

# **Closing the Gender Pay Gap**

## **Submission by Prospect to the Government Equalities Office**

**27 August 2015**  
[www.prospect.org.uk](http://www.prospect.org.uk)

## **Introduction**

Prospect is an independent trade union representing over 113,000 members in the public and private sectors. Our members work in a range of jobs in both the public and private sectors in a variety of different areas including in aviation, agriculture, defence, education, energy, environment, heritage, industry, scientific research, and telecommunications.

Prospect believes that issues affecting women in the workplace need to be re-prioritised and that this process needs to include a thorough overhaul of procedures in relation to pay equality. A present lack of incentive on employers to publish pay-related data needs to be addressed with a view to establishing accountability and engagement.

Prospect recognises the need to create a best-practice model that promotes transparency on pay and enables women to access pay and related information and utilise this effectively. We also believe that there needs to be greater interaction with the trade unions in relation to analysis undertaken and the way in which results and outcomes are communicated. There is a need to take action once gender pay discrepancies have been identified and report on any action taken.

Prospect therefore welcomes the proposal to introduce regulations under Section 78 of the Equality Act 2010.

## **Your details**

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## Responding as :

Trade Union over 10,000 members

### Question 1:

**Publication of gender pay information will encourage employers to take actions that will help close the pay gap. Do you strongly agree, agree, neither agree nor disagree, disagree or strongly disagree?**

Agree. While we strongly agree with the *principles* of gender pay gap reporting, without *action* by employers this stands to lose significance. Prospect believes that publication of gender pay information will improve the quality and content of dialogue with employers, that this may increase the potential to avoid litigation, and that where employers recognise gender pay discrepancies they may be increasingly encouraged to enter into meaningful negotiation.

Accuracy is important in this process and we would therefore also support the following:

- a single gender pay gap figure to be published for the whole workforce with a comprehensive statement as to what this figure represents. This is especially pertinent in measuring part-time pay penalties;
- gender pay gap figure in relation to each grade or job role; and
- pay in relation to starting salaries in order to determine status at the point of recruitment.

There is also a need for comparing like with like. The guidance needs to consider how to analyse, for example, not just the gender pay gap over grade, but data in quartiles, etc.

### Question 2:

**Transparency on gender pay will have an impact on:**

- (a) Encouraging girls and women to consider working in a wider variety of occupations and sectors.
- (b) Encouraging employers to develop their female talent.
- (c) Encouraging employees to take up flexible working or shared parental leave.
- (d) Encouraging employers to support flexible working or shared parental leave.
- (e) Encouraging employers to adopt good practice on how to manage and support a multigenerational workforce.
- (f) Helping those who have a stake in the organisation, including investors, shareholders and clients.
- (g) Helping employers to address equal pay in their organisations.

Agree. We believe that increased transparency will have the effect of improving employers' more general understanding and appreciation of some of the wider issues that affect female workers and that this will deliver practical benefits, such as making it easier for women to manage the interface between work and childcare, family or caring commitments.

Transparency will also benefit employers' business or organisational profile insofar as those associated with them (investors, clients, stakeholders, etc.) will be able to establish and build on a high trust relationship that goes beyond the basic "customer service" parameters.

The issue of equal pay cannot be overlooked and a transparent model can only assist in encouraging employers to be proactive on dealing with pay issues. This will lend greater visibility to a process that is currently not subjected to scrutiny.

**Question 3:**

**Employees or other interested parties (e.g. shareholders) may want to gauge how an employer's gender pay gap compares with similar organisations. How important do you think comparability is? (Not at all**

**important, Very unimportant, Somewhat unimportant, Somewhat important, Very important, Extremely important, Don't know)**

Extremely important. Standardising methods of calculating gender pay gaps is essential in order that employees, trade unions and others are able to assess data in relation to companies'/organisations' performance, both sectorally and within the broader economy. This would be similarly beneficial for businesses, especially in terms of creating a best practice model. Prospect agrees that allowing employers to select their own calculation criteria may result in them selecting methods that show the smallest differentials and subsequently justifies lack of action.

**Question 4:**

**Do you think the regulations should specify where the employer publishes their gender pay gap information – for example, a prominent place on their public website?**

Yes. Displaying this data and making it accessible represents good practice and should be encouraged. The Regulations need to stipulate the way in which data should be displayed. There needs to be a specific means of alerting a workforce to this data, in which case in addition to display on the employer's website, this needs to be made available via other media, such as intranet, noticeboards and newsletters. It would also be advisable to include this in an employer's annual report. Employers need to be able to demonstrate that individual employees have been made aware of this data, which also needs to be made available to trade unions.

**Question 5:**

**Which of the following measures showing the difference in the pay of male and female employees are you currently able to calculate from existing data and systems?**

- An overall gender pay gap figure
- Gender pay gap figures broken down by full-time and part-time employees

- Gender pay gap broken down by grade or job type
- None of the above

This is not applicable to Prospect but we would nonetheless emphasise the need for detailed breakdowns.

### **Question 6:**

**Do you think that any additional narrative information published by employers should be:**

- Voluntary and not set out within the regulations or non-statutory guidance
- Voluntary, not set out within the regulations, but set out in the non-statutory guidance
- Set out within the regulations ✓
- Other, please specify

### **Question 7:**

**How often do you think employers should report gender pay gap information?**

- Every year ✓
- Every 2 years
- Every 3 years
- Other

We believe that reporting cycles should be aligned with those of businesses more generally, which tend to be conducted on an annual basis.

### **Question 8:**

**What is your assessment of the costs of conducting gender pay analysis and publishing results?**

Not applicable to Prospect.

**Question 9:**

**What is actual/estimated time taken by the lead person assigned to the activity of analysing and publishing a gender pay gap estimate?**

Not applicable to Prospect.

