



29th May 2017

Health Select Committee

Parliament Building
Wellington 6140
New Zealand

E-mail: health@parliament.govt.nz

Re: **Submission on The Care and Support Worker (Pay Equity) Settlement Bill**

The submission is from the NZ Federation of Business and Professional Women (BPW NZ) Inc.

Our Organisation

BPW (Business Professional Women) is an international organization with representatives in over 100 countries. Our organisation's aims are to link professional and business women throughout the world so that they may provide support to each other, lobby for change and promote the ongoing advancement of women and girls.

We work for equal opportunities and status for all women in economic, civil, and political life and for the removal of discrimination in all countries. We promote our aims and organise our operating structure without distinction as to race, language, or religion.

International Status:

BPW International has General Consultative Status at the United Nations through the UN Economic & Social Council (ECOSOC). This enables BPW International to appoint official representatives to UN agencies worldwide and to accredit members to attend specific UN meetings.

BPW International upholds the outcome documents of the annual UN Commission on the Status of Women (CSW) which evaluates progress, identifies challenges, sets global standards and formulates policies to promote gender equality and women's empowerment worldwide.

BPW International upholds the outcomes of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) which came into force in 1981. In it, Article 11 provides that States:

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Shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work

Our international commitments are reinforced by BPW NZ's promotion and administration of the UN Women's Empowerment Principles: Equality Means Business which holds as one of its principles "treat all women and men fairly at work – respect and support human rights and non-discrimination."

1. Executive Summary

BPW NZ supports this legislation as the natural outcome of the Care and Support Workers (Pay Equity) Settlement Agreement (hereafter referred to as