Pay Equity: Part I

I recently attended three separate presentations on Pay Equity. (click here for the Wikipedia page that describes Pay Equity). Same subject but three different takes – the first was focused on convincing management that it was important – the second was a very good discussion amongst compensation and HR professionals, led by an attorney, focused on the implications of state legislatures passing laws that they don't understand – the third a combination of a lawyer and a PhD statistician talking about the "how-to" aspect of conducting an audit.

This could be a lucrative new service for consultants like me, but I've decided to wait to enter these waters. Too much still undefined.

Here is what I can tell you about this.

1. Pay equity is not new – the Equal Pay Act was passed in 1963 and is regularly and repeatedly enforced.

2. If you already have processes and policies in place and follow them fairly closely, you probably don't have too much exposure to these new laws that are re-defining pay equity to be less about good business practices and more about re-defining it as pay equality.

3. If your pay system has always been pretty secretive, get used to transparency.

4. In Oregon, you can still maintain disparities in pay if based on seniority, merit, quality or quantity of work, location, travel, education, training, experience, or combination of any of these.

5. Most anywhere these laws are enacted, including California and Oregon, and soon in Washington, asking an applicant about their salary history is not permitted. In Oregon you have an exception for current employees, but that only takes effect in 2019.

I can't even begin to describe what it will take to do the analysis to determine if you'd have issues with pay of your current employees. I can tell you that listening to a PhD describe how he'd approach it made me think I'd need to upgrade the processor on my PC (or hire a PhD).

Here are a few things you can do immediately that will help you steer through these waters.

1. Stop asking candidates what they made elsewhere. I think this is probably the most powerful aspect of these new laws to bring about pay equity (not equality). Make job offers based on the candidates recent and related experience, skills, and capabilities that match the job requirements.

2. Make sure your job descriptions are up-to-date (key responsibilities and job requirements especially) so that candidates and current employees are evaluated against the same standards. Since job content is in most cases the "controlling factor" to determine comparability, suddenly this documentation becomes much more important.

3. Take the "Current Salary" field off any internal transfer/promotion form, job application of any other hiring form. Simple.

4. If you start any sort of pay analysis around Pay Equity, loop in your Attorney or Counsel immediately. Protect yourself from yourself.

5. Give some serious thought to what you ask managers to do when it comes to performance management. For example, formal or informal documentation of performance and coaching especially as it relates to two of the permitted elements for different pay levels, quality and quantity.

6. Educate your managers about these new laws and how their actions and decisions can increase or decrease the risks you'll be facing.

7. Consider adding a temporary salary review process where HR reviews all salary changes and new hires once you have a handle on your own data. Don't let things get any worse.

It was the PhD who may have had the best insight when he said, "Tell employees your story about pay or else they'll start telling their own stories." (By this he meant become potential plaintiffs because they are dissatisfied with their pay and they aren't getting any answers from you.) This obviously requires transparency in areas like pay ranges (what are they, how do they work), who is your market (other companies, geography, etc), where do you target your policy (your policy is your intent, i.e. 50^{th} percentile – your actual practice -- how you actually pay your employees may be different).

Final thought: additional benefit to transparency. The Compensation Roundtable of the Corporate Executive Board has conducted extensive research on perceptions of employees as to satisfaction with how they are paid. It resulted in two primary discoveries with quantitative results that drive employee performance (their discretionary efforts) and retention (intent to stay). Both of these satisfaction drivers are able to be influenced by a manager because they are based on the employee's perceptions, and those perceptions are formed from the manager's action or lack of action on how they set, communicate and evaluate performance targets as well as communicate the company's intent and strategy for pay programs that the manager administers. The two drivers are **pay process fairness** and **pay distribution fairness**. More on these elements in the next newsletter as well as an update on additional developments.