



Consultation Document

Measures to tackle the gender pay gap

**Gender Equality Division
Department of Justice and
Equality
22 August 2017**

Tweets by @DeptJusticeIRL
#genderbalance
#womensstrategy
#GenderPayGap

MESSAGE FROM MINISTER FLANAGAN AND MINISTER STANTON

I am very pleased to publish this public consultation paper on measures to address the gender pay gap in Ireland.

In our Programme for a Partnership Government, we committed to taking measures to reduce the gender pay gap - one of a package of commitments we are progressing with the aim of empowering women.



I want to acknowledge and commend the excellent work that has already been done, and is still being done, by many organisations to advance gender equality in the field of employment and to address the gender pay gap. These initiatives clearly demonstrate that, notwithstanding the significant inequalities that still exist, a genuine interest and commitment to advancing gender equality exists within Irish business. This provides a solid basis on which to make further progress.

It is in that spirit that I announce this consultation and I look forward to the input of all interested parties.

*Charles Flanagan TD
Minister for Justice and Equality*

Women's economic empowerment emerged as one of the strongest themes from the recent consultation to inform the new National Strategy for Women and Girls. Certainly, this was the concern that attracted most comments and proposals for action. This level of interest is reflected in the Strategy itself with 45 of its 139 actions directed towards advancing socio-economic equality for women and girls.



The truth of the matter is that, in Ireland, as in much of the world, women on average still earn less than men do. This situation must change. To reduce the gender pay gap challenges us to review how we support families, how we present learning and career opportunities to children and young people, how we support employees through their working lives, how we recognise, develop and reward their talents, and how we support employers.

I would like to hear the views of as many people and organisations as possible on the issues raised in this process.

*David Stanton TD
Minister of State with special responsibility
for Equality, Immigration & Integration*

I. INTRODUCTION

The Programme for a Partnership Government contains a commitment to take measures to reduce the gender pay gap.

This commitment is reflected in the National Strategy for Women and Girls 2017-2020, and the actions to be undertaken to this end are:

Action 1.21 Undertake a package of measures to tackle the gender pay gap.

Action 1.22 Initiate dialogue between union and employer stakeholders to address the gender pay gap. Develop and promote practical information resources to explain and increase understanding of the multifaceted aspects of the gender pay gap and its causes (i.e. traditional role models, gender-segregated education and labour market, the challenges of balancing work and family life, the difference in participation of men and women in family responsibilities, the availability of quality, affordable childcare facilities and out-of-school hours care, and processes within organisations where imbalance needs to be addressed). Develop practical tools to assist employers to calculate the gender pay gap within their organisations and to consider its aspects and causes, mindful of obligations regarding privacy and data protection.

Action 1.23 Promote wage transparency by requiring companies of 50 or more employees to complete a wage survey periodically and report the results.

The purpose of this consultation process is to invite views from interested parties on Actions 1.21 and 1.22 above, to inform the development of the package of measures to tackle the gender pay gap, and to identify issues to be advanced through further discussion with union and employer stakeholders.

Responding to this consultation paper

Interested parties are requested to make submissions in writing, preferably by email. Submissions are requested by **5pm on Wednesday 4 October 2017**, and should be made:

By email to: genderequality@justice.ie, with “**Gender Pay Gap Consultation 2017**” in the subject line

or by post to: Gender Pay Gap Consultation 2017
Gender Equality Division
Department of Justice and Equality
Bishops Square,
Redmond’s Hill,
Dublin 2
D02TD99

You may respond to the questions posed in this paper and/or provide any other observations you may have on this subject.

All submissions must include your name and details of any organisation, or company you represent, along with an address for correspondence.

Contributors are requested to note the following:

- Your submission may be published.
- Should submissions not be published, those making submissions may have obligations to register the activity under the terms of the Regulation of Lobbying Act 2015. To check if this applies to your situation, please refer to advice at <https://www.lobbying.ie/help-resources/information-for-lobbyists/am-i-lobbying/>
- Your submission will be subject to the provisions of the Freedom of Information Act 2014. Information provided to the Department of Justice and Equality may be disclosed in response to a request under the Freedom of Information Act. Should you wish that any information supplied by you in any submission not be disclosed under the Act, please identify this information in your submission and specify the reasons. The Department will consult with you about this information before making a decision on any request received under the Freedom of Information Act.
- Comments involving allegations of any kind against a named or otherwise identifiable person or organisation may be viewed as defamatory by the subject of the comments. Those making submissions may be sued directly for any defamatory allegations in a submission and should avoid making such allegations.

