The Institute for WORKPLACE EQUALITY

Show me the money: Navigating the EU Pay Transparency Directive

PRESENTATION MATERIALS

Scope and Usage of the Information

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The Institute for Workplace Equality

Employer Membership Association, formed to assist the contractor community in responding to rapidly changing compliance challenges. The Institute provides national training programs and webinars addressing the latest EEO developments and strategies for effective compliance.

For more information on The Institute for Workplace Equality,

visit: www.theinstitute4workplaceequality.org

Institute Membership Offers Many Benefits

- Monthly members-only roundtable meeting covering cutting edge issues, including:
  - Washington Insider Insights
  - Changing enforcement initiatives, priorities and trends
  - Growing patchwork of domestic and international pay equity laws
  - Strategic and practical key takeaways (Takeaways PDF provided after each roundtable for members to share within their organizations)
- Unique access to EEO Agency leadership
- Complimentary registration for all webinars
- Institute conferences led by our 18-person faculty of nationally recognized EEO attorneys and statisticians
- Four or more* complimentary registrations for Institute conferences, annually
  - Member organizations do not pay conference registration fees on top of annual dues
  - **number of complimentary registrations depends on your organization's membership tier*
- Access to The Institute's extensive Member Resources Library
- Access to The Institute's Member Directory, a valuable networking opportunity for members to share best practices, guidance, and knowledge
- The Institute writes white papers addressing our members compliance concerns and priorities
- Opportunities for Institute members to collaborate and attend brainstorming sessions with federal EEO Agency leadership
- Semiannual meetings with The Institute's Advisory Board, U.S. DOL, and EEO Agency leadership

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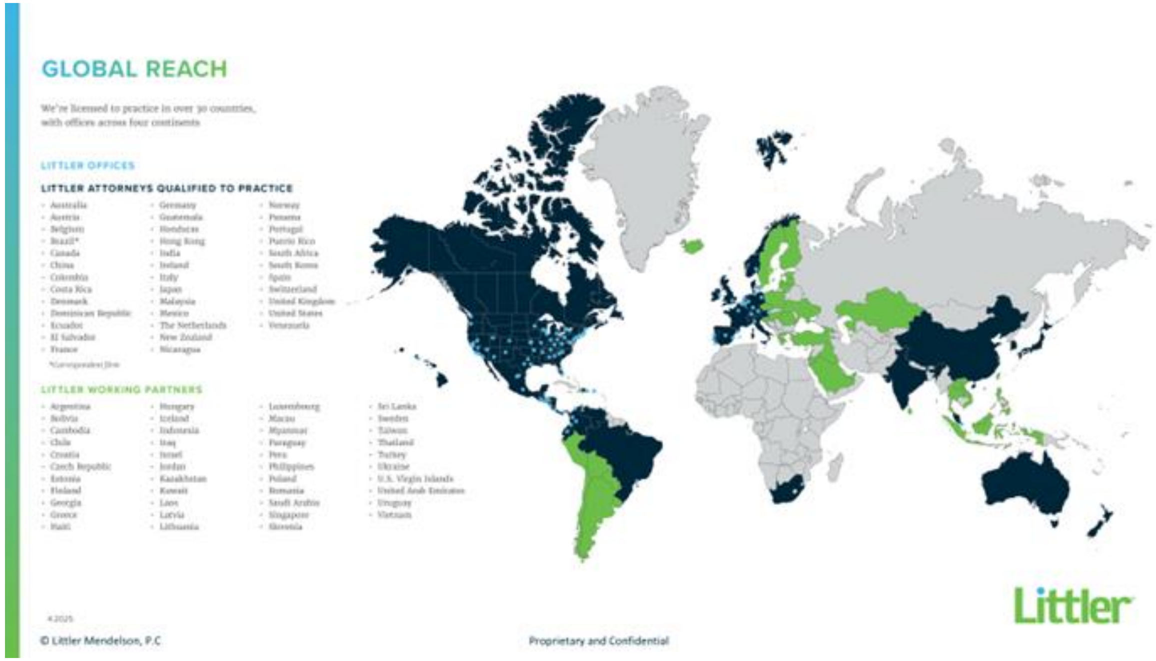

