Mandatory Gender Pay Gap Reporting Consultation Response from Fair Play South West

# Fair Play South West

Fair Play South West is a volunteer-run network made up of individuals and organisations based in the South West of England that share a commitment to promoting gender equality and eliminating gender-based discrimination and disadvantage wherever it may exist, and by all available means.  Fair Play South West's vision is economic and social equality for women in the South West. <http://www.fairplaysouthwest.org.uk/>

# Our Gender Pay Gap Work

We have recently published a report (Longworth, 2016[[1]](#footnote-1)) which presents a detailed analysis of data from the ASHE by ONS. It combines this with qualitative intelligence from our network and other sources to identify some causes of gender pay gaps and proposes some solutions.

# Our response to the consultation

The above work identifies pay gaps both within and between occupations and finds that pay gaps widen with age and at higher points in pay distributions.

We therefore welcome these regulations as drafted because they require both the mean and the median gaps to be analysed and go further to require information about quartiles, both pay bands and the numbers of men and women within them. We think this should go a long way to helping employers understand some of the causes of their pay gaps, in particular any discrimination or unconscious bias in the implementation of their internal processes.

We also welcome the requirements for open reporting of the information. This will enable employees and their representatives to work with the employer to reduce any pay gaps identified. It will also enable researchers such as us to do deeper comparative analyses to help identify structural causes which might go beyond the capacity of individual employers to impact.

There are a number of ways in which the Draft Regulations could be made even more effective, including:

1. The Draft Regulations do not currently specify their objectives, neither are these clear from S78 of the Act. Given that R10 requires the Secretary of State to review the extent to which the objectives are being met, we believe that the objectives should be stated in the Regulations. These should include that over time Gender Pay Gaps will be reduced and/or eliminated.
2. There is nothing in the Draft Regulations to require employers who identify pay gaps to take action to reduce and, eventually, eliminate them and we think there should be. Elsewhere in the Act employers are enabled to take positive action to reduce barriers for disadvantaged groups and this could be referenced either in the Regulations or at least in relevant guidance. Guidance could also indicate that there are many organisations (public, private, Trade Union and voluntary) with expertise to help.
3. There is nothing in the Draft Regulations which makes provision for a failure to comply, nor is it indicated how and by whom compliance will be monitored and enforced[[2]](#footnote-2). Given the limited success of previous initiatives to get employers to engage with this agenda voluntarily we think the Regulations should be boosted in respect of compliance.
4. We believe the Regulations should apply to Public Authorities, if necessary by amending S78 (2) (b) & (c) of the Act. Our analyses show that there are significant pay gaps within and between those occupations which are significantly employed in the public sector and progress with the reduction of the overall pay gap will be slow indeed if they are excluded. There has been little progress since the voluntary approach adopted post Kingsmill in 2002[[3]](#footnote-3).
5. Significant numbers of women are employed in organisations of fewer than 250 employees, many of them in low paid occupations. At the first review we would wish to see S78 (2) (a) of the Act amended to allow the Regulations to be extended to smaller employers.

1. Longworth, 2016: “The Gender Pay Gap and what is needed to eliminate it” available from <http://www.fairplaysouthwest.org.uk/images/The_Gender_Pay_Gap_elimination.pdf> [↑](#footnote-ref-1)
2. The Act, S78 (5), states only that the Regulations may make such provisions. Though it limits the summary conviction punishment to a fine of not more than level 5 of the standard scale (currently £5000), it also allows for the introduction of enforcement action other than summary conviction. [↑](#footnote-ref-2)
3. See, for example: <http://www.rubensteinpublishing.com/default.aspx?id=1063859> and

   <http://www.equalityhumanrights.com/sites/default/files/documents/equalpay/equal_pay_reviews_in_practice_wp_33.pdf> [↑](#footnote-ref-3)