

ESG & SUSTAINABILITY
EMPLOYMENT

CSRD - *A closer look at the sustainability reporting of 'workforce matters' for HR practitioners*

As part of the European Green Deal's climate change action objectives, the EU introduced the Corporate Sustainability Reporting Directive (EU) 2022/2464 (the **Directive**) to further enhance the disclosure of sustainability related data by companies.

The Directive has now been transposed into Irish law by the Corporate Sustainability Reporting Regulations 2024 and the European Union (Corporate Sustainability Reporting) (No. 2) Regulations 2024 (the **CSRD Regulations**).

7 MIN READ

In summary, the CSRD Regulations make a number of changes to the Companies Act 2014 and require in scope companies to report on sustainability matters in a new section of the directors' report, the sustainability statement, in their annual report.

The CSRD Regulations herald a new era of corporate transparency and accountability. The government, stakeholders, investors, employees, competitors and society more broadly will be able to gain a more thorough insight into the business practices of companies, especially with the regard to their ESG impact.

What is the impact for HR Practitioners?

HR practitioners are key stakeholders with a role to play in the preparation of the sustainability statement as required under the CSRD Regulations. In particular, HR practitioners will be best positioned to provide information on the company's workforce and social responsibility matters.

Notably, the CSRD Regulations also require that company directors consult with employee representatives about sustainability matters. How employee representatives are defined is dependent on the number of employees, and many companies will, for the first time, tread into the uncharted territory of working with an employee representative body for the purposes of information and consultation on sustainability reporting. This article sets out an overview of:

- what is sustainability reporting?
- reporting under the social standards on workforce matters
- the requirement to consult with employees' representatives

What is sustainability reporting?

The new reporting requirements are underpinned by the European Sustainability Reporting Standards (**ESRS**) developed by European Financial Reporting Advisory Group (**EFRAG**) and adopted by the European Commission. It is mandatory for all in-scope companies to comply with the ESRS.

The initial set of standards contains 12 standards in total; two cross-cutting standards, five on the environment, four on social matters and one on governance. EFRAG has developed a suite of practical guidance for companies to assist in implementing the new rules and provides a road map for companies when reporting on sustainability matters.

The goal of the 12 reporting standards is to address material sustainability topics, their impacts, risks and opportunities, as well as quantitative metrics and targets.

In the coming years, we can also expect to see sector-specific and other reporting standards which are currently subject to consultation and consideration at EU level.

Reporting under the social standards on workplace matters

As mentioned above, there are four ESRS (S1 – S4) covering social matters which outline the requirement for companies to make disclosures relating to the company's workforce or corporate social responsibility.

These are:



When considering how and what to report on with respect to “social” matters in the sustainability statement, companies should refer specifically to these four standards which address managing impacts, risks and opportunities. Companies must disclose how each topic under the relevant ESRS was deemed as material or immaterial and disclose minimum data points for any topics deemed material.

“Own workforce” includes both people who are in an employment relationship with the company, considered to be employees, and non-employees, who are either people with contracts with the company to supply labour defined as “self-employed people,” or people provided by companies primarily engaged in “employment activities” – i.e. agency workers. There is no avoiding therefore that “own workforce” falls within the employment wheelhouse, and it is likely HR will be required to input into that section of the sustainability statement. The ESRS S1 “own workforce” disclosure requirements are summarised as follows:



ESRS	Disclosure Requirement?	What are the key elements of the disclosure?
ESRS S1 - 1	Policies related to own workforce.	<ul style="list-style-type: none"> ▪ Description of the policies adopted to manage material impacts on own workforce, risks and opportunities. ▪ Human rights policy commitments relevant to its own workforce and how they align with International standards. ▪ Workplace accident prevention policy or management system. ▪ Policies regarding trafficking, forced labour and child labour. ▪ Policies aimed at the elimination of discrimination (including harassment) and promoting equal opportunities and other ways to advance diversity and inclusion. ▪ The undertaking should specify whether policies cover specific groups within its own workforce or all of its own workforce.
ESRS S1 - 2	Processes for engaging with own workers and workers’ representatives about actual and potential impacts.	<ul style="list-style-type: none"> ▪ Whether engagement occurs directly, at what stage, the frequency and assessment of effectiveness of engagement. ▪ What is the function and most senior role that has responsibility for ensuring engagement and that the results inform an undertakings approach. ▪ If applicable, Global Framework Agreements or other agreement with workers representatives relating to human rights of own workforce. ▪ Steps taken to gain insight for members of own workforce vulnerable to impacts and / or marginalised (women, migrants, people with disabilities). ▪ If no process in place, to disclose this.
ESRS S1 - 3	Processes to remediate negative impacts and channels for own workforce to raise concerns.	<ul style="list-style-type: none"> ▪ What formal process is in place for own workforce to raise concerns and needs. ▪ What specific channels are in place and any grievance and complaints mechanisms. ▪ Whether and how it has assessed that its own workforce are aware of, and trust, these structures or processes and whether there are policies in place for the protection of individuals that use them. ▪ If no processes in place, to disclose this.
ESRS S1 - 4	Action taken to address material negative and positive impacts, manage risks, pursue opportunities and the effectiveness of actions.	<ul style="list-style-type: none"> ▪ Summarised description of the action plans and resources to manage its material impacts, risks, and opportunities describing actions, remedies and effectiveness of these plans.
ESRS S1 - 5	Targets related to managing material negative impacts, advancing positive impacts, and managing material risks and opportunities.	<ul style="list-style-type: none"> ▪ Description of the process for setting the targets and whether and how the undertaking engages with own workforce or workers’ representatives in setting, tracking targets and identifying improvements.
ESRS S1 - 6	Key characteristics of the undertaking’s employees.	<ul style="list-style-type: none"> ▪ Breakdown of employees by headcount, gender, country (where applicable). ▪ Breakdown by gender of full time, part-time and non guaranteed hours. ▪ Numbers of employees who have left the undertaking. ▪ Methodologies and assumptions used to compile the data.

