

# Ontario's Employment and Pay Equity Programs

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## I. INTRODUCTION

The basic question which must be considered when discussing equity in the workplace is: what kind of society do Canadians want to build for the future: Do we want to undermine our tradition of "peace, order and good government" and respect for the individual? Or do we want to build on our strengths and continue, in a uniquely quiet, Canadian way, to pursue the national instinct to create an ideal society that works — for everyone?

And "instinct" is the right word. This is not some kind of national dream, a fantasy involving luck. To most Canadians, this *becoming* is serious business. The belief we have not yet been locked into or become hostages of history or tradition, that we are still evolving and if we act carefully, perfection is still possible, is strong. It may be the only thing that most Canadians would agree on.

Equity in the workplace then is not only the right thing to do, it fits a commonly-held idea of the kind of society we should try to become.

But there are also other, more immediate forces pushing us to make improvements in workplace equity. In Ontario, as in many other areas of Canada, we are living in times of profound social change. The pressures of change are everywhere, and organizations which are determined to be masters of change are not only trying to adapt to the new environment, but are looking within for ways to unlock initiative and creativity that is crucial to meeting the challenges of the 1990s and beyond.

Equity issues are in the spotlight now because of demographic changes. In Ontario, traditional immigration from the U.K. and Europe has been replaced by immigration from Asia, the West Indies, South America and the Mediterranean. This more varied cultural mix and the fitting together of cultures in Ontario now requires new skills, more effort, and greater sensitivity.

One of the results of this change, particularly in southern Ontario where most of the province's population resides, is that the workforce of the Ontario Public Service (OPS) does not reflect the makeup of society in terms of cultural diversity.

We also have a new Ontario public that is better informed, more conscious of individual rights and expects quick political action and solutions that work. This new awareness of rights is partly the result of the new *Canadian Charter of Rights and Freedoms*.

Managers are also facing a new worker in Ontario who has conditional loyalty, high expectations of job satisfaction, is concerned about the quality of life and is not afraid to question how organizations are run.

Another force helping raise expectations about equity is the huge influx of women into the work force. Half the labor force will soon be women. As a group, they have become indispensable to our economic health. In many parts of Ontario, working women (many of whom are also mothers) have also become indispensable to the economic health of their

households because of the high cost of living. Working mothers who still have the major caregiving and nurturing role in our society, need support to realize their potential — and Ontario's.

Managers today also face a new work place in terms of managing disruptions caused by technological change and the effect this can have on a variety of special groups in the labor force.

Complicating all this is the rate of change itself, which is increasing every year.

All these forces have combined to push pay equity and employment equity to the top of the agenda in recent years. Ontario has had to respond to a changing environment.

In the public service, we not only have to change to keep pace with that environment, we also have to change to ensure we have the staff and the skills to manage in the future. We have to attract and develop new talent and also create conditions that will enable employees to achieve their potential.

We have to reshape how we manage our human resources because the public service, like many organizations, is facing a massive turnover in its executive ranks as staff hired after 1945 begin to retire. Because of a decline in population growth following the baby boom, the OPS must also find ways to compete with the private sector during the coming years when there will be a serious shortage of skilled young graduates with managerial potential.

Having established the background, I will now turn to a detailed description of how Ontario has approached pay and employment equity within the Ontario Public Service and how it is attempting to develop both.

## **II. ONTARIO'S APPROACH TO PAY EQUITY**

### **A. Background**

The *Pay Equity Act*, Statutes of Ontario, 1987, Chapter 34, was proclaimed January 1, 1988.

In Ontario, the current wage gap between the average earnings of men and the average earnings of women across the province is thirty-six cents on the dollar. That is, women earn 64 cents for every \$1.00 earned by men. As we all know, a complex variety of historical and social reasons contribute to this gender-based wage gap. Traditional education patterns, traditional hiring practices, the effect of home and family responsibilities on career patterns and resulting occupational segregation: these and other factors have all contributed to the existing wage gap, and are some of the elements addressed in employment equity programs.

The *Pay Equity Act* was not designed to cure all gender-based inequities. The intent of the *Pay Equity Act* is to address that portion of the wage gap caused by systemic gender bias in compensation. The *Act* addresses the difference in wages between jobs done primarily by men and jobs done primarily by women *where the jobs are of equal value*, although dissimilar. Employers are charged with finding and eliminating that difference.

The *Pay Equity Act* in Ontario is pro-active rather than complaint based, and applies to both the public and private sectors. It required that job comparisons be made between job classes which are predominantly female (60 per cent or more women) and job classes which are predominantly male (70 per cent or more men). Historical patterns and stereotypes may also be used to determine predominance.

