HR IN THE KNOW 8/2025

New obligations for employers regarding pay transparency and equality – published assumptions for the draft

DECEMBER 2025

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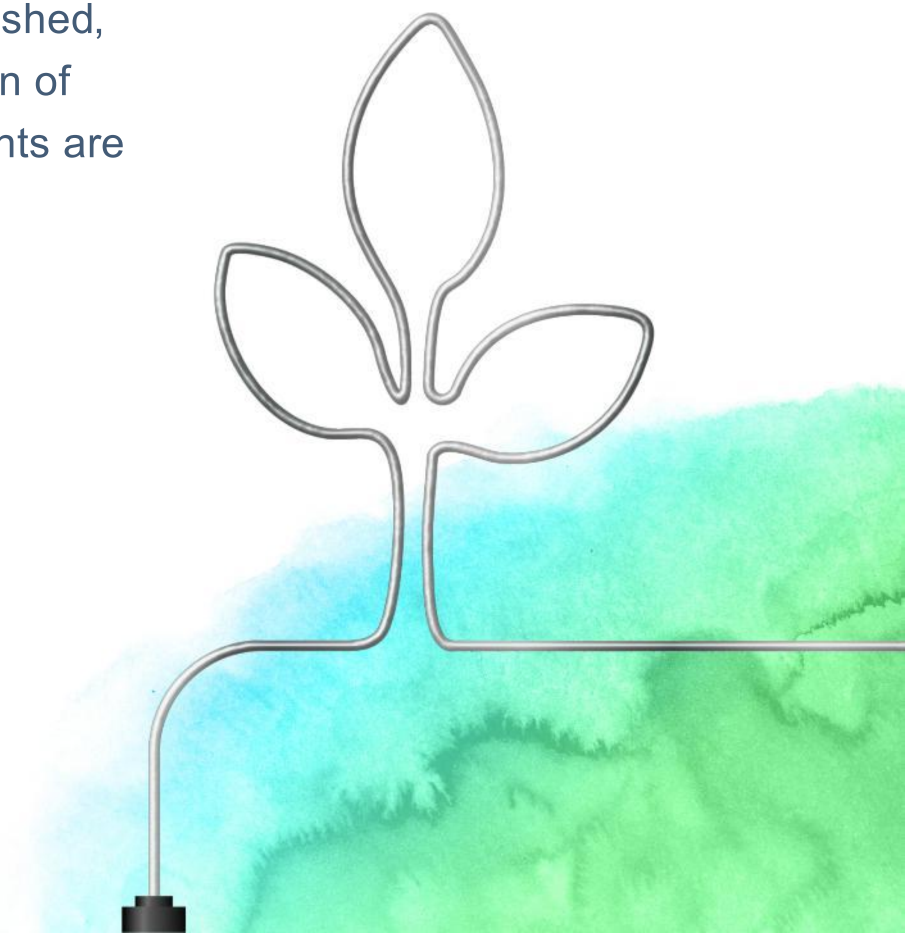
Dear Sirs,

