MercerMarsh Benefits

benefits that truly benefit

Global pensions and benefits in focus: Exploring the impact of the EU Pay Transparency Directive

Are you ready to value benefits and pensions to comply with the new EU Pay Transparency Directive?

Introduction

The EU Pay Transparency Directive[1] ("the Directive") provides a legal framework to strengthen the application of the principle of equal pay for equal work, or work of equal value, between men and women through pay transparency and enforcement mechanisms for companies operating in the EU, as well as the wider European Economic Area (EEA) countries. This is an important Directive with respect to attracting talent, removing bias from recruitment, reducing the gender pay gap and providing equal access to career progression.

There are two key components of pay transparency—providing increased visibility to pay at the individual level (during the recruitment process and to current employees), as well as increased requirements for gender pay gap reporting. Additionally, companies will have an obligation to inform employees about how their pay progresses throughout their career.

Member States have until 7 June 2026 to implement the Directive into national law and companies with more than 150 employees must start reporting in June 2027. Companies that have a gender pay gap of more than 5% in any category of worker will need to justify the gap on objective gender-neutral factors. Where there remain "unexplained" gaps, companies will need to make adjustments within six months or undertake in a joint pay assessment with workers' representative bodies.

Uncompliant companies risk compensation claims to cover "in full the loss and damage sustained as a result of gender-based pay discrimination". The Directive has explicitly stated that these **compensation claims have no upper limit.**

A small, yet significant detail is that the definition of pay under the Directive includes not only the traditional categories of cash-based compensation, but also **includes the value of benefits and occupational pensions.**

[1] Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023

EU Directive definition

'Pay' means 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.

What does this mean for employers?

In general, employers have robust processes in place to regularly review (and measure) individual salaries, considering external competitiveness and internal equities, but these processes normally do not include the value of benefits. Understanding and measuring the value of benefits and pensions is significantly more complex and requires expertise in evaluating the intricacies of employee benefits and pensions, a different skill set to that of traditional compensation experts and a significant increase in the scope of the more traditional pay review.

In addition, there is no guidance within the Directive on how to calculate the cost of the non-cash benefits at the individual level. Therefore, to date, most employers have not included benefits in pay equity analyses so there is limited insight on the levels of gaps that may emerge upon their inclusion. It may be that the national legislation in one or more member states will provide more explicit guidance on how to value benefits, but in the absence of this, judgement will be required.

In a region as diverse as the EU and EEA, the scope and complexity of benefits is wide ranging: from meal vouchers, company cars, annual leave and traditional insured benefits (life, health, disability) to more complex benefits like stock options, defined benefit pensions and retirement lump sum benefits.

Typically, companies do not have one set of benefits for their global (or even European) employees. Pensions and benefits differ between markets to align with local tax and social security regimes. Many companies have changed their pension and benefits over time to align with market practice and to manage risk, but "grandfathered" or protected groups exist. Other companies may have a practice of granting individual arrangements to certain groups of employees. In addition, many companies have a patchwork of different benefit and pension plans following M&A activity—with perhaps very different benefits within the same country depending on the legal entity. In addition, eligibility and design can differ based on gender, age, service, family status, grade/seniority or other factors.

Each employee will have a unique combination of benefits that must be identified, measured and reported. There is a not a "one size fits all" solution.

Actions companies should take now

Build an inventory of all pensions and benefits. This should reference insured and non-insured benefits including leaves, perks and allowances. The inventory should include plans offered to new joiners, but also "grandfathered" or protected groups, and individual arrangements. The scope should include detailed definitions of eligibility, design and cost. Details are critical at this stage as they can be used to justify and minimise the value of unexplained gaps (which will require adjustments if over 5%).

Develop a valuation process of the benefits. Whilst the valuation of some benefits is straightforward (e.g. face value of a meal voucher), for others it is more complicated (e.g. stock options, share plans and defined benefit pensions). The earlier organizations understand where there may be existing gaps, the more time they will have to develop solutions to minimize these gaps and optimize pension and benefits spend.