Comparisons between job classes must be made on the basis of the skills, effort, responsibility and working conditions inherent in the job. Where jobs are found to be of equal or comparable worth, the job rate for the female class must be increased to the level of the job rate for the lowest paid male class of equal value.

The *Pay Equity Act* allows some flexibility of approach. Any pay equity plan covering employees belonging to a bargaining unit must be negotiated with the bargaining agent representing them.

Pay Equity Plans for the Ontario Public Service must be posted by January 1, 1990. For both private and public sector employees, pay adjustments may be phased in, over 4 and 5 years, respectively.

In the private sector, the *Act* does not require an employer to pay more than 1 per cent of payroll in any one year. In the public sector, the 1 per cent "cap" is available for the first 4 years. However, the public sector must complete any outstanding pay equity adjustments in the 5th year. This means that the Ontario Public Service must achieve pay equity by January 1, 1995.

The Ontario Public Service is the largest employer covered by the *Pay Equity Act*, and has the earliest date upon which to begin pay adjustments: pay equity plans must be posted by January 1, 1990, and pay adjustments begin effective the same date. The *Pay Equity Act* applies to all full and part-time employees, both management employees and those represented by a bargaining agent.

The Ontario Public Service workforce includes some 85,000 permanent and contract employees in over 600 programs carried out by more than 30 ministries. It covers an enormous range and diversity of work and employs highway construction workers, nurses, doctors, office workers, scientists, pilots, boiler inspectors, physio and occupational therapists, auditors, artisans, engineers, biologists, laundry workers, hairdressers, photographers, and probation and parole officers, to name just a few types of jobs.

Three pay equity plans are required for the Ontario Public Service:

1. one for bargaining unit employees represented by the Ontario Public Service Employees Union;

2. one for members of the Ontario Provincial Police Association;
3. one for management and other employees not included in the bargaining units.

## **B. Development**

A gender-neutral job comparison method has been developed that is specifically designed to "capture" the widely divergent kinds of work in the public service.

Surveys for bargaining unit jobs and for management jobs were custom-designed for the Ontario Public Service to collect job information directly from employees. The questions in the surveys were reviewed and revised through pretest and pilot test stages, and the final survey conducted for each group.

The job comparison method involves statistical analysis of the data, with the assistance of computers. The composite of job elements for each job class can then be assessed.

Current values must be examined and adjusted to give due weight to previously under-valued elements in female jobs. Once equitable values have been determined, comparisons can be made between male and female jobs of equal value and these comparisons listed in the pay equity plan, together with the resulting wage adjustments, and phased in over the next five-year period.

## **C. Implementation**

The major portion of the Ontario Public Service workforce is represented by the Ontario Public Service Employees Union. Since a key element in the *Pay Equity Act* is the requirement for the employer to negotiate the pay equity plan with the bargaining agent, significant time and effort has been invested in negotiation with OPSEU. Throughout the process the operating rule has been *negotiation* and *partnership in communication*.

Steps in the process have involved negotiation of the survey questionnaire, including the wording of every question in a 22 page document; joint union/management letters to employees at critical stages; and joint testing of the survey.

Tests of the survey were undertaken at three stages. In July, 1988, OPSEU members and Human Resource Secretariat staff carried out joint interviews of 100 employees in Toronto and Thunder Bay plus a review of 40 surveys mailed out across the province.

In September, 1988, a second, small test was done to focus on changes made to the survey. Fifty employees in groups of four to five were interviewed jointly by the employer and union. In January 1989, a pilot survey was conducted using a sample of 2,400 employees, and results were shared, analyzed, tested and discussed with the union. At each stage,

improvements to the survey and all details of further stages were negotiated. The final unit survey of approximately 20,000 employees was carried out in June 1989, and all results shared and analyzed jointly.

A separate survey was developed for management employees and tested initially in focus group sessions with over 160 employees in 8 locations across the province from May 23 to June 5, 1989. A pilot test was carried out with a sample of 1,000 employees in late June/early July 1989. Improvements were made to the survey at each test stage. The final survey of approximately 8,000 management employees, in September, is providing us with the data for analyzing and adjusting current values in order to make pay equity comparisons. Once pay equity comparisons have been made, pay adjustments will be calculated for the five-year phase-in period, and the plan posted.

The requirements of the *Pay Equity Act* must not only be met, but must be seen to have been met. The importance of adequate communication cannot be over-emphasized.

A Pay Equity Resource Committee composed of a representative from each ministry provided a communication link between the secretariat and the ministries. Regular meetings were held at which the secretariat apprised the committee of current developments.

