There has been extremely limited appetite by employers for voluntarily reporting. For this reason, no alternatives to regulation have been considered.

Option 2 [preferred option] - Implement Section 78 regulations requiring employers with at least 250 employees to publish two gender pay gap figures (mean and median), two gender bonus gap figures (mean and median) and breakdown of number of male and female employees by quartile quartiles (expressed as a percentage). We are confident this option presented is low burden for employers, yet yields a high benefit of organisations being able to meaningfully understand the gendered distribution of their workforce, which we anticipate will compel them to take action where required.

Will the policy be reviewed? It **will** be reviewed. **If applicable, set review date:** 5 years after commencement

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** No	**< 20** No	**Small** No	**Medium** No	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister ______________ Date ______ Caroline Dinenage 27 April 2016

Summary: Analysis & Evidence — Policy Option 2

Description: Implementing regulations requiring employers with at least 250 employees to publish two gender pay gap figures (mean and median).

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate: -£36.80**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	Optional	10	Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	2.3		4.0	**36.80**

Description and scale of key monetised costs by 'main affected groups'

The familiarisation and implementation costs cover the time taken for a HR manager to understand what the legislation requires and staff training costs to learn how to calculate the figures. 62% of organisations within scope of the regulations who responded to the first consultation can already calculate an overall gender pay gap figure. The annual recurring cost to the employers is the time spent by HR managers collating the data and producing the figures, and liaising with the chief executive in the clearance process. Time for a Chief Executive to clear the data, and a communications officer to upload the data onto their website is accounted for. For further detail see page 26 onwards.

Other key non-monetised costs by 'main affected groups'

Employers may wish to voluntarily develop communications that supplement the figures with narrative to provide some context for the data. Some employers expressed concerns in the first consultation about potential exposure to increased legal action such as equal pay and sex discrimination claims as a result of publishing the results of their workforce gender pay analysis. However, an employer's gender pay gap and any information published that shows whether there is a difference in the pay between male and female employees is not of itself evidence of sex discrimination. Whilst potential reputational effects were raised in broad terms by some consultation responses, those employers were unable to monetise these possible costs that may be incurred when they are required to publish gender pay gap data.

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

It is not possible to monetise the benefits due to a lack of evidence enabling us to quantify the impact that greater transparency will have on the gender pay gap.

Other key non-monetised benefits by 'main affected groups'

The regulations are part of the Government's commitment to deliver real social justice. There are significant potential benefits to individuals in the form of higher labour market returns and to the economy in the form of increased productivity. There is some potential for short-term substitution effects (e.g. if female earnings or participation increase at the expense of other workers) but over the longer term, this change should potentially increase aggregate supply – i.e. increasing the productive potential of the economy without creating inflationary pressure. This would happen in any circumstances which caused a shift in female labour supply, either through attracting more women to the labour market, increasing hours worked, or speeding up returns to the labour market after a period of maternity leave.

Key assumptions/sensitivities/risks — **Discount rate** 3.5

Assumptions have been made about the time needed for: employers to familiarise themselves with their legal obligations; to train staff, for organisations to re-calculate figures annually, 38% of employers will face implementation costs (consultation evidence) and for the clearance and publication process. Risks: Section 78 will only apply to Great Britain, however the costs in this IA include voluntary organisations in Northern Ireland - therefore we anticipate a slight overestimate of costing [see page 15].

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			**In scope of OI3O?**	**Measure qualifies as**
Costs: 3.8	**Benefits:** 0	**Net:** -3.8	No	IN

EVIDENCE BASE

CONTEXT

The Prime Minister has set out his ambition to close the gender pay gap (GPG) in a generation[1]. To meet this commitment, the government will take a range of measures to tackle the drivers of the pay gap; this includes the manifesto commitment to require larger employers to publish the difference between the average pay of their male and female employees. The government will use the power in the Equality Act 2010 (section 78) to make regulations requiring large employers to publish gender pay information. Greater transparency will shine a light on workplace practices and create the pressure needed to drive change. This objective has cross party support, having been the subject of parliamentary debates and featuring as a commitment in the manifestos of all the main parties.

In order to give employers within scope sufficient time to understand and implement the requirements, the government would like to commence the regulations at the earliest opportunity. We will require first publication at a time of employers' choice between April 2017 and April 2018.

SCOPE OF THE REGULATION

By making regulations implementing section 78 of the Equality Act 2010, we will require all private and voluntary sector employers in England, Wales and Scotland with at least 250 employees to publish gender pay gap figures, information about differential bonuses, as well as a breakdown of percentage of male and female employees in each quartile of the earnings distribution. The regulations will affect around 7,960 employers with around 11.3 million employees. This represents 34% of the total UK workforce. The table below shows how many private and voluntary sector employers we expect to be covered by these regulations[2]:

	Number of private and not-for-profit employers	Employees (thousands)	Percentage of total UK employees
250-499 employees	4060	1410	4.3
500 or more employees	3900	9884	30.1
Total	7960	11294	34.3

A majority of employers and business representative organisations that responded to the first consultation agreed that the regulations should only apply to employers with at least 250 employees. Responses highlighted that small and medium sized employers may find it more difficult to comply with the regulations due to system and data constraints. Regardless, the power to require employers to publish gender pay gap information in section 78 only applies in any event to employers with 250 or more employees and lowering that threshold would require a change to primary legislation.

[1] The Times, July 14 2015, 'Women's raw deal on pay has to end now', http://www.thetimes.co.uk/tto/opinion/columnists/article4496792.ece

[2] Department for Business, Innovation and Skills, Business Population Estimates 2015, https://www.gov.uk/government/statistics/business-population-estimates-2015

FIRST AND SECOND GENDER PAY GAP REPORTING CONSULTATIONS.

First consultation

The Prime Minister launched the first consultation on closing the gender pay gap in July 2015. The seven-week consultation sought views on what more could be done to accelerate the rate of progress, including exploring exactly what, when and how often information should be published within the scope of section 78. There were nearly 700 responses to the consultation, including over 200 from employers and business organisations, with around 120 of those employers in scope of the regulations. Around three-fifths of employers who responded to the consultation said they can currently calculate an overall gender pay gap figure.

The consultation was complemented by meetings of our high-level Business Reference Group which met throughout the year at critical policy junctures. In addition, a series of roundtable events were held engaging think tanks, HR practitioners, academics, voluntary and charity sector employers, women's civil society organisations and trade unions. Further follow-up telephone conversations with employers that participated in the 2014 IFF survey were also conducted, as well as written consultation respondents and Think, Act, Report organisations who had already started analysing gender pay. The consultation and further discussions with key stakeholders has enabled us to build on the evidence base we drew from in the first consultation stage impact assessment. Our business engagement was comprehensive and described as exemplary by the Better Regulation Executive.

Key responses from employers and business organisations to the first consultation

- 82% of organisations agreed the publication of gender pay information will encourage employers to take action to close the gender pay gap.
- 42% of organisations agreed there is no alternative way to increase transparency on gender pay that would limit the cost for employers (e.g. reporting to the government via the existing PAYE system).
- 68% of organisations agreed that there were no risks or unintended consequences that warranted dropping or modifying the proposed regulations.
- 50% of organisations agreed that the threshold of 250 was appropriate.
- 68% of organisations who are in scope of the regulations state they can currently calculate an overall GPG figure.
- 63% of organisations agreed that civil enforcement procedures would help ensure compliance.

Second consultation.

On the 12 February, the Secretary of State for Education and Minister for Women and Equalities launched the second gender pay gap consultation. This follow-up consultation invited feedback on the details of the draft gender pay gap reporting regulations that will apply to business and voluntary and charity sector employers with at least 250 employees. We asked respondents to provide supporting evidence where specific modifications to the draft regulations were proposed. We received nearly 150 responses to the consultation, with the vast majority (125) being from employers, business organisations and legal bodies.

We simultaneously published the green-rated consultation impact assessment (containing our full cost estimates) and the RPC opinion alongside the consultation on gov.uk and the Department for Education's e-consultation portal. As our published cost estimates were not challenged within responses from employers or business organisations, our key assumptions on costs made in the previous impact assessment have remained the same.

We have also used the consultation period to explore specific questions posed by the RPC in its opinion document.

As with our first consultation, the second written consultation was complemented by extensive stakeholder engagement, including:

- An HMRC facilitated webinar for Trade Associations and a further one for *Think, Act, Report* companies.
- A number of stakeholder roundtables e.g. with CBI (Minister in attendance), expert gender pay gap practitioners, trade unions and women's equality charities, payroll providers, and legal firms and bodies.
- Delivering workshops with employers who already calculate their gender pay gap metrics to learn from practise in this field.
- Targeted engagement with the legal sector through presenting at an externally facing national annual training event for the profession.
- Delivered a ministerial supported '*Trailblazing Transparency: Mending the Gap*' event which showcased companies who have taken action to close their gender pay gap and benefited by publishing gender pay gap data. The launch included an accompanying publication which as well as explaining the difference between the gender pay gap and equal pay, set out why the government is looking to tackle the gender pay gap, the benefits to be gained from transparency and action companies had already taken in this field.

Public sector

In November 2015, the Prime Minister announced that large public sector organisations would be required to publish details on their gender pay gap to ensure fairness and parity with the private and voluntary sectors.

Section 78 expressly excludes those bodies listed in schedule 19 (and therefore subject to the PSED). We expect it to apply to the full range of public bodies in England, as long as they meet the employee threshold. Those public bodies will be covered by different regulations, following a separate consultation document that will be launched in due course. As such, this impact assessment does not consider costs to public sector organisations subject to those separate regulations. It is envisaged that the same timetable for publishing data will be the same for all sectors.

DEVELOPMENT IN OPTIONS FROM THE IMPACT ASSESSMENT AT SECOND CONSULTATION STAGE (DRAFT REGULATIONS)

In the second consultation impact assessment, three options were considered and in the development of these regulations a wider variety of further options were considered. However, given that gender pay gap reporting has gone to consultation twice, we believe these regulations are sufficiently robust to be considered as the only viable option, and therefore other options are no longer considered in this final stage impact assessment. In this section we discuss in greater detail the rationale for including the different measures that are included within this regulatory option.