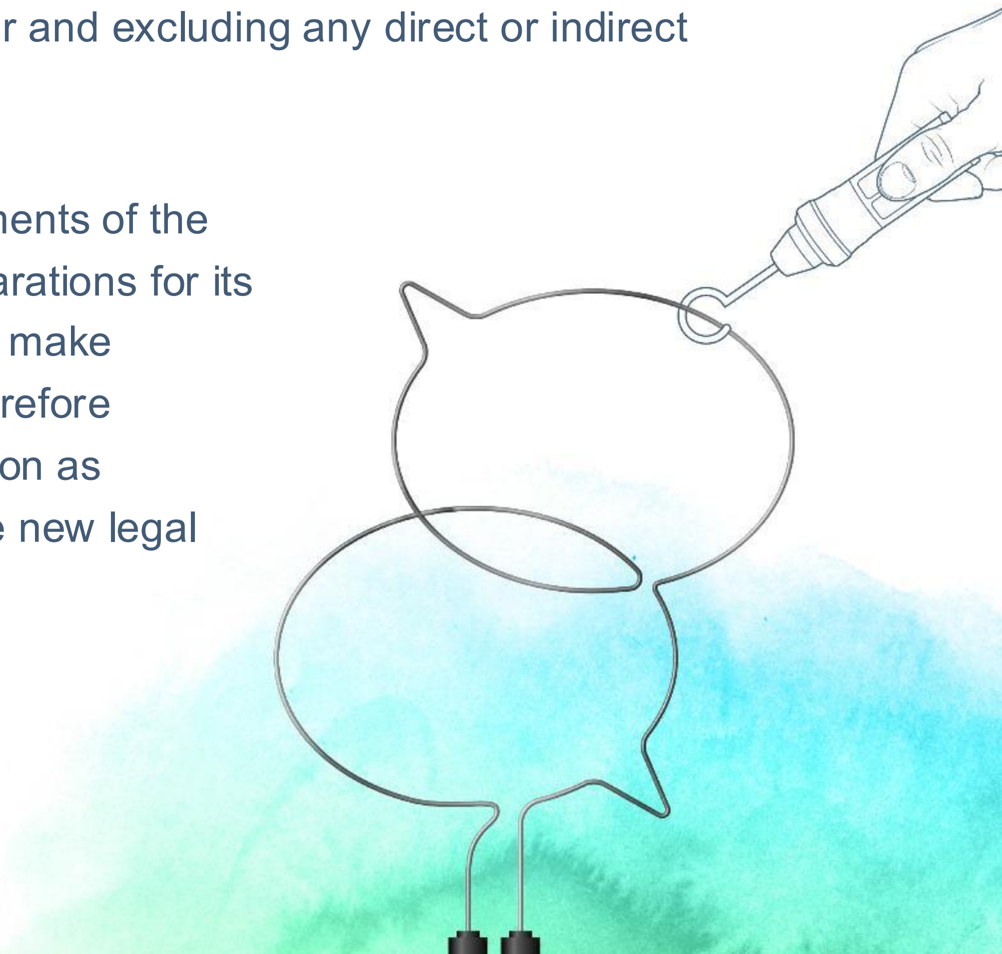
In accordance with government announcements, work on the draft law implementing the Transparency and Equal Pay Directive (i.e. Directive (EU) 2023/970 of the European Parliament and of the Council, hereinafter referred to as the "Directive"), i.e. the Act on strengthening the application of the right to equal pay for women and men for equal work or work of equal value, is nearing completion. A summary of the planned solutions to be introduced by the new Act has been published, together with the manner of their implementation and an indication of the sanctions for non-compliance. The summary and our comments are presented below.



PAY STRUCTURES REQUIRED FOR EVERY EMPLOYER

Every employer, regardless of size, will be required to have pay structures in place to analyse whether employees are in a comparable situation. The minimum requirement will be the application of four mandatory criteria for assessing the value of work: skills, effort, responsibility and working conditions; additional criteria or sub-criteria may be taken into account where appropriate. All criteria will have to be applied in an objective manner, neutral in terms of gender and excluding any direct or indirect discrimination based on gender.

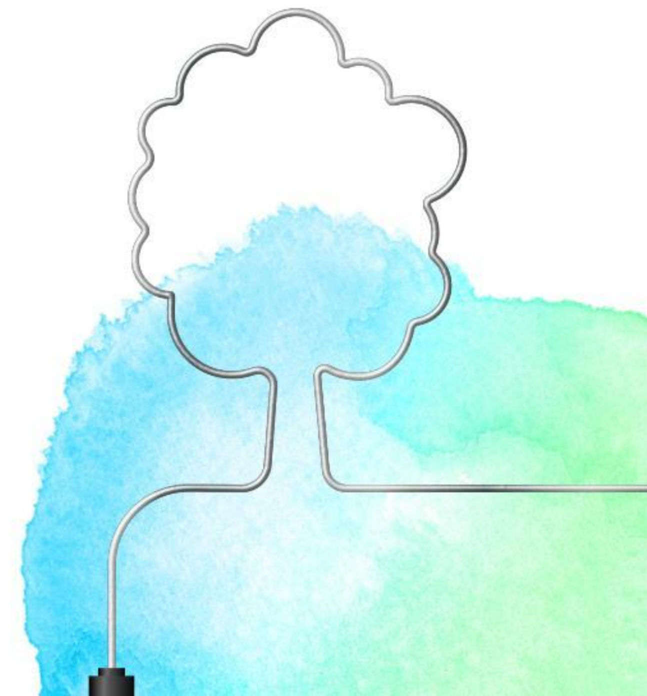
Comment: The above solutions are in line with the requirements of the Directive and our recommendations on key aspects of preparations for its implementation. The Ministry has also announced that it will make available a job evaluation tool together with a guide. It is therefore essential to start or advance analytical and audit work as soon as possible in order to properly prepare the organisation for the new legal requirements.