The secretariat also provided communication material such as slide packages for use by committee members when speaking to ministry management and employees.

The testing and survey process itself was important to communication of pay equity. Through that process, employees became directly involved and raised questions, concerns and suggestions.

In addition to giving talks and making presentations about pay equity, secretariat staff also produced a pay equity newsletter to go to all employees. Topical articles on pay equity appeared in the OPS newspaper, and in the secretariat's human resources journal, *HR*.

## **D. Enforcement**

Under the *Pay Equity Act*, public service employees are required to post pay equity plans by January 1, 1990. Pay adjustments must be effective January 1, 1990. In other words, there is a legislated requirement to implement pay equity.

At the Pay Equity Commission, the office charged with implementing the legislation, staff are available to provide advice, mediate, and monitor progress. Review officers of the Commission may issue orders where the parties have failed to resolve differences.

Another component of the commission is the Pay Equity Tribunal. It has been established as the final arbiter of disputes or complaints relating to the implementation of pay equity.

### III. ONTARIO'S APPROACH TO EMPLOYMENT EQUITY

#### A. Background

A differentiation has to be made between employment equity and pay equity. Pay equity refers to "equal pay for work of equal value", or measures specifically aimed at rectifying the historical undervaluation of women's work.

Pay equity has as its basis the principle that when non-gender-related factors which influence pay are taken into account, work performed by women which is equivalent in value to that performed by men in the same establishment should be paid the same.

Pay equity can only be expected to address part of the gap between female and male earnings. Pay equity is therefore one component or strand of employment equity, but is focussed more narrowly on the historical undervaluation of women's work.

Employment equity is a more encompassing concept. Currently it applies to five designated groups in Ontario: women, racial minorities, francophones, aboriginal peoples and persons with disabilities.

Its basic premise is that if all discriminatory barriers are identified and removed, then a particular workplace should reasonably approximate the profile of the available labour force.

Furthermore, implementation of employment equity should, as a result of efforts to equitably hire, promote and train all workers, thus changing the profile of the labour force over time. Employment equity will not only address the wage gap, but also such issues as recruitment, underemployment, ghettoization, lack of promotion and advancement opportunities and exclusion from training.

We also recognize that many issues faced by disadvantaged groups do not have their source in the workplace and cannot be rectified by changes to the employment system alone. Employment equity is only one of a range of initiatives which can produce equal access to employment. It will not produce change overnight, since improvements depend on the rate of growth and turnover in jobs. Employment equity does not guarantee results, but promises a better opportunity to compete on equal grounds. Improvements for disadvantaged groups will also be achieved through better training, education equity, improved access to childcare, better access to transportation, economic development, more generous parental leave provisions, better conditions for part-time workers, and so on.

A common misconception about employment equity is that it undermines the employer's right to hire the most qualified person, or the "merit principle". But the hiring process is multifaceted. In many hiring decisions, the employer may not necessarily select the most qualified. Many decisions are based on subjective criteria, such as personality "fit", or other factors.

Where a competitive hiring process has been developed, employment equity challenges the employer to ensure that the selection method is not screening out qualified applicants from disadvantaged groups and that real attempts are being made to reach these candidates. Employment equity also emphasizes that the qualifications or credentials required for a job should be essential and justifiable.

Ideally, working conditions and personnel practices should seek to eliminate unfair screening out of disadvantaged groups, for example, through the development of policies on racial and sexual harassment, reasonable accommodation of disabilities and religious beliefs, pay equity and leave policies.

The working definition of employment equity used within the OPS is as follows:

*Employment equity is a human resource process which includes a broad range of initiatives designed to improve the labour force status of designated groups and support their full participation in the workplace. These include affirmative action initiatives designed to diversify the occupational distribution of designated groups as well as initiatives to diversify that concentrate on human resources management policies and practices including recruitment, benefits, education and the provision of adequate support mechanisms. (Cabinet Submission, June 12, 1987)*

## **B. Development**

Over the years, a number of employment equity initiatives have been taken in Ontario on behalf of groups such as women, racial minorities and persons with disabilities, in a variety of sectors and by a number of ministries and agencies.

In 1986, a survey administered by the Human Resources Secretariat, the I Count survey, collected data on OPS employees to establish the level of representation and occupational distribution of the five designated groups. Seventy per cent of the 85,000 OPS employees responded to the survey.

The results indicated that, with the exception of the disabled, these groups were well represented in the OPS. However, the designated groups tended to be clustered in lower paying job categories.

To remedy these imbalances, the Human Resources Secretariat and individual ministries began to look at barriers elimination and career development initiatives. In doing this, however, certain problems arose with respect to the I Count data.