Mean and median gender pay gap figures

Overall, consultation responses to the second consultation were satisfied with the requirement to publish both mean and median gender pay gap figures. As such, this requirement will remain the same as outlined in the second consultation impact assessment.[3] Both measures of average are complementary and will give employers a better understanding of any gender pay gaps they identify.

By identifying the wage of the middle earner, the median is the best representation of the 'typical' difference as it is unaffected by the small number of very high earners. Although the Office of National Statistics (ONS) presents both the median and the mean in its Annual Survey of Hours and Earnings (ASHE), it favours the median, ensuring consistency with other earnings-related data in other national statistical bulletins.

By taking into account the full earnings distribution, the mean may be especially useful within a single organisation. The mean can be useful because women are in many cases over-represented at the low earning extreme of the distribution and men over-represented at the high earning extreme. In addition, Eurostat GPG figures are based on the mean.

Attendees to the first gender pay gap consultation roundtable with women's civil society organisations and trade unions (June 2015) were unanimous that the dual approach was preferable, as it would add greater depth to the data and increase transparency. Attendees agreed it was important to maintain the comparability with ONS median data (as median gender pay gap figures are often cited in the media), but that individual employers would find particular value in using the mean for their own workforce, as it is a better representation of the full range of earnings. Attendees also felt that the mean was a more commonly understood calculation of the average.

From our discussions with employers and HR consultants, we do not believe there to be any additional costs in calculating two figures as both measures calculate the GPG using the same set of HR data. This assumption was not challenged in written responses submitted or during the stakeholder roundtables which complemented the second consultation.

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[3] Department for Education, *Consultation-stage impact assessment: 'Employers in Great Britain, with at least 250 employees, to publish mean and median gender pay gap figures, gender bonus gap figures and a table with the number of males and females in quartile salary bands.'*, December 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499974/MGPGReportingIA.pdf

Percentage Breakdown of the number of males and females by quartiles

A number of responses to the second consultation raised questions about the methodology for presenting workforce demographic data in quartiles, and the draft regulations will be modified to further clarify the requirement. Furthermore, we will ensure that clear advice, with worked examples, is outlined in the supporting non-statutory guidance for employers familiarising themselves with the reporting requirements. The rationale for quartile reporting will remain the same as outlined in the second-consultation impact assessment.

A key driver of the gender pay gap is that fewer women are employed in senior and higher paid positions (see page 10 for causes of the gender pay gap). The regulations will require employers to publish a breakdown of their employees by gender in significant pay bands. Given the significant differences in pay across sectors, each employer within scope will be required to report a breakdown of the number of male and female employees (expressed as a percentage) in anonymised quartile salary pay bands. This information is relatively straightforward to collate and clearly illustrates the ceilings to men and women progressing within an organisation in a format that would be widely understood by employees. It could also be valuable in making comparisons with those competitor employers that have more or less gender parity across their earnings distribution - signposting those employers that are actively nurturing female talent and increasing their pay accordingly when they achieve greater seniority. As referenced in our consultation document, the Mitie Group published information about the numbers of women and men working at each salary band in its sustainability report in 2015. For a detailed discussion of the benefits of using quartiles, see page 36.

Forcing employers to publish the number of men and women in each quartile was not the only considered option; however, it was deemed the most appropriate measure which fulfilled the objective of providing greater transparency on the gender distribution of workers within an organisation. Other options considered included splitting an organisations workforce by grade. However, this would not provide a good comparison across organisations and it would not be appropriate for the regulations to impose a uniform grading structure across very different employers and sectors to enable such comparability. This option would also be resource intensive in a large organisation with complex corporate structures and many different grades.

We also considered requiring employers to split their wage distribution by specific pay bands. For example, the proportion of men/women who earn £0 - £10 an hour, £10 - £15 an hour, and so on. However, this methodology posed problems around comparability across organisations and time. It would be difficult to compare across sectors as the data risked being skewed by factors such as regional variation (i.e. if one employer is based in a region which pays a premium, such as London, but another employer is not, resulting in the first employer appearing to be a better employer for women.). It would also be difficult to compare an organisation's progress over time, as the pay bands would have to be regularly updated in line with inflation and changes to real wages, so that progress within an organisation could be appropriately monitored.

Consequently, we consider quartiles to be the least complex and resource intensive method for employers which appropriately and simply highlights any discrepancies in the spread of men and women in their overall earnings distribution.

Gender bonus gap figure (GBG)

The favoured methodology for calculating an overall gender pay gap only looks at a 'snapshot' period (April). We recognise that relatively few bonuses would be captured in that 'snapshot' calculation as many bonuses are paid at other times during the year. ONS research[4] has shown that many bonuses are paid between December and March. Our proposed methodology for calculating a gender bonus gap figure will account for all bonuses paid over a 12-month period.

We will require employers to publish two separate gender bonus gap figures. Employers will also publish the proportion of male and proportion of female employees that received a bonus from their total workforce. We recognise that there is a significant issue around differential bonus payments in some sectors. Requiring the separate annual bonus gap information will highlight any gender differences in bonus payments at an organisational level. The bonus gap will be valuable in benchmarking in relation to competitor employers. For a detailed discussion on the benefits of publishing a gender bonus gap figure, see page 37.

In the second consultation IA, only one GBG average calculation was included. A number of employers responding to the second consultation favoured including both the mean *and* median GBG average calculations. The mean is a measure of average that would take into account the full distribution of bonuses paid by an employer. The median is a measure of average that would identify the bonus amount paid to the middle recipient, which means it is unaffected by a small number of employees receiving very small or very large bonuses. The two figures complement each other as together they provide greater transparency around the distribution of bonuses in an organisation. For example, if the mean bonus is much higher than the median bonus, this suggest there are a small number of employees who have received a relatively large bonus. If these small numbers of employees are of one gender, then the two GBG figures may be quite different – one is not better than the other but together they are indicative of the distribution. Finally, requiring a mean and median gender bonus gap is consistent with our requirement that employers publish two gender pay gap figures.

Publication

We will require first publication within 12 months of commencement and annual publication thereafter at a time of employers' choice during the year so long as it is before the yearly publication deadline. As a manifesto commitment, the government intends to commence the regulations at the earliest opportunity when Parliamentary timetables allow, with a view to initiating the first reporting cycle from April 2017. Annual publication will help maintain momentum as employers work to close their gender pay gaps, and will facilitate monitoring of compliance and regular comparisons between employers. Although some respondents to the first consultation suggested that reporting every 2-3 years would be appropriate as it would be easier for them to demonstrate progress by allowing an extended period for implementation of action plans and new policies, many large employers favoured annual reporting. The timetable was not challenged by employers nor business representative organisations in the second consultation. We understand through our engagement with businesses that many are already beginning to prepare for the reporting requirements.

[4] Ibid.

This approach offers a 12-month window for publication at a time of their choice provides the employer with the flexibility to decide how and when within the year to analyse the data collected and when, within the year, to publish the information.

Three out of four organisations that responded to the first written consultation agreed that the regulations should specify where the employer publishes their GPG information. The regulations will require that employers publish this information in English on a searchable UK website that is accessible to employees and the public, and confirm that the required information has been published with a government-sponsored website. Whilst our thinking on the administration of compliance and enforcement has developed since the second impact assessment (see page 30 and 31), the requirement for employers will remain the same as that set out in the second impact assessment.

EVIDENCE BASE

No.	Legislation or publication
1	'Closing the Gender Pay Gap' first consultation document (July-September 2015). https://www.gov.uk/government/consultations/closing-the-gender-pay-gap
2	'Closing the Gender Pay Gap' government response to the first consultation. https://www.gov.uk/government/consultations/closing-the-gender-pay-gap
3	'Mandatory Gender Pay Gap Reporting' - second gender pay gap consultation – draft regulations (February-March 2016) https://www.gov.uk/government/consultations/mandatory-gender-pay-gap-reporting
4	EHRC proposals for measuring and publishing information on the gender pay gap. In 2009, the Government invited the EHRC to consult on proposals for measuring and publishing information on the GPG, research into what employers in the private and voluntary sectors were doing to measure and report on GPGs and to explore the reasons for measuring and reporting among these employers. http://www.equalityhumanrights.com/sites/default/files/documents/research/gender_pay_gap_proposals_final.pdf
5	Business in the Community (BITC): 'The gender pay gap; what employees really think.' During the consultation, BITC carried out research to understand the views of employees as there was limited research on this. More than 1,000 women and men responded to the survey. Respondents were asked to share their thoughts on gender pay gap reporting, the reasons for the pay gap, their attitudes towards employers, and how they may react to their own employer's pay gap. http://opportunitynow.bitc.org.uk/leading-change/genderpaygap_whatemployeesreallythink
6	Company Reporting: Gender Pay Data - IFF Research (2014). Investigated the extent to which employers across Great Britain with 150 or more staff collect, report and publish data on pay by gender and to assess the awareness and impact of *Think, Act, Report* three years on. The research comprised of 855 telephone surveys with private and voluntary sector employers, conducted in September 2014. https://www.gov.uk/government/publications/company-reporting-gender-pay-data
7	Telephone interviews with those who had taken part in IFF research on reporting gender pay gap data. In addition to interviews conducted pre-consultation, GEO conducted further telephone interviews during the consultation period. In total, 65 employers were contacted and 25 interviews were conducted. In addition, pre-consultation telephone interviews were conducted with a further 3 organisations from *Think, Act, Report* who have published gender pay gap data (pre-consultation).
8	Following the first written consultation, GEO sought to contact all those organisations who were in scope of the regulations requesting telephone interviews to clarify detail they had provided in their response (30 organisations contacted). GEO was able to discuss with 5 organisations their written response.