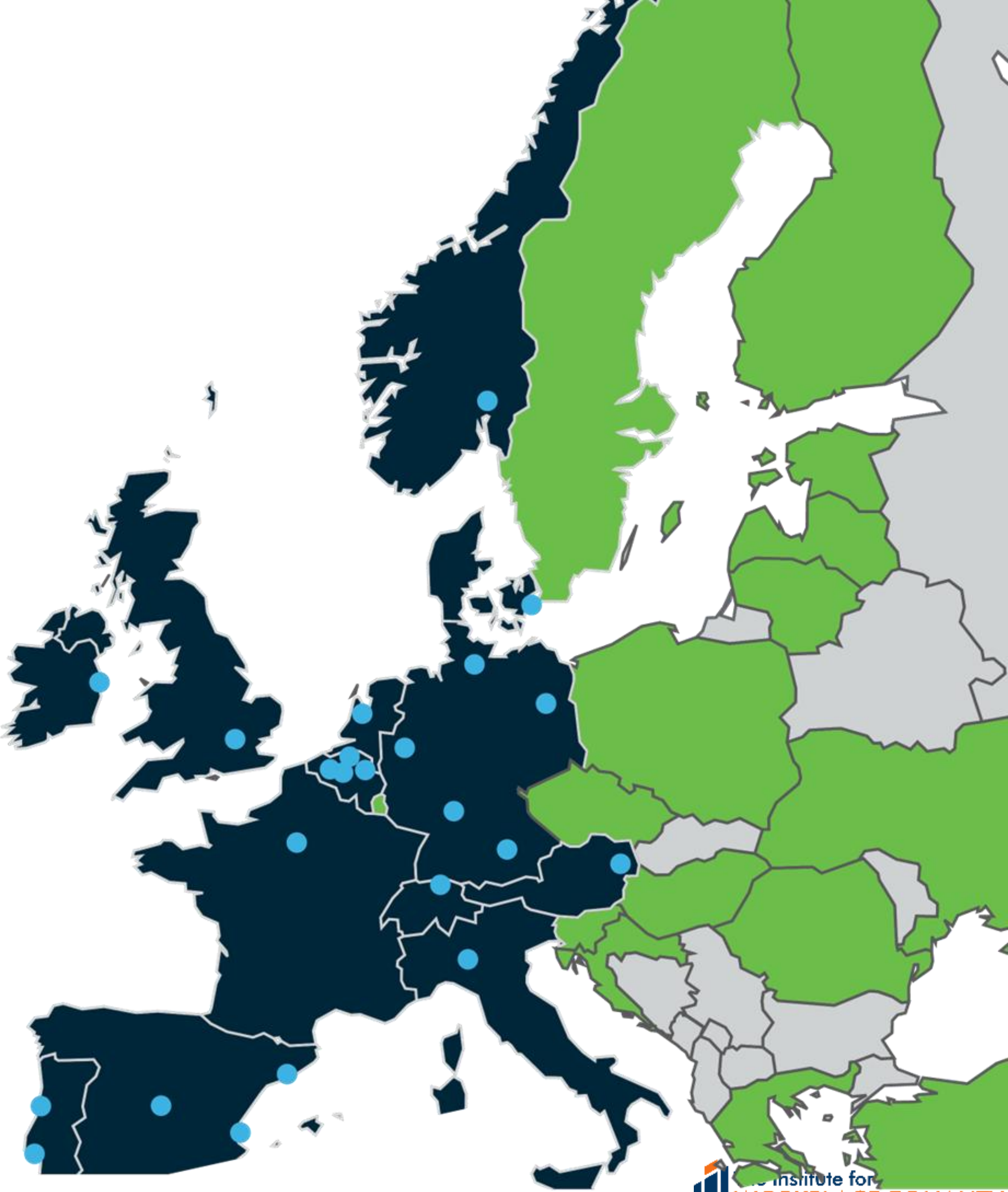

Insights from Littler

Blog

International Equal Pay Day: Where Are We Now?

September 22, 2025 | 5 min read

News & Analysis

UK Government's Call for Evidence: Equal Pay and Pay Transparency

May 29, 2025 | 5 min read

Legislation & Case Update

Brierley & Others v Asda Stores Ltd

March 31, 2025 | 5 min read

News & Analysis

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September 18, 2024 | 10 min read

In the Press

Employers should brace themselves after Next's equal pay loss, say experts

August 29, 2024 | 1 min read

In the Press

Number of companies failing to report gender pay gap dropped in past year by 71%

July 19, 2024 | 1 min read

In the Press

Number of UK employers failing to report gender pay gap fell by 71% in past year

July 15, 2024 | 1 min read

News & Analysis

Pay transparency: is change afoot in the UK?