First and foremost, the I Count data was collected and maintained on a totally confidential basis within the secretariat. As a result, dissemination of the data could only occur if it was in aggregate statistical form. Ministries therefore could not identify individuals for specific career development initiatives, nor could they access their own data to conduct their own work force analyses.



Second, over 9,000 respondents chose not to include their social insurance numbers. This meant that these responses could not be linked to other individual information such as job category and salary. As a result, the usable database was reduced to 58 per cent.

It should be mentioned that the I Count approach, i.e., total confidentiality, was one utilized by all major organizations that were collecting this type of information in the early and mid-1980s. Since then, as employment equity programs have matured, the need to link data to human resources planning below the corporate level has been recognized.

To address these problems, the decision was taken in January 1989 to re-survey the OPS. The Work Force Profile was then developed by an interministerial committee and approved by the senior committee of the Human Resources Secretariat. In addition, definitions for each of the designated groups were approved by special offices or directorates responsible for designated groups, for example, the Ontario Native Affairs Directorate.

Finally, the major OPS union, the Ontario Public Service Employees Union — OPSEU, supported the survey and co-signed a letter of endorsement with the Deputy Minister, Human Resources Secretariat.

### **C. Implementation**

The Work Force profile was distributed to 85,000 classified and unclassified employees during the final week in May. Results were to be tabulated over the summer.

The form contained seven questions to establish whether an employee was a member of a designated group. The survey was voluntary but a comprehensive tracking and collection system was established to maximize the return rate.

To avoid the confidentiality problem, a freedom of information section was included in the survey kit specifically stating that this information could be used by the secretariat or ministries for human resources or employment equity planning purposes.

To avoid the social insurance number problem, each form contained a personalized label with an employee number that could be linked back to the social insurance number. The data has been keypunched and linked to our personnel database to obtain additional information on such things as salary, job category and age.

In the future, all new employees will be documented using the Work Force Profile to ensure that the database remains current. Ministries will be provided with their information on computer disk so they can conduct their own work force analyses as part of the goals and timetables exercise. This information can be compared to other databases, the 1986 Census for example, to develop more sophisticated planning tools.

The prime objective of the Employment Equity Program is to change the occupational distribution of all designated groups to reflect both the Ontario Public Service occupational distribution and the availability of potential employees in the external labour force.

To achieve that, the program will establish corporate goals for each target group and timetables for their achievement. The established goals will include both numerical (ends) and barriers elimination (means) goals.

The diversity of the workforce, occupations, ministry cultures and regionalized offices and the unique issues of each designated group create an enormous challenge in establishing corporate employment equity goals and timetables which will address all of these factors.

That was the job of a project team established this past summer. The database that resulted from the Work Force Profile was analyzed to identify the occupational distribution of designated group members. Further research was conducted to determine the reasons for the low representation of designated groups in lower paying occupations.

These reasons have included the lack of a feeder group of designated group members to higher paying occupations and intentional or systemic barriers facing members of these groups. As well, analysis of the external labour force helped identify the availability of qualified designated group members from which we can recruit.

Consultations with special offices and directorates also helped identify the causes of the low representation of the group members in some occupations and higher representation in others. They also assisted in identifying systemic barriers that hinder advancement of members of designated groups.

Key stakeholders also helped identify initiatives to increase the occupational diversification of each designated group. Line ministries have also been trying to identify other important factors within their organizations that impact on employment equity objectives.

All this analysis and feedback is helping establish both numerical and barriers elimination goals and the timetables for their accomplishment.

It is also helping with major decisions about how the program will be implemented. For example, we recognize that it is unreasonable to ask each ministry to focus on increasing the representation of all designated groups in all of the occupational groups. Members of certain groups are just not available to be hired in some parts of the province. We will therefore focus our efforts on selected occupational groups and revise our priorities on a yearly basis. This will allow ministries to concentrate their efforts on areas that will allow for the greatest amount of growth.

The goals and timetables that are being announced this fall in the Ontario legislature will be integrated with the existing corporate human resources strategic planning program, Strategies for Renewal. This program requires ministries to submit human resources action plans and results which contribute to the corporate objectives, including employment equity. Action plans and results will be reviewed by the Human Resources Secretariat and for the first time the 1990/91 plans will form part of the ministries estimates package to be presented to Management Board of Cabinet.

