



WHITEPAPER

More than legislation:

Pay transparency as a catalyst for sustainable HR policy

Contents

1. Introduction.....	2
2. Transparency on remuneration	3
3. Reporting obligation	4
4. Legal protection	5
5. Employee participation	6
6. Enforcement	6
7. Employer obligations	8
8. Opportunities for employers	9
9. How BDO helps your organisation move forward	10
Contact persons	11

1. Introduction

Equal pay for men and women has long been a policy priority, but progress in practice remains stubbornly slow. In the Netherlands, the adjusted gender pay gap still averages around 7% — a percentage that has barely decreased in recent years. This trend is also visible in other European countries.

To address this, the European Union has adopted the Pay Transparency Directive. This directive, which must be implemented into Dutch law by 7 June 2026 at the latest, requires employers to be more transparent and accountable regarding employee pay, with the aim of ensuring equal pay for equal work.

The new legislation marks a fundamental shift in how employers must design their pay policies and introduces various new obligations. At the same time, the proposed law offers a great opportunity to strengthen an organisation's employer brand and attract and retain talent. This whitepaper outlines the key points of the proposed legislation, provides practical guidance, and shows the steps you can take as an employer to be prepared — and make a difference.

2. Transparency on remuneration

Within many organisations, there is a lack of pay transparency. As a result, pay discrimination and gender pay gaps often go unnoticed or are difficult to prove. The new legislation therefore introduces several obligations regarding pay transparency to improve this and ensure equal pay for men and women.

2.1. Before employment

Employers will be required to provide applicants with information about the starting salary or salary range for a position during recruitment. This must be based on objective and gender-neutral criteria for the position concerned. This information must be provided before salary negotiations begin, for example in the job posting or before the first interview. Employers will also be prohibited from asking applicants about their current or previous salaries. This prevents historical pay gaps from persisting and contributes to breaking structural inequalities in the labour market.

2.2. During employment

2.2.1. Pay structures and categories of employees

To ensure equal pay for equal work, employers must have pay structures for categories of employees performing equal or equivalent work. These structures must show how different categories of employees are remunerated, for example using salary scales, steps, and grades. The criteria must be objective and gender-neutral and include required skills, effort, responsibilities, and working conditions. Relevant behavioural skills, or soft skills, should not be undervalued. Pay structures can also be set by collective agreements.

2.2.2. Transparency obligations

Employees also have the right during their employment to receive information about the criteria used to determine their salary and pay levels. This information can, for example, be published on the intranet. The condition is that these criteria are objective, transparent, and gender-neutral. Employers with at least fifty employees must also provide information about the criteria used to determine employees' pay progression. This concerns the process of moving an employee to a higher pay level.

Additionally, employees can request in writing to receive information about their own pay level and the average pay of colleagues in equal or equivalent positions, broken down by gender. The employer must provide this information within a reasonable period (but no later than two months). Employees must be informed annually about this right to information and the steps to exercise it. Furthermore, employees may no longer be prohibited from sharing information about their own pay. These measures aim to ensure pay transparency and equal pay for equal work during employment.

3. Reporting obligation

Employers with at least 100 employees must periodically report to a competent authority on the gender pay gap within the organisation. Those with 100–250 employees must report every three years; those with 250 or more must report annually.

The reporting obligation always pertains to the previous calendar year and will be introduced in phases:

- ▶ Employers with 250 or more employees must report annually, for the first time by 7 June 2027 at the latest;
- ▶ Employers with 150 to 249 employees must report every three years, for the first time by 7 June 2027 at the latest;
- ▶ Employers with 100 to 149 employees must report every three years, for the first time by 7 June 2031 at the latest.

Parts of the report will be published on a national website. If the report shows a pay gap of at least 5% not justified by objective and gender-neutral criteria, the employer must conduct a pay evaluation with employee participation.

Justifications include:

- ▶ Seniority
- ▶ Years of service
- ▶ Work experience
- ▶ Individual performance
- ▶ Level of education or qualification requirements
- ▶ Acquired rights
- ▶ Labour market shortage

4. Legal protection

The new legislation not only provides employees with greater transparency but also strengthens their legal position. In cases of unequal pay, employees have access to legal remedies to enforce their rights, including full compensation, reversal of the burden of proof, and protection against retaliation.

4.1. Full compensation

In cases of pay discrimination, employees are entitled to full compensation. This may include arrears, compensation for lost opportunities (such as promotions and training opportunities), and non-material damages (such as reputational damage or psychological harm). According to the legislator, this compensation must be proportionate and sufficiently deterrent.

