

A SUMMARY OF EMPLOYER OBLIGATIONS ACROSS THE GLOBE  
JUNE 2024

# Gender pay transparency

# Gender pay transparency: A summary of employer obligations across the globe

Equality reporting, and a drive towards pay transparency and equity, continues to be high on the agenda of legislators across the globe.

This **June 2024** guide gives a brief summary of recent developments across 57 jurisdictions.

Full information for each country is available to our GENIE subscribers, where content can be viewed for a single country, or comparisons generated for multiple jurisdictions. Subscribers can also download a bespoke report. To access this content on GENIE, please log in to your account or speak to your usual DLA Piper contact.



## **The business case for pay transparency**

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In recent years, there has been an upward global trend in the implementation of new legal measures aimed at addressing pay equity. This trend continues to gather pace as more and more jurisdictions turn their focus to tackling this issue. It is now a business imperative to understand existing obligations, as well as those on the horizon, and to consider how pay equity and transparency developments impact on your talent strategies.

## **Adoption of the EU gender pay transparency directive**

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2023 saw an important step forward in implementation of new regulation at European level. In April 2023, the European Council gave the final approval to a [new directive](#) seeking to strengthen the principle of equal pay through pay transparency. The new directive has now been signed into law and Member States have until 7 June 2026 to introduce domestic laws to give effect to the directive's requirements.

A period of legislative activity therefore lies ahead and some jurisdictions including Sweden, Luxembourg, the Czech Republic and Estonia have already begun initial discussions on how the directive will be implemented locally. Germany appears to be leading the way, however, and is expected to publish its draft bill during the course of 2024. What is clear is that, by no later than summer 2026, we can expect to see a wealth of new governance in this area in Europe.

## Requirements of the EU gender pay transparency directive

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In brief, the directive requires Member States to legislate, as a minimum, for:

- Job applicants to have the right to receive information about initial pay, or its range, with a ban on employers asking job applicants about their pay history with existing or previous employers. Employers must make easily accessible to their workers the criteria that are used to determine workers' pay, pay levels and (for employers with 50 or more employees) pay progression.
- Measures to prohibit contractual terms that restrict workers from disclosing information about their pay.
- Employers with 100 or more employees to provide information on their gender pay gap, including the proportion of female and male workers receiving complementary or variable components of pay. The timeframe for compliance, and frequency of reporting, depends on employer size.
- Joint pay assessments to be conducted where published gender pay gap information demonstrates an objectively unjustified difference in the average pay level between female and male workers of at least 5%, and the employer has not remedied this difference within six months of its pay report.
- For workers who have sustained damages to be able to obtain full, real and effective compensation or reparation. Compensation must include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities, non-material damage, any damage caused by other relevant factors, as well as interest on arrears. Compensation must not be capped.

For further details, please see our [previous article](#).

## Impact of the EU gender pay transparency directive

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The requirements of the directive have the potential to have wide-ranging ramifications for employers. For those based in EU jurisdictions, such as France, Germany, Italy and Spain, which already have extensive provisions requiring employers to be transparent about gender pay differences, a watching brief will need to be maintained to see how these countries adapt, or supplement, existing regulations to align with the EU directive. In Finland, the government has specifically announced that it will be promoting pay transparency in accordance with the minimum requirements of the directive. Generally, it appears inevitable that familiar existing obligations may well be extended, or even upturned, requiring employers to get to grips with a host of new requirements.

Other jurisdictions, including the Netherlands, Romania, Luxembourg and Hungary, will have to introduce laws addressing gender pay gaps for the first time. Whilst having a blank canvas to work with, these Member States still have an onerous task in determining how to give effect to the directive domestically. Employers should not underestimate the potential timescale for understanding and implementing the new obligations and should consider taking early steps to ensure they are able to comply.

The UK is not required (post-Brexit) to implement the new directive but, although once arguably ahead of the curve in terms of tackling gaps in gender pay, may now be seen as slipping behind European progress in this area. Multi-national operations will have to consider how best to align their gender pay strategy in the UK with other European jurisdictions. This may well result in businesses deciding to put in place processes which actually exceed the minimum standards they are legally obliged to implement in the UK.