ESRS	Disclosure Requirement?	What are the key elements of the disclosure?
ESRS S1 - 7	Characteristics of non-employees in the undertaking’s own workforce.	<ul style="list-style-type: none"> ▪ Total number of non-employees in “own workforce” and most common types. ▪ Methodologies and assumptions used to compile the data.
ESRS S1 - 8	Collective bargaining coverage and social dialogue.	<ul style="list-style-type: none"> ▪ Percentage of total employees covered by collective bargaining agreements and / or percentage of employees covered by workers representatives and for example whether there is a European Works Council.
ESRS S1 - 9	Diversity metrics.	<ul style="list-style-type: none"> ▪ Gender distribution at top management and age distribution amongst employees. ▪ Distribution by age group under 30, 30-50, over 50 years old.
ESRS S1 - 10	Adequate wages.	<ul style="list-style-type: none"> ▪ Whether all employees are paid an adequate wage, in line with applicable benchmarks.
ESRS S1 - 11	Social protection.	<ul style="list-style-type: none"> ▪ Whether all employees are covered against loss of income from life events, from sickness, parental leave, etc. ▪ Whether employees are covered through public programs or benefits offered by undertaking against loss of income.
ESRS S1 - 12	Persons with disabilities.	<ul style="list-style-type: none"> ▪ Disclose percentage of persons with disabilities amongst employees (subject to legal restrictions on collection of data).
ESRS S1 - 13	Training and skills development metrics.	<ul style="list-style-type: none"> ▪ Disclose percentage of employees that participated in regular performance and career development reviews, broken down by gender and the average number of training hours per employee.
ESRS S1 - 14	Health and safety metrics.	<ul style="list-style-type: none"> ▪ Disclose percentage of employees covered by the undertaking’s health and safety management system. ▪ List recordable work-related accidents, fatalities and ill health.
ESRS S1 - 15	Work life balance metrics.	<ul style="list-style-type: none"> ▪ List percentage of employees entitled to take family-related leave and the percentage of entitled employees that took family-related leave, and a breakdown by gender.
ESRS S1 - 16	Remuneration metrics (pay gap and total remuneration).	<ul style="list-style-type: none"> ▪ Gender pay gaps. ▪ Annual total remuneration ratio of the highest paid individual to the median annual total remuneration for all employees. ▪ Any contextual information necessary to understand the data and how the data has been compiled.
ESRS S1 - 17	Incidents, complaints and severe human rights impacts.	<ul style="list-style-type: none"> ▪ Number of incidents. ▪ Fines/penalties for incidents. ▪ Number of complaints through channels for own workforce.

Requirement to consult with employees’ representatives

The CSRD Regulations state that (i) the directors of an applicable company shall provide information to, and consult with, employees’ representatives at the appropriate level in relation to the sustainability information and (ii) any opinion of the employees’ representatives in relation to the sustainability information shall be communicated to the directors of the applicable company.

With respect to consultation, ‘employees’ representatives’ means:

- where the applicable company has 50 or more employees, as defined in the Employee (Provision of Information and Consultation) Act 2006 (the **2006 Act**)
- in the case of a company with less than 50 employees, any persons duly appointed or elected by employees of the company as an employee representative for the purposes of the requirement to consult with employees

The 2006 Act provides that employee representatives are (i) any employees’ representatives elected by the employees for the purposes of the 2006 Act and/or (ii) where a company engages in collective bargaining with a trade union or excepted body representing 10% or more of the employees in the undertaking, employee representatives elected or appointed by the relevant trade union members.

The Directive and the CSRD Regulations are not explicit as to what exactly should be discussed with employees’ representatives. However, the Directive provides that employees’ representatives should be informed of:

1. relevant sustainability information
2. the means of obtaining and verifying sustainability information

The Directive further highlights that the sustainability information provided to employees’ representatives should be sufficient to establish a dialogue with employee representatives and should be presented in such a fashion and with

such content as would enable workers’ representatives to express their opinion.

Non-compliance

For Irish in-scope companies, sustainability reporting will form part of their annual directors’ report and will therefore be subject to the existing obligations regarding the preparation of a directors’ report under the Companies Act 2014.

Conclusion

It is important that HR practitioners are aware of the broad range of topics covered by the ESRS and can understand and anticipate the questions that may be asked of them around data for sustainability reporting. HR practitioners should also consider how they can leverage information that is already available to them whilst considering any GDPR implications and requirements. While the CSRD statutory sustainability reporting obligations will be a significant administrative exercise for companies to embrace, the reality is that

consumers, employees and investors are increasingly demanding ESG accountability from all companies (outside of the reporting requirements) as everyone plays their part in achieving the ultimate goal of a more sustainable economy and climate neutrality by 2050.

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