



## **EXCLUSIVE INTERVIEW:**

Today I am pleased to interview Steven Osiel, VP of Total Rewards at Pal Benefits. Steven is going to update us on what organizations need to do in order to be in compliance with pay equity requirements.

Thanks for joining me today Steven.

**Q. In 1988 pay equity was introduced Ontario. After a flurry of publications in the 1990s about compliance requirements, we haven't heard as much about it. What is pay equity Steven, and is it still alive and well?**

A. Absolutely. Pay equity is alive and well. It is equal pay for work of equal value — plain and simple.

**Q. Does pay equity impact on all employers or just those of a certain size?**

A. Those of a certain size. You have to have 10 employees or more if you are in the private sector, but the legislation applies regardless of size to public sector employers in Ontario. Fundamentally, the only group that is an exception are federally-regulated companies.

**Q. What must Ontario employers do in order to comply with the legislation?**

A. There are a number of steps starting with identifying the male and female jobs all the way to evaluating those jobs. Finally, if there is a pay differential between those male and female jobs, generally where the female jobs are below the male jobs, there must be a correction or pay equity adjustment applied to those female-dominated jobs.

**Q. Now when you say “female-dominated” is it individual jobs or classes of jobs?**

A. It would be job classes. So we are not actually talking about individual males and females. We are talking about jobs that are either predominately female, or predominately male. And of course within the Act, there are definitions of male and female jobs.

**Q4. How are male and female jobs compared to determine if for reporting purposes, there is a pay equity gap? What if you have janitors and cleaning ladies? How do you compare the jobs?**

A. There are two methods. One is called the “proportional value method” and the other is called “job-to-job comparison.” Generally speaking, most companies use the job-to-job comparison approach which involves a job evaluation system. This is a system that translates all the work and responsibilities of a job into points so for example, these points can be used to compare between admin assistants and janitors.

**Q.5 Does that mean every organization with 10 or more employees must have a formal system of job evaluation?**

A. Every organization must have a method of comparing male and female job classes accepted by the Pay Equity Commission. If there are comparable male and female jobs in that organization, yes they should. If they do not have comparable positions, a proportional value system can be used.

**Q. What does the proportional value system mean?**

A. Proportional value is where you take the points assigned to the male jobs and the points assigned to the female jobs and you do a regression analysis on them and you ensure that the female jobs are paid at least proportionally to the male jobs.

**Q. Is there any time period within which employers need to report or make adjustments to female salaries?**

A. The time period is up at this point in 2010. As you mentioned earlier, pay equity in Ontario was brought in the late 1980s and early 1990s. There was a period up to 1994 where you were allowed to bring in the adjustments if any were required. But at this point in time it is expected that all organizations that have to be pay equity compliant will have met the requirements.

**Q. Is there a further annual reporting requirement or have there been any changes that employers need to be aware of?**

A. There are no further requirements or changes here in Ontario but all employers have to be compliant with pay equity and should be in what is called “maintenance mode.”

**Q. And what is maintenance mode?**

A. Maintenance mode assumes that once you have implemented pay equity whenever you are required to do so, you are now looking at your program over a number of years and ensuring if there are any changes that have occurred since you put pay equity into place, that you are recognizing these changes. There is no annual filing requirement in Ontario.

**Q. Can you give some examples of the potential cost implications to employers in order to implement pay equity?**

A. Well there are two costs. One is the adjustments you have to give to your female dominated jobs and the second is the cost of actually implementing the program. So if I speak to the first for a moment, if we assume a 5% differential in pay between \$19 and \$20/hour, that one dollar differential at 2000 hours, or 40 hours/wk is equal to \$2,000. And if you have to go back five years, that's equal to \$10,000. Therefore, the adjustment may be \$10,000 per individual if you are found to have a 5% pay differential between your male and female jobs.

Now, in order to implement pay equity or continue with its maintenance there are also number of steps organizations have to follow. These steps include preparing job descriptions, appointing a job evaluation committee, doing the regression analysis and finally, posting the pay equity plan or speaking to the pay equity office.

**Q. What if I didn't have 10 employees in the 1980s and 1990s but my business has grown in the last two years? Or, what if I start a new business?**

A. Well, that is part of the reason why Ontario brought in maintenance rules. If you were not required to have a pay equity plan because you had fewer than 10 employees but now there are over 10, the requirement to implement pay equity applies. If you buy a business, you also take on the liability of their pay equity plan as well.