MANDATORY CRITERIA FOR DETERMINING EMPLOYEE REMUNERATION, PAY LEVELS AND PAY PROGRESSION

Not only will it be necessary to define and apply these criteria in an objective, gender-neutral manner that excludes any direct or indirect discrimination based on gender, but also to ensure that employees have easy access to this information, with employers with fewer than 50 employees only being required to disclose these criteria at the request of an employee.

Comment: It is essential at this stage to strategically develop criteria appropriate for a given workplace and the manner in which they are communicated. The information available so far does not indicate that employers will be required to agree on these criteria with employee representatives, but this will be confirmed only after the full text of the draft law has been published.



EMPLOYEE'S RIGHT TO INFORMATION ABOUT THEIR INDIVIDUAL PAY AND THE AVERAGE PAY FOR THEIR CATEGORY

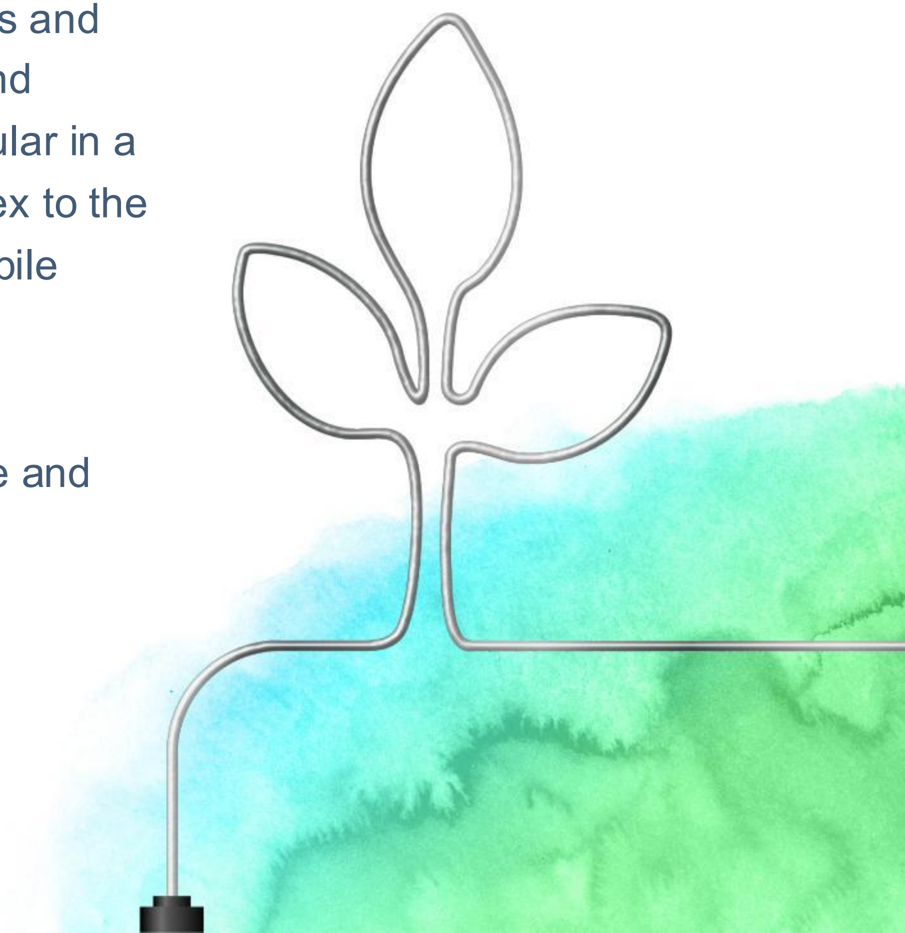
Employees will have the right to request information from their employer about their pay level and the average pay levels, broken down by gender, for categories of employees performing the same work as them or work of equal value to their work.

Comment: In practice, this means that employers should prepare for discussions with employees about their remuneration. It is important to note that the concept of "category of employees" is not limited to persons employed in the same positions, but also includes employees performing work that is the same or of equal value to that of a given employee. Defining this category by the employer can both facilitate and hinder communication with employees, as well as reveal unfavourable differences in remuneration which, if not properly justified, may become a source of disputes or end up in court proceedings.

