

Pay Transparency Reporting

Notice to Consultation Participants

Submissions and comments provided to the Ministry of Labour are part of a public consultation process to solicit views on and to facilitate the Ministry's development of proposed new regulatory requirements related to the *Pay Transparency Act, 2018*. This process may involve the ministry disclosing submissions, comments, or summaries of them to third parties during and after the public consultation period. However, personal information in the ministry's possession, such as names and contact details, will not be disclosed except as required by law.

If you, as an individual, want to make a submission or provide comments and you do not want personal information to be made public, you should not include it or other information by which you could be identified in the main body of the submission. As well, you should not include the names of other individuals or any other information from which other individuals could be identified. By submitting your comments you are consenting to the use of your information, which may include personal information, by the Ministry of Labour.

If you identify yourself or other individuals in the body of the submission, this identifying information may be disclosed to the public. Any name and contact information provided outside of the body of the submission will not be disclosed by the Ministry unless required by law. Any individual who provides a submission and indicates an affiliation with an organization will be considered a representative of that organization and his or her name and other identifying information may be disclosed.

Personal information that may be collected during this consultation is under the authority of section 20 of the *Pay Transparency Act, 2018* and is in compliance with section 38 (2) of the *Freedom of Information and Protection of Privacy Act*.

If you have any questions regarding freedom of information or privacy matters, you may contact the ministry's Freedom of Information and Privacy Office at 416-326-7786.

Introduction

The *Pay Transparency Act, 2018* received Royal Assent in 2018. The purpose of the Act includes supporting the elimination of gender and other biases in hiring, promotion, employment status and pay practices. It is also meant to promote gender equality and equal opportunity in employment and in the workplace, including equality of compensation between women and men, through increased transparency of pay and workforce composition. The Act will not come into force until it is proclaimed.

This paper provides some context about the gender wage gap in Ontario and how the Act could help address it.

The purpose of this paper is to seek feedback on proposed pay transparency reporting requirements, which would require certain employers to report on differences in compensation between men and women and on workforce composition with respect to gender.

Written submissions in response to the questions and overall proposal are welcome at the following email address by April 5, 2019:

pta@ontario.ca

The Gender Wage Gap

What is the gender wage gap?

The gender wage gap shows the difference between women's and men's pay as a percentage of hourly, weekly, or annual earnings for all workers or a subset of workers.

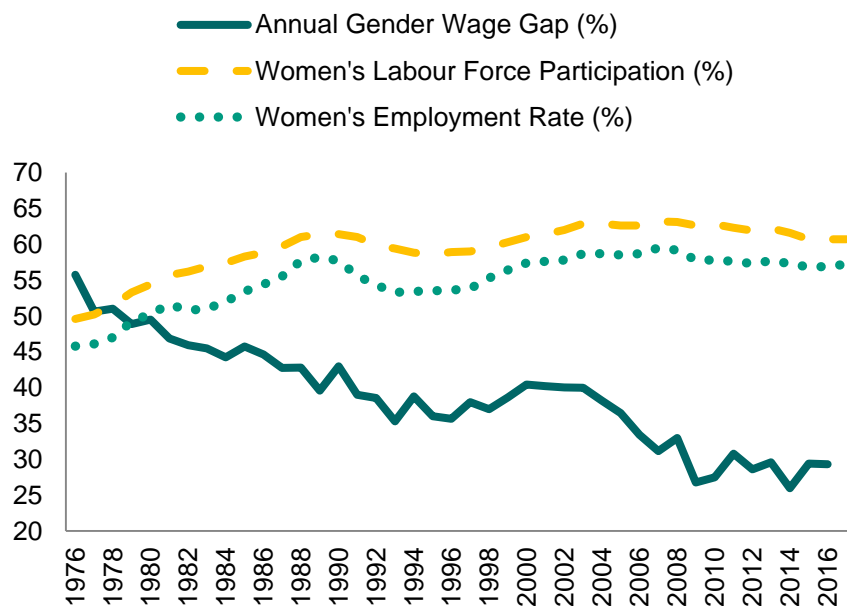
The gender wage gap can be measured in different ways. For example, hourly wage rates (which represent the price of labour) enable pay comparisons between various jobs regardless of whether workers are employed full-time or part-time. Using this measure, the gender wage gap in Ontario is 11.3%, which means that, on average, women earn about \$0.89 for every \$1 that men earn per hour of work (see figure 1).

Other ways to measure the gender wage gap include using the annual earnings of all workers (29.3%) or the annual earnings of full-year full-



Figure 1: Representation of Ontario's hourly gender wage gap, 2018
(Statistics Canada Table 14-10-0064-01)

time workers (22.6%). The former provides a broad indicator of gender pay inequality in the labour market, while the latter limits the comparison to full-year full-time workers, which accounts for the fact that many more women than men are in part-time work.



