

Gender Pay Gap Information Act 2021

Updated Guidance note for employers on reporting in 2022

[Updated 28/06/2022]

The Gender Pay Gap Information Act 2021 requires organisations to report on their hourly gender pay gap across a range of metrics. Regulations have been published which set out the detail on how these calculations should be made.

The Regulations can be accessed at the following link:

<https://www.irishstatutebook.ie/eli/2022/si/264/made/en/pdf>

Guidance on how to calculate the gender pay gap metrics

These guidelines are only intended to provide guidance. The Regulations will provide the legal basis for reporting.

For additional queries, please refer to the Frequently Asked Questions.

Suggested approach

It is suggested that organisations approach the calculation of their gender pay gap metrics in the following manner:

1. Choose the snapshot date in June 2022. The reporting deadline is 6 months after that date, in December 2022. The reporting period is the 12-month period immediately preceding and including the snapshot date.

EXAMPLE: The organisation chooses Friday 24 June 2022 as its snapshot date. Its reporting deadline is 24 December 2022. Its reporting period is 25 June 2021 to 24 June 2022.

2. Calculate the organisation's headcount of relevant employees on the snapshot date. Refer to the definitions at **paragraph A** below.

EXAMPLE: On the snapshot date, the organisation has 250 fulltime employees and 60 part-time employees. Of this number, 30 are on leave of various kinds. 10 staff are on career break - 10 have been on career break for over 12 months. 10 staff are on paid maternity leave, 5 on unpaid maternity leave. 5 staff are on the payroll but on secondment to other organisations. The headcount on the snapshot date is 300 (250+60 = 310, less 10 on career break for over 12 months). As this is 250 or greater, this organisation is obliged to report its gender pay gap in 2022.

Where the organisation is required to produce a gender pay gap information report, continue as follows:

3. For each person employed on the snapshot date, calculate their total ordinary pay (see **paragraph B**), total bonus (see **paragraph C**), identify benefits-in-kind received (see **paragraph A**) and determine their total number of working hours worked (see **paragraph D**) for the reporting period. Calculate their hourly remuneration (see **paragraph E**). Note which employees were Full-time employees, Part-time employees (see **paragraph A**) or on Temporary Contracts over the reporting period.
4. Calculate the % of male and of female employees paid bonuses (see **paragraph F**).
5. Calculate the % of male and of female employees who received benefits in kind (see **paragraph G**).
6. Organise the employees into quartiles based on hourly remuneration of all male & female fulltime employees and calculate the proportions of male and female employees in each quartile (see **paragraph H**).
7. Calculate the mean hourly remuneration of male and of female employees, then calculate the gender pay gap in mean hourly remuneration of all employees (see **paragraph I**). Do the same for male and female part-time employees and for male and female employees on temporary contracts.
8. Calculate the median hourly remuneration of male and of female employees, then calculate the pay gap in median hourly remuneration of all employees (see **paragraph J**). Do the same for male and female part-time employees and for male and female employees on temporary contracts.
9. Calculate the mean bonus remuneration of male and of female employees, then calculate the pay gap in mean bonus remuneration of all employees (see **paragraph K**).
10. Calculate the median bonus remuneration of male and of female employees, then calculate the gender pay gap in median bonus remuneration of all employees (see **paragraph L**).

A. Definitions

“allowance” means a sum of money payable to a relevant employee in relation to additional duties of the employee; the location of the employee’s place of employment; the purchase, lease or maintenance of a vehicle or item used by the employee for the purposes of his or her employment; or, the recruitment and retention of the employee. It does not include reimbursement of expenditure wholly and necessarily incurred by him or her in the course of his or her employment, for example, reimbursement for travel expenses related to their work.

“benefits in kind” includes any non-cash benefit of monetary value provided to an employee. This would include the provision of a company car, voluntary health insurance, stock options, or share purchase schemes.

“part-time employee” has the meaning given in s.7 of the Protection of Employees (Part-Time Work) Act, 2001

“piecework” means work in respect of which a relevant employee is entitled to be paid by reference to the number of pieces made or processed, or the number of tasks performed, by the employee, rather than by reference to a period of time worked.

“relevant date” means the date, in the month of June each year, that is selected by a relevant employer for the purposes of the Regulations.

“relevant employee” means a person who is an employee for the purposes of the Employment Equality Act 1998 and is employed by the relevant employer on the snapshot date.

“relevant employer” means an employer with over 250 employees on the snapshot date.

“relevant pay period” means the period of 12 months ending on the relevant date.

“shift premium pay” means the difference between basic pay and any higher rate paid by the employer for work during different times of the day or night.

“working hours” means the hours when a relevant employee is available, or required to be available, at or near his or her place of employment for the purposes of working, but does not include the hours when the relevant employee is asleep, notwithstanding that the relevant employee, by arrangement, sleeps at or near his or her place of employment and the relevant employer provides suitable sleeping facilities for that relevant employee.