9	Roundtable discussions were held during both consultation periods with business leaders, HR practitioners, voluntary and charity sector employers, academics, trade unions and civil society organisations.
10	Following the second written consultation, GEO contacted a sample of organisations within scope of the regulations to clarify and gather further detail on: **1.** Their experience to date with using quartiles to analyse their workforce **2.** Anticipated costs for seeking legal advice on interpretation of the regulations **3.** The affects which the regulations may have on their organisational reputation
11	Equality Act Impact Assessment (2009).
12	Age supplement to EHRC Code of Practice on Ending Age discrimination in the provision of services (2012).
13	Office for National Statistics, Average Weekly Earnings - Bonus Payments in Great Britain 2014-15. http://www.ons.gov.uk/ons/dcp171766_414566.pdf
14	McKinsey Global Institute, "How advancing women's equality can add $12 trillion to global growth." http://www.mckinsey.com/global-themes/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth
15	Oswold, Proto and Sgroi, "Happiness and Productivity", (2014) https://www2.warwick.ac.uk/fac/soc/economics/staff/eproto/workingpapers/happinessproductivity.pdf

PROBLEM UNDER CONSIDERATION

The Gender Pay Gap (GPG)

Data used in the first part of this section is from the Annual Survey of Hours and Earnings (ASHE), published on 18 November 2015. The GPG is the difference in earnings received by men and women. The ONS calculate the gap using the difference between the average gross hourly earnings excluding overtime of men and women as a percentage of men's earnings. In 2015, the gender pay gap was 19.2% for all employees working full or part-time in any occupation. This means that women earn 19.2% less men on average.

Gender pay gap time series

The overall UK GPG figure has narrowed from 27.5% in 1997 to 19.2% in 2015. Many macro-economic and social factors have affected the gender pay gap during that period, including the introduction of the national minimum wage which benefited women in particular who are the majority on low-pay. The current GPG figure is the lowest since the survey began in 1997, but the rate of progress in closing the gender pay gap is too slow - the gap was 19.8% in 2010. Since 1997, there has been an average annual decrease of 0.44 percentage points a year.

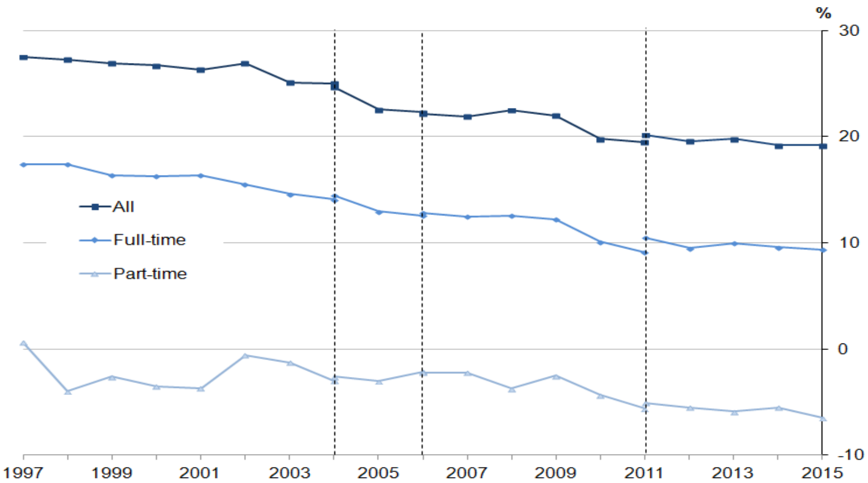

Figure 1: Gender pay gap for median gross hourly earnings (excluding overtime), UK, April 1997 to 2015[5]

Wider government policies will continue to have an impact on the UK gender pay gap. For example, nearly two-thirds of the people benefitting from the National Living Wage will be women[6]. We are committed to reviewing the regulations in due course (i.e. five years after commencement), and can assess those complex interdependencies at that juncture.

[5] Annual Survey of Hours and Earnings (ASHE) - Office for National Statistics, Figure 8: Gender pay gap for median gross hourly earnings (excluding overtime), UK, April 1997 to 2015, http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2015-provisional-results/stb-ashe.html#tab-Gender-pay-differences

[6] HM Treasury, “National Living Wage: Women and Those Outside of London to be Biggest Winners”, 13 July 2015, https://www.gov.uk/government/news/national-living-wage-women-and-those-based-outside-london-to-be-biggest-winners

Gender pay gap by working pattern

For **full-time employees**, the GPG has narrowed to 9.4% compared with 9.6% in 2014. Despite a relatively large increase between 2012 and 2013, there is an overall downward trend, from 17.4% in 1997. The gap has changed relatively little over the last 4 years.

For **part-time employees**, the higher rate of pay for women than men results in a 'negative' gender pay gap, meaning that on average, women earn more than men. The pay gap for part-time employees only is -6.5% in 2015, widening from -5.5% in 2014 and -2.5% in 2009. This figure can be misleading as women represent 73% of all part-time workers[7] and part-time work attracts significantly lower pay than full-time work. The negative figure can be attributed to the large rise in average part-time earnings for women between the 20-29 and 30-39 age groups, indicating higher skilled and better paid women are taking part-time work to fit around childcare responsibilities. This has led to a pay gap of -10.1% for part-time workers in the 30-39 age group.

Gender pay gap by age groups

With the exception of the 16-17 age group, the full-time gender pay gap is relatively small up to, and including, the 30-39 age group. The gap for full-time workers is negative (-0.8%) for the 22-29 age group, and only 0.6% for those aged 30-39.

There is some evidence of a cohort effect where the pay gap has fallen first for younger age groups, before falling for older age groups. For example, the pay gap for the 30-39 age group in 1997 was 25.1%. Ten years later, these people would be in the 40-49 age group, which had a GPG of 30.3% in 2007, much lower than it had been for that age group in 1997 (37.2%). However, this cohort effect is unlikely in itself to close the pay gap within a generation (see time series paragraph above).

According to the latest ONS ASHE figures (November 2015), the gender pay gap for full-time and part-time workers peaks for those aged 40-49 years old. Many women in this age range may have taken time out of the labour market to care for children or other family members.

Causes of the gender pay gap

Many of the causes of the gender pay gap are overlapping and this can have a significant cumulative impact on a woman's earning potential during her lifetime. Although girls often do well at school, occupational segregation persists. Women tend to end up being concentrated in occupational sectors that offer narrower scope for financial reward. Women make up over 85% (or almost 1.8million) of employees in caring personal service occupations, but the median hourly wage excluding overtime is £8.50 – more than £3 less per hour than the national median. Many of the highest paying sectors are disproportionately made up of male employees, including information and communications technology (69%) and energy supply (74%)[8].

[7] ONS Labour Market Statistics, March 2016
[8] ONS Annual Survey of Hours and Earnings 2015

A proportion of the gap is due to differences in the number of years of full-time work experience or the negative effect on wages having previously worked part-time or having taken time out of the labour market to look after family. Women in the middle phase of their working lives are often looking to secure their positions or move into senior and managerial roles. However, assumptions about mothers not wanting or not being in a position to accept promotion may result from unconscious stereotyping. Business can continue to play a role in supporting women in the middle phase of their working lives by ensuring effective talent management and championing flexible working. IFF research has found that only around a third of employers collected information on the proportion of mothers who return following maternity leave (35%); this was most common in larger organisations (50% of employers with 1,000 or more staff).

Key challenges for many older women include keeping their skills updated and learning new ones in order to take advantage of employment opportunities in growing sectors. For others, the main challenge is the need to reduce their hours to accommodate increased caring responsibilities for children, grandchildren and/or ageing parents. Employers can share good practice on how to manage and support a multigenerational workforce. The cumulative effect is that women remain less likely to progress far up the career ladder. Women make up 47% of the workforce, but make up only 34% of managers, directors and senior officials.

Rationale for Intervention

Whilst the reasons set out above point to social and cultural barriers, there is compelling evidence that employers can do more to promote greater gender equality in the workplace. The UK economy is losing out due to women's academic achievements, experience and talents not being effectively utilised. Boosting female participation in the labour market so that it equals male participation (both in terms of hours and occupation) would improve the productive potential of the UK economy, not just simply through increasing the hours worked, but also through addressing skill shortages. Previous research has shown that over one and a half million women who are already in work would like to do more hours[9].

Most employers recognise the need to attract and retain the best people - developing and promoting talented women into higher-paid senior roles can help make companies more diverse and competitive. Workplace cultures that have historically favoured men can be changed and employers can introduce training to tackle unconscious bias among recruiters and line managers. Women taking time away from the workplace and the lack of well-paid part-time work that fits with the availability of childcare both have a significant impact on the gender pay gap. Schemes to support women's progression provide opportunities that will help close the gender pay gap and can ensure that employers are ahead of their competitors in retaining talented staff and achieving a more balanced workforce.

Having published information about their gender pay differences, many employers across a wider range of sectors should be encouraged to recruit more women and establish an effective talent pipeline that helps them to fulfil their earning potential. Publication of a gender pay gap

[9] Office for National Statistics, "Underemployment and Overemployment in the UK", 2014, http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/rel/lmac/underemployed-workers-in-the-uk/2014/rpt-underemployment-and-overemployment-2014.html

can ultimately increase employee confidence in the remuneration process and enhance an employer's corporate reputation. Competition and peer pressure (especially within the same sector) will also drive employers to take constructive actions to tackle any workplace inequalities identified.

Increasing transparency around gender pay differences in the private and voluntary sectors will enable the impact of workplace policies and practices to be monitored and discussed. By identifying those employers that are consistently and successfully ensuring that their women employees are achieving their full potential, we can recognise and disseminate good practice.

Whilst around 300 organisations are signed up to *Think Act Report,* only nine have voluntarily published their gender pay gap, which is why it is necessary to make such reporting mandatory. By implementing regulations under section 78 of the Equality Act 2010, the government aims to introduce workable requirements to publish data with a view to accelerating progress being made by large employers on workplace gender equality.

The government's wider aim is to close the gender pay gap in the UK and help ensure that women's potential is effectively utilised and fairly rewarded. This measure is one of a number being driven by the government to tackle the different causes of the gender pay gap. This measure aims to ensure employers are aware of any differences between the pay of men and women in their organisation, consider why this is, and take appropriate action to address the causes where pay analysis highlights anomalies - for example, issues around recruitment, retention and progression, remuneration or support for parents (including encouraging more male employers to use shared parental leave).

Section 78 Equality Act 2010

Section 78 contains a power to make regulations requiring private and voluntary sector employers in Great Britain with at least 250 employees to publish information relating to the pay of employees for the purpose of showing whether there are differences in the pay of male and female employees.