**Q. The Pay Equity Commission (PEC) can do audits. What are they looking for? In what circumstances do they typically do audits?**

A. They are really looking at this point for organizations to be in maintenance mode and to make sure they are keeping up with their pay equity. I believe the office is trying to work with organizations not in an adversarial way, but positively to help organizations maintain pay equity. The PEQ publishes certain industries or sectors they are targeting for audits. In the last couple of years they have been looking at the retail sector, but they can move from sector to sector.

They can also come knocking on your door if there was a complaint by one of the employees in regards to pay equity.

**Q. If a client receives a letter or is audited by the Pay Equity Commission, how can you help them navigate the process?**

A. Pay equity is not really top of mind for a lot of individuals. Certainly, given the 20 year span, professionals who put in pay equity in the 1990s may not be the people who are there today. Somebody like me who works with pay equity on an ongoing basis can help an employer navigate through the daunting task of the job evaluation committee, the regression analysis, and really work with the PEC to ensure they get the information when they want it in the correct format. This will ensure both parties are speaking the same language.

**Q. If an employer put in pay equity correctly as required in the 1990s but hasn't done anything about it since then and the PEC comes knocking, does the organization have to start again from scratch?**

A. No, not at all. If you have implemented pay equity and have a posting, the PEC is going to assume you are under maintenance mode. They are going to be asking if you have seen any difference over the last x number of years that requires updating or refreshing.

If you have not done it at all, you need to evaluate all the jobs from scratch. Under maintenance mode, you will only have to evaluate the one or two jobs that may have changed.

**Q. But there could be significant changes in an organization if they haven't done anything for 10 or more years...**

A. Absolutely. But if an organization has implemented pay equity, it likely already has a job evaluation tool and we can use that tool to evaluate the changes that have occurred as opposed to starting from the beginning and recalling the committee to create all the programs from scratch.

**Q. What are the potential penalties in Ontario if an organization is not in compliance with pay equity? To your knowledge, in how many cases have penalties been imposed?**

A. Ontario doesn't impose penalties. The province imposes the pay equity adjustments required that come out of the pay equity audits. So if a company has not done pay equity for 20 years, they may have a 20 year liability owing to their employees. As a matter of fact, they also owe their former employees.

There is no fine for not implementing pay equity. You will see various cases in the news, usually of larger unions or larger public sector organizations settling for retroactive pay equity adjustments.

**Q. In your experience, what is the level of awareness of pay equity requirements among Ontario employers with 10+ employees? For example, I'm sure new clients come into your organization from time to time and in the course of whatever you are hired for, you might ask the question. What kind of answers are you getting?**

A. It's really interesting you ask that. Pal Benefits recently conducted a survey that asked the exact question. Forty-four percent of survey respondents said they are very familiar with pay equity. Forty-eight percent said they are somewhat familiar. The remaining 8% said they are not familiar at all.

This is what I would have expected because the concept of pay equity is out there and part of the common language of Ontario. However, because it is not part of day-to-day interactions, the nitty-gritty of pay equity is not known very widely. Only those that have been audited, keep a rigorous committee together or are part of union negotiations have to be very aware of the concepts and keep it going on a live basis.

**Q. Quebec passed more stringent pay equity legislation in May 2009. What does that mean for employers with employees in that province?**

A. Quebec has 66,000 organizations that are now required to comply with pay equity. They have always been required to comply, but Quebec has now said anyone who has not submitted a pay equity plan is required to do so.

They are taking that extra step of demanding that Quebec organizations with over 10 employees submit a plan by December 31, 2010. In addition, failure to submit a report or to be in compliance can result in a fine up to \$45,000 and double that amount for second offences. Finally, formal audits are required every five years.

**Q What about the other Canadian provinces and federally-regulated employers? Are employers in those jurisdictions subject to pay equity requirements? How are complaints dealt with in these jurisdictions?**

A. It's a hodge podge outside of Ontario and Quebec which have the most restrictive and proactive pay equity laws. In a number of the provinces out west pay equity falls under human rights legislation and there are no proactive methods employers must follow. If a complaint comes up, then an organization would have to ensure there are no inequalities based on the value of pay. But it is not proactively done through job evaluation. On the east coast, pay equity only applies to public as opposed to private organizations.

**Q. So out of Ontario and Quebec you are typically dealing with a system where people have to go to court but in Ontario, you have the PEC where people would make complaints if they felt there was a violation of the legislation?**

A. That is correct.

\*\*\*\*\*

Thanks very much for talking to me today. I wouldn't be surprised if your comments are the catalyst for action in a number of organizations that may have been unaware of their pay equity obligations.

**Media Contact:  
Sheryl Smolkin  
(416) 227-9025  
sheryl@sherylsmolkin.com**