B. What should be included under ordinary pay?

Ordinary pay should be calculated before deductions at source, for example income tax.

Ordinary pay includes:

- the normal salary paid to the employee;
- allowances;
- any overtime payments;
- pay for piecework;
- shift premium pay;
- pay for sick leave;
- any salary top-ups for statutory leaves like maternity leave/paternity leave/parent’s leave;
- pay for gardening leave.

Allowances includes payments for additional duties; related to location; for the purchase, lease or maintenance of a vehicle or other item; and, for the recruitment or retention of an employee.

For the purposes of calculating hourly pay, redundancy payments can be discounted. Reimbursement for expenses, such as travel & subsistence should also be discounted.

C. What should be included in bonus calculations?

Bonus pay should be calculated before deductions at source, for example income tax.

Bonus pay should include all bonuses awarded to an employee for the period in question. This would include bonus payments in the form of money, vouchers, securities, securities options, or interests in securities, or, which relate to profit sharing, productivity, performance, incentive or commission.

Bonus pay does not include any ordinary pay, overtime pay, or redundancy or termination of employment payments.

Any payments in the form of securities should be treated as if they were paid to the employee at the time the remuneration is provided, and at the nominal value at that point.

For the purposes of calculating bonus payments, “securities” have the same meaning as in s.64 (1) of the Companies Act 2014 and “nominal value” has the same meaning as s.64 (1) of the Companies Act 2014.

D. How should total number of working hours worked be calculated?

Method 1: Where an employee’s working hours are fixed or do not differ from week to week over a longer period, the number of working hours worked in the relevant 12-month reporting period can be derived from the number of working hours that are specified in the employee’s contract of employment in force on the snapshot date.

Method 2: Where the employee’s working hours are not fixed or differ from week to week, for example, where the employee works longer hours at certain times, the number of working hours in the 12-month reporting period for the employee may be determined as follows —

- (i) Where an employee has worked for not less than 12 weeks during the relevant pay period the following formula should be used

$$\frac{A}{12} \times 52.14$$

where —

A is the total number of working hours of the employee during the period of 12 weeks ending with the last full week of the relevant pay period, or

- (ii) Where the relevant employee has worked for less than 12 weeks during the relevant pay period or it is not reasonable possible for the relevant employer concerned to calculate the total number of working hours of the relevant employee concerned during the relevant pay period concerned, be a number that fairly represents that employee’s number of working hours in a year, having regard to —
 - a. The average number of working hours in a week that the employee could expect to work under his or her contract of employment or terms of employment, and
 - b. The average number of working hours in a week of other employees engaged in a comparable employment for the same relevant employee.

Method 3: Alternatively, where the employee is paid on the basis of piecework, the number of working hours for the employee is the number of hours worked by that employee while working on a piece-work basis in the period of 12 months ending on the snapshot date.

E. How is hourly remuneration calculated?

In order to calculate the hourly remuneration of an employee, the employer must divide the employee's total ordinary pay and bonus pay in respect of the reporting period by the employee's hours worked for that period.

The following steps can be taken to make this calculation:

Step 1: Identify all amounts of ordinary pay and bonus pay paid to the employee during the relevant pay period.

Step 2: Where an amount identified under Step 1 is an amount of ordinary pay, exclude any amount that would normally fall to be paid in a different pay period. Where an employee has received a payment in the 12-month reporting period for hours worked outside this period, those should be excluded. For example, where there is back-pay for an earlier period of work, this should be excluded.

Step 3: Where the amounts identified under Step 1 include bonus pay, check the period ("the bonus period") to which the bonus applies. **Where the bonus period is not the same as the reporting period being used for the calculation, then only the bonus relevant to the 12-month reference period should be included. If a bonus is paid within the 12-month period but includes a payment in respect of a period of time prior to those 12 months, that element should be excluded.** Where the total bonus paid to an employee during the reporting period applies to a period greater than the reporting period, the employer is required to adjust the amount of the bonus to include only the proportion that is equivalent to the reporting period. Regulation 3.(c) sets out how the bonus should be adjusted to exclude bonus pay in respect of periods of greater than 12 months.

Step 4: Add together the amounts identified under Step 1 (as adjusted, where necessary, under Steps 2 and 3).

Step 5: Divide the amount found under Step 4 by the total number of working hours worked by the employee in the pay period, as calculated in **Paragraph D**.

F. Calculating the proportions of male and of female employees who received bonus remuneration

The proportion of relevant employees of the male gender who were paid bonus remuneration must be expressed as a percentage of relevant employees of the male gender and is to be determined as follows—

$$\frac{A}{B} \times 100$$

where—

A is the number of relevant employees of the male gender who were paid bonus remuneration in respect of the reporting period, and

B is the number of relevant employees of the male gender.