Implementation of section 78 represents a significant shift away from voluntary reporting. This secondary legislation will apply to private and voluntary organisations with at least 250 employees, around 7,960 employers (6,970 private sector employers and 1,125 voluntary organisations) employing around a total of 11 million people. Employers from the public sector will not be in scope of this legislation (this is further discussed on page 5).

The regulations implementing section 78 will only apply to Great Britain. Whilst Section 78 will only apply to Great Britain, the costs in this IA include not for profit organisations in Northern Ireland (Northern Ireland businesses have been removed). This is because the Business Population Estimates data is only available at a UK level for not for profit organisations.[10] Estimated costs will therefore reflect a slight overestimate due to the inclusion of voluntary

[10] Department for Business, Innovation and Skills, Business Population Estimates 2015, https://www.gov.uk/government/statistics/business-population-estimates-2015

organisations in Northern Ireland who will not be in scope of the legislation.[11] We anticipate the impact on overall costs will be small.

Developing the regulations

Both of the consultations and our extensive engagement with a wide cross-section of stakeholders has enabled us to draft regulations (outlined below) that recognise any potential burdens on employers and reflect their views.

From a series of stakeholder workshops run by the Government Equalities Office (GEO) during the first and second consultations, we expect employers' efforts to publish gender pay information and tackle workplace inequalities to be driven by encouragement by government and pressure from their competitors, the media and civil society. An employer may be unaware that they even have a gender pay gap until they analyse their pay information, and these regulations will force large employers to do so.

Although some employers fear an increase in equal pay litigation, previous research has shown that no employers that have published gender pay information have found the experience a negative one. Over four-fifths of organisations who responded to the first government consultation agreed or strongly agreed that the publication of gender pay information will encourage employers to take actions that will help close the gender pay gap. No organisations strongly disagreed with that statement.

There is appetite by HR professionals for organisations to publicly report their gender pay gap. Respondents to CMI's 'Future Forecast' survey in November-December 2014 found that 63% of over 1250 respondents agreed that the government should introduce measures requiring large organisations to publish data on pay and gender balance.[12] Similarly, Business in the Community's 2015 survey of over 1000 employees found 93% were in favour of employers publishing an overall gender pay gap figure.[13]

[11] Since the second impact assessment, it came to our attention that the ONS also have a similar dataset, called 'UK Business – Activity, Size and Location.' This allows us to take out the 'non-profit' organisations in Northern Ireland. Doing so, we arrive at a figure of 7,975. This slight increase is likely due to ONS data being collected in March 2015, whereas BIS data is collected January 2015. However, the ONS data did not tell us what the total number of employees who would be affected by the regulations. Given that the two figures are very similar; we have continued to use the BIS figures as they provide more information.

[12] Cited in CMI gender pay gap consultation response, 2015.

[13] Business in the Community, Opportunity Now: The gender pay gap, what employees really think, 2015, http://opportunitynow.bitc.org.uk/leading-change/genderpaygap_whatemployeesreallythink

DESCRIPTION OF OPTIONS CONSIDERED

OPTION 1: Do nothing

The current arrangements rely on employers voluntarily publishing information showing whether there is any difference in the pay of their male and female employees. However, only nine of around 300 employers who have signed up to the Think, Act, Report initiative have published their gender pay gaps. As such, this option has not made sufficient impact on the gender pay gap to date.

The UK gender pay gap has decreased at a relatively slow rate during the last four years. It has decreased from 19.9% in 2010 to 19.2% in 2015. Under a voluntary approach, the trend to date indicates that the GPG will continue to decrease but it will not accelerate the pace of change.

OPTION 2 [PREFERRED OPTION]: Implement section 78 regulations requiring employers with at least 250 employees to publish:

- Two gender pay gap figures (mean and median).
- Two gender bonus gap figures (mean and median).
- Breakdown of the number of male and female employees (expressed as a percentage) in each quartile of the earnings distribution.

Three fifths of employers who responded to the first consultation stated that they could currently calculate an overall gender pay gap figure. A large employer told us they use the single figure pay gap as their starting point for assessing pay gaps. They found the data required to calculate the single figure easy to access and the calculation itself is simple, not requiring significant resources. 55% of respondents to research conducted by the Institute of Employment Studies (IES) saw the overall single GPG figure as the easiest to measure to produce and 67% stated it would also be the cheapest. IFF research found that of the six in ten employers (61%) that report gender information internally, 12% used a single figure of average pay gap.

Given the high likelihood that figures published by employers will be compared to the national and sectoral figures produced by ONS, it is important that the overall mean and median gender pay gap calculation reflects ONS methodology - i.e. calculating the figure using a 'snapshot' pay period during April.

However, whilst consistency is maintained, it does mean that the full extent of bonus payments and its contribution to the gender pay gap is not demonstrated. This is because relatively few bonuses are paid during the April 'snapshot' pay period, with many bonuses being paid between December and March, and the date varies between employers across the year.

There is a 57% 'gender bonus gap' among those employees that received a bonus across the whole UK economy.[14] Recognising the potential difference in total men and women's bonus

[14] Office for National Statistics, Average Weekly Earnings - Bonus Payments in Great Britain 2014-15, http://www.ons.gov.uk/ons/dcp171766_414566.pdf

payments is therefore an essential part of the behavioural change the government wants to bring about in employers.

Similarly, the quartile information significantly enhances the workforce picture an employer will need to provide. By supplementing their overall gender pay gap figures with quartile information, employers will understand where women congregate in remuneration rate, why this is, and whether there are any specific barriers to their career progression.

The government considers that it is essential that employers within scope of the regulations provide the information required under option 2 if we are to fulfil our policy objective of closing the gender pay gap in a generation. For further detail on the rationale for us requiring this information see page 6 and 7.

PROPORTIONALITY OF REQUIREMENTS

GEO has continuously engaged with employers, business associations and other key stakeholders since spring 2015 on these requirements for employers to publish their gender pay gaps. Drawing on the experience of those employers that already analyse their gender pay gap has helped to inform our decision-making on what measures to require and understanding the potential resource implications. Since May 2015, we have regularly consulted key business stakeholders on the development of gender pay reporting policy through our Business Reference Group; whose members collectively represent around a third of the private sector workforce.

Building on the evidence base for the initial first consultation impact assessment[15], ahead of the second consultation, we contacted a range of employers to discuss in greater detail how to monetise costs to employers of the regulations. Telephone calls were conducted with five employers who are signed up to the *Think, Act, Report* initiative and 11 employers previously sampled in the IFF survey (2014). During the first consultation we contacted a sample of 72 employers who were sampled in the IFF survey and conducted a further 14 telephone interviews, bringing the total to 25 organisations. As part of the second consultation, we contacted a sample of seven large employers in scope of the regulations to discuss in detail their consultation responses.

The assumptions we have made reflect the evidence from these interviews with 25 employers, detailed written consultation responses (over 700 in the first consultation, and around 150 in the second), follow-up telephone interviews with organisations that responded to each consultation, as well as round-table discussions with a broad range of stakeholders during both first and second consultation periods (including HR personnel, expert gender pay gap practitioners, academics, think tanks, trade unions, women's equality charities, voluntary and charity sector employers and payroll organisations.)

In the first consultation, employers were asked to provide estimates or actual costs of training, software, publication and any other costs required to produce, analyse and publish GPG figures. Over 200 employers and business organisations responded to the consultation of which around 120 employers are in scope of the regulation (i.e. employers in Great Britain with at least 250 employees, excluding public sector and local government). Around 30 of the employers in scope of the regulation provided in their written consultation response estimates of software, training and publication costs.[16] The costs provided in the second impact assessment were not challenged in the second consultation.

[15] Government Equalities Office, 'S78 Impact Assessment', July 2015, https://www.gov.uk/government/consultations/closing-the-gender-pay-gap

[16] In the analysis of the first written consultation responses, we queried what respondents had included in the 'other costs' category. We found that 'other costs' often included duplicated software, publication and/or training meaning these costs were reflected in two cost categories, doubling the overall total cost. When it has been possible we have reallocated costs to the appropriate cost category, and removed duplication of costs. We have also removed outliers from the calculations.

EXAMINING THE COSTS

Summary of costs for option 2 [preferred option]

Combining the estimates for one-off and recurring costs and applying the standard 3.5% discount rate yields a net present value (NPV) of £36.80million for option 2 over a 10-year period. Combining this data with the Better Regulation Executive equivalent annual net cost to business (BRE EANCB) calculator yield an expected annual net cost to business of £3.9 million for option 2. These figures are summarised below. Please note: these totals have been rounded to the nearest pound.

To note: There is a net zero cost for option 1 as this is a continuation of the current scenario (voluntary approach).

	Option 2 (£)
Transitional costs	
+ One off familiarisation	968,987
+ One off training	1,337,202
Total transitional costs	**2,306,188**
Annual recurring costs	
+ Annual calculation	2,664,713
+ Annual publication	1,184,691
Total annually recurring costs	**3,849,404**
10 Year net present cost (£m)	**36.80**
EANCB (£m)	**3.8**

The impact assessment outlines how these costs are reached for the two options in the following pages.

COSTS FOR OPTION 1: Do nothing

There is a net zero cost as this is a continuation of the current scenario (voluntary approach).

COSTS FOR OPTION 2 [PREFERRED OPTION]: Implement section 78 regulations requiring employers with at least 250 employees to publish two overall gender pay gap figures (mean and median), two gender bonus gap figures (mean and median) and the number of men and women (expressed as a percentage) in each quartile of an organisation's pay distribution.

Section 78 applies only to private and voluntary/charity sector employers with at least 250 employees. Around 7,960 employers would fall within the scope of the regulations. The costs to employers are broken down as follows:

- Transitional one-off familiarisation costs.
- Transitional one-off implementation costs.
- Annually recurring costs.

Transitional costs for option 2

One-off familiarisation costs for option 2

It is understood that 'familiarisation' means reaching the point where an appropriate member of staff (e.g. an HR professional) is aware of the legislative change and understands how it will impact their organisation. This will include understanding what information they as an employer are required to publish, the frequency of publication, the deadlines they must meet, and where they will need to publish the information. For most this will mean consulting official advice and non-statutory guidance for employers that will be published this year (i.e. prior to commencement), covering how they must produce and publish the required information.

