

Pay Transparency Directive Webinar Series

Right to Information Requests

Speakers



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Agenda

1. Right to pay information for employees
What does the PTD require?
2. Identifying categories of worker and response time
3. *Defining the pay level*
Pay elements and reference period?
4. Dealing with small categories
5. Explanations, worker rep involvement and follow ups
6. Informing employees

The right to pay information: what does the EU PTD require?

“Workers shall have the right to request and receive in writing... information on their 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”

Article 7 (1)
EU Pay Transparency Directive

Six numbers required for RTI

	How the PTD definitions may apply in practice	Requesting individual	Average for women in category	Average for men in category
Annual total pay	For the individual's category the total of all elements of pay	M: 365	1159	104
Hourly total pay	The number above divided by the number of hours worked/paid	M: 790	1563	26

Naturally, **this information will highlight differences in pay**; for certain some employees will be below the average in any group, especially as very different jobs are grouped together in a category. Others who might seem on track will realise they are not paid exceptionally.

Poll

HOW MANY RTI REQUESTS HAVE YOU RECEIVED?

Poll

WAS IT MORE FROM MEN OR MORE FROM WOMEN?

- 1) More from men
- 2) More from women

Five key questions

What is the appropriate category of workers and how long have we got?

What is the pay level?
Which pay elements and which reference period?

What do we do in small categories (risk of identifying workers' pay)?

Are worker reps involved and what follow up questions can be asked?

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Categories and timing

What are the categories and how long have we got?

PTD gives the framework (below) but member states can clarify, diverge and gold-plate - e.g. Italy (categories) and Malta (timing)

Categories

Categories are groups of workers who are assessed as performing the '**same work or work of equal value**' based on **skills, effort, responsibilities, working conditions** and other relevant factors.

Timing

Information to be provided **within a reasonable period of time** and no later than **two months** of the date of request

Defining pay level

Pay level: elements and reference period

Pay elements

- **Pay** is “the ordinary basic or minimum wage or salary and **any other consideration**, whether in **cash or in kind**, which a worker receives directly or indirectly (complementary or variable components) in respect of his or her employment from his or her employer”
- **Pay level** is “gross annual pay and the corresponding gross hourly pay”
- PTD encourages **all pay elements** to be included, but some member states diverge – e.g. **Italy** and **Poland**

Reference period

- For what ‘annual’ period is pay counted and included?
- PTD uses prior calendar year for **reporting** (not RTI)

Options include:

- Prior calendar year
- 12-month period before request
- Other 12-month period (e.g. reward or financial year)
- Current pay?

Some member states are silent (e.g. Italy, France), some require more current information (e.g. Poland, the Netherlands)

Small categories: transparency v privacy

Article 12 of the PTD sets out that information is to be provided in accordance with GDPR and allows Member States to provide for pay information to be given to workers' representatives, labour inspectorates or equality bodies only in circumstances where compliance would involve disclosure of an individual's pay.

Options include:

- disclose in all cases (may be required – e.g. Netherlands, Sweden)
- roll up to a larger group
- refuse to disclose in smaller categories, setting a limit (typically a minimum of 3-5 per gender)
- instead disclose to a third party - e.g. works council, equality body

Important to explain why, if you limit disclosure
Member state **guidance** on minimum category size is **limited**

Follow ups, explanations
and workers' reps

Follow-up queries

Workers / reps are **entitled** to: “additional and reasonable clarifications and details regarding any of the data provided” **if** the information provided is inaccurate or incomplete

In practice, we are seeing more questions / challenges like:

- Why are there gaps?
- Why have you not increased my pay?
- Why am I in this category?

Responding involves balancing entitlement and risk



Explaining RTI pay differences

Explain calculations and define terms

PTD terms are not intuitive, and the headings may be unfamiliar and misinterpreted.

Explain how calculations have been made, describing which elements of pay have been included, and for what period.

Clarify comparisons are by category not job

Employees may expect averages for same or more directly comparable jobs.

Confirm the comparison includes other jobs and even other functions in the same category.

Consider describing as broadly comparable in terms of general skills, effort, responsibilities, and working conditions as per the PTD definition.

Explain why pay may differ by category

Differences in job: within any category there will be many different jobs and even functions. Pay is typically set to be competitive for the job, so within a category there may be jobs with very different pay ranges and variable pay plans.

Individual competence and performance: pay within a pay range may vary based on competence in the job and variable pay will vary based on performance.

Provide additional information

Consider breaking down the individual's total annual pay into each pay element.

The individual's pay range and their comparison to this range may be a more relevant comparison than averages for the level.

Refer to your pay setting and progression policy. This should explain why some jobs may have different pay structures.

The role of workers' representatives



Worker reps have a prominent role, including:

- Making requests on behalf of workers
- Receiving and advising on results where information might include identifiable pay
- Seeking clarifications and further details in response

In practice, interest is rising, but questions are often about categories

Key issues for RTI are:

- Can we require proof of authority?
- Can worker reps make multiple / mass requests?
- Are worker reps equipped to play a role, and should we train them?

Informing and reminding workers

Informing and reminding

“Employers shall **inform all workers, on an annual basis**, of their right to [receive pay information]...and of the steps that the worker is to undertake to exercise that right.”

Options include:

- Overall communication on the PTD (for first year(s))
- Payslips, communications on pay increases
- Intranet / message board
- All-employee email or communication



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Upcoming PTD webinars

- **20/10**

Transparency in recruitment – salary ranges, pay history bans, etc.

- **10/11**

Worker representatives and employee consultation – role, access to information and engagement strategy

- **24/11**

Reporting and statistics – methodology, data quality, regression analysis, small groups, etc

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