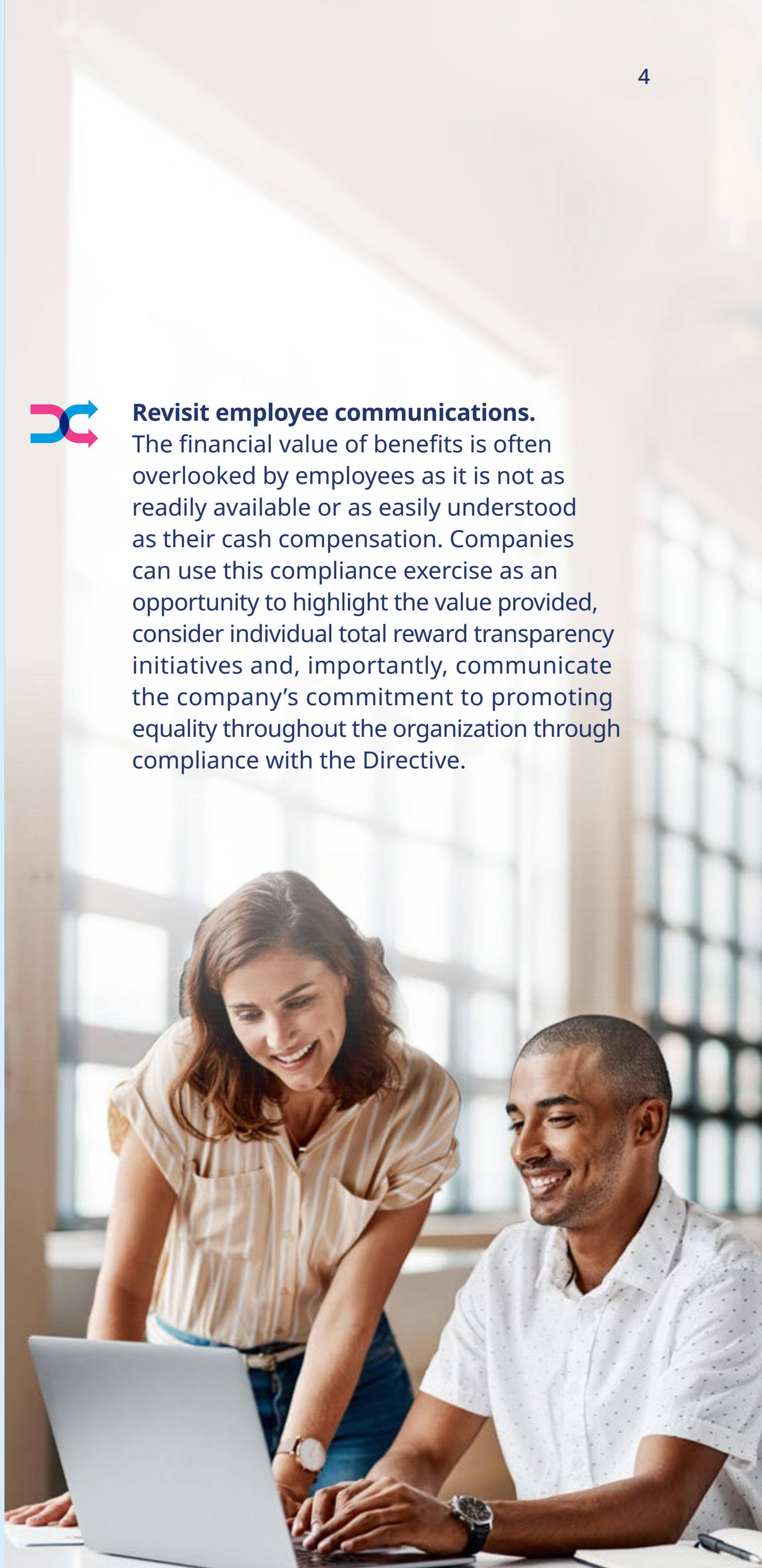
Review data storage, management and reporting capabilities. Unlike traditional compensation data, which is stored and accessible within the HR information system and/or payroll systems, benefits data is typically stored across a number of systems and in a variety of formats - sometimes it only exists in the memory of a local HR employee. As reporting will be required annually for the largest employers (and data retrieval will be critical should a compensation claim be made), a robust process and data management and reporting strategy is key.

Reviewing annual performance/pay review processes. Should processes be adjusted to integrate benefits to ensure that gaps are not inadvertently created due to pay and promotion decisions, and to ensure that the total remuneration package is considered?

Consider inclusivity/equality issues. Whilst the calculated gap might be less than the 5% threshold, are there design elements which are leading to inequalities? For example, differences in retirement ages between males and females, or reduction in salary used to calculate pension contributions during maternity leave?

Implement global benefits governance. It is vital to ensure that there is appropriate global oversight into benefits management and develop global principles to ensure that local benefit design decisions are aligned to the Directive, considering transparency as a guiding principle.

Revisit employee communications. The financial value of benefits is often overlooked by employees as it is not as readily available or as easily understood as their cash compensation. Companies can use this compliance exercise as an opportunity to highlight the value provided, consider individual total reward transparency initiatives and, importantly, communicate the company's commitment to promoting equality throughout the organization through compliance with the Directive.



The first round of reporting under the Directive is required in 2027, however this will be based on 2026 data. Due to the complexity of benefits (and the fact that any changes will take time), organizations should take action now to identify, budget for and implement any necessary changes.

Finally, whilst this is an EU initiative and compliance is mandatory in the EU and EEA, multinationals with employees outside the EU may consider adopting this process across all global operations as part of their wider global compensation and benefits strategy, employee value proposition and meeting diversity, equity and inclusion targets.

Non-Mercer resource:

- Directive 2023/970 of 10 May 2023 (EUR-Lex, 17 May 2023)

Mercer resources:

- EU pay transparency law approved (Mercer, 30 May 2023)
- Pay equity in the EU: A critical step toward workplace equality (mercer.com)

Contact

For more information, please contact one of our global pension and benefit specialists:

- Kay Leach—kay.leach@mercer.com
- Bridget Moser—bridget.moser@mercer.com
- Ayce Nisancioglu—ayce.nisanciogluTopcan@mercer.com
- Graham Pearce—graham.pearce@mercer.com

About Mercer Marsh Benefits

Mercer Marsh Benefits provides clients with one source for managing the costs, people risks, and complexities of employee benefits. The network is a combination of Mercer and Marsh experts working across 130 countries to develop local solutions drawn from global expertise. Mercer and Marsh are businesses of Marsh McLennan (NYSE: MMC), the world's leading professional services firm in the areas of risk, strategy and people, with more than 85,000 colleagues and annual revenue of over $20 billion. Through its market-leading businesses including Guy Carpenter and Oliver Wyman, Marsh McLennan helps clients navigate an increasingly dynamic and complex environment. For more information, visit marshmclennan.com, or follow us on LinkedIn and Twitter.

Businesses of Marsh McLennan