Pinsent Masons has long been committed to creating a level playing field where all our talented people can succeed. Over a number of years numerous external bodies have recognised that diversity and inclusion has been a priority for us: in 2017 we were counted among The Times Top 50 Employers for Women and Working Families Top 10 Employers for Working Families.

We were among the very first professional services firms to publish our Gender Pay Gap ('GPG') report. In February we reported the following information:
We are pleased to have the opportunity to feed into the Committee’s important work in this area, and our response focuses squarely on the responsibilities of partnerships. In short, it is our view that the regulations as drafted are obscuring rather than illuminating the key issues around GPG within professional practices for our clients, our people and the wider public. To address this we respectfully submit the following recommendations for the Committee’s consideration:

- All partnerships should be required to disclose GPG information (a) on the current basis (i.e. in respect of their employee populations), (b) in respect of their partnership groups and (c) in respect of their partnership and employee populations in combination.
- To ensure a level playing field, it will be important to ensure that new guidance is provided to partnerships on how the information required should be calculated as well as what should be reported.
- All partnerships which engage their partners via separate legal entities to those of their employees should capture all companies within their ‘group’ structure in their reporting.
- We would be cautious of introducing any statutory requirements upon organisations to address gender pay gaps until the issues identified in this response are addressed, but believe that a requirement for partnerships to develop and publish an Action Plan for addressing their GPG (alongside the data itself) would be a sensible next step.

Is the annual information related to pay required under the Equality Act 2010 sufficient? Should any further information be required?

Government guidance in respect of partnerships acknowledges that there is a difference between the status of partners and employees, and that there are consequent challenges in establishing a meaningful formula for understanding the pay gaps that exist within partnerships. Guidance issued by ACAS and the Government Equalities Office therefore states that, “Partners, where they would usually also be considered employees, should be used to establish the employee headcount but not be used as part of the calculations.”

However, it has become increasingly clear since February that public expectations go beyond what the regulations require. Concerns have been expressed by a number of individuals in business and government that, in following government guidelines which prohibit the inclusion of partner data in GPG reporting, partnerships have sought to distort the true nature of their gender pay gap.

For our part, we believe that transparency on the issue of diversity and inclusion is an essential ingredient to building trust - which is itself a pre-requisite for driving change.

As a consequence, in April we voluntarily made public:

- **Our partnership pay gap**: within the partnership the firm has a 22% mean GPG for partners and a median partner GPG of 38%. The firm has a 0% median and 11% mean bonus gender gap in favour of female partners.
- **Our 'comprehensive' pay gap:** when partners are included alongside employee numbers, Pinsent Masons has a median gender pay gap of 43%, a mean GPG of 58%, a median bonus gap of 50% and mean bonus gap of 52%.

We have chosen to 'go beyond' the regulations - and so have some other organisations in our sector. This is a positive indication that others share the seriousness with which we take the issue of gender pay.

However, different organisations have disclosed different levels of information, and used different means by which to arrive at their calculations. One recent article highlighted that less than a third of the UK's top 50 law firms included any information about partner pay, while only seven gave a combined pay gap figure for all partners and employees. As the article reflects, "This lack of consistency...means many questions remain about what meaningful conclusions can be drawn from the figures."

We do not believe this is a consequence of any desire among professional partnerships to mislead, but is simply a consequence of different organisations reaching different conclusions in the absence of a shared framework.

It is our view that the regulations as currently drafted provide too much scope for an inconsistent approach to reporting by partnerships. It cannot be right that partnerships have no common methodology and thus are required to pick and choose what to report. In the long term we believe this will undermine public confidence in Gender Pay Gap reporting by partnerships.

We therefore would recommend that all partnerships are required to disclose GPG information (a) on the current basis (i.e. in respect of their employee populations), (b) in respect of their partnership groups and (c) in respect of their partnership and employee populations in combination.

**What is the extent of compliance? Is the information accurate?**

We believe it is too soon to make any informed observations on the extent of compliance within our sector, other than to reflect the point above (i.e. that public opinion suggests a view that partnerships are exploiting the regulations to avoid full disclosure). We have no reason to believe that the information provided by partnerships is anything other than accurate and compliant with the guidelines – but arguably the information presents a misleading picture where data regarding partners, the most well-remunerated people within the business, are omitted.

In addition to our recommendations above about what should be reported, it will be important to ensure that guidance is provided to partnerships on how the information required should be calculated.

It is striking, for instance, that in calculating our own pay gap we have based our GPG calculations for partners upon full time equivalent partner earnings broken down by salary and bonus means.

A number of our peers (including the law firms Linklaters and Clifford Chance) have instead chosen to calculate the GPG numbers based on the total earnings, including any bonuses or profit share entitlements.
Neither solution is ‘right’ or ‘wrong’, nor is one more meaningful than the other. It is simply that professional partnerships have had to make their own determination as to what to disclose. The consequence is inconsistent data sets which are hard to interpret or compare meaningfully. Leaving it to partnerships to decide on the appropriate formula for reporting their numbers will give rise to further inconsistency and distrust. This is a matter upon which we are engaging with the Law Society of England & Wales to see if a common approach can be established.

We would also recommend a statutory requirement for partnerships which engage their partners via separate legal entities to those of their employees (for instance, through the use of service companies which are distinct from the partnership entity) to capture all companies within their ‘group’ structure. Again, this would serve to remove an area of ambiguity.

**How effective are the sanctions for non-compliance with reporting requirements?**

Within the legal and professional services sector we have no reason to believe that there is a need for further deterrents - the possibility of reputational damage and negative client sentiment is enough to ensure proper compliance among the vast majority of firms.

**What requirements, if any, should there be on companies to address gender pay gaps?**

For the avoidance of doubt, we are confident that we pay male and female partners and employees equitably. Many factors influence remuneration, from the geographic spread of our people to the discipline in which they practise.

What our GPG calculations do is affirm the long-recognised fact that not enough women are making it into senior positions within the legal profession. That is an issue we (and others) have worked hard on for the past five years. Today, 25% of our partnership is female compared to 17% five years ago. Four out of nine of our Board members are female, as are over 50% of our remuneration and partnership committee. We know, though, that is not enough and we continue to pursue a bold strategy of change.

We would be cautious about introducing any statutory requirements upon organisations to address gender pay gaps until the issues identified in this response are addressed. The potential for manipulation of numbers combined with the threat of sanction if requirements are not met may result in some unhelpful behaviours. We would welcome a further review in respect of this question in Year 2 of the regulations. In the meantime, a requirement for partnerships to develop and publish an Action Plan for addressing their GPG (alongside the data itself) would be a sensible next step.

10 April 2018
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