We have based the estimate for the time required for familiarisation on previous similar impact assessments. The impact assessment that supported the Equality Bill in 2009 estimated that on average, it will take a personnel manager (or equivalent) 10 minutes (0.17 hours total) to familiarise themselves with legislation under section 78 Equality Act 2010. Responses to the 2009 EHRC consultation released subsequent to that impact assessment suggested that this was an underestimate. The impact assessment submitted to the RPC in 2012 on ending age discrimination in the provision of services made assumptions that familiarisation of that new legislation would take 1-2 hours. We have therefore assumed that familiarisation time of one hour is an appropriate estimate for gender pay gap reporting also, as employers are likely to already have a basic understanding of workforce gender demographics as this is a routine element of HR management information. We acknowledge that this estimate is based on sources not specifically related to gender pay transparency due to the lack of previous legislation in this area.

Following discussions with employers, we anticipate that two HR managers would lead this activity. The cost per hour of a HR manager's time is taken to be the hourly rate, £23.41 (as given in the Annual Survey of Hours and Earnings 2015, code 1135), uplifted by 30[17] per cent to cover non-labour costs: £30.43. In addition to an hour each taken by two HR professionals to familiarise themselves with the legislation to produce mean and median GPG figures, we estimate that it will take 45 minutes each for two HR professionals to familiarise themselves with the requirements to produce GBG figures and 15 minutes each for two HR professionals to familiarise themselves with the legislation requiring them to produce a table with the breakdown by quartiles. We anticipate that it will take HR professionals less time to familiarise themselves with the salary quartile requirement as many will already periodically review remuneration and be familiar with this relatively common and straightforward tool. Therefore, in total, we estimate that it will take **two hours for two HR professionals** to understand the changes in law and the publishing requirements for option 2.

The GBG figures are calculated by totalling the bonuses received in the 12-month period to all male and female employees who received a bonus, then calculating the averages and the differences between those two figures. Bonus payments will include profit sharing, performance- and productivity-related incentives and commission. Based on our discussions with stakeholders, those employers within scope of the regulations should already record all such payments on their electronic HR systems for tax purposes.

Although we will now require two gender bonus gap figures (mean and median) following feedback received during the second consultation, we have not increased the time for familiarisation for the gender bonus gap (0.25 hour), as familiarisation time for the difference between mean and median averages is already factored within the time for two HR professionals to familiarise themselves with mean and median GPG figures. Extra time is included for this extra GBG median calculation in annual recurring costs.

Quartiles are often used in sales and survey data within an organisation to divide populations into groups. As such, presenting a breakdown of the percentage of male and female employees in each pay quartiles should not be a disproportionately onerous or complex task for an HR manager to produce using existing payroll systems. Quartile calculations are comparatively simple to perform on common statistical software packages (e.g. Microsoft Excel), and an individual with a working-level understanding of those packages should be able to perform this task.

Quartiles split an ordered data set into four equal groups, where each group contains a quarter of the data. For the gender pay gap regulations, this would illustrate the bottom 25% of earners in an organisation, then the next 25% and so on. A further calculation is necessary to show what the proportion (expressed as a percentage) of women and men are in the population for each quarter.

Given the significant variation in remuneration between employers and sectors, employers will be required to calculate the proportion of men and women in the four quartiles of their pay distribution. By engaging key business stakeholders, it is our understanding that most employers would prefer to calculate pay bands that reflect the reality of their own remuneration scales rather than legislation imposing specific pay bands (e.g. £10-20K, £20-30K) for reporting purposes.

[17] SCM Network, International Standard Cost Model, http://www.oecd.org/gov/regulatory-policy/34227698.pdf, page 19.

The cost of familiarisation **per employer** for option 2 is therefore:
Hours taken X hourly rate X no of HR professionals= cost per employer
(2 X £30.43) X 2 = **£121.73**

Total cost of familiarisation for option 2 for all employers in scope of regulation:
Cost per employer X number of employers = total cost
£121.73 X 7,960 = **£968,987**

One-off implementation costs for option 2

One-off implementation costs include software costs and training costs. In the first impact assessment at consultation stage, we assumed that the salary or wage data needed to calculate and publish a GPG figure is already systematically managed and available to employers within scope. During the first consultation, we found that of those organisations that responded to the consultation that are within scope of the regulation, 62% confirmed they can already calculate an overall GPG figure. As such, we assume that this proportion of employers will not face any implementation costs.

Software costs for option 2

The average anticipated software costs of those employers in scope of the regulations who responded to the first consultation was £4,736. We subsequently conducted a series of follow-up telephone calls with a sample of the respondents to bottom-out that figure. The telephone interviews indicated that many respondents had initially provided inflated implementation costs for complete payroll functionality for their organisation and reflected the costs for producing the most complex and potentially burdensome GPG metric - specifically, GPG figures for every grade or job type. As such, we believe the costs provided by employers in the first written consultation were significantly higher than the true costs we anticipate.

Over two-thirds of organisations who responded to the first consultation confirmed they already have the capabilities to produce an overall GPG figure, and 99% of respondents from the IFF survey keep their HR and payroll data on a computerised system, with most (59%) keeping these on separate systems. Most (61%) who held their HR and payroll records on separate systems felt that it would be easy to combine them. Regulation 67B(5) of the Income Tax (PAYE) Regulations 2003 (SI 2003/2682) - requires "real time information" employers to deliver return information as specified in Schedule A1 (of the aforementioned regulations) using an approved method of electronic communication. Schedule A1 requires employers to report (amongst other things) for each employee: name, date of birth, current gender and information about payments made including an indication of the hours worked. The vast majority of employers already use payroll software in order to provide the required information to HMRC.

In our interviews with consultation respondents we were able to tailor the questions so that respondents could provide clearer costs associated with implementing software needed to produce the required figures. Respondents were unanimous that the relatively simple mean, median and percentile calculations could be produced using a spreadsheet and felt they did not need to purchase any new software. We anticipate all large organisations with over 250 employees would have basic spreadsheet software provision in place to produce the simple calculations (e.g. Microsoft Excel or the free Google Spreadsheets).

In addition, online software funded by the EU is currently freely available in an English-language format. This web-based tool for UK employers allows them to calculate their GPG (based on uploading the requisite data file in the appropriate format).

We have concluded that the employers within scope should not incur any additional software costs as a result of these regulations. This assumption outlined in our previous consultation impact assessment was not challenged by employers responding to the second consultation.

Training costs for option 2

We have assumed that each employer will need to provide training for their staff in order for them to produce the required measures and understand the potential causes underpinning this information.

Telephone interviews with employers from the IFF survey confirmed that up to one hour of training time is sufficient for a HR manager to be taught how to produce the required mean and median gender pay gap calculations. A number of respondents felt that for many HR professionals, these were already 'known calculations' and no training was required. This evidence is supported by follow-up calls to employers who responded to the first consultation. Initially the findings of the first written consultation estimated the average cost of training was £2,063. However, follow-up interviews found that respondents had accounted for total training time required to become familiar with much more complex total-HR pay systems and GPG calculations that will not be required in the regulations.

Depending on the size of the organisation, respondents estimated that one to three HR professionals would need between 1-2 hours of training time. It was suggested this could include advanced spreadsheet (e.g. Microsoft Excel) training. Taking this into consideration, we have made the assumption that **two** HR professionals will require **two** hours of training time each to learn how to calculate the mean and median gender pay gap calculations. This assumption was not challenged by employers during the second consultation period.

From our follow-up telephone discussions with respondents to the first consultation, organisations stated that they could easily produce a table with the number of males and females per quartile using their existing software or a basic spreadsheet package. HR professionals will not need any training time, as the table is relatively simple to produce.

HR professionals would require an additional amount of training time to understand how to calculate the GBG figures. Through follow-up discussions with organisations that had responded to the first consultation, in the second consultation IA we expected the time required to train staff to produce a GBG figure would be comparable to the time required for training to produce a GPG figure (i.e. **two hours and two HR professionals**).

Following the second consultation, we will now require employers to publish their mean *and* median gender bonus gap. We have not increased the time for training for the gender bonus gap, as training time for the understanding the difference and producing the mean and median averages is already factored within the time for two HR professionals to be trained on the mean and median GPG figures. As such, the training time outlined in the second consultation IA remains sufficient: 2hour x 2 HR professionals time for GBG training, coupled with the 2hour x 2 HR professionals mean and median GPG familiarisation. However, extra time has been included for the median GBG calculation in the annual recurring costs.

Whilst we have assumed only 38% of organisations will incur implementation costs for calculating their mean and median GPG figure we have assumed that all employers will face implementation costs in order to calculate a GBG figure, as we do not know how many employers already analyse their employee data in this way.

The cost of training **per employer** for calculating the GPG and GBG figures in option 2 is:

Hours taken X no of HR professionals X hourly rate = cost per employer
(2 X 2 X £30.43) x 2 = £121.73

Total cost of training for option 2 for all employers in scope of regulation:
Cost per employer X number of employers affected = total cost
(£121.73 X 7,960 X 0.38) + (£121.73 X 7,960) = **£1,337,202**

Total implementation costs for option 2:

	Cost per employer (£)				
	Software	**Training**	**Total**	**Percentage of employers affected (%)**	**Total cost for all 7,960 employers in scope of regulation (£)**
Mean and Median GPG figures (option 2)	**0**	**121.73**	**121.73**	**38**	**368,215**
Mean and Median GBG figure	**0**	**121.73**	**121.73**	**100**	**968,987**
Salary band table	**0**	**0**	**0**	**100**	**0**
Total for option 2	**0**	**243.46**	**243.46**	**-**	**1,337,202**

Therefore, the total implementation cost for option 2 for all employers in scope of the regulation is £1,337,202

<u>Annually recurring costs for option 2</u>

These costs include the time taken to re-calculate the required information and the costs of publication.