The proportion of relevant employees of the female gender who were paid bonus remuneration must be expressed as a percentage of relevant employees of the female gender and is to be determined as follows—

$$\frac{A}{B} \times 100$$

where—

A is the number of relevant employees of the female gender who were paid bonus remuneration in respect of the reporting period, and

B is the number of relevant employees of the female gender.

G. Calculating the proportions of male and of female employees who received benefits-in-kind

The proportion of relevant employees of the male gender who were paid benefits-in-kind must be expressed as a percentage of relevant employees of the male gender and is to be determined as follows—

$$\frac{A}{B} \times 100$$

where—

A is the number of relevant employees of the male gender who were paid benefits-in-kind during the relevant period, and

B is the number of relevant employees of the male gender.

The proportion of relevant employees of the female gender who were paid benefits-in-kind must be expressed as a percentage of relevant employees of the female gender and is to be determined as follows—

$$\frac{A}{B} \times 100$$

where—

A is the number of relevant employees of the female gender who were paid benefits-in-kind during the relevant period, and

B is the number of relevant employees of the female gender.

H. How are quartiles to be calculated?

In order to group employees into quartile pay bands, the employer must create a ranking of employees based on their hourly remuneration from lowest to highest. This is then divided into quartiles: lower, lower middle, upper middle and upper.

The employer then needs to express the proportion of male and female employees in each quartile as a percentage e.g. percentage of male employees in the lower quartile and percentage of female employees in the lower quartile (and so on).

If there are a large number of employees with the same hourly remuneration then it is possible that some of those employees will fall into different quartiles so employers should try to ensure that there is a proportional representation of genders with that hourly remuneration level across those quartiles.

The proportions of relevant employees of the male and female gender in the lower, lower middle, upper middle and upper quartile pay bands can be determined as follows.

Step 1: Determine the hourly remuneration for each relevant employee of the male and female gender and then rank those employees in order from lowest paid to highest paid.

Step 2: Divide the employees, as ranked under Step 1, into four sections, each comprising (so far as possible) an equal number of employees, to determine the lower, lower middle, upper middle and upper quartile pay bands.

Step 3: The proportion of relevant employees of the male gender within each quartile pay band must be expressed as a percentage of the relevant employees within that band as follows—

$$\frac{A}{B} \times 100$$

where —

A is the number of relevant employees of the male gender in that quartile pay band,
and

B is the number of relevant employees in a quartile pay band.

Step 4: The proportion of relevant employees of the female gender within each quartile pay band must be expressed as a percentage of the relevant employees within that band as follows—

$$\frac{A}{B} \times 100$$

where —

A is the number of relevant employees of the female gender in that quartile pay band, and

B is the number of relevant employees in a quartile pay band.

I. Calculating the difference between the mean hourly remuneration of relevant employees of the male gender and that of relevant employees of the female gender

The difference between the mean hourly remuneration of relevant employees of the male gender and that of relevant employees of the female gender must be expressed as a percentage of the mean hourly remuneration of relevant employees of the male gender and is to be determined as follows—

$$\frac{(A - B)}{A} \times 100$$

where

A is the mean hourly remuneration of all relevant employees of the male gender; and

B is the mean hourly remuneration of all relevant employees of the female gender.

J. Calculating the difference between the median hourly remuneration of relevant employees of the male gender and that of relevant employees of the female gender

The difference between the median hourly remuneration of relevant employees of the male gender and that of relevant employees of the female gender must be expressed as a percentage of the mean hourly remuneration of relevant employees of the male gender and is to be determined as follows—

$$\frac{(A - B)}{A} \times 100$$

where

A is the median hourly remuneration of all relevant employees of the male gender; and

B is the median hourly remuneration of all relevant employees of the female gender.

K. Calculating the difference in mean bonus remuneration of relevant employees of the male gender and that of relevant employees of the female gender

The difference between the mean bonus remuneration paid to relevant employees of the male gender and that paid to relevant employees of the female gender must be expressed as a percentage of the mean bonus remuneration paid to male relevant employees and is to be determined as follows—

$$\frac{(A - B)}{A} \times 100$$

where—

A is the mean bonus remuneration paid during the reporting period to relevant employees of the male gender who were paid bonus remuneration during that period; and

B is the mean bonus remuneration paid during the relevant period to relevant employees of the female gender who were paid bonus remuneration during that period.

L. Calculating the difference in median bonus remuneration of relevant employees of the male gender and that of relevant employees of the female gender

The difference between the median bonus remuneration paid to relevant employees of the male gender and that paid to relevant employees of the female gender must be expressed as a percentage of the median bonus remuneration paid to relevant employees of the male gender and is to be determined as follows—

$$\frac{(A - B)}{A} \times 100$$

where—

A is the median bonus remuneration paid during the relevant period to relevant employees of the male gender who were paid bonus remuneration during that period; and

B is the median bonus remuneration paid during the relevant period to relevant employees of the female gender who were paid bonus remuneration during that period.