Marketing and communications efforts will be critical to increase awareness and acceptance of the initiatives which contribute to the success of the employment equity program. Several key marketing and communications initiatives were undertaken this year. The secretariat hosted a symposium on managing and valuing diversity in March. It featured exhibits, video presentations, an audio tape presentation, a demonstration of a TDD telephone used to communicate with the hearing impaired, a display of nearly 100 Human Resources Secretariat and ministry employment equity publications and a collage of photographs showing diversity in the Ontario Public Service. More than 500 Ontario Public Service executives attended the symposium.

To market the Work Force Profile, staff developed a series of letters, presentations, a communications kit for those involved in the survey, distributed a poster and wrote articles for several secretariat publications.

The goals and timetables initiative will also be publicized through letters, presentations, articles, as well as a statement in the legislature and a publication for managers entitled *Strategies For Renewal*.

## **IV. IMPLICATIONS FOR THE FUTURE**

### **A. Employment Equity**

When the OPS Employment Equity Initiative was approved by Cabinet in June 1987, a definition of employment equity and a number of working assumptions were contained in the submission. However, a definitive policy statement that describes employment equity in relation to other corporate values such as the merit principle was also needed. That policy will be developed over the next year.

Implementing employment equity also requires reviewing many corporate policies. The Secretariat is currently revising 18 corporate staffing policies that, among other things, deal with credentialism, bias-free testing, human rights code implications, and job advertising.

The Secretariat has also revised its entire corporate training curriculum to include employment equity themes and issues and has prepared guidelines for examining course materials for bias.

In the next few years, secretariat branches that deal with classification, pensions, staff relations, employee benefits and executive development will be reviewing their programs and policies and making revisions to support the employment equity.

The Secretariat is also working on policies and programs that support employment equity by protecting and assisting designated groups. For example, a policy on sexual harassment has recently been strengthened and a policy covering all forms of workplace harassment is being revised. As well, the government recently approved \$38 million to ensure public access to government buildings for the disabled.

Examples of other areas that will warrant policy consideration are job accommodation for the disabled and day care. There is also a need for an employment equity fund to permit centralized funding for job accommodation and career development initiatives. These reinforce existing efforts to develop feeder groups for management or skilled positions.

## **B. Pay Equity**

Pay Equity constitutes a catalyst for change not only to the current compensation structure and relativities, but even to labour relationships. And these changes are already being felt.

Pay equity will bring changes to existing hierarchies and equivalencies. Some of the effects of these changes will be an integral and intentional part of the program, while others may be more tangential to the process.

Some backlash from male groups may occur. Employees in male-job classes are already raising the issue of broader equity comparisons. For example, between male-dominated classes, rather than female to male only.

Certainly, it will be necessary to incorporate pay equity values into the existing evaluation system, i.e., make the system congruent with the changed values.

In the Ontario Public Service, the pay equity exercise has involved a new relationship between the employer and the union. Neither party has ever negotiated anything quite like this before. There has been an increased sharing of information as well as joint testing, analysis and some key joint communications.

Collective bargaining in the future will be affected by the changing relationships derived from pay equity implementation. But bargaining will also itself be a key ingredient in determining whether equity gains are furthered, maintained, or begin to slip.

## **V. CONCLUSION**

It is not easy to list the implications of employment equity for the future. Despite the amount of work done on this program, it is still in its infancy. At the time of publication of this paper, goals and timetables and even a specific policy statement on employment equity have not yet been developed.

What is known for sure is that introduction of the program will have a tremendous effect on the way the OPS conducts its business, trains and chooses its managers and makes choices about what should be taken into account when making decisions.

Despite the challenges, the mistakes that will be made, the potential for backlash and the surprises that accompany all new programs that impact on the status quo, the pay equity

and employment equity initiatives have the potential to help establish something of overriding importance.

They can be important steps in creating the kind of Ontario our most responsible citizens want. Systemic barriers in the workplace, in effect, disenfranchise members of designated groups. Members of these groups are less than equal in terms of being able to grasp opportunities and play active roles in decision-making.

In practical terms, it is hard to participate in decision-making if you cannot get your wheelchair through the meeting room door, or you were not informed there was a decision made, or arroyo unable because of various hurdles to rise to a level where decisions are made.

Members of designated groups represent a sizeable portion of the society that will not get access to power to control their environment, unless conscious steps are taken by those in power. Employment equity and pay equity are conscious steps taken to create such a level playing field.

In light of the existing diverse makeup of Ontario society and the expected immigration pattern in the future, these programs will increasingly become a method of ensuring that our provincial social fabric is not torn apart. Anyone who is interested in the future, therefore, has a tremendous stake in the success of these programs.

A society can be judged in many ways — and certainly by the way it treats those who are most vulnerable. As responsible administrators in both the private and public sectors, I know we all share the desire that our society remains one of the fairest and best in the world.