April 30, 2024 | 10 min read

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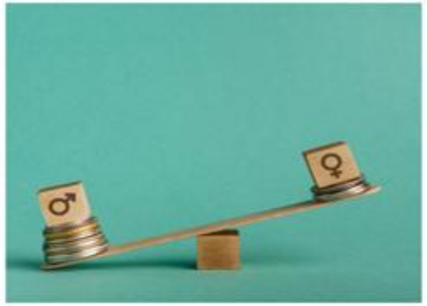

"Show me the money" – the EU Pay Transparency Directive comes into effect

June 29, 2023 | 5 min read

Global Overview

Global overview

Pay Transparency progress across global locations with **gender pay reporting** paying a role

Canada – Pay Equity Act & Pay Equity Regulations Federal for 10 + employees Province regulations e.g. British Colombia, Ontario

Australia – Workplace Gender Equality Act 2012 Annual pay gap reporting for 100 employees

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Europe Today

European Country	Do applicants have a right to receive pay information? (Directive Art. 5)	Is the employer prohibited from asking questions about the applicant's pay history? (Directive Art. 5)	Do workers have a right to receive information regarding pay levels for existing workers? (Directive Art. 6-7)	Is there a category of employers required to report gender pay gap information? (Directive Art. 9)	Are there sanctions or penalties for not reporting or for showing an existing pay gap? (Directive Art. 23)
Austria	✓	×	×	✓	×
Belgium	×	×	×	✓	✓
Denmark	×	×	×	✓	✓
France	×	×	×	✓	✓
Germany	×	×	✓	✓	×
Ireland	×	×	×	✓	✓
Italy	×	×	×	✓	✓
Netherlands	×	×	×	×	×
Norway	×	×	×	✓	×
Portugal	×	×	×	×	×
Spain	×	×	×	✓	✓

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EU Pay Transparency Tracker

Littler's EU Pay Transparency Tracker outlines the current state of the law in various EU countries and will track each change as countries meet the Directive's new obligations.

Given the Directive's tight timeframes, this tool helps employers stay informed about their responsibilities

[Request access to the EU Pay Transparency Tracker]

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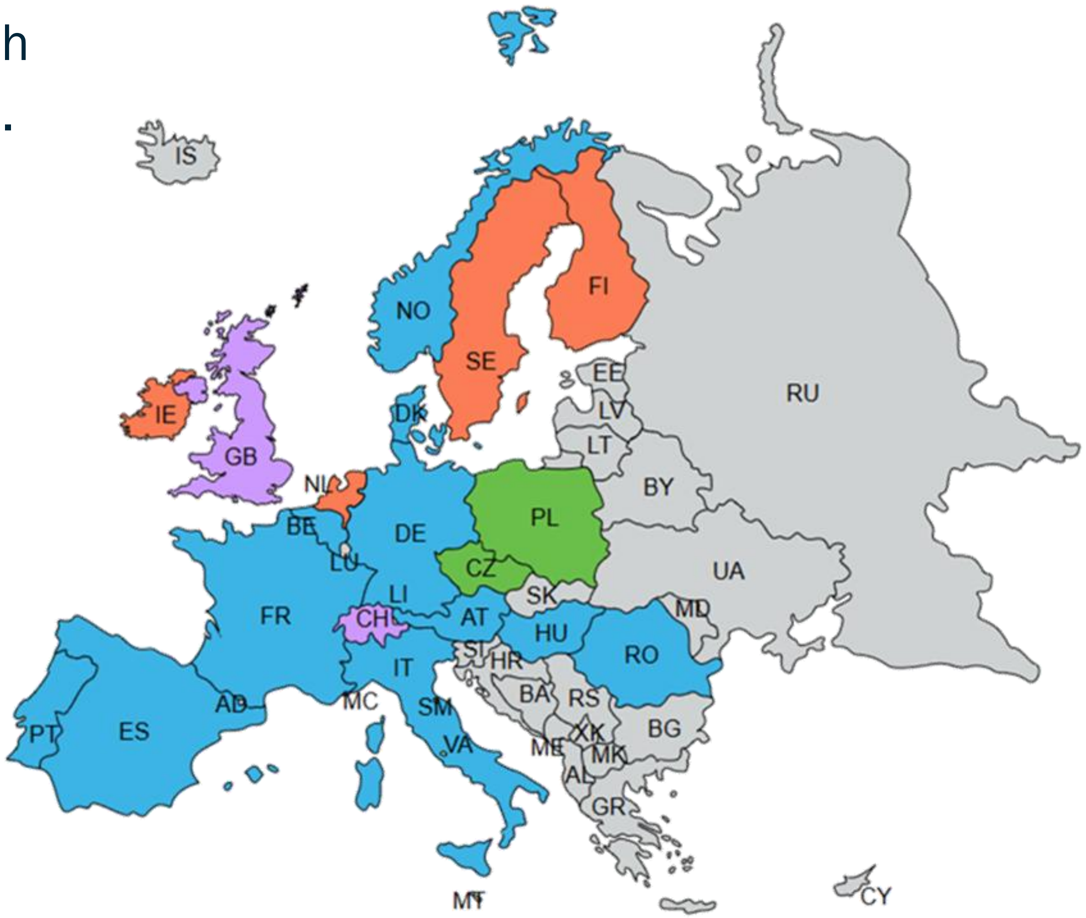
- No reportable proposed implementing legislation
- Proposed (full or partial) implementing legislation
- Enacted (full or partial) implementing legislation
- Non-EU country with existing pay transparency and equity requirements
- Outside the current scope of this tracker
- Selected country

