

# The gender pay gap

While youth employment is a “time bomb” which is dramatically impacting on equality at work, the gender pay gap has been a systemic and enduring inequality for women and is a fundamental breach of human rights.

New legislation is necessary because efforts and approaches to date have been only partly successful, an experience mirrored by comparable countries. In New Zealand the gender pay gap measured by average hourly earnings has persisted at about 12% for the last ten years. Current legal remedies have not resulted in systemic change and neither has voluntary/non-interventionist policies.

The proposed Pay Equality Bill is based on legislative approaches recently adopted in a number of other similar jurisdictions and is available to reinvigorate a positive debate about how New Zealand can best implement the right to equal pay.

This Pay Equality Bill is intended to provoke discussion about what legislation is required to achieve pay equality. It is hoped that this discussion can occur across political party lines and outside sectional interests. Progress on equality is unlikely to be made and certainly will not be sustained without broad-based commitment.

The draft legislation rests on three essential pillars. The first is that the right to equal pay, including equal pay for work of equal value, is not in contention. Domestic legislation and international conventions to which New Zealand is a signatory have affirmed that right. That battle has been won. The issue is how that right can be realised.

The second pillar is that anti-discrimination legislation has been insufficient to make equal pay a reality and so a positive duty to advance equality is warranted. An individual would not have to prove discrimination, rather the responsibility is on the employer to prove equality in line with the existing right to everyone to receive equal pay and pay equity. A positive duty to equal pay would include transparency of pay and pay systems and an obligation on employers to record pay differentiations by gender and make those records open to Labour Inspector scrutiny.

The third pillar is the determination of work of equal value. Jobs are deemed to be of equal value if they have the same job points on a gender neutral job evaluation tool. It is proposed that tools used to evaluate jobs for this purpose must meet the Gender-Inclusive Job Evaluation Standard (P8007/2006) developed under the auspices of the former Pay and Employment Equity Unit of the Department of Labour and approved by the Standards Council. It is used to ensure jobs are evaluated by using a gender neutral job evaluation tool. This addresses current problems with the selection of comparator groups and determining the extent to which a male-dominated occupation and a female-dominated occupation are similar or different.

The new proposed Pay Equality Bill aims to shift the current negative debate about the gender pay gap and move on from the ‘blame game’ that has characterised recent political discussion. It is available to the Government, any political party or individual members of Parliament to debate and sponsor. The draft bill has been developed as part of the EEO Commissioner’s leadership and advocacy functions.