

Gender Pay Gap Consultation
Government Equalities Office
1st Floor
Sanctuary Buildings
20 Great Smith Street
LONDON
SW1P 3BT

Submitted by email to: GenderPayGapConsultation@geo.gov.uk

10 March 2016

Dear Sirs

Mandatory Gender Pay Gap Reporting

We welcome the opportunity to respond to the Government Equalities Office (GEO) consultation on Mandatory Gender Pay Gap Reporting. ICSA: The Governance Institute is the international professional body with primary responsibility for governance. Our Royal Charter requires us to lead 'effective governance and efficient administration of commerce, industry and public affairs' and we are the qualifying body for Chartered Secretaries. Our members are the usual point of contact for engagement between the issuer and its investors in governance matters and corporate reporting. As such, our members are well placed to understand the impact of these proposals for mandatory gender pay gap reporting.

We would like to raise a broader point in relation to the interpretation of the current draft of The Equality Act 2010 (Gender Pay Gap Information) Regulations 2016 (the draft regulations). We are therefore responding in this format, which gives us greater flexibility than the online system to clearly set out the detail of our thinking.

What, if any, modifications should be made to these draft regulations? To inform our consideration of any proposed modification(s), please explain your response and provide supporting evidence where appropriate.

We are pleased to note that many of the concerns raised in our response to the 2015 consultation on Closing the Gender Pay Gap have been addressed by the Government in the approach to mandatory reporting set out in the draft regulations. Consequently, we are not proposing any modifications to the draft regulations.



However, we would like to put forward an observation we believe would benefit from consideration and, if appropriate, clarification in the supporting guidance that the GEO has stated will be published this year (page 7 of the consultation document).

The definition of a “relevant employer”

Regulation 1 defines a relevant employer as a person who has 250 or more relevant employees on the relevant date, i.e. on “the 30th April 2017 and each subsequent anniversary of that date”. By this definition, an employer could be within the scope of the mandatory reporting requirements in one year but marginally outside of it in another year, due to fluctuations in employee figures.

We note that the supply chain transparency reporting regime, introduced under s.54 of The Modern Slavery Act 2015, similarly works on the basis of an annually assessed threshold. In its associated guidance, the Home Office has stated:

“We strongly recommend that businesses who produce a slavery and human trafficking statement in one financial year should continue to produce a statement in future years even if their turnover has fallen below the £36m threshold. Producing a regular annual statement will ensure organisations can build upon earlier statements and demonstrate... that they are being transparent, not because they are required to do so but because they consider it important” (page 12, Transparency in Supply Chains etc. A practical guide – October 2015).

We would welcome the same recommendation being applied to employers within the scope of the draft regulations. The rationale for on-going transparency and the value of annual benchmarking equally apply in the context of the gender pay gap.

We hope our comments are useful. If you would like to discuss them, or would like further information, please contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Peter Swabey', with a large, stylized flourish at the end.

Peter Swabey
Policy & Research Director
Tel: 020 7612 7014
Email: pswabey@icsa.org.uk