Current as of 1 October 2025



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Key Requirements of the Pay Transparency Directive

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Key Concepts

EU Pay Transparency Directive 2023/970

7 June 2026 to be transposed

Workers

Equal value

Pay

Gender pay gap reporting

Pay Transparency Prior to Employment

Article 5 – Applies to all

Obligation	Specific Actions Member States Must Take	Anticipated Employer Actions for Compliance
• Applicants will have new rights to receive information about pay • Employers prohibited from asking applicants about pay history	• Nothing beyond implementation of the Directive	• Provide written guidance and training to in-house Talent teams on the new obligations • “Notice” of pay language for applicants • Audit job posting templates for compliance

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Workers' Rights

Article 7—Applies to all (*see also* Articles 1, 2, 4, 6 and 12(3))

Obligation	Specific Actions Member States Must Take	Anticipated Employer Actions for Compliance
Workers have the right to: • written information on individual pay level and the average pay levels, broken down by sex, for categories of workers performing the same work as them or work of equal value to theirs • an annual reminder of workers' rights under the Directive • disclose their pay for purposes of enforcing the principle of equal pay	• Member States must put in place measures to prohibit contractual terms that restrict workers from disclosing information about their pay	• Develop worker-facing policy • Develop internal procedures to administer worker rights • Audit non-disclosure and confidentiality agreements for compliance • Confirm GDPR compliance documents account for processing related to the Directive

Gender-neutral Pay Criteria

Articles 4 & 6 – Applies to all*

Obligation	Specific Actions Member States Must Take	Anticipated Employer Actions for Compliance
• Employers must have pay structures ensuring equal pay for equal work or work of equal value • Employers must make the criteria used to determine workers' pay, pay levels and pay progression* easily accessible to workers (*pay progression obligation not applicable for employers with fewer than 50 workers)	• EU Commission may implement EU-wide guidelines • Member States are required to provide analytical tools or methodologies "to support and guide the assessment and comparison of the value of work" so employers can establish gender-neutral job evaluations and classification systems	• Statistical analysis of pay practices to confirm that the identified gender-neutral variables/structures do in fact ensure equal pay • Internal and worker-facing documentation of the gender-neutral pay structures • Audit and update any existing pay policies and bonus schemes

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Reporting on Pay Gap

Article 9

- **250 or more** must report by **June 7, 2027**, and every year thereafter
- **150 to 249** workers must report by **June 7, 2027**, and then every 3yrs
- **100 to 149** workers must report by **June 7, 2031**, and then every 3yrs
- Fewer than **100 workers**: Member states may dictate lower pay reporting thresholds (*as is currently the case in some countries*).

- Reports will be available to and open to critique from:
  - Relevant public authorities (labour inspectorates & equality bodies)
  - Workers
  - Workers' representatives

Joint Pay Assessment
Article 10

- Joint Pay Assessment obligation is triggered when:
  - the pay gap report identifies a difference in average pay levels of at least 5% for any category of workers doing the same work or work of equal value;
  - the employer has not justified such difference on the basis of objective gender-neutral criteria; AND
  - The unjustified difference is not remedied within 6 months of the submission of the report.
- In practice, the earliest a JPA will be triggered is 6 months after the first report is filed (*e.g.* January 2028)

Joint Pay Assessment = Audit to identify, remedy, and prevent differences in pay

Joint Pay Assessment (continued)
Article 10

- Reasons you want to avoid a joint pay assessment (JPA) (*a.k.a.* a formal audit under the Directive):
  - Audit must be carried out in cooperation with **workers' representatives;**
  - JPA must be made available to workers, **workers' representatives**, and local law-monitoring body;
  - If the JPA identifies unjustified differences in pay, employer must cooperate with **workers' representative** to remedy the problem.