II. KEY ISSUES FOR PUBLIC CONSULTATION

We would like to hear your views on the issues set out in this paper, and in particular on the following:

- the factors creating the gender pay gap;
- the actions that need to be taken; and
- whether you can contribute to implementing these actions.

III. Background

What is the gender pay gap?

The gender pay gap is the difference between men's and women's pay, based on the average difference in gross hourly earnings of all employees¹. A gender pay gap which is positive indicates that, on average across the employed population, women are in a less favourable position. Where the gender pay gap is negative, this indicates the reverse - that, on average, women are in a more favourable position.

A set of gender pay gap statistics for the EU is published by Eurostat², with breakdowns for each country by working profile (part-time and full-time), age group, and sector of the economy. The EU Gender Pay Gap Indicator refers to the gender pay gap for the whole economy excluding agriculture, fishing, public administration and defence, private households, and firms employing 10 employees or less. The EU Commission advises, however, that using hourly pay as a basis for calculating the gender pay gap can mask specific differences in pay that go unrecorded, for example, bonus payments, performance-related pay or seasonal payments³. The gender pay gap in Ireland was 13.9% in 2014 compared with an EU28 figure of 16.7%. Ireland had the 11th lowest gender pay gap of the 28.

One of the reasons this is important is that inequalities between men and women's salaries over a lifetime can have a significant impact on women's earnings and pensions.

The wider context

Tackling the gender pay gap is not only a Government priority. It is also identified as a priority at EU and at UN level.

The EU Commission has identified tackling the gender pay gap in one of the 5 thematic priority areas for gender equality for 2016-2019, "reducing the gender pay, earnings and pension gaps and thus fighting poverty among women".

In September 2015, world leaders agreed the 2030 Agenda for Sustainable Development. This Agenda consists of 17 goals and 169 targets, taking into account the economic, social and environmental dimensions of sustainable development. A specific goal (SDG 5) aims to achieve gender equality and empower all women and girls. Women's equality and empowerment is also mainstreamed into other goals. In particular, SDG 8 commits the UN membership to promoting sustained, inclusive and

¹ Organisations that measure the gender pay gap include the EU, OECD and the International Labour Organisation. Care should be taken in comparing measurements from different organisations as they do not all use the same definition. For example, within the OECD, the gender wage gap is defined as the difference between median earnings (i.e. not the average as used by the EU) of men and women relative to median earnings of men.

² Eurostat, Gender Pay Gap Statistics, available at http://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_pay_gap_statistics

sustainable economic growth, full and productive employment and decent work for all. Target 8.5 under this Goal aims to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value and decent work for all. The gender pay gap is one of the indicators against which progress will be measured.

Factors affecting the gender pay gap

In order to reduce the gender pay gap, it is important to understand why it exists.

Researchers have attempted to interpret the gender pay gap and to identify the extent to which particular factors contribute to its existence. The reading list at the end of this paper includes some recent work in this area.

In its publication, '*Tackling the gender pay gap in the European Union*'^[4], the European Commission states that the gender pay gap is a complex issue caused by a number of interrelated factors, and identifies the following as the main causes of the gender pay gap in the EU:

- discrimination in the workplace,
- women and men carry out different jobs and often work in different sectors,
- workplace practices and pay systems,
- undervaluing of women's work and skills,
- few women in senior and leadership positions,
- gender roles and traditions, and
- balancing work and family responsibilities.

It should be borne in mind that these factors may be of a greater or lesser importance, and impact in different ways, in different countries.

The gender pay gap can be thought of as having two components - an explained and an unexplained component. The *explained* component of the gender pay gap is the part that is due to differences between men and women in observed wage-determining characteristics, such as educational attainment or firm size. What is left is the part of the gender pay gap that is due to the influence of other characteristics that are not recorded, or due to men and women receiving different returns on the same characteristic. This is termed the *unexplained*, or adjusted gender pay gap.

Employment equality legislation prohibits direct and indirect discrimination on the ground of gender and provides for equal pay for like work, which is defined as work that is the same, similar or work of equal value³. Discrimination may be a factor which partly explains the adjusted gender pay gap^[1], but its significance is unknown.