The wage gap has declined by almost 50% since the mid-1970s, as women's participation in the labour market has risen and their working hours in paid jobs has increased (see figure 2). However, the gender wage gap still persists, despite this significant progress.

Figure 2: Labour market indicators of women in Ontario, 1976-2016 (Statistics Canada Tables 14-10-0018-01 & 11-10-0239-01)

Benefits to Closing the Gap

The gender wage gap represents a lost economic opportunity to harness the skills and experience of women in Ontario. Closing the gender wage gap would support increased productivity and labour market participation, key measures to continue to drive Ontario's economy.

Closing the gender wage gap would:

- Create a more **competitive labour market**.
- Drive **gains in GDP** through greater **labour market participation**.
- Put more money into the pockets of hard-working Ontarians.

Pay Transparency & the Gender Wage Gap

Pay transparency is one tool that governments and employers are using to help close the gender wage gap. Pay transparency is meant to enable an open, honest, and informed dialogue between employers and employees regarding compensation, gender pay differences, and workplace practices.

For example, [gender pay gap reporting](#) in the United Kingdom (UK) has been effective at initiating internal dialogue at the firm level about gender pay differences. This

dialogue has led to real change in some cases. For more information about the UK’s gender pay gap reporting model, see page 9.

Ontario’s *Pay Transparency Act, 2018*

Ontario’s Act contains several provisions that would help address the gender wage gap, unintended biases in hiring and pay setting, and help all job applicants negotiate compensation commensurate with their education, experience, and job responsibilities.

<i>Pay Transparency Act, 2018 Provisions</i>	
Compensation history	Employers would not be allowed to seek compensation history information about a job applicant by any means, whether personally or through an agent.
Compensation range information	Employers would be required to include the expected compensation for a position, or the range of expected compensation, in all publicly advertised job postings.
Anti-reprisal	Employers would not be allowed to reprimand against employees who disclose, enquire about, or discuss compensation or a pay transparency report with their employer or colleagues, or if they are attempting to ensure compliance with the Act.
Pay transparency reports	Employers with 100 or more employees would be required to submit and post a pay transparency report annually, that contains information about the employer’s workforce and differences in compensation between men and women.

* It is important to note that neither the legislation nor any future regulation would require employers to publicize the compensation information of individual employees. Information and privacy protections for personal data would be built into any reporting requirements, which would be reported as anonymized, aggregate data.

Pay Transparency Reporting

Guiding Principles

The objective of any future regulation to prescribe pay transparency reporting requirements is to encourage and foster a dialogue between workplace parties about existing compensation and business practices, especially relating to gender. Employers can then decide to implement workplace-specific policies to address their gender gaps.

The following principles are proposed to guide the framework of any future regulation:

1. **Effective:** Regulation must require certain employers to provide enough information to demonstrate any wage gaps, and track the gaps over time.
2. **Streamlined:** Regulation must be as easy to comply with as possible, without needlessly complicated requirements, while still meeting the intent of the legislation.
3. **Transparent:** Results must be publicly available to workplace parties to foster discussion and facilitate action to address organizational gender wage gaps.
4. **Secure Privacy:** Regulation must comply with Ontario privacy laws.

In order to meet the above objectives, the following is proposed for consideration and feedback.

Proposal

The regulation would set out the requirements for employers with 100 or more employees to annually calculate, and make available, information about organizational wage gaps and workforce composition with respect to gender.

The proposal includes the following elements:



Calculation of Gender Wage Gap

Employer calculates both average and median hourly wage gap of their workforce.

Calculations are derived using employees' wages from a specified pay period.

The gender wage gap is calculated by finding the difference between women's and men's pay as a percentage of hourly earnings.



Calculation of Workforce Composition

Employer calculates the proportion of men and women in each pay quartile.

Designed to help reveal where women are represented in an organization.

Pay quartiles divide all employees in four groups by their pay, namely, into the bottom 25% of earners, the lower middle 25% and upper middle 25% of earners, and top 25% of earners.



Accompanying Explanatory Narrative

Employer can include explanation or narrative that provides additional context.

This may include a description of actions the employer will take to address wage gaps.

Employers may choose to publish additional metrics not required in the regulations.

Employers could be given the opportunity to explain any reasons for the wage gaps.

For more information about wage gap calculations and terminology, see pages 7-8.