Re-calculating gender pay gap figures for option 2

Based on our engagement with employers, our informed assumption is that it will take two hours on average to re-calculate a single GPG figure each year after initial implementation, this includes time taken to collate the data required for the calculations. We estimate that calculating both mean and median figures will take slightly longer than estimating a single figure. In total, we assume it will take **two** HR professionals around **2 hours and 15 minutes** (2.25 hours) to collate the data and do the required calculations. We anticipate that this time includes one HR professional to do the calculation and once this is completed, another HR professional to quality assure the figure.

Whilst we know that 41% of employers have conducted some form of gender pay analysis (IFF research), we have insufficient evidence to estimate the proportion that have done this annually to date. As such, we have not reduced the monetised annual recurring costs to reflect the proportion of employers who may have done this anyway, which means this figure is likely to be an overestimate. For those employers that already conduct this analysis annually, only costs relating to publication will be <u>additional</u> annual costs.

Re-calculating GBG figure and producing table of percentage of males and females in pay quartiles.

Follow up telephone calls with employers who responded to the first written consultation found that it will take the same amount of time to recalculate a single figure GBG as it does to produce a single figure GPG (two hours). This includes time taken to collate the data required to produce the calculation. Since the second consultation, we have made the decision to include both mean and median GBG data. In the second consultation IA we assumed it will take **two** HR professionals, **two** hours of their time.

Calculating two GBG figures using the same data set is comparable to producing two GPG figures, which was an extra 0.25 hours x 2 HR professionals. As such, we have assumed it will take two HR professions 2.25 hours of their time to calculate the two GBG figures (mean and median).

In addition, we have concluded from discussions with employers, that it will take on average, an **additional one hour each** for two HR professionals to produce a table with the percentage of males and females by quartile pay bands. We anticipate that this time includes one HR professional to do the calculation and once this is completed, another HR professional to quality assure the figure.

Whilst we know that 41% of employers have conducted some form of gender pay analysis (IFF research), and we are aware of organisations that use these calculations in their workforce analysis (for example the Mitie Group published information about the numbers of women and men working at each salary band in its 2015 sustainability report), we have insufficient evidence to indicate the *proportion* that annually look at their GBG and/or percentile gender split in salary quartiles. We have therefore not reduced the estimated annual recurring costs to reflect the proportion of employers who would have conducted this form of pay analysis anyway. This is likely to lead to an overestimate of costs.

The cost of recalculating for calculating the GPG and GBG and quartile figures **per employer** in option 2 is:

(Hours taken for GPG X hourly rate X no of HR professionals) + (Hours taken for GBG X hourly rate X no of HR professionals) + (Hours taken for quartiles X hourly rate X no of HR professionals) = cost per employer
(2.25 X 30.43 X 2) + (2.25 X 30.43 x 2) + (1 X 30.43 X 2)
£136.95 + £136.95 + £60.87 = £334.76

Total cost of annual recalculation for option 2 for all employers in scope of regulation:
Cost per employer X number of employers affected = total cost
£334.76 X 7,960 = **£2,664,713**

Publication costs for option 2

The first consultation suggested that the average costs of publication for those respondents who are in scope is £3,132. However, further discussion with a sample of consultation respondents strongly indicated that this represented a **substantial overestimate:**

- Organisations had included time taken to familiarise themselves with what information they are required to publish and the requirements for where this is to be published. However, this has already been reflected under ‘familiarisation costs’. Therefore, it represents a duplication of cost.

- Organisations had included the time taken by HR professionals to analyse gender pay differences and produce the required information. However, this cost has been considered separately in the ‘re-calculating GPG figures’. Therefore, it represents a duplication of cost.

- Organisations had reflected in their costs time taken to produce and publish a breakdown of gender pay information which went into greater detail and complexity to that which will be required in the regulations - e.g. by grading structure.

- Organisations had included time taken by a HR professional to prepare a narrative in order to contextualise the reasons for the organisation’s gender pay gap. They had also included engaging a lawyer to consider the analysis findings, as well as developing communication activity around the publication of their figures. The narrative is not a requirement by the regulations and is therefore voluntary. Similarly, consulting a lawyer, and deploying communications resources ahead of the publication are an optional process not set out in the regulations. We have therefore only considered the costs relating to calculating, sign-off and publishing the required figures, and have disregarded these additional optional processes employers may wish to adopt.

As such, we have assumed that publication will require **three hours of <u>one</u> HR professional's time** which is the time taken to:

- Prepare the calculated mean and median GPG figures in a suitable format to be published on their website (1.5 hours)

- Prepare the calculated mean and median GBG figures in a suitable format to be published on their website (1 hour)

- Prepare the quartiles information in a suitable format to be published on their website (30 minutes).

- Liaise with the chief executive and board members as part of the pre-publication clearance process (the IFF survey found that for those organisations that collect gender pay gap information the majority (90%) share this at board level and 74% with senior managers).

- Demonstrate compliance through providing a link to their webpage where the information is published via an online portal on a government-designated website.[18]

We assume that the clearance process will take **one hour of a chief executive's time.** Whilst we have not calculated the time and cost for a board to sign-off the data, we have reflected in the chief executive resource the time needed to discuss the findings at the board sign-off. We have also calculated **15 minutes of a communications professional's time** to publish the required information onto an appropriate website. Evidence from the consultation and follow-up IFF telephone interviews showed no correlation between the time taken for re-calculating gender pay analysis figures and size of employer. **The revised time allowance and costings for publication <u>were not challenged</u> by employers during the second consultation.**

Following discussions with employers, we understand that an HR manager with some seniority would lead the publication activity, so we have calculated costs using the hourly rate of an HR manager. The cost per hour of a HR manager's time is taken to be the hourly rate, £23.41 (as given in the Annual Survey of Hours and Earnings 2015 code 1135), uplifted by 30[19] per cent to cover non-labour costs yields total hourly labour costs of £30.43. The hourly rate of a chief executive is £39.14 (code 111) uplifted by 30[20] per cent to cover non-wage labour costs yields £50.88 per hour. The hourly rate of an information technology and telecommunications professional's time is £20.46 (code 213) uplifted by 30[21] per cent to cover non-wage labour costs yields £26.60 per hour.

[18] Note: the time taken for a HR professional to liaise with the chief executive and demonstrate compliance is factored in to the three hours taken to prepare the figures for publication (3 hours in total). This was not challenged or disputed by employers during the second consultation period.
[19] SCM Network, International Standard Cost Model, http://www.oecd.org/gov/regulatory-policy/34227698.pdf, page 19.
[20] Ibid.
[21] Ibid.

The annually recurring costs **per employer** for option 2 is therefore**:**

(cost of re-calculating annually) + (cost of publishing)
= (cost of GPG figures) + (cost of GBG figure and breakdown by quartile) + (cost of publishing)
= (hours taken by HR managers X hourly pay) + (hours taken by chief executive X hourly pay)
+ (hours taken by telecommunications professional X hourly pay)
= (14 X £30.43) + (1 X 50.88) + (0.25 X 20.46) = **£484**

Total annually recurring costs for option 2 for all employers in scope of regulation:
Cost per employer X number of employers = total cost
£484 X 7,960 = **£3,849,404**

Activity	**Cost (£)**
Annual calculation	2,664,713
Annual Publication	1,184,691
Total Annual	**3,849,404**

Under option 2, total annual recurring time spent per organisation is 15 hours 25 minutes. Organisations who responded to the first written consultation indicated that it would take 22 hours to analyse and publish gender pay gap data. As noted, follow-up telephone calls with respondents to the first consultation indicated that timings and costs had included time spent calculating metrics in greater complexity than will be required by the regulation (e.g. GPG by grade). Respondents also included time and cost to consult legal counsel, draft a voluntary narrative and produce a communications plan, which are voluntary and therefore should not be factored into the costings. Taking this into account, we are confident the anticipated total hours outlined is an accurate estimation.

Note on chief executive's and telecommunications professionals' time

For option 2, it is assumed that a chief executive requires **one hour** to clear all information for publication. We have assumed it will take 30 minutes for chief executive to clear the mean and median GPG calculations, and the additional GBG and quartile components will require 15 minutes each.

COSTS TO THE PUBLIC SECTOR

Compliance

An organisation within scope of these regulations will be required to publish the gender pay information on a searchable, English-language website annually. The required gender pay gap information must be retained on the employer's website for three years to demonstrate progress made.

The employer will also be required to send evidence of compliance through an online portal on a government-designated website. This will create a database of complying employers. We do not believe this method incurs particular financial implications for employers within scope of the regulations and is reflected in the annually recurring publication costs above.

For build of the compliance database webpage, we have forecast £250,000 for technology operational expenditure for 2016/17 (this includes initial project/team delivery costs.) We have estimated this cost based on the required spend needed to build the DfE school league table website – however the school league table website was a substantially larger project as it holds more complex data for a larger number of organisations (i.e. schools) and also required harmonising substantial pre-existing data which had been collected prior to the website build.

For the ongoing management of the website, we anticipate requiring one member of staff to do this on a full-time permanent basis. Based on the experience of BIS who manage the list of those not complying with the National Minimum Wage, this requires the full-time support of a Higher Executive Officer (HEO). A Department for Education HEO is paid between £31,079-34,362 with London weighting. We have used the mid-point of this range (£32,721) with the 30% uplift to cost one HEO, and this comes to £42,537. As this staff resource cost will be met as part of the Government Equalities Office's (GEO) existing administrative spend, this represents no additional administrative burden or cost to the public sector. The cost of maintenance for the website is estimated to be £50,000.

Total one-off cost of monitoring compliance for year one = annually recurring costs plus website implementation = Cost of building compliance webpage + HEO salary

250,000 + 42,537 = **£292,537**

Total annual cost of monitoring compliance from Year 2 onwards = Cost of website maintenance + HEO Salary

50,000 + 42,537 = **£92,537**

Enforcement

The regulations do not create any specific additional civil or criminal penalties. However, non-compliance would constitute an 'unlawful act' and therefore fall within the Equality and Human Rights Commission's (EHRC) existing enforcement powers under the Equality Act 2006.