³ For more information on equal pay, please refer to *Your Rights: My issue is about equal pay*, <https://www.ihrec.ie/your-rights/i-have-an-issue-at-work/my-issue-is-about-equal-pay/>

IV. Measures to narrow the gender pay gap

This section sets out the work already being undertaken or planned to address the gender pay gap in Ireland.

A. Awareness and Information

- Raise awareness of equal pay, the principle of work of equal value and wage transparency among public and private organisations, social partners and the public^[4]
 - A set of actions to reduce the gender pay gap is included in the National Strategy for Women and Girls 2017-2020. Please see actions 1.21-1.23 at page 3 above.
 - Eurostat publishes statistics annually on the gender pay gap, based on the EU Structure of Earnings Survey. The data for Ireland is produced by the CSO. The latest statistics for Ireland relate to 2014, while statistics for 2015 and 2016 are planned to be completed in late 2017.
- Devise tools to help analyse and assess pay inequalities^[4]
 - A Gender Pay Review template for examination of pay in organisations, developed with funding from the Equality Authority and the European Social Fund, is available free of charge from Ibec⁴.
 - Under section 32 of the Irish Human Rights and Equality Commission Act 2014, IHREC may invite employers to carry out an equality review and/or to prepare and implement an equality action plan. The invitation may apply to one employer, or group of employers, or to all employers within an industry or a sector. In addition, IHREC may itself carry out an equality review and prepare an equality action plan in relation to any employer having 50 or more employees, group or sector.

B. Human capital

- Promote gender mainstreaming and reduce gender segregation in education and occupations
 - The National Strategy for Women and Girls 2017-2020 includes a set of actions to tackle the gender imbalance in STEM education and careers, and increase female participation in apprenticeships.

⁴ Ibec Gender Pay Review toolkit (2012), available at [https://www.ibec.ie/IBEC/ES.nsf/vPages/Employment_law~During_employment~free-gender-pay-audit-tool-23-09-2013/\\$file/Gender+Pay+Review+Template.pdf](https://www.ibec.ie/IBEC/ES.nsf/vPages/Employment_law~During_employment~free-gender-pay-audit-tool-23-09-2013/$file/Gender+Pay+Review+Template.pdf)

- 1.8 Produce a National STEM Education Policy Statement along with a detailed implementation plan with responsibilities and timelines clearly outlined.
 - 1.9 Review the existing research base on barriers to the uptake of STEM careers by females including subject uptake at post-primary level.
 - 1.10 Commence guidelines for promotion of STEM careers to young people and parents (of primary and post primary children), in conjunction with Science Foundation Ireland, parents, guidance counsellors, higher education institutions, the Further Education sector, students and industry, having particular regard to gender imbalance. The guidelines should take account of exemplars of best practice and resource implications.
 - 1.11 Commission a review on pathways to participation in apprenticeship and implement recommendations thereafter. The review will examine patterns of participation by diverse groups in apprenticeship, including female participation, and will identify any barriers existing and will make recommendations for the future.
- In addition, Action 6.12 will “require higher education institutions to have Athena SWAN gender-equality accreditation in order to be eligible for research funding from Science Foundation Ireland, the Irish Research Council and the Health Research Board”.
 - With a view to increasing access to training opportunities for women and increasing the number of women returners to the labour market, the National Strategy for Women and Girls 2017-2020 includes the following actions:
 - 1.7 Fund the provision of locally delivered courses for women, comprising a series of training opportunities on self-development and work related skills, to assist a return to the labour market and promote entrepreneurship.
 - 1.12 Publicise the eligibility of homemakers to apply for Springboard+ courses[1] from June 2017 and monitor takeup by gender.
 - Actions 1.32 to 1.35 provide for measures directed at assisting women in female-headed households, including lone parent households, to participate in the labour market.
 - 1.32 Reduce the gap in poverty rates between female-headed households and male-headed households. Measures to be undertaken to include programmes to assist return to the labour market and encourage entrepreneurship.
 - 1.33 Examine the existing suite of in-work supports for families, including lone parent families. Based on this examination, finalise proposals for an approach to the Working Family Payment. The

main principles guiding this approach are to make work pay and to reduce child poverty.