Consequences Under the Directive
(Articles 14, 16, 17 and 18)

- Equal pay enforcement to be available to all
- Right to compensation (back pay, bonuses, payments in kind, lost opportunity etc.)
- Order to
  - stop infringement;
  - ensure rights and obligations related to the principle of equal pay
- Shift in burden of proof

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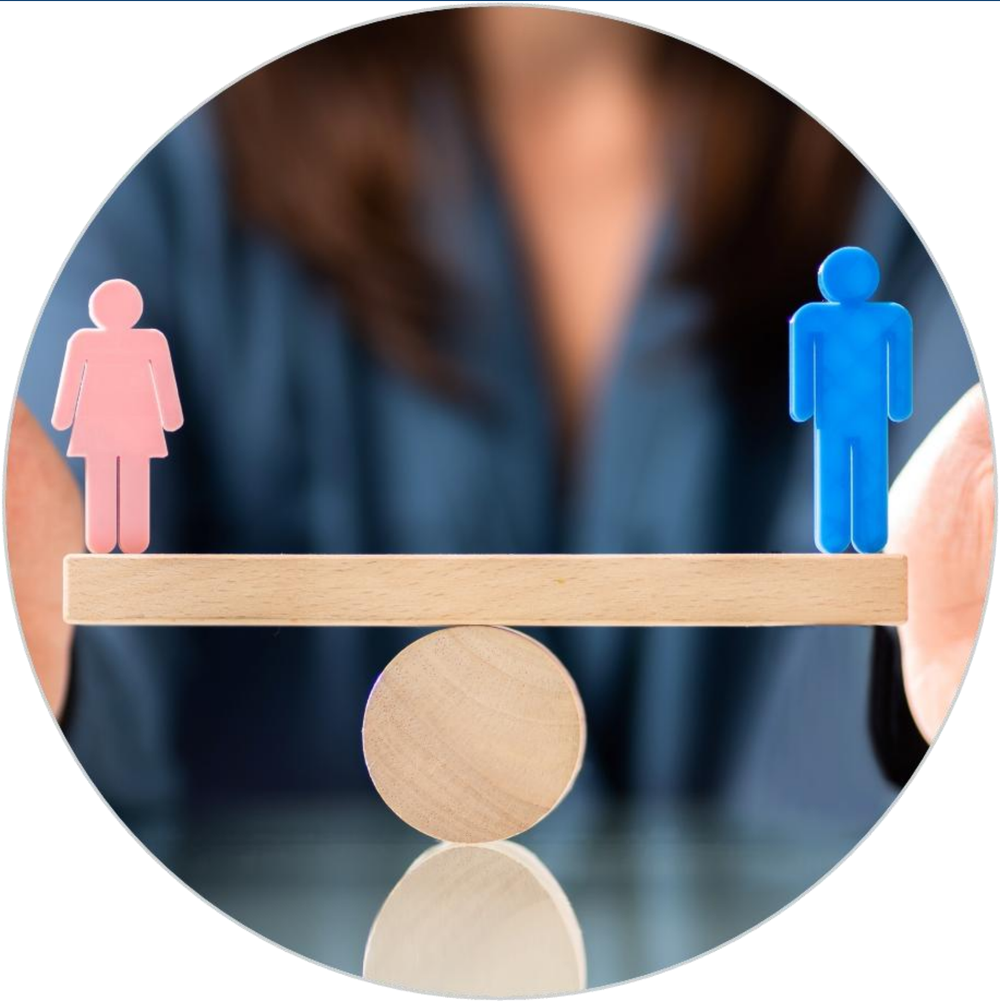
Principle of Work of Equal Value

What Is Work of Equal Value?

- Equal pay for jobs that require similar skills, effort, responsibility, and working conditions, **even if the jobs are different in nature.**



Guiding Principles

- The goal is that the worker categories:
  - Align with the work being completed and comparable in value of the roles
  - Are analytical in nature
  - Incorporate the factors set out in the PTD – skills, effort, responsibility and working conditions
  - Be explainable to workers
  - Be explainable to workers representatives

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Understanding the Strategic Importance of Audits

Audits as Strategic Opportunities

Proactive Issue Identification

Audits help organizations identify potential issues early, preventing escalation and ensuring timely resolution.

Risk Mitigation and Compliance

Audits enable companies to mitigate legal risks and maintain compliance with evolving regulations.

Organizational Improvement

Audits support thoughtful analysis and adjustments, leading to stronger, more compliant organizational structures.

Equity and Transparency

Audits lay the foundation for fair, transparent operations aligned with both workforce needs and regulations.

Building Trust and Transparency

Fostering Organizational Trust

Audits demonstrate the company's commitment to fairness, building trust among employees and stakeholders.