We have considered the impact of new enforcement obligations on GEO, and wider Department for Education resources. As the sponsor department for the EHRC, we have engaged with the Commission to consider the total cumulative burden of regulation for their resources. Where an employer is suspected of non-compliance, the Commission may investigate whether or not an organisation has committed 'an unlawful act' by failing to comply with gender pay gap reporting requirement. If found to be breaching regulations made under the Equality Act 2010, this could be deemed an 'unlawful act' and therefore EHRC could write to the employer, with a draft of a report of their findings, inviting them to make representations, which would encourage them to comply with the regulations. Although the Commission has the powers to undertake formal enforcement, these are primarily designed to prevent or deter discrimination, harassment or victimisation and may be seen as disproportionate for non-publication of data in most cases, and the Commission is therefore normally expected to work through informal communications with employers.

It is anticipated that current skills, expertise and experience within the Commission will support this approach, and the work could be undertaken by a middle manager role or junior lawyer role with a salary of £32,721. With the 30% uplift, this comes to £42,537. This staff resource cost will be met as part of the EHRC's current administrative spend as such this represents no additional administrative burden, or cost to the public sector.

Total cost of enforcement from year 1 onwards = Cost of middle manager/junior lawyer role = **£42,537**

Therefore, total cost to the public sector for compliance and enforcement:

Total Cost to the Public Sector in Year 1 = Cost of Compliance + Cost of Enforcement

= 292,537 + 42,537 = **£335,073**

Total Cost to the Public Sector from Year 2 = Cost of Compliance + Cost of Enforcement

= 92,537 + 42,537 = **£135,073**

<u>Non-monetised costs for option 2</u>

Communications

Employers may wish to develop communications that explain and contextualise the required measures. We acknowledge that employers may be wary of any potential reputational risks arising from publication of the required information, but it will not be a regulatory requirement for employers to issue proactive (internal or external) communications. As such, we see communications resources as an optional addition that some employers may decide to resource - if they do not have confidence in their own remuneration processes, for example. As such, we have only outlined the time required for a telecommunications professional to publish the required information onto the employer's website.

Equal pay litigation

Some employers expressed concerns during the first consultation about their potential exposure to increased legal action such as equal pay and sex discrimination claims as a result of publishing the results of their workforce gender pay analysis. It is important to recognise that an employer's gender pay gap and any information published that shows whether there is a difference in the pay between male and female employees is not of itself evidence of sex discrimination. Nor is it evidence that the employer is breaching any equal pay laws.

Of those organisations in the IFF survey who have published gender pay gap data internally within their organisation no employers "*reported a negative impact for their organisation, and more often than not it has been a positive experience".*

Business in the Community's (BITC) 2015 survey exploring the gender pay gap had a sample of more than 1000 employees. Only 7% of respondents indicated that they would seek legal advice in the case of pay inequity, and less than 1% would actually take legal action.[22] The findings suggested that the vast majority of employees appear more interested in collaboratively changing the status quo rather than pursuing legal avenues. As BITC note, this makes a compelling case for employers to ensure employers plan their pay transparency strategy, accompanying it with an explanatory narrative, action planning and sufficient internal communications that keep employees updated on all aspects of remuneration.

Legal advice on the regulations

If an employer decides to seek legal advice on the potential risk of erroneous legal challenge prior to publication of results, this is entirely optional and they are not obliged to do so. As overall gender pay gap figures, gender bonus gap figures or quartiles do not demonstrate evidence of sex discrimination, the required information cannot be used as the sole basis for an unequal pay claim against an employer.

When the RPC provided a green rating for the second consultation impact assessment, the committee commented that the final stage IA, should assess the scale of the indirect costs of

[22] Business in the Community, Opportunity Now: The gender pay gap, what employees really think, 2015, http://opportunitynow.bitc.org.uk/leading-change/genderpaygap_whatemployeesreallythink, page 7

obtaining legal advice to businesses[23]. We have investigated this issue further by engaging several legal firms and law bodies, as well as businesses that are within scope of the regulations and had responded to both the second and first consultations. These key stakeholders were not able to quantify the likely costs of this hypothetical situation.

Some of the respondents anticipated they would consult legal counsel in the initial years of the regulations, to ensure they were compliant. Larger businesses who have in-house legal counsel felt confident that they would be able to interpret the regulations without incurring additional, external legal fees. However, these employers were unable to provide a cost estimate for utilising in-house legal capabilities. A number of LLPs noted that the extent to which organisations might incur additional external legal costs would vary from organisation to organisation, but were unable to provide a monetised estimate.

Despite our best efforts to provide a response to this question posed by the RPC, we have not been able to estimate a typical cost for employers obtaining optional legal advice because of these regulations given the variables outlined above. As noted, we published the RPC's formal opinion alongside the second consultation, but no respondents or stakeholders have challenged the suggestion that obtaining legal advice on the regulations was an indirect cost.

Reputational effects

We also spoke to the same group of employers and bodies regarding the RPC's request that we should assess the scale of costs of reputational effects and any indirect costs resulting from mistaken inferences based on comparing simple gender pay gap figures across companies[24].

Employers felt there could be both internal impacts (e.g. a reduction in morale impacting staff retention) and external impacts (e.g. shareholders' and customers' perceptions), and suggested that those employers publishing large gender pay gaps could face similar consequences. However, employers noted the exact negative cost would depend on mitigating factors (e.g. a successful recruitment drive to get women into junior positions, which could lead to an increase in the pay gap in the short-term) or whether the figures were reported by the press in a balanced way and did not mistakenly conflate gender pay gap with equal pay.

Consequently, our stakeholders struggled to monetise the scale of reputational effects in the abstract, and some responded that they felt this would be very subjective. No organisation nor legal firm was able to provide a monetised estimate of the reputational impact.

We also reviewed broadly comparable impact assessments where the regulations had a reputational lever which encouraged compliance - for example, the impact assessments for the Modern Slavery Bill[25], legislative proposals to promote equal pay[26], and the power to set

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[23] Regulatory Policy Committee, Gender pay gap regulations second consultation impact assessment: RPC-3023(3)-GEO, 2016, Genderhttps://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499973/MGPGReportingRPC___1___1_.pdf

[24] Ibid.

[25] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/371057/MSB_IA.pdf

[26] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85575/impact-assessment.pdf

the national minimum wage financial penalty on a per worker basis[27]. However, none of these offered a precedent where the scale of reputational affects had been quantitatively calculated or monetised. We also consulted the Department for Business, Innovation and Skills on the monetised reputational costs and they were unable to offer a robust cost model to base such calculations on.

At a sector level, due to consumer substitution, the net impact on business from external reputational changes is likely to be zero. For example, if one business receives negative publicity due to their GPG, then consumers may substitute their consumption of a good or service to a different business within the same industry (rather than stop consuming the product altogether) which either has received better publicity, or has not published their data (e.g. if they are an SME). Thus, the net effect on those employers as a whole in terms of consumption and investment will be close to zero.

Some employers had already begun to consider how to mitigate the internal reputational risk - planning their communications programme to educate employers on the causes of the gender pay gap and the conflation between the gap and unequal pay, for example. Those organisations taking steps early to prepare will be able to consider the gender diversity of their workforce in advance of the regulations coming into effect (e.g. improving their talent pipeline for women), thus proactively mitigating the potential reputational risks.

Whilst some employers did outline potential reputational risks, many were keen to highlight the anticipated reputational *benefits* gained from gender pay gap reporting and challenged the assumption that reporting was a risk for an organisation. For example, an employer who already publishes gender pay gap data stated:

"We have received no negative reaction from publishing our gender pay gap last year either internally or externally; in fact, the coverage has been overwhelmingly positive (including from our own female staff). This may in part be as a result of the actions to which we had already committed in relation to gender diversity as we had clearly communicated these internally and were equally clear on them when we commented externally. This publicised commitment may improve our position in the job market, encouraging more women to apply to work for us and more existing women employees to apply for internal vacancies. Doubtless we will be asked about the gap by candidates at interview, but we see this as an opportunity to explain what action we are taking."

As employers were unable to predict or disclose the likely outcome for their individual organisations, it is not possible to provide a robust and evidence-based monetised costing for the reputational impacts of the regulations.

[27] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/369257/bis-14-1182-power-to-set-the-minimum-wage-financial-penalty-on-a-worker.pdf

Benefits of option 2

There are significant potential benefits to individuals in the form of higher labour market returns and to the economy in the form of increased productivity. In the shorter term there is some potential for substitution effects (for instance, if female earnings or participation increase at the expense of other workers) but over the longer term, this policy change should be viewed as potentially increasing aggregate supply – i.e. increasing the productive potential of the economy without creating inflationary pressure. This would happen in any circumstances which caused a long term shift in female labour supply, either through attracting more women to the labour market, increasing hours worked, or speeding up returns to the labour market after a period of maternity leave.

Improved pay transparency can improve economic outcomes in several ways as the incentives of both employers and employees are altered.

- If the effect of the increased transparency is that the talent pipeline is improved (i.e. firms employ women at all levels on an equal basis), this would allow employers to make better use of the available talent pool, with potential growth implications as employees across an organisation are in occupational roles that best match their productive potential.

- Greater transparency regarding pay may even create further incentives for people to seek employment, thus increasing the available labour supply. Employers opting to provide a voluntary narrative around gender equality will attract the best talent.

The long-term result is a better utilisation of labour, which will increase earnings for individuals, profitability for business, and productive potential for the UK economy. Any policies which help improve UK productivity relative to other countries must be favourably considered as increasing productivity is crucial for the UK economy

As these potential benefits are long term in nature, it makes them difficult to monetise at present. However, two recent reports help us scope the potential magnitude of the benefits:

- Hsieh et al found in their US study that changes in occupational barriers facing both black, Asian and minority ethnic individuals and women can potentially explain 15 to 20% of aggregate growth in output per worker.[28] Most of the gains to the economy that they found were driven by the transition of women into high skilled jobs, which occurred through better allocation of talent (i.e. getting more highly skilled women into jobs which better suit their skill level). They found that changes in occupational barriers have the potential to raise real wages by roughly 40% for white women, and 60% for black women.

[28] Hsieh, C-T, E Hurst, C I Jones, and P J Klenow, 'The Allocation of Talent and U.S. Economic Growth', working paper, 2013.

- McKinsey released a comprehensive report[29] for the global economy which claimed that $12 trillion could be added to global GDP by 2025 by advancing women's equality. Although the potential benefits are generally higher in developing economies, it claims that the UK could increase GDP by 10 to 12 percent by 2025 (compared to the 'business as usual' scenario) if it were to close the gender inequalities that exist in the labour market.

