



# SHARING INFORMATION WITH PAY EQUITY COMMITTEE MEMBERS

Interpretations, Policies and Guidelines

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Cat. No.: HR4-76/2022E-PDF

ISBN: 978-0-660-42031-8

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# 1. Purpose

This Interpretation, Policy and Guideline (IPG) sets out the types of information employers, employees and bargaining agents may have to provide to their workplace's pay equity committee, in accordance with section 23 of the Pay Equity Act (the Act).

To better understand the obligation of disclosure under the Act, this IPG covers the following:

- Requirement to provide information;
- Information to identify job classes;
- Information to determine gender predominance;
- Information to determine the value of work;
- Information to calculate compensation; and,
- Information to determine whether there are differences in compensation.

\*This document does not replace seeking out expert legal advice. This document is technical in nature and should not be used as a plain language resource. Plain language resources are available at <https://www.payequitychrc.ca/en>.

\*\*The term "employer" in this document can also refer to a "group of employers" that has been recognized by the Pay Equity Commissioner."<sup>1</sup>

\*\*\*Section 23 only applies to workplaces with a pay equity committee (committee).

\*\*\*\*In accordance with section 72, section 23 applies when updating the pay equity plan.

## 2. Requirement to provide information

In workplaces with a pay equity committee, employers must provide any information in their possession that the committee considers necessary for the establishment of the pay equity plan.<sup>2</sup>

Although most of the information required by the committee will typically be in the employer's possession, employees and bargaining agents (if any) are also required to provide the pay equity committee with any information within their knowledge or control that the committee considers necessary for the establishment of the pay equity plan.<sup>3</sup>

The information that the committee requires may be in a variety of formats, including records, reports, electronic data and other documents.

The Act requires committee members (both current and past), employers and bargaining agents to keep information confidential when the person sharing it specifies that it is confidential. For more information on the obligation to keep information confidential, please refer to the IPG on the *Requirement to keep information confidential* available at [payequitychrc.ca](http://payequitychrc.ca).

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<sup>1</sup> See Pay Equity Act subsection 4(1).

<sup>2</sup> See Pay Equity Act subsection 23(1).

<sup>3</sup> See Pay Equity Act section 23.

When considering the requirement to provide information, workplace parties should remember that pay equity committee members need sufficient information to make informed choices at all stages of the process, that the information should be rationally connected to pay equity and that the types of information required can evolve along the process.<sup>4</sup>

The Act sets out five steps for the committee to follow in order to develop a pay equity plan. These steps guide the kinds of information the committee may consider necessary.

The five steps are:

1. Identify job classes;<sup>5</sup>
2. Determine gender predominance of job classes;<sup>6</sup>
3. Determine the value of work;<sup>7</sup>
4. Calculate the compensation associated with each job class;<sup>8</sup> and,
5. Determine whether there are differences in compensation that need to be addressed.

Below are examples of information the committee may consider necessary to complete its work for steps 1 to 5.

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<sup>4</sup> *Ontario Public Service Employees Union v. Cybermedix Health Services Ltd.*, 1989 CanLII 1459 (ON PEHT), para. 21.

<sup>5</sup> See *Pay Equity Act*, sections 32 to 34.

<sup>6</sup> See *Pay Equity Act*, sections 35 to 38.

<sup>7</sup> See *Pay Equity Act*, sections 41 to 43.

<sup>8</sup> See *Pay Equity Act*, section 44 to 46.

## 2.1. Step 1: Information to identify job classes

To identify job classes, all of the positions in the workplace must be identified and disclosed to the pay equity committee. The employer should disclose all information relevant to identifying any position in the workplace, which could include:

- Full-time, part-time and temporary positions (including job titles); and,
- Positions that are occupied and positions that are temporarily vacant at the time of the pay equity exercise.

Sources of relevant information may include:

- Collective agreements;
- Organizational charts;
- Job postings;<sup>9</sup>
- Job descriptions and other information describing duties, responsibilities, working conditions, education requirements, knowledge, demonstrated skills, training or accreditation;<sup>10</sup>
- Position training manuals;
- Payroll records;
- Compensation information;
- Rates of pay and salary ranges; and,
- Benefit plans and eligibility requirements.

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<sup>9</sup> *Syndicat des employées et employés de la Société des casinos du Québec (CSN), section unité générale c. Société des casinos du Québec inc.*, 2006 CanLII 4912 (QC SAT).