Consultation Questions

Wage gap calculations

- Average and median hourly wage gaps alone may not capture certain aspects of the differences in compensation between men and women within an organization.
- For example, even if a similar proportion of men and women receive annual bonus payments, men's bonus pay may be higher than women's. This may be also true of other forms of compensation, such as overtime hours/pay and commissions.

Question 1: In order to capture a more accurate picture of the differences in compensation between men and women at an organization, which additional wage gap calculations should be required (e.g., bonuses, overtime pay, commissions)?

Question 2: Given your answer to question 1, how should these gaps be calculated?

Reporting Period

- The reporting period prescribed by regulation could take a number of different forms, including a specific pay period, calendar year, or fiscal year.
- For example, the UK requires employers with 250 or more employees to calculate average and median hourly pay gaps using employees' earnings from a specific pay period that a prescribed date falls within. For more information about the UK's gender pay gap reporting, see page 9.

Question 3: What reporting period would you prefer to use to calculate average and median hourly gender wage gaps (e.g., calendar year, a prescribed period such as a pay period or specific week [please specify the date/period], fiscal year, etc.)? Please explain.

Implementation and Costs to Employers

- Closing the gender wage gap will have benefits to the economy, employers, employees, and families. However, there will be some costs associated with the implementation of pay transparency reporting.

- Large employers likely have most or all of the data available to calculate wage gaps and other reporting requirements, but smaller and medium-sized employers may not.

Question 4: If you are an employer with 100 or more employees, do you currently have all the information you would need to calculate your organizational median and hourly gender wage gaps for a specified period?

Question 5: If you are an employer with 100 or more employees, how much do you estimate the cost of pay transparency reporting will be, based on the proposal (for each of the categories below please provide an estimated cost):

- IT/software costs
- Personnel costs
- Other (please describe)
- Total costs

Question 6: How many hours do you anticipate pay transparency reporting will take in total? Please round up to the nearest half hour.

General Feedback

Question 7: Do you have any general comments or feedback regarding the proposed pay transparency reporting requirements?

Question 8: How many employees work for your organization?

Question 9: In which sector or industry does your organization operate?

Terminology/Wage Gap Calculations

Gender wage gap

Calculated as the difference between men's and women's pay, and expressed as a percentage of men's pay.

$$\text{Gender wage gap (\%)} = (\text{men's pay} - \text{women's pay}) / \text{men's pay} \times 100$$

Median hourly wage gap

The median hourly wage reflects the mid-point value if all employees' hourly wages are arranged in order from lowest to highest. If there is no middle value because there is an

even number of wage figures, the mid-point value is the value halfway between the two middle wage figures.

To find the median hourly gender wage gap, an employer would first calculate the median hourly wage of both male and female employees, and then calculate the gap:

$$\text{Median hourly gender wage gap (\%)} = (\text{median hourly wage of men} - \text{median hourly wage of women}) / \text{median hourly wage of men} \times 100$$

Average hourly wage gap

The average hourly wage reflects the average wage employees make per hour. To find the average hourly wage gap an employer would first calculate the average hourly wages of both male and female employees, and then calculate the gap:

$$\text{Average hourly gender wage gap (\%)} = (\text{average hourly wage of men} - \text{average hourly wage of women}) / \text{average hourly wage of men} \times 100$$

Pay quartiles

Pay quartiles divide all employees in four groups by their pay, namely, into the bottom 25% of earners, the lower middle 25% and upper middle 25% of earners, and top 25% of earners.

In order to calculate the gender composition of men and women in each pay quartile, an employer would arrange employees from lowest to highest paid, and then calculate the percentage of men and women in each quartile. For example:

50% women	50% men
Lower Quartile (bottom 25% of earners)	
33% women	66% men
Lower Middle Quartile	
60% women	40% men
Upper Middle Quartile	
45% women	55% men
Upper Quartile (top 25% of earners)	

Appendix: UK Gender Pay Gap Reporting

In 2010, the UK government made a commitment to close the gender wage gap in a generation. As part of that commitment, regulations made under the *Equality Act, 2010*, require that any organization that has 250 or more employees must publish and report to the government specific figures about their gender pay gap.

Under the Regulations, organizations are required to provide statistics on:

- Their mean hourly gender pay gap
- Their median hourly gender pay gap
- Their mean bonus gender pay gap
- Their median bonus gender pay gap
- The proportion of men and women in the organization receiving a bonus payment
- The proportion of men and women in each pay quartile

Although an accompanying narrative is not a mandatory requirement when an employer submits their pay gap calculations to the government for online posting, it is recommended that employers publicly explain any gaps and actions that may be taken to narrow it through a narrative.

Compliance with the regulations has been higher than expected, and approximately 10,000 employers (employing 56% of UK employees) have submitted pay gap reports, which have been published online.