4.2. Burden of proof

Additionally, there is a reversal of the burden of proof if the employee presents facts and circumstances that may suggest pay discrimination. It is then up to the employer to prove that no pay discrimination has occurred. Failure to comply with pay transparency obligations during the employment period, such as providing the average pay of colleagues in equal or equivalent positions upon request, or failing to meet the reporting requirements, is already sufficient to raise a presumption of pay discrimination and thus triggers the reversal of the burden of proof. Furthermore, the previously mentioned 5% threshold in the context of the reporting obligation may also play a role here, in that a pay difference of at least 5% will generally be sufficient in practice to raise a presumption of pay discrimination, shifting the burden of proof to the employer to demonstrate that no discrimination has taken place.

4.3. Protection against retaliation

Employees must not be disadvantaged for exercising their rights under equal pay legislation or for assisting others in doing so. Examples of disadvantage include dismissal, suspension, or demotion, but can also involve negative performance reviews or withholding a promotion.

5. Employee participation

The draft legislation also assigns an important role to employee participation. The works council, among other things, will have the right to consent to any proposed decision to establish, amend, or revoke a pay structure or job evaluation system. The classification of employees into categories will also fall under this right to consent. Additionally, the works council will have the right to consent regarding the pay review that must be conducted when a report reveals a pay gap of 5% or more.

Organisations with at least fifty employees must have a works council. Smaller organisations may have a staff representation body if a majority of employees request it, which must also consent to pay structure criteria. Even without formal participation rights, involving employees in pay policy is advisable to build support.

6. Enforcement

Employers who fail to comply with the obligations under the proposed legislation may face administrative enforcement measures, such as fines or enforcement orders. The Netherlands Labour Authority is designated as the supervisory authority for this purpose. As a result, it will no longer be solely up to individual employees to enforce compliance with the rules, but new supervisory and enforcement powers will also be introduced.



7. Employer obligations

In anticipation of the new legislation, it is crucial for employers to take timely action. This allows for adjustments if necessary, to prevent employee claims, fines from regulators, or reputational damage.

The main obligations under the draft legislation can be summarized as follows:

1. Employers must provide timely information about the starting salary or salary range when recruiting and selecting new employees. Additionally, it will be prohibited to ask applicants about their current or previous salary;
2. During employment, employers must provide information about the criteria used to determine wages and pay levels. Employers with at least fifty employees must also provide information about the criteria used for salary progression;
3. Upon request from an employee, employers must provide information within two months about the employee's own salary level and the average pay of colleagues in equal or equivalent positions, broken down by gender;
4. Employers must have pay structures for categories of employees performing equal or equivalent work. This can be established, for example, through a job classification system, job evaluation, and competency management;
5. Employers with at least 100 employees must report (tri-)annually on the gender pay gap within the organization. Parts of this report will be made public. If a pay gap of at least 5% cannot be justified by objective and gender-neutral criteria, the employer is obligated to conduct a pay evaluation in cooperation with employee representation;
6. There is a reversal of the burden of proof if an employee presents facts and circumstances that suggest pay discrimination. Failure to comply with transparency obligations during employment, such as not providing average pay information upon request or failing to meet reporting obligations, is sufficient to presume pay discrimination;
7. Employers are required to obtain consent from the works council or employee representative body regarding certain parts of the pay policy.

