

Who do the new obligations apply to?

The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, with minor differences to the gender pay gap reporting regulations for the private and voluntary sectors, apply to a list of 'specified public authorities' found in schedule 2 of the regulations.

- This includes government departments, the armed forces, local authorities, NHS bodies, publically funded schools and many others.
- They only apply if the authority has 250 or more employees on 31 March of a given year.
- They only apply to specified English authorities, specified cross-border authorities and specified non-devolved authorities operating across England, Scotland and Wales. Scottish and Welsh public authorities listed in Schedule 19 to the Equality Act 2010 are subject to their own devolved regulations, which already include gender pay gap reporting. Any English, Scottish or Welsh public sector employer that is not listed in Schedule 19 Equality Act 2010 still needs to follow the private and voluntary sector regulations.
- Government departments are responsible for providing an aggregated gender pay report of all their employees, including those working for their executive agencies (as these are the same legal entity). They can, in addition, show a break down of figures too.
- Where arms-length bodies (such as statutory non-departmental bodies) are separate legal entities to their sponsor government department, they are responsible for publishing their own gender pay reports and will be listed separately at Schedule 2 to the regulations if they are subject to the public sector reporting requirements. Those bodies that are not listed at Schedule 2 will need to follow the private and voluntary sector regulations.
- Schools will only have to publish gender pay reports if the legal entity they are part of has 250 or more employees.
- No schools (other than the one exception of a pupil referral unit) will be included in its local authority gender pay reporting.
- For maintained schools in and out of federations, the governing body is responsible for publishing their own gender pay reports. Maintained schools include foundation, community, voluntary, nursery or special schools.
- For academies in and out of chains, and for free schools, the proprietor is responsible for publishing their own gender pay reports. The proprietor of a multi-academy trust will be responsible for reporting on all the academies in that chain.
- Unlike all other types of school, independent and private schools should follow the private sector gender pay reporting regulations, and the responsibility for publishing their gender pay reports lies with the legal employer.

Who counts as an employee?

For the purposes of gender pay reporting, the definition of who counts as an employee is set out in the regulations and follows the definition in the Equality Act 2010. This is known as an 'extended' definition which includes:

- employees (those with a contract of employment)
- workers and agency workers (those with a contract to do work or provide services)
- some self-employed people (where they have to personally perform the work)
- police officers and the armed forces

More details about who counts as an employee can be found in the main Gender Pay Gap guide at www.acas.org.uk/genderpay

The relevant date

This is the key date that many of the details needed to carry out the calculations will come from. It is also the date from which an employer has a year to publish their gender pay report. This will always be **March 31 for specified public authorities** in any year where they have 250 or more employees (it's April 5th for everyone else).

Sign off from an appropriate person

Private and voluntary sector employers need a senior individual to sign off on their gender pay reports. In line with the existing specific duties, this is not required from specified public authorities.

How does this fit in with the Public Sector Equality Duty (PSED)?

The new gender pay gap obligations have been introduced alongside the existing requirements for specified public bodies, including publishing annual information to demonstrate compliance under the PSED and publishing equality objectives every four years. The deadline for all the publishing requirements have now been streamlined to 30 March.

The Gender Pay Gap reporting requirements must be adhered to but a specified public authority can handle the process as part of their wider PSED work or equality strategy. For example, public authorities can set equality objectives which would help reduce the gender pay gap in their organisation.

Organisations with over 150 employees may already be publishing gender pay gap data under the existing requirement to publish data on its employees. Organisations with over 250 employees must follow the methodology set out in the regulations and accompanying guidance, regardless of how this data may have been previously calculated. Other employers can prepare the calculations using the same methodology on a voluntary basis.

This guide only covers the new gender pay gap reporting requirements, and does not explain in detail what is required to comply with the PSED. Further guidance on PSED reporting obligations is available at www.acas.org.uk/PSED.

You can learn more about Gender Pay Reporting by visiting

www.acas.org.uk/genderpay