AVAILABILITY OF INFORMATION FOR EMPLOYEES WITH DISABILITIES

Specific information (including the initial salary or salary range, the criteria used to determine employee individual pay, pay levels and pay progression, the individual pay level of the employee and average pay levels broken down by gender for categories of employees performing the same work as him or work of equal value to his work) will need to be provided in a manner that is accessible to persons with disabilities and takes into account their specific needs, enabling them to freely and consciously familiarise themselves with this information, in particular in a digitally accessible form, at least at the level specified in the Annex to the Act of 4 April 2019 on the digital accessibility of websites and mobile applications of public entities.

Comment: This obligation will apply both at the recruitment stage and during employment.



PAY GAP REPORTING AND REMEDIAL PROCEDURES (1)

Employers with at least 100 employees will be required to prepare a pay gap report including data on:

1) the gender pay gap,

2) the gender pay gap in complementary or variable components,

3) the median gender pay gap,

4) the median gender pay gap in complementary or variable components,

5) the proportion of female and male employees receiving complementary or variable components,

6) the proportion of female and male employees in each pay band,

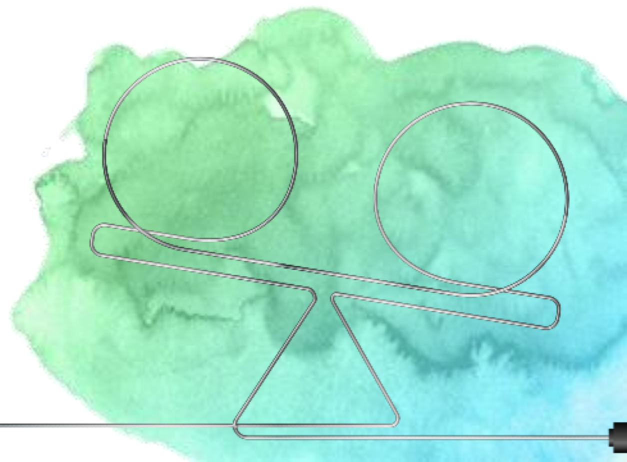
7) the gender pay gap among employees broken down by employee category, according to remuneration based on the employee's personal classification determined by an hourly or monthly pay and complementary or variable components.

PAY GAP REPORTING AND REMEDIAL PROCEDURES (2)

The frequency of reporting will depend on the size of the employer: every three years for employers with at least 100 employees and annually for those with at least 250 employees. Reports covering data for the previous calendar year will be submitted using an IT tool provided by the President of the Central Statistical Office. In the event of a delay, the monitoring authority will request the employer to provide the information immediately.

All information, except for data on the gender pay gap broken down by employee category, will be published by the monitoring body and may also be made available to the public by the employer, e.g. on its website. Employers will be obligated to provide this information to all employees and their representatives on their own initiative, and at the request of the labour inspector or the equality body, within 14 days. Employees, their representatives and the competent authorities will have the right to request additional explanations regarding the data in the report, including gender pay differences; the employer must respond within 14 days. If the explanations do not justify the differences, the employer will be obliged to take corrective action in cooperation with employee representatives, the labour inspectorate or the equality body.

Comment: It is not yet clear whether the reporting will cover the entire year 2026 or only the period from the entry into force of the new regulations. It should be noted that some of the information will be available to employees, which may raise further questions and prompt further action on their part, so it is better to check the pay gap and the elements covered by the reporting in advance and consciously define the employees in a given category.



JOINT PAY ASSESSMENT

Employers with at least 100 employees will be required to conduct a joint pay assessment if: (i) the report shows a gender pay gap of at least 5% in any category of employees, (ii) this gap is not justified by objective, neutral criteria, and (iii) it is not eliminated within 6 months of the report being submitted. This assessment should be carried out in consultation with the trade union organisation at the workplace or, in its absence, with employee representatives. The employer will be required to implement the measures agreed upon in consultation with the trade union(s) or, in the absence thereof, with employee representatives.

Comment: In practice, the obligations imposed by the draft law may result in ongoing dialogue between the employer and trade unions, initiated by the latter. It will be important to see which elements will require consultation, agreement or communication of information to the trade union(s)/employee representatives.