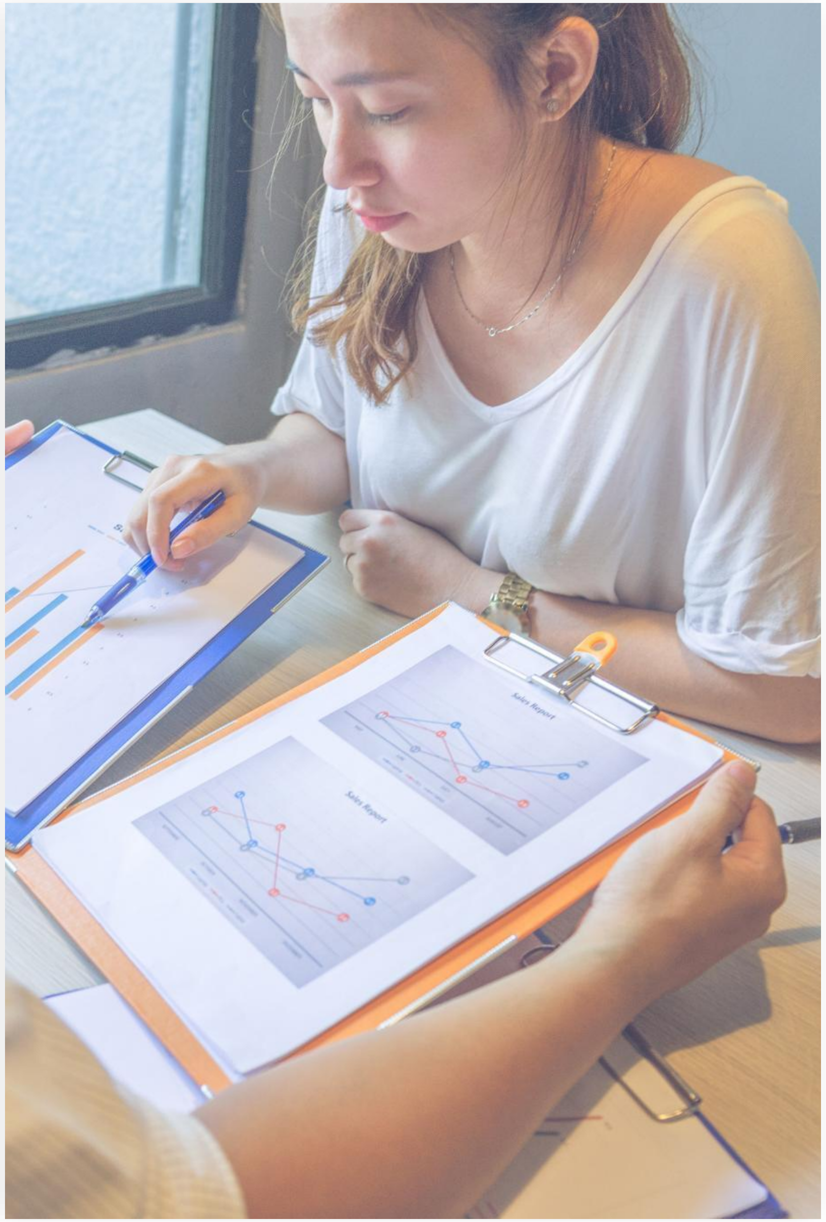
Employee Involvement and Communication

Involving employees in audits and openly sharing outcomes promotes accountability and inclusivity.

Enhancing Resilience and Problem-Solving

Transparent audits identify systemic issues and encourage collaborative solutions

Preparing for a Successful Audit



Collaborating with Compensation Teams

Upfront Alignment Discussions

Starting with thorough discussions aligns goals, context, and expectations for smooth audit collaboration.