<sup>10</sup> *Ontario Public Service Employees Union v. Cybermedix Health Services Ltd.*, 1989 CanLII 1459 (ON PEHT); and *Personne salariée et Jardins du Haut S-Laurent* (1990) enr., 2005 CanLII 63572 (QC CES).

## **2.2. Step 2: Information to determine gender predominance**

The next step in developing a pay equity plan is determining which job classes are predominantly female and which ones are predominantly male. A job class may also be gender neutral.

Information needed to determine gender predominance may include:

- Records that show whether the incumbent in a position identifies as male, female or another gender;
- Records that identify the gender of incumbents that held the job positions in the past; and,
- Statistics, studies or audits that would allow the committee to determine whether a gender stereotype is associated with certain job classes.

Sources of historic and current data may include:

- Payroll records and employment benefit information;
- Past pay equity studies and cases; and,
- Employee surveys and questionnaires.

Information about possible gender-based stereotyping of a job class may be available from a variety of sources, including:

- National statistical studies;
- Academic research;
- Graduation rates by gender and field of study;
- Professional or labour association data; and,
- Past pay equity studies and cases.

### 2.3. Step 3: Information to determine the value of work

The pay equity committee must determine the value of the work performed in each of the predominantly female and predominantly male job classes.

To determine the value of the work, the pay equity committee may need information about the skill, effort and responsibility required to perform the work, and the conditions under which the work is performed. This may include:

- Job descriptions;<sup>11</sup>
- Job fact sheets;
- Parties' knowledge of the positions;
- Data gathered from employee or manager questionnaires, surveys and interviews; and,<sup>12</sup>
- Data gathered from observation.

If the value of the work performed in each of the predominantly female and predominantly male job classes has already been determined, the committee will require information about the method used to determine the value, so it may assess whether the method that was used complies with the requirements of the Act.<sup>13</sup>

Finally, if the employer has performed some preliminary or prior work — for example, in accordance with subsection 41(2) of the Act (value already determined) — to identify a job evaluation tool and/or an expert to support the committee, the committee may require:

- Information about the experts and/or the job evaluation tools that have been identified;
- Prior reports relied on by the employer;
- A description or assessment of the strengths and weaknesses of different pay equity job evaluation tools that have been used by the employer in the past or that have been identified for the purpose of the current pay equity exercise; and,
- Details of the evaluation method proposed, including the results of testing the system; details of proposed sub-factors, levels, equivalencies and weighting.

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<sup>11</sup> *0641-13-PE Marc Bertrand (on behalf of a group of employees identified on Schedule "A" and anonymous employee(s)) v. York Catholic District School Board*, 2014 CanLII 103781 (ON PEHT).

<sup>12</sup> *Ibid.*

<sup>13</sup> See *Pay Equity Act*, s. 41(2).

## **2.4. Step 4: Information to calculate compensation**

After determining the value of work, the pay equity committee must calculate the total compensation for each predominantly male and predominantly female job class, as expressed in dollars per hour.

The committee may require information such as:

- Hours of work;
- Salaries, commissions, vacation pay, severance pay and bonuses;
- Payments in kind;
- Employer contributions to pension funds or plans, long-term disability plans and all forms of health insurance plans; and,
- Any other advantage received directly or indirectly from the employer.

In a workplace where compensation is frozen due to the expiry of a collective agreement, the committee may also require information such as:

- Past increases in compensation for the job classes covered by an active collective agreement for a specific year percentage of increase by year).

Sources of information may include:

- Collective agreements;
- Compensation policies;
- Employment agreements;
- Benefits plans and policies;
- Payroll records;
- Employment benefit records; and,
- Leave policies

## **2.5. Step 5: Determine whether there are differences in compensation that need to be addressed**

After calculating the total compensation for each predominantly male and predominantly female job class, the pay equity committee must determine whether there are differences in compensation by comparing compensation using one of the methods set out in the Pay Equity Act and the Pay Equity Regulations (i.e. either the equal average method or the equal line method). To perform this last step, the committee will need all of the information gathered through the four previous steps.

In addition, the committee may request analyses of possible differences in compensation between predominantly male and predominantly female job classes that have been performed.

### **3. Referenced *Pay Equity Regulation* Provisions**

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##### **Frozen Compensation**

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