

FTR Views

Pay Equity Plans – Your Compliance Obligations [Video]

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In this video, [Lauri Reesor](#) discusses an organization's obligations to maintain their pay equity plans and the implications of failing to comply with those obligations. She also talks about the Pay Equity Commission's investigative powers and provides some tips to put you in a better position, should the Commission coming calling.

Transcript

Hi I'm Lauri Reesor and I'm here today to talk about something you've heard a lot about in the media lately. Pay Equity.

What is it about pay equity that connects all of us together?

Something that speaks across gender, country of origin, religion – even politics.

It is a universal experience, really – I'm speaking, of course, about procrastination. Let's face it – we all do it.

The creator of the comic strip Calvin and Hobbes, once said: "I leave things to the last minute, because then I will be older, and therefore wiser."

Now, while ridiculously brilliant that's not likely to fly as a defence when you are audited or investigated by the Pay Equity Commission. I say when – because it's only a matter of time – they will come knocking.

Pay equity as you know – or should know – has two phases – achievement and maintenance. And it's the maintenance piece, the need to monitor for wage gaps between female and male dominated job classes that's often forgotten.

For far too many employers in Ontario, including municipalities, pay equity has been repeatedly pushed from the "To Do List" to what I'll call the "Someday List." And the problem with the Someday List, is that someday is not actually a day of the week.

Thirty years have now passed since the introduction of pay equity. As municipalities you were

required to develop and post pay equity plans by January 1, 1990. And in most cases all of you did that. But have you maintained it? Has your city, your town, your county updated your pay equity plan to reflect new jobs, changed jobs, new bargaining units, for example? Do you even know where those dusty old pay equity boxes are?

If you don't know the answer to those questions, or you suspect the answer is "No" – That's three decades of rolling liability – plus interest – if you're caught by the Commission.

Now remember that there is no time limit for the filing of a complaint under the Act – both current and former employees can do so – and so can (and do) their unions. In a time of political public awareness and media discussion of the equal pay for work of equal value, broader public sector wages freezes and various other austerity measures, public sector unions are turning to pay equity to seek wage adjustments that they otherwise could not get at the bargaining table. They are seeking to re-open deals and plans that were put in place 30 years ago in the hopes of uncovering unknown retroactive liability and obtaining new wage adjustments for their members. But it's not just unions. Any individual employee can complain, even if they left your town or city's employ 15 or 20 years ago.

It is not uncommon for pay equity liabilities to be in the hundreds of thousands of dollars – if not millions in some cases, where compensation has run unchecked for years or even decades. And retroactive payments are due now – you can't phase them in and you can't claim an inability to pay. The Commission will effectively just tell you "Raise your property taxes."

So put bluntly, municipalities can no longer afford to allow pay equity to languish on the Someday List.

The Pay Equity Commission, which is the administrative body tasked with investigating and issuing compliance orders under the Act, is currently more active than it has ever been since the early 1990s. And more and more employees now understand what pay equity is; that's partly because of awareness initiatives of the Commission, partly because of the media, and even more so because all of the major unions have all turned their attention to the issue over the last few years.

OPSEU and CUPE, for example, all employ pay equity specialists, whose sole job it is to assess pay equity compliance in each of their locals across the province.

In addition, the Commission is fast becoming an active enforcement body. Along with increasing its complement of review officers, the Commission has been conducting so called "voluntary" monitoring programs for the past few years that have proven very effective in identifying employers who are not in compliance who are then sent on to investigation. They also conduct random audits. We have no reason to believe they will not move onto more government agencies and municipalities.

So what sage advice can I give you today?

Book 30 minutes with your CAO, your Clerk Administrator, your Director of HR on an actual workday – not someday – and in that 30 minutes talk to that person you have charged with overseeing pay equity compliance and get an update on your municipality’s compliance status.

Now for some of you that may lead to someone donning overalls crawling through the bowels of your town’s storage facilities with a flashlight like Indiana Jones looking for the lost Ark trying to find that dusty old box of pay equity documents.

But it will at least take pay equity off the “Someday List” and put you in a better position to respond effectively when the union or Pay Equity Commission comes calling. It will help you to identify what steps you need to be take before they come calling.

And they will. No comfort should be taken from the fact that the union or the Commission have left your municipality alone for all these years. The liability is yours.