Data Collection and Analysis

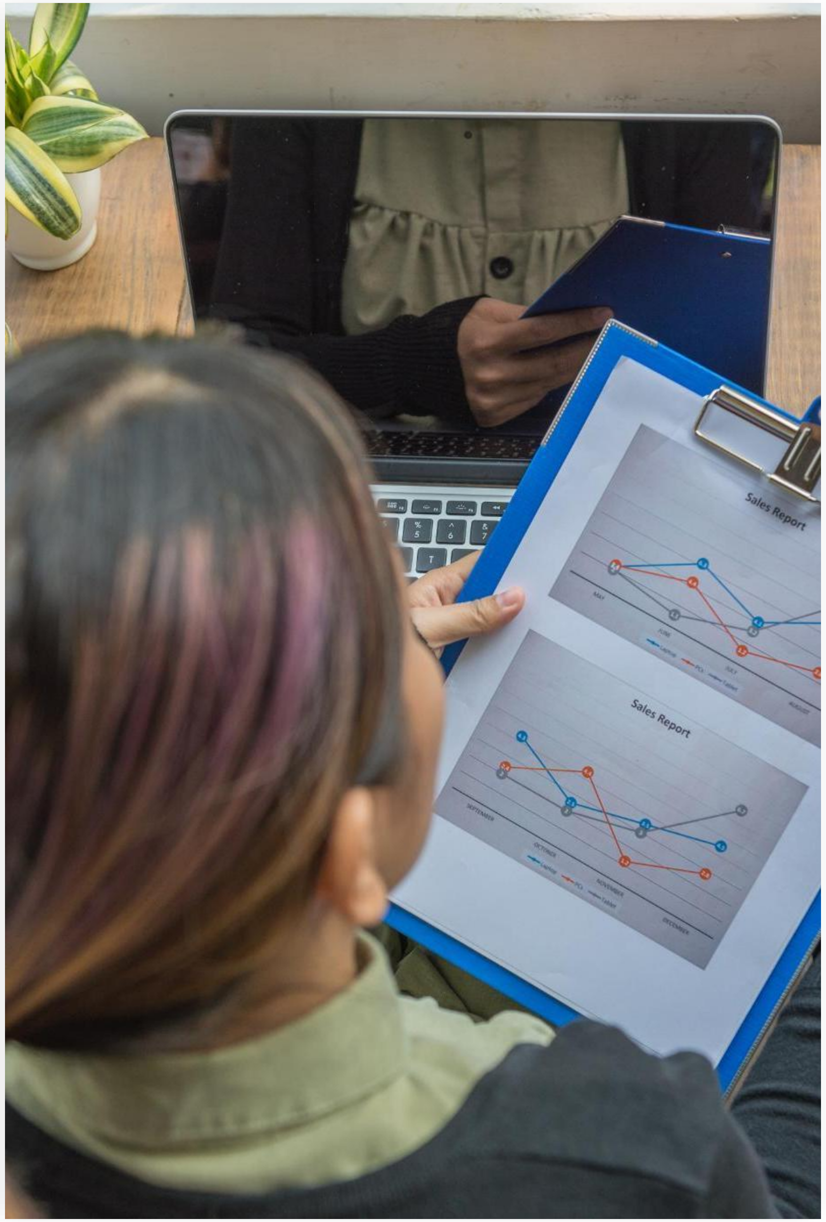
Collecting detailed compensation data followed by iterative analysis ensures accuracy and relevance in audits.

Continuous Engagement

Ongoing collaboration enhances understanding of workforce structure and identifies potential issues proactively.

Strategic Decision-Making

Ample time for evaluation supports thoughtful and strategic decisions improving audit effectiveness.



Defining Worker Categories

Importance of Worker Categories

Accurate worker categories are essential for fair comparisons and audit compliance across the organization.

Challenges in Categorization

Grouping roles by equal value is complex and can extend the audit timeline significantly.

Evaluation Criteria

Roles are evaluated based on skill, effort, responsibility, and working conditions to ensure equal value grouping.

Audit Benefits

Audits help refine categories, test assumptions, and prepare organizations for compliance requirements.

Leveraging Job Architecture

Structured Framework

Job architecture provides a structured framework to define and organize job roles in organizations.