NEW ENFORCEMENT MEASURES AND PENALTIES (1)

The following sanctions are envisaged:

- fines ranging from PLN 2,000 to PLN 60,000 (to be proportionate but also dissuasive) in cases where the employer or a person acting on its behalf:

1) fails to assess the value of individual jobs or types of work,

2) fails to provide the employee with access to information on the criteria,

3) fails to provide the employee with information upon request,

4) fails to provide the employee with information upon request,

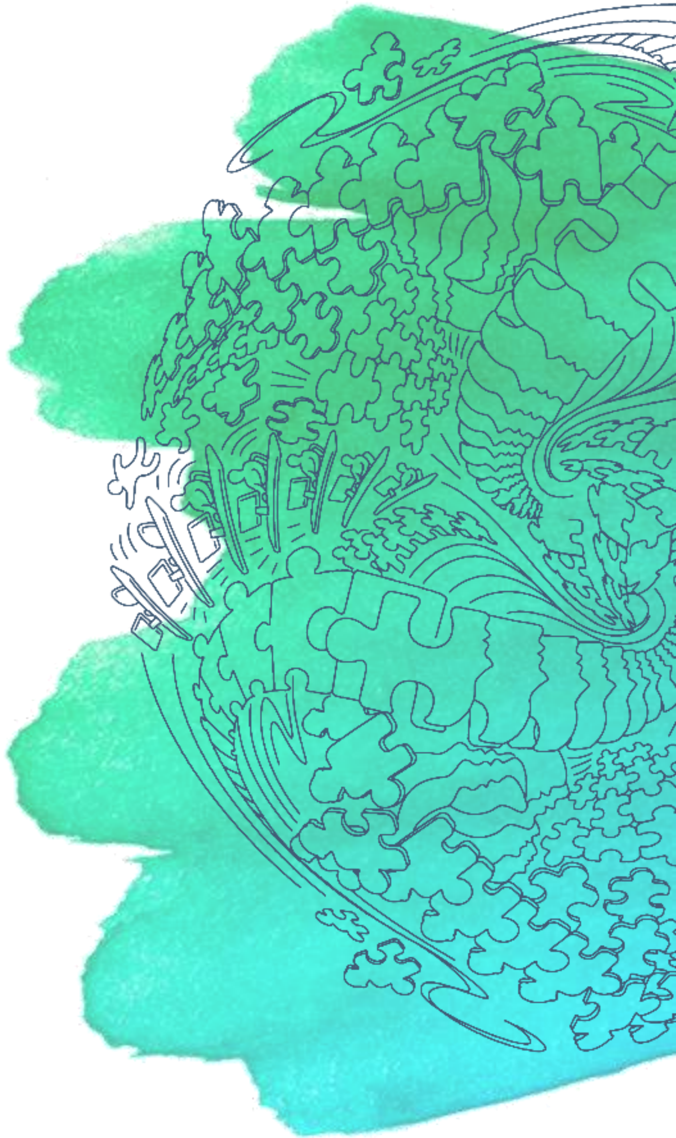
5) fails to prepare a pay gap report,

6) fails to provide the information specified in the draft law,

7) fails to conduct a joint pay assessment,

8) fails to apply remedial measures,

9) include provisions in the employment contract prohibiting employees from disclosing the amount of remuneration they receive.



NEW ENFORCEMENT MEASURES AND PENALTIES (2)

And also the following competences of the authorities:

State Labour Inspectorate:

1) providing training to employers with fewer than 250 employees and to trade unions in order to facilitate the performance of their tasks under the proposed Act;

2) bringing legal action, with the consent of the employee or applicant for the employment, in cases of claims arising from violations of rights or obligations related to the principle of equal treatment in employment in terms of the right to equal pay for equal work or work of equal value for men and women, as well as participating in such proceedings;

3) the possibility of requesting employers to provide information on the gender pay gap among employees, broken down by employee category, according to the remuneration resulting from the employee's personal classification, specified as an hourly or monthly pay, and supplementary or variable components, which constitutes part of the pay gap report;

NEW ENFORCEMENT MEASURES AND PENALTIES (3)

4) cooperating with the employer in the event of a need to remedy differences in remuneration, where the National Labour Inspectorate has previously requested additional detailed explanations regarding the information provided in the pay gap report;

5) the possibility of requesting the employer to provide information from the joint pay assessment;

6) participation in the implementation of measures resulting from the joint pay assessment if the employer or the employee side requests the National Labour Inspectorate to participate in the implementation of these measures;

7) providing data to the monitoring body.