## Developments outside Europe

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Other countries outside of the EU are similarly imposing obligations in relation to mandatory pay reporting and transparency.

This includes the US, where an increasing number of states and localities have passed salary transparency laws in recent years, including California; Colorado; Connecticut; Cincinnati, Ohio; Jersey City, New Jersey; Maryland; Nevada; New York City; Rhode Island; and Washington. Requirements vary, challenging multi-state employers.

Some states also require employer reporting. For example, in California employers with 100 or more employees must file an annual report with the Civil Rights Division and, in Illinois, certain private employers with 100 or more employees had to provide certain pay data to the Department of Labour by 24 March 2024 in order to obtain an Equal Pay Registration Certificate (and those employers must recertify that information every two years).

Employers are likely to see more changes in this area, with bills pending in a number of jurisdictions. States and localities also continue to enact laws restricting the ability of employers to inquire into an applicant's salary history and / or prohibiting retaliation against an employee for discussing wages or compensation with co-workers.

In Canada, the British Columbia Pay Transparency Act came into force in May 2023 and prohibits all public and private sector employers in British Columbia from asking job candidates for pay history information. Since 1 November 2023, employers have also had to post salary ranges on publicly advertised jobs. Notably, the law also requires specified employers to publish a pay transparency report on a publicly accessible website. For now, only a narrow range of employers must comply (for example, provincial government agencies); however, from November 2024, all private employers with at least 1,000 employees will be required to report. This threshold will reduce to 300 employees in 2025 and 50 employees in 2026.



In Brazil, a new Equal Pay Law took effect in July 2023, requiring all companies with more than 100 employees to publish a salary transparency report every six months. The report must provide, in anonymised form, information necessary to enable a comparison, and impartial evaluation, of remuneration criteria and of the proportion of men and women in leadership positions. The data provided must be accompanied by statistical data on other possible inequalities arising in relation to race, ethnicity, nationality and age. However, further clarification about how, and to who, the report should be disclosed is still awaited; a new law setting out employers' obligations in this regard is expected.

Australia has also expanded its reporting obligations. While employers with at least 100 employees have had mandatory annual pay reporting obligations for a number of years, since early 2024 employers have had to provide additional data. In addition, for the first time, the Workplace Gender Equality Agency now has the power to publicly publish an employer's gender pay gap. Its first data set was published in February 2024.

## Preparing for the future

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As we move forward, employers can expect more developments on this front and companies need to ensure that gender pay issues form an important part of their overall risk assessment strategy. In particular, the mandatory pay audits being introduced in Europe for employers with unjustified pay gaps should serve to bring the issue into sharp focus and reinforce the attention which employers need to pay to this issue. In some circumstances, employers may wish to consider conducting a preparatory audit to expose any potential issues, particularly as this can potentially be conducted in consultation with legal counsel in a manner designed to protect confidentiality and privilege to the greatest extent under applicable law.

Please reach out to any member of the DLA Piper Employment Group, or your DLA Piper relationship partner, to discuss your pay strategy further and find out how we can help.



# Gender pay transparency: A summary across 57 countries

COUNTRY	IS THERE A LEGAL OBLIGATION TO PAY MEN AND WOMEN EQUAL PAY (FOR SAME OR EQUIVALENT WORK)?	IS THERE A LEGAL DUTY ON EMPLOYERS TO REPORT GENDER PAY GAP INFORMATION EXTERNALLY? <sup>1</sup>	IS THERE A LEGAL SANCTION FOR FAILURE TO REPORT GENDER PAY GAP INFORMATION?	ARE EMPLOYERS REQUIRED TO TAKE STEPS TO REDUCE ANY IDENTIFIED GENDER PAY GAP?
Argentina	✓	✗	N/A	N/A
Australia	✗	✓	✗	✗
Austria	✗	✗	✓	✗
Bahrain	✓	✗	N/A	N/A
Belgium	✓	✗	✓	✓
Brazil	✓	✓	✓	✓
Canada	✓	✓ <sup>2</sup>	✗	✓
Chile	✓	✗	N/A	N/A
China	✓	✗	N/A	N/A
Colombia	✓	✗	N/A	N/A
Croatia	✓	✗	N/A	N/A
Czech Republic	✓	✗	N/A	N/A
Denmark	✓	✓	✓	✗
Finland	✓	✗	✓	✓
France	✓	✓	✓	✓
Germany	✓	✓	✗	✓
Hong Kong	✓	✗	N/A	N/A
Hungary	✓	✗	N/A	N/A
India	✓	✗	N/A	N/A

COUNTRY	IS THERE A LEGAL OBLIGATION TO PAY MEN AND WOMEN EQUAL PAY (FOR SAME OR EQUIVALENT WORK)?	IS THERE A LEGAL DUTY ON EMPLOYERS TO REPORT GENDER PAY GAP INFORMATION EXTERNALLY? <sup>1</sup>	IS THERE A LEGAL SANCTION FOR FAILURE TO REPORT GENDER PAY GAP INFORMATION?	ARE EMPLOYERS REQUIRED TO TAKE STEPS TO REDUCE ANY IDENTIFIED GENDER PAY GAP?
Ireland	✓	✓	✓	✓
Israel	✓	✓	✗	✗
Italy	✓	✓	✓	✓
Japan	✓	✓	✓	✗
Jordan	✓	✗	N/A	N/A
Kenya	✗	✗	N/A	N/A
Kuwait	✓	✗	N/A	N/A
Luxembourg	✓	✗	N/A	N/A
Malaysia	✗	✗	N/A	N/A
Mexico	✓	✗	N/A	N/A
Morocco	✓	✗	N/A	N/A
Netherlands	✓	✗	N/A	N/A
New Zealand	✓	✗	N/A	N/A
Nigeria	✓	✗	N/A	N/A
Norway	✓	✓	✓	✓
Oman	✗	✗	N/A	N/A
Peru	✓	✗	N/A	N/A
Philippines	✓	✗	N/A	N/A
Poland	✓	✗	N/A	N/A
Portugal	✓	✓ <sup>3</sup>	✓	✓
Qatar	✓	✗	N/A	N/A
Romania	✓	✗	N/A	N/A
Saudi Arabia	✓	✗	N/A	N/A
Singapore	✗	✗	N/A	N/A

COUNTRY	IS THERE A LEGAL OBLIGATION TO PAY MEN AND WOMEN EQUAL PAY (FOR SAME OR EQUIVALENT WORK)?	IS THERE A LEGAL DUTY ON EMPLOYERS TO REPORT GENDER PAY GAP INFORMATION EXTERNALLY? <sup>1</sup>	IS THERE A LEGAL SANCTION FOR FAILURE TO REPORT GENDER PAY GAP INFORMATION?	ARE EMPLOYERS REQUIRED TO TAKE STEPS TO REDUCE ANY IDENTIFIED GENDER PAY GAP?
Slovakia	✓	✗	N/A	N/A
Slovenia	✓	✗	N/A	N/A
South Africa	✓	✓ <sup>4</sup>	✓	✓
South Korea	✓	✓	✓	✓
Spain	✓	✓	✓	✓
Sweden	✗	✗	✓	✓
Switzerland	✓	✗	N/A	N/A
Taiwan	✓	✗	N/A	N/A
Thailand	✓	✗	N/A	N/A
UAE	✓	✗	N/A	N/A
Uganda	✓	✗	N/A	N/A
UK	✓	✓	✗	✗
US	✓	✗/✓ <sup>5</sup>	✗/✓	✓
Venezuela	✓	✗	N/A	N/A

<sup>1</sup> In many countries, the duty will only apply where a certain employee threshold is met. In some countries, there may be different / additional duties on government or state sector companies.

<sup>2</sup> Certain provinces only.

<sup>3</sup> No general duty, but in some circumstances a duty may be triggered.

<sup>4</sup> Only if they are a designated employer.

<sup>5</sup> There is no general duty for employers to report on gender pay differences under federal law as of 1 June 2024; however, federal contractors are required to conduct analyses of their total employment processes, including compensation systems, to determine whether there are gender, race, or ethnicity-based disparities, and such audits may be requested during a compliance evaluation. Certain states and localities (eg California, Illinois) may have laws requiring covered employers to assess and / or report on gender pay differences or take other affirmative actions.

# About the Employment Group

DLA Piper's Employment Group is a market-leading global practice with a strong reputation for delivering solutions-based advice and supporting clients in the day-to-day management of their people legal issues and risk. It includes over 350 dedicated lawyers globally, on a strategic and operational level, on both contentious and non-contentious matters across the public and private sectors. The Group advises on all areas of employment, including trade union and employee relations, discrimination and diversity management, global mobility and data privacy. It also advises on the legal, tax and regulatory aspects of remuneration, employee share incentives and other benefits, and assists clients generally in designing and delivering their reward strategies.

This guide provides a headline review of gender pay transparency obligations in the countries identified as of 1 June 2024. This is by way of guidance only and is not a substitute for full legal advice.

**For further details about this guide please get in touch with your usual DLA Piper employment contact or reach out to:**

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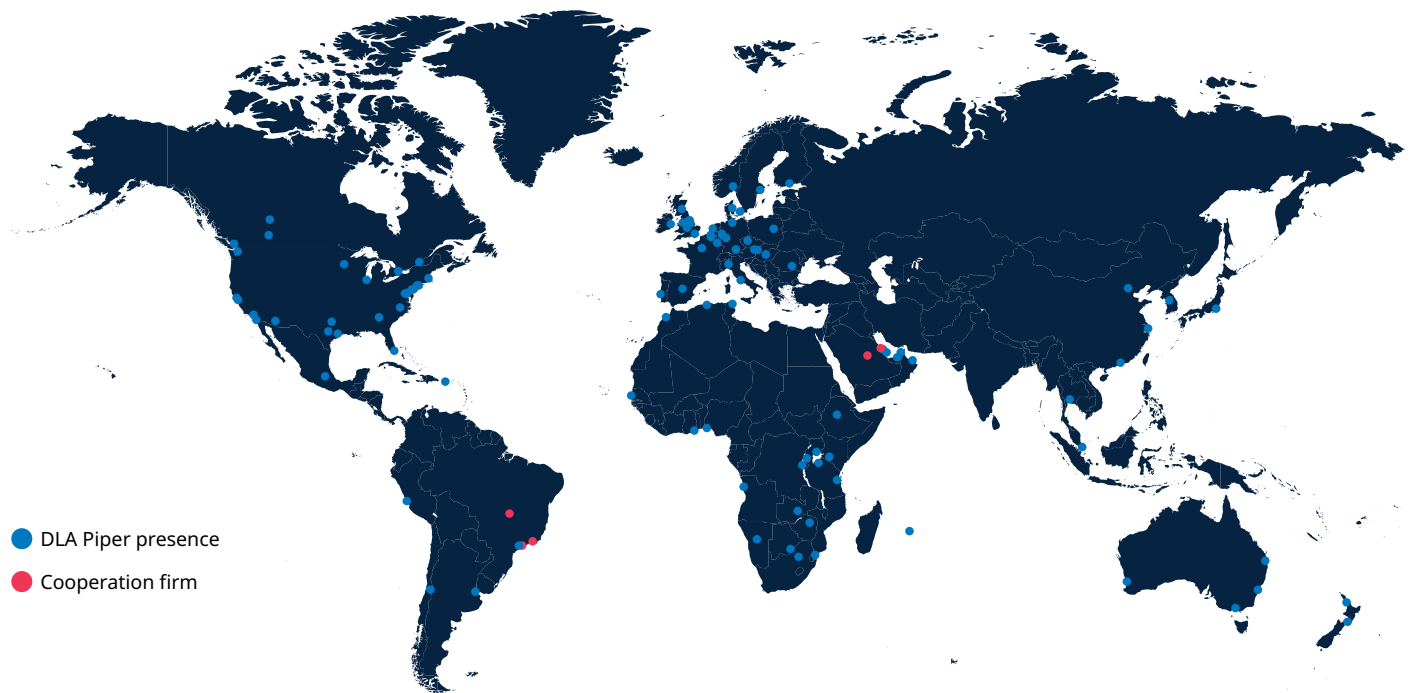


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Italy

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