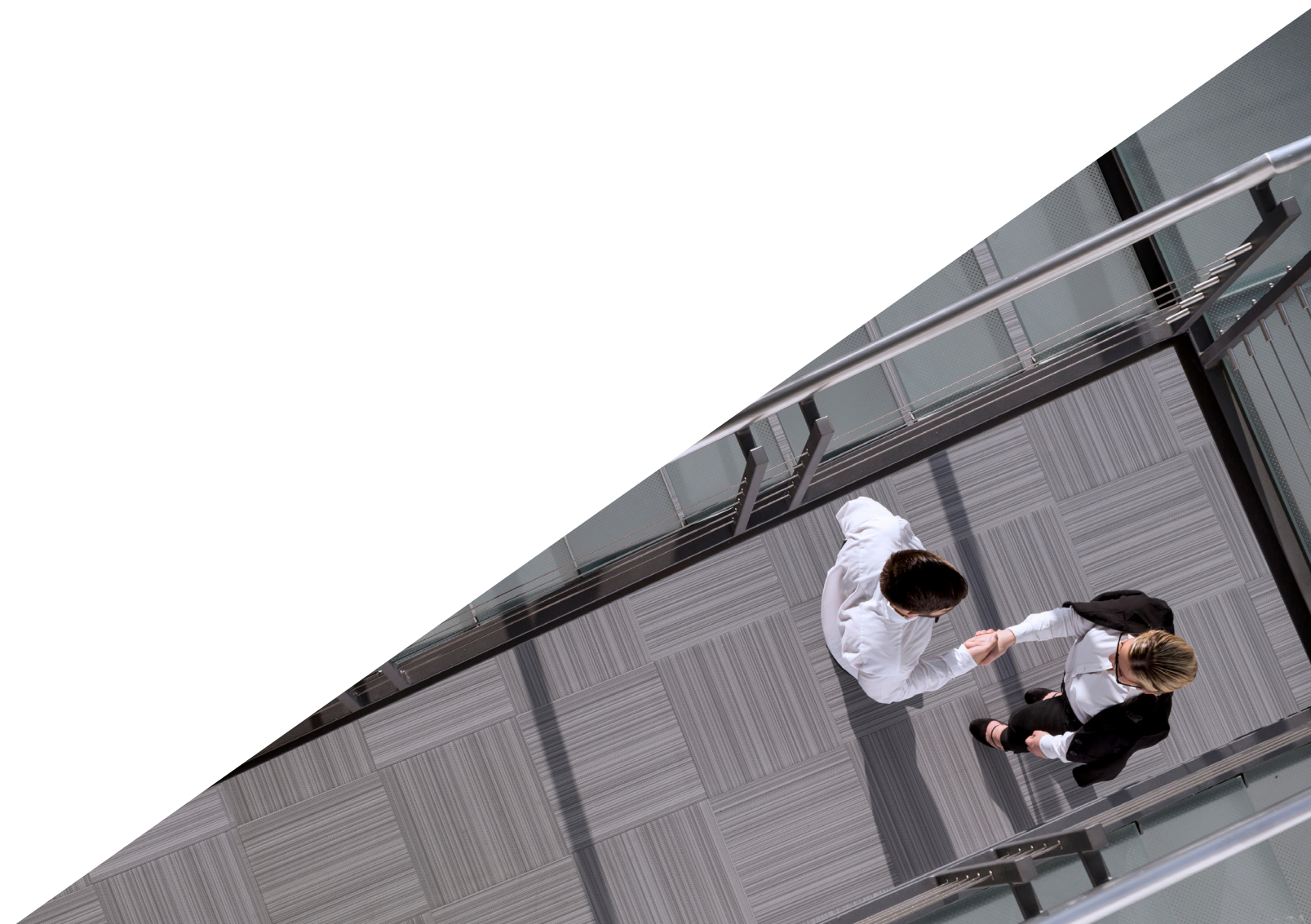
8. Opportunities for employers

The legislation offers a chance to position your organisation as an attractive employer. By legally anchoring equal pay, the proposal promotes transparency and fairness, increasing trust in pay decisions.

The proposed legislation promotes the use of objective criteria in recruitment, job evaluation, performance assessment, and remuneration. This helps prevent discrimination and leads to more consistent and well-substantiated HR decisions. Moreover, a fair pay policy contributes to a positive organisational culture where equality and transparency are key values.

Additionally, transparency helps attract and retain talent, especially among younger generations who value fairness, inclusion, opportunities for growth, and social responsibility. Organizations that practice transparent pay build a strong reputation among employees, customers, and partners.

In a time when reputation is crucial for success, careful implementation of the new legislation offers a clear strategic advantage. Good employer practices thus become not only a moral choice but also an essential part of sustainable growth and future-proofing.



9. How BDO helps your organisation move forward

The Pay Transparency Directive not only introduces legal rights and obligations, but also offers a strategic opportunity to make your organisation future-proof and attractive to both current and potential employees.

BDO specialists can help you assess the impact, develop appropriate HR policies, and implement them effectively. This ensures timely compliance and helps avoid unexpected issues. BDO supports you with an integrated, pragmatic approach that combines legal expertise with in-depth HR, organisational, and cultural knowledge.

BDO advises and assists with setting up pay structures, job descriptions, job evaluations, and salary scales. We also support the drafting or revision of policies for recruitment, remuneration, competency management, performance evaluation, and promotion — ensuring clear documentation in contracts and regulations, as well as support for participation processes.

Contact persons

Do you want to be prepared and make a difference as a future-proof employer? Feel free to contact us. Our specialists are ready to help you build a fair and future-oriented pay structure together.



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