Objective Criteria Importance

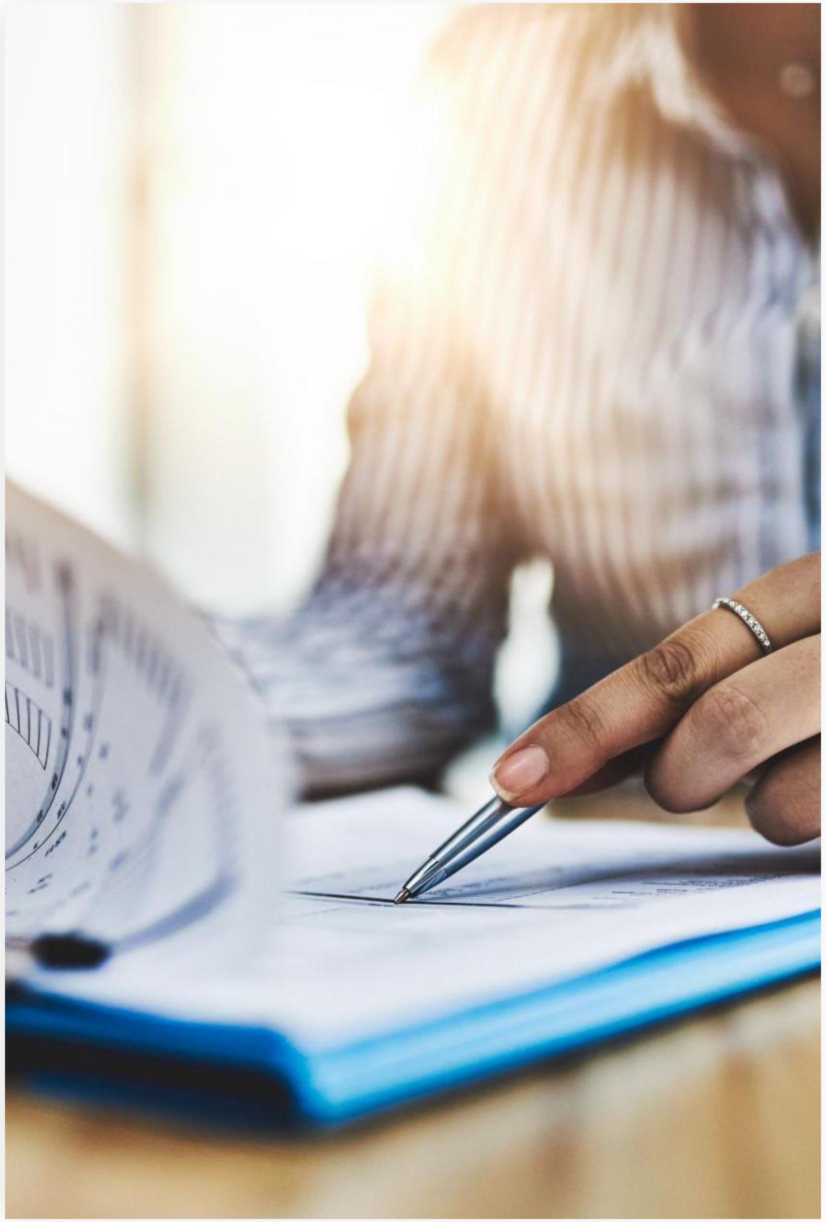
Objective, gender-neutral criteria like skills and responsibilities ensure fairness in job grouping.

Audit Validation

Testing assumptions and verifying role equivalencies strengthens the reliability of the job architecture.

Compliance and Gap Analysis

Identifying unexplained gaps helps prevent compliance issues and informs joint pay assessments.



Reviewing Collective Bargaining Agreements

Role of CBAs in Audits

CBAs help define worker categories, playing a vital role in simplifying and streamlining the audit process.

Compliance and Discrepancies

Discrepancies between CBA categories and directive requirements must be identified and addressed for compliance.

Collaborative Review Process

Collaboration with legal and HR teams is essential for accurate interpretation and necessary adjustments of CBAs.

Efficiency Through CBAs

Effective use of CBAs reduces audit complexity and improves overall process efficiency.

Other data considerations

What compensation data will be analyzed?

Include all compensation elements: bonuses, overtime, allowances, pensions.

Account for jurisdictional differences in pay components.

Objective Gender-Neutral Factors and Legal Review

Determine permissible factors to explain pay disparities.

Conduct legal review to validate acceptable factors per jurisdiction.

Analytical Methods for Pay Equity

Distinct Analytical Framework

Equal value assessments require a distinct approach differing from traditional U.S. pay analysis methods.

Robust Statistical Techniques

Mean, median comparisons, and regression analysis reveal pay disparities and role alignment objectively.

Consistent Role Categorization

Revisiting role categories ensures criteria are consistently applied to support a defensible pay structure.

Justifying Pay Gaps and Ensuring Transparency

1

Each disparity needs to be evaluated carefully to ensure it's based on objective, gender-neutral criteria.

2

Work closely with your legal team to understand what counts as an acceptable justification.

3

Document everything

4

Remember this isn't just about compliance—it's about building trust and equity in your organization.

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Legal Considerations

To Privilege or Not?

Definition of Legal Advice Privilege

Legal advice privilege protects communications between a client and lawyer from disclosure in legal proceedings.

Strategic Involvement of Counsel

Involving legal counsel early in audits helps safeguard findings and maintain confidentiality of sensitive information.

Jurisdictional Variations

Legal privilege rules vary by jurisdiction; UK rules are stricter and in-house counsel roles impact extent of protection.

Importance of Legal Structuring

Structuring audits with legal advice ensures effective protection and compliance with jurisdiction-specific privilege laws.

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Thank You