Breakdown of the number of male and female employers (expressed as a percentage) in each quartile of the pay distribution

The combination of using mean and median pay differentials is an insightful and simple way of demonstrating whether an employer is achieving gender pay equality. However, they can conceal the true distribution of pay within an organisation. For example, an employer may have a gender pay gap that is close to zero, yet women may still be underrepresented at the top of the pay structure. We want employers to strive for parity across their wage distribution. We agree with those first consultation responses that an overall gender pay gap figure does not offer the level of granularity required to explain pay differences within an organisation, and we believe that by publishing the proportion of men and women in each quartile of their wages distribution will offer this granularity.

In the UK as a whole, 61% of individuals in the bottom quarter of the wage distribution are women, whereas the top quartile of the distribution is made up of 61% men. Moreover, there has been very little change since 2010. In 2010 the bottom quartile consisted of 62% women, and the top quartile was still 61% male.[30] This provides evidence that a key driver of the gender pay gap is that fewer women are employed in senior and higher paid positions. If gender representation across pay bands were equalised, an employer's gender pay gap should be greatly reduced. We hope that this measure will ensure that employers look at the distribution of men and women within their organisation, so that they can tackle any blockages in the talent pipeline that limit progression for women employees. Those workplace cultures that have historically favoured men can be changed and employers can introduce training to tackle unconscious bias among recruiters and line managers.

Given the significant differences in pay across employers and sectors, employers will calculate their own quartiles (using a prescribed methodology) based on their overall pay distribution. Our quartile methodology has been tested, and the HR personnel found that collating this information is not resource intensive and is easy to understand.

In addition, introducing a breakdown of the number of males and females by quartile salary bands will be valuable in making comparisons with those competitor employers that have more or less gender parity across their pay bands - signposting those employers that are actively nurturing female talent and increasing their pay accordingly when they achieve greater seniority. As referenced in our first consultation document, the Mitie Group published information about the numbers of women and men working at each salary band in its sustainability report in 2015.

[29] http://www.mckinsey.com/global-themes/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth
[30] Office for National Statistics, 'Annual Survey of Hours and Earnings – Provisional Results', 18 November 2015, http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2015-provisional-results/stb-ashe.html

Gender bonus gap figure (GBG)

A number of responses to the first consultation persuasively argued that bonus payments can be a very significant element of overall remuneration in some sectors. As such, we will also require employers to publish a separate gender bonus gap figure.

From May 2014 to April 2015, £42.4 billion was paid out in bonuses in Great Britain, including £13.6 billion paid in the finance and insurance sector.[31] The average bonus across all those in employment was approximately £1,500 per employee, compared to an average of £13,500 in the finance and insurance industry. The average bonus per head in health and social work is close to zero. A number of consultation responses persuasively argued that bonus payments can be a very significant element of overall remuneration in some sectors, such as finance and insurance.

The EHRC's 2009 inquiry into sex discrimination and the gender pay gap in the financial services sector found that differences in bonuses awarded to men and women significantly contributed to the pay gap.[32]

Among those men and women across the whole economy that do receive bonuses, males on average receive a considerably higher bonus. The mean bonus paid to those men receiving a bonus was £6,719, whereas the mean bonus paid to those women receiving a bonus was only £2,918. Therefore, there is a 57% 'gender bonus gap' among those employees that received a bonus across the whole economy.

Jobs traditionally done by men due to occupational segregation are often more eligible for bonus payments than those roles predominantly done by women. The Chartered Management Institute (CMI) has shown that male managers are still more likely to get a bonus. These findings are especially concerning as women still only make up around 34% of senior managers. According to the October 2015 Labour Force Statistics, there are 1,059,000 female managers, which represents over 7% of all female employees. There are 2,123,000 male managers, representing nearly 13% of all male employees.

Examining basic pay rates alone will not provide employers with a full understanding of the causes of the underlying gender pay gap and the potential impact of bonus payments on women's total earnings. This would also increase the risk of an employer not identifying the potential for an equal pay claim based around differential bonus payments.

Our favoured methodology for calculating the overall GPG figures looks at a representative 'snapshot' period (April), but we recognise that relatively few bonuses would be captured in that calculation as many bonuses are paid at other times during the year. ONS research (August 2015) indicated that many bonuses are paid between December and March[33]. Our proposed methodology for calculating a gender bonus gap figure will account for all bonuses paid over the year.

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[31] Office for National Statistics, Average Weekly Earnings - Bonus Payments in Great Britain 2014-15, http://www.ons.gov.uk/ons/dcp171766_414566.pdf

[32] Equality and Human Rights Commission, Financial Services Inquiry: Sex Discrimination and Gender Pay Gap Report, 2009, http://www.equalityhumanrights.com/publication/financial-services-inquiry-report , page 6.

[33] Office for National Statistics, Average Weekly Earnings - Bonus Payments in Great Britain 2014-15, http://www.ons.gov.uk/ons/dcp171766_414566.pdf

Requiring employers to separately analyse all bonus payments made in a 12-month period and publish the difference between women and men will drive employers to scrutinise their remuneration policies and ensure that their practices for bonuses are just as fair and transparent. It will also avoid the risk of ad hoc bonus payments not being reflected fully because of 'snapshot' data collection approach that will be used to calculate the overall GPG figure. The approach also discourages employers from using in-year bonus payments to systematically supplement earnings of male employees only.

Voluntary narrative

Given the potential interest from the media and civil society, we anticipate that many employers will want to voluntarily provide additional narrative that contextualises the data, explains any pay gaps and sets out what actions the organisation will take to address these. One large employer suggested that a single gender pay figure could be misleading without some form of narrative - e.g. the gender pay gap may be higher due to the current demographic structure of the organisation. Having a supporting narrative gives the employer an opportunity to explain the drivers behind their gender pay gap and if they are changing any of their working practices to reduce their gender pay gap. Some employers may produce detailed reports while others choose to take a minimalist approach.

Both consultations highlighted that the majority of respondents felt employers should be free to offer additional narrative (even additional numerical measures) for further explanation, as they see fit on a voluntary basis. A number of respondents emphasised that it will be important that employers have clear guidance around what details should be included in any additional narrative. This may include an explanation of the factors underlying the gap, alongside details of any actions being taken by the employer to close the gap.

Respondents to both the IES survey and the EHRC consultation strongly supported the inclusion of narrative. Views on the importance and possible components of the narrative varied but the majority considered that it should comprise a mix of qualitative and quantitative information. Such findings can be reflected in the non-statutory guidance for employers that we will publish this year.

RISKS AND ASSUMPTIONS

Assumptions

- Time taken for employers to familiarise themselves with their legal obligations.
- Time taken for employers to train staff.
- 38% of employers will face implementation costs to produce mean and median GPG figures (based on evidence from consultation).
- 100% of employers will face implementation costs to produce a GBG figure and table of male and female employee in quartile salary bands.
- Employers will face no additional software costs to produce the required information.
- Time taken to re-calculate figures annually.
- Time taken for clearance and publication and who will be involved.

Risks

The IFF survey results indicate that organisations with 1,000+ employees were the most likely to analyse gender pay data (45%) so there may be a higher burden on those organisations with less than a 1000 employees. Those in the finance and business services sector were more likely than average to conduct gender pay analysis (47%), while those within distribution, hotels, and restaurants were the least likely (35%), therefore the new burden to employers may be shared differently across different sectors.

Estimated staff training and clearance processes for employers could vary greatly as we have assumed that staff will spend some of this time understanding the background behind gender pay. Employers taking a minimalist approach may only spend training time learning how to collate and calculate the data whilst others may additionally wish to compare how they are doing against the national average and their competitors as well as learning about the drivers contributing to their gender pay.

Those employers with large and complex structures may have separate HR team members within each business area or region and will need to coordinate analysis activity. However, given the difficulty with ascertaining all the possible variations of how this may work in practice, we have monetised training costs (for the assumption based on the follow-up calls to employers) and annual recurring costs based on two members of HR personnel. In doing so we have assumed that each organisation has a minimum of two HR personnel (one to produce the calculations, and one to quality assure), this is based on our discussions with employers. We have based our assumption on the internal clearance process for an organisation on discussions with a few large employers who have quite an advanced approach to understanding the gender pay gap in their organisation. Some employers may require greater/lesser time for HR to produce the calculations and brief their CEO and board.

For some employers, bonuses are not commonplace (e.g. agriculture where the bonuses per head is 0.3%[34]). We recognise that for organisations which do not pay bonuses to any employees, the costs that we have calculated for the time HR will spend familiarising themselves with the GBG guidance and producing the GBG calculation will be an overestimate in the costs and resources required to produce the calculations.

WIDER IMPACTS

Domestic competition

The regulations could potentially lead to an indirect effect where smaller employers try to keep their number of employees below 250 and overwork their current employees, although we consider this unlikely.

International competition

There are pay reporting requirements in other countries in the EU (including Sweden and Austria) and the US government announced in February that it intends to require employers to publish information around pay differentials. The possible impact on British employers will be dependent on the size of the extra cost, the costs other countries who have reporting requirements face and will vary across markets for different goods and services.

SMALL AND MICRO BUSINESS ASSESSMENT

There will be no effect on these employers as the legislation will only affect those with at least 250 employees. 5,308,640 employers are not affected by this legislation. Employers who are on the cusp of 250 employees may incur a very small cost of calculating annually whether they fall in scope of the legislation, although the threshold is based on straightforward headcount data that should be readily available on existing HR systems rather than on a more complex full-time equivalent (FTE) basis. We anticipate compliance checks *may* be made for organisations that the government has received non-reporting complaints against. There is a risk that organisations on the cusp of the 250 threshold that have had a non-compliance complaint lodged against them may have to demonstrate to government that they are under the 250 employee threshold, and not within scope of the regulations. Providing this evidence will incur a cost in resource-time for an organisation.

[34] Office for National Statistics, Average Weekly Earnings - Bonus Payments in Great Britain 2014-15, http://www.ons.gov.uk/ons/dcp171766_414566.pdf