NEW ENFORCEMENT MEASURES AND PENALTIES (4)

- **equality body in accordance with the Directive, including:** requesting information from the employer, at the employee's request, on their remuneration and average pay by gender in the relevant category of employees, the possibility of requesting employers to provide information on the gender pay gap among employees, broken down by employee category, according to the remuneration resulting from the employee's personal classification, specified as an hourly or monthly pay, and supplementary or variable components, also for the previous 4 years, as part of the pay gap report, the possibility of requesting additional explanations from the employer concerning the data from the pay gap report, the provision of data to the monitoring body on the number and types of complaints received in relation to the principle of equal treatment in employment in terms of the right to equal pay for men and women for equal work or work of equal value;

- **monitoring body**, including analysis of the causes of the gender pay gap and development of tools to assess inequalities, including the use of solutions developed by the European Institute for Gender Equality, providing employers with an IT tool for reporting on the pay gap, collecting information from joint pay assessments, and collecting and aggregating data on complaints and claims concerning equal pay.

Comment: Penalties will also extend to breaches relating to the recruitment period. It is to be expected that, in the event of dissatisfaction with the employer's actions, employees will apply en masse to the Labour Inspectorate for appropriate enforcement measures to be taken. It is likely that the Act itself will include other sanctions and enforcement measures, in line with the wide range provided for in the Directive.

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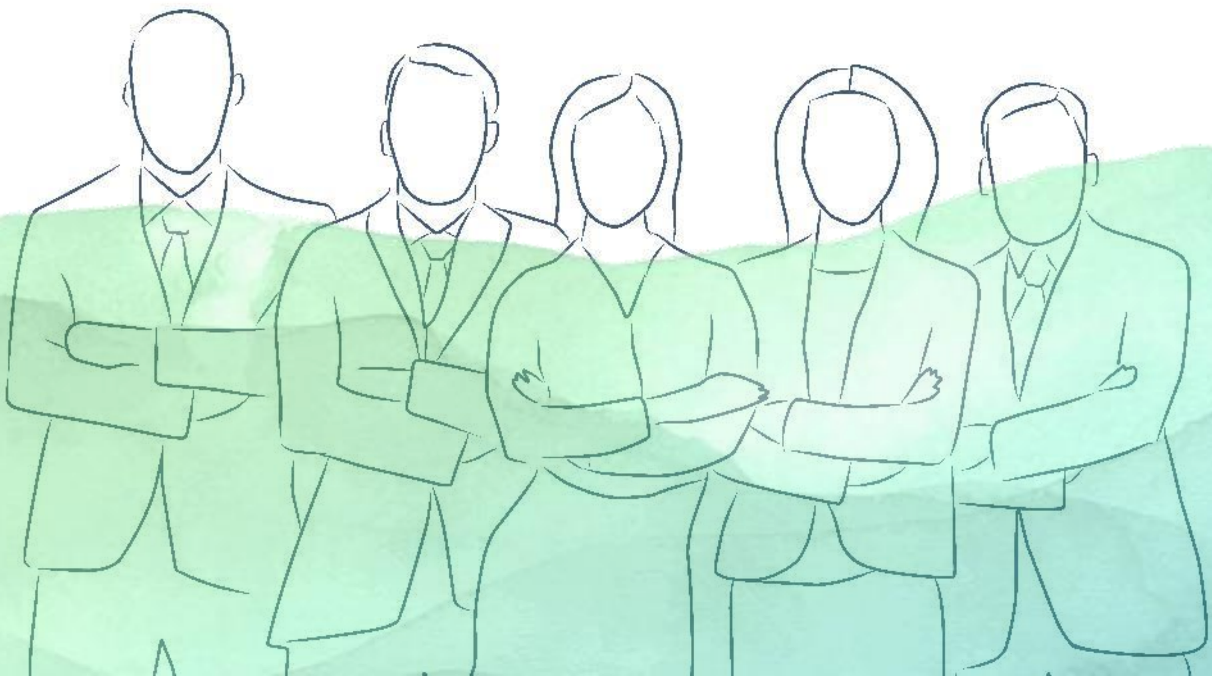

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