- 1.34 Publish an Action Plan for Jobless Households, containing targets aimed at supporting those in jobless households into employment and reducing child poverty.
 - 1.35 Promote awareness of and access to Department of Social Protection employment supports, in particular in the area of entrepreneurship (Back to Work Enterprise Allowance), via DSP Case Officers and promotional campaigns, as appropriate.
- Address gender stereotypes that, from the youngest age, limit women's and girls' educational and occupational opportunities
 - The promotion of positive gender norms is a desired outcome of the National Strategy for Women and Girls 2017-2020. A set of actions is included to advance this outcome.
 - 3.1 Hold a referendum on Article 41.2.1 of Bunreacht na hÉireann regarding a "woman's life within the home".
 - 3.2 Develop an initiative to explore how to consult children and young people on addressing gender-stereotyped norms.
 - 3.3 Establish a programme of activity, including research, awareness-raising and cultural activities, to promote positive gender norms and to challenge negative gender norms.
 - 3.4 Support initiatives to encourage men and boys to be champions of gender equality, drawing on the Men Advocating Real Change, HeForShe, MAN Up and WhiteRibbon initiatives.

C. Job-level and Firm-level initiatives

- Enforce the principle of equal pay for like work
 - A definition of 'like work' is set out at s.7 of the Employment Equality Act 1998, as amended.
 - The Employment Equality Act 1998 provides at Section 76 for the making of regulations under which an employee may request information, other than confidential information, from his or her employer about the remuneration of other employees in the same or a similar position. Employers are not obliged to provide such information. However, under section 81 of the Act, in any proceedings brought by the employee the Court or Workplace Relations Commission, as the case may be, may draw such inferences as seem appropriate from the failure to supply the information.
 - Under section 85 of the Employment Equality Act 1998, as amended, the Irish Human Rights and Equality Commission (IHREC) may refer an equal pay case to the Workplace Relations Commission. IHREC may also institute

legal proceedings under s.41 of the Irish Human Rights and Equality Commission Act 2014 for the purpose of obtaining relief in respect of any matter concerning the human rights of any person or class of persons.

- The National Strategy for Women and Girls 2017-2020 makes provision, under Action 1.17 to “publish statistics every six months on employment equality decisions by the Workplace Relations Commission, disaggregated by the nine grounds of discrimination”.
- Wage setting
 - In line with the Programme for a Partnership Government commitment, work under Action 1.14 of the National Strategy for Women and Girls 2017-2020 will “aim to increase the minimum wage to €10.50 per hour over the next five years, relying on the recommendations from the Low Pay Commission on the level of adjustment each year”.
 - Action 1.15 of the National Strategy for Women and Girls 2017-2020 makes provision to “bring forward legislation in response to problems caused by the increased casualization of work and to strengthen the regulation of precarious work (among men and women).”
- Promote specific action by enterprises
 - The National Strategy for Women and Girls 2017-2020 includes the following actions aiming for greater gender balance in business and public sector leadership:
 - 4.1 Commission an independent review of the situation of women in the governance and senior management of companies in Ireland and of measures to promote and to increase women’s representation, such as targets for business.
 - 4.2 Informed by the recommendations of the independent review (at action 4.1), develop and implement a package of measures to promote greater representation of women on corporate boards and in the senior management of companies.
 - 4.3 Encourage female involvement in decision-making and leadership in all parts of the agri-food sector, especially through mentoring and positive case studies.
 - 4.9 Research with the ESRI on barriers preventing women from application for senior positions in the Civil Service, and follow-up action.
 - 4.10 Conduct a mapping exercise on gender balance in senior positions in the public service and assess possible barriers to achieving greater representation of women in senior positions. Based on the outcomes of actions to increase gender balance at senior level in the Civil Service and related learning in the public

- service, evaluate and prioritise actions which could increase the representation of women in senior positions in the public service.
 - 4.13 A new Systems Performance Framework for Higher Education Institutions will include a High Level Systems Level Indicator in relation to Gender Balance and a series of sub-indicators to monitor progress in relation to the governing authority/body, academic council, executive management, academic staff at each grade; professor grades (universities only); senior non-academic staff; achievement and retention of Athena SWAN awards; and level of perceived gender inequality amongst staff members.
 - Actions 4.11 and 4.12 of the Strategy contain specific provisions in relation to the Departments of Agriculture, Food and the Marine, and Foreign Affairs and Trade.
- Under Action 1.18 of the National Strategy for Women and Girls 2017-2020 the Department of Justice and Equality, in consultation with stakeholders, will “consider the feasibility and benefits of an ‘Equality, Diversity and Inclusion mark’ for business”.

D. Societal factors

- The prohibition of direct and indirect discrimination under the Employment Equality Acts includes discrimination on the grounds of gender, family status, and civil status.
- The following actions are included in the National Strategy for Women and Girls 2017-2020 to improve supports for working parents, increase availability of family leave and work-life balance to support parents in their caring role for children, and ensure that all parents have access to quality, affordable childcare, and that information is gathered to support Government investment in childcare:
 - 1.1 Provide a platform of parenting supports for families and working parents.
 - 1.2 Publish proposals for the implementation of the commitment in the Programme for a Partnership Government to expand paid leave in the first year of a child's life by end-2017 and legislate for them as soon as possible thereafter.
 - 1.3 Promote initiatives to support women returning to work from maternity leave.
 - 1.4 Implement, on a phased basis, a new national scheme of financial support for parents towards the cost of quality childcare.
 - 1.5 Maximise use of schools and existing community facilities which have suitable environments available for school-age childcare where demand exists and where it can be facilitated by the school patron/trustees. Consider how increased use of school buildings could be facilitated, taking into account the issues raised to date, and engage with property owners and school authorities to

- facilitate increased use of school buildings where feasible. Engage further with the relevant education stakeholders and school property owners to formulate guidelines for schools to facilitate the use of school buildings out-of-hours.
- 1.6 Conduct and publish an independent review of the cost of providing quality childcare in private and community settings, consistent with the principle of ongoing professionalization of the sector.
- The National Strategy for Women and Girls 2017-2020 also includes the following actions to develop capacity in the area of gender budgeting:
- 6.14 Take measures to build capacity within the Civil and Public Service with regard to gender mainstreaming and gender budgeting, contributing to implementing the positive duty on public bodies to promote gender equality. Continue to engage with International organisations such as the OECD to identify best practice in the budgetary processes including gender budgeting.
 - 6.15 Application of the Social Impact Assessment framework in the area of Early Years policy and programmes.

Further reading

If you would like to look into these issues in more detail, the following references provide a useful starting point:

[1] *The Gender Wage Gap in Ireland: Evidence from the National Employment Survey 2003*, ESRI, Equality Authority Equality Research Series (2009), available at <https://www.ihrec.ie>

[2] *Magnitude and impact factors of the gender pay gap in EU Countries*, Report prepared for and financed by the European Commission, Boll et al (2016), available at http://ec.europa.eu/justice/gender-equality/files/gender_pay_gap/2016_factors_gpg_en.pdf

[3] *Tackling the gender pay gap in the European Union*, DG Justice, European Commission (2014), available at http://ec.europa.eu/justice/gender-equality/files/gender_pay_gap/140319_gpg_en.pdf

[4] *EU Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency* (2014/124/EU), available at http://ec.europa.eu/justice/gender-equality/law/index_en.htm

[5] *Gender Pay Gap: New Solutions for an Old Problem. Developing Transnational Strategies Together with Trade Unions and Gender Equality Units to Tackle the Gender Pay Gap*, Report prepared for and financed by the European Commission Progress Fund (2016), available at <http://www.genderpaygap.eu/>

[6] *A new method to understand occupational gender segregation in European labour markets*, report prepared for and financed by the European Commission (2014), available at http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=52696

[7] *Gender equality in the workforce: Reconciling work, private and family life in Europe*, report prepared for and financed by the European Commission (2014), available at http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=52696

[8] *Pregnancy at Work: A National Survey*, ESRI, Equality Authority Equality Research Series (2011), available at <https://www.ihrec.ie>

[9] OECD Employment Outlook 2016; OECD Employment database; OECD Society at a Glance (2014); OECD Education at a Glance 2016; and OECD (2012) Closing the Gender Gap: Act Now.

[10] *ILO Global Wage Reports*, available at <http://www.ilo.org/global/research/global-reports/global-wage-report/lang--en/index.htm>

[11] *Closing the gender pay gap: A review of the issues, policy mechanisms and international evidence*, ILO (2016), available at http://www.ilo.org/gender/Informationresources/Publications/WCMS_540889/lang--en/index.htm

[12] *Women at Work Trends 2016*, ILO (2016), available at http://www.ilo.org/gender/Informationresources/Publications/WCMS_457317/lang--en/index.htm

[13] *The motherhood pay gap: a review of the issues, theory and international evidence*, ILO (2015), available at http://www.ilo.org/global/topics/wages/minimum-wages/monitoring/WCMS_473657/lang--en/index.htm