**Question 10:**

**Private and voluntary sectors in Great Britain with at least 250 employees may fall within the scope of the proposed regulations. Do you think this threshold is appropriate?**

- Yes
- No ✓
- Don't know

Prospect believes that all employees should be covered, but should be at least 150, allowing for as many employees as possible to benefit. Additionally, the Public Sector Equality Duty (PSED) already applies to organisation with 150+ employees, in which case this threshold seems not only appropriate, but logical.

**Question 11:**

**The cut off period for any calculation of the gender pay gap will need to be specified in the regulations. Which of the following do you consider preferable?**

- 1 January
- 6 April
- 1 October ✓
- The year-end date for each organisation

- No preference
- Other

**Question 12:**

**The government is considering a number of actions to help support employers implement the proposed regulations. How helpful do you think the following measures would be?**

- Helping employers to understand the new regulations, e.g. through workshops and seminars
- Helping employers to calculate their organisation's gender pay gap, e.g. through access to software
- Helping employers with other types of supporting analysis, e.g. analysis of representation of women at different levels within the workforce
- Helping employers to address the issues identified by a pay gap analysis

Prospect considers all of the above measures to be very helpful. Any guidance needs to be clear and appropriate – the EHRC's materials would represent a good starting point.

**Question 13:**

**Do you think there are alternative ways to increase transparency on gender pay that would limit the cost for employers, for example reporting to the Government via the existing PAYE system,?**

- Yes ✓
- No
- Don't know

Although not as effective as publishing data on employer websites, reporting via PAYE would be a helpful additional method, although only in the event that the Government published the information. This would mean that employees and trade unions would be able to access the data and challenge

employers if necessary. Furthermore, this would enable the EHRC to monitor non-compliant companies or organisations.

Prospect also supports reinstatement of the statutory equal pay questionnaire. The questionnaire procedure would enable employees to identify pay discrepancies and would encourage greater transparency.

**Question 14:**

**Do you think that introducing civil enforcement procedures would help ensure compliance with the proposed regulations?**

- Yes ✓
- No
- Don't know

Prospect supports the need for some form of sanction to be imposed in the event that employers fail to comply with the regulations. To fail to have any form of sanctions in place would discourage employers from compliance.

Prospect is concerned about the lack of impetus on employers in the event that they resist producing gender pay data. With no sanctions in place on non-compliance, there is a real risk that employer motivations in respect of gender pay will remain static.

**Question 15:**

**What, if any, do you consider to be the risks or unintended consequences of implementing section 78?**

We believe that reporting requirements need to be robust and that if employers are allowed to exercise excessive discretion in respect of what they publish, then this may frustrate access by employees, trade unions and others.

Similarly, if there is no robust enforcement mechanism in place, then this may also incentivise employers to produce minimal – and potentially unreliable or misleading – information.

Prospect believes that employers have a duty to be mindful of the law on equal pay and that they should be encouraged, in an attempt to mitigate risk in relation to potential equal pay claims to conduct equal pay audits. We furthermore believe that employers need to be fully conversant with the Equality Act 2010 in order to best capture data in relation to different – and distinct – categories of worker.

**Question 16:**

**Do you consider there are any risks or unintended consequences that warrant dropping or modifying the implementation of section 78?**

- Yes
- No ✓

**Question 17:**

**How do you think the Government can most effectively encourage young girls to consider the broadest range of careers?**

Prospect recognises the need to broaden aspirations in relation to girls' education. We see the need for a move away from stereotypical roles associated with women and towards a focus on Science Technology Engineering & Mathematics (STEM) and similar supported initiatives. We believe in the need to widen not only the range of choice, but also access, to fields traditionally dominated by men. There is a need to increase collaboration between employers and schools to inspire girls about work, as well as encouraging gender neutrality and challenging stereotypes; replacing the notion of men as agents for change with a fresh approach to opportunities for girls in the contemporary world of work.

**Question 18:**

**How do you think the Government can work with business to support women to return to work and progress in their career after having children?**

We believe that childcare is a crucial factor - this is often prohibitively expensive, wrap-around care is scarce and access often limited. This is, however, a significant factor affecting many women's decisions in respect of returning to work after having children. Prospect therefore welcomes government measures to improve access to childcare and supports increased investment in this area.

Prospect welcomes challenge to the "motherhood penalty", coupled with initiatives to improve the uptake of flexible working and shared parental leave. At present the procedure to request flexible working is weighted very heavily in an employer's favour, which inevitably causes problems for women trying to balance work and childcare – and other caring – commitments. Similarly, the process of applying for shared parental leave is complex and off-putting. That employers may seek to reduce existing maternity enhancement further problematises this. We would therefore welcome any initiative that would not only simplify these procedures but would make them more realistically accessible and workable. Encouraging voluntary positive action may also assist in breaking down barriers in this respect.

Prospect notes that the impact of employment tribunal fees on women is far-reaching, especially in relation to pregnant women and those returning to work after having children. If women cannot afford to enforce their statutory rights, then they are inevitably destabilised and as such Prospect recommends the abolition of ET fees.

**Question 19:**

**How do you think the Government can make sure that older women are able to fulfil their career potential?**

Prospect recognises that many older women enjoy less job security, are excluded from protective employment rights, are more likely to perform low-paid, precarious work: zero-hours, casual, agency and/or part-time. There are also fewer training opportunities, which makes accessing better paid and more stable work difficult. We would therefore welcome increased government support for training for older job seekers more generally in addition to restoration of funding to the adult education/lifelong learning sector.

Prospect also supports initiatives that will assist older women in more seamlessly navigating career trajectories, caring responsibilities and health and social issues.

**Prospect**

**27 August 2015**