

Ogier experts underline need for forward thinking as gender pay gap reporting evolves

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Employment law experts at Ogier have underlined how the potential for divergent gender pay gap legislation across the UK, Ireland and the Channel Islands could provide reputational and operational challenges for firms operating across those jurisdictions.

Speaking during a recent webinar held by the firm, lawyers at Ogier, including Helen Ruelle, Director of Local Legal Services, Rachel DeSanges, Head of Employment in Guernsey, Will Austin-Vautier, Senior Associate in Jersey, and Mary Gavin, Managing Associate at Ogier Leman in Dublin, explained how firms needed to think about future-proofing their employment procedures, with gender pay gap legislation still evolving in all locations.

They were joined by keynote speaker Daphne Romney QC of Cloisters, who highlighted that reporting gender pay gap information was a complex area that needed to be backed up by subsequent action if it was to be effective.

The gender pay gap is the difference between the average earnings of men and the average earnings of women across a workforce over a period of time. In the UK, since 2017 employers with a headcount of 250 employees or more have been required to report certain gender pay gap information and may publish a discretionary supporting narrative. However, legislation and requirements are not progressing at similar speeds in all locations.

Highlighting that the gender pay gap in Ireland currently stands at 11.3%, Mary Gavin explained that in Ireland since July last year, employers with 250 or more employees must now report their gender pay gap:

“There are further staggered changes on the horizon too. Unlike the UK, with the exception of Northern Ireland, employers with over 150 employees will be required to prepare reports in 2024 and those with over 50 employees would have to do so by 2025. This staggered rollout to report is delivered following consultation with trade unions and employer representative groups.”

Mary also explained that a key difference between the law in Ireland and the UK is that employers must set out reasons for any gender pay gap and the measures they might take to eliminate or reduce such differences.

Meanwhile, Rachel DeSanges clarified that, although there is currently no equivalent legislation in Guernsey around obligatory gender pay gap reporting, sex discrimination legislation expressly prohibits discrimination in the way men and women are paid. She added, though, that changes could be on the horizon:

“Even though Guernsey doesn’t have specific legislation to mandate gender pay gap reporting at the moment, Guernsey is in the process of overhauling its discrimination laws. The changes could include a statutory right to equal pay for work of equal value and a requirement for gender pay gap reporting.”

Providing an insight on the Jersey landscape, Will Austin-Vautier added:

“Similarly, Jersey discrimination law provides that employees should not discriminate in what they pay men and women. However, we’re certainly seeing some real pressure on a number of fronts in this area, including through the Scrutiny system, which may well lead to legislation being brought forward around mandatory gender pay gap reporting in due course.”

Nevertheless, Rachel also pointed to the possibility that voluntary reporting could become more widespread as firms look to embrace transparency:

“Some employers, either because their counterparts in other jurisdictions are having to do so by law or because they wish to be more transparent, will consider pay gap reporting on a voluntary basis. Those who don’t do it may then suffer reputationally. Voluntary reporting could also be a useful recruitment tool.”

Helen Ruelle, who chaired the event, concluded:

“The situation is clearly still evolving and the important thing is for employers to begin to have serious discussions now about the key issues involved in voluntary and mandatory gender pay gap reporting and what that could mean for their employment procedures. That way, they can be ahead of the game and reap the benefits that transparency in this area can bring.”

During the course of the webinar, 68% of attendees said their firm would consider publishing gender pay gap data voluntarily, while 9% said they would not and 23% were undecided. In October last year, Ogier voluntarily published its pay gap data as part of the firm's ongoing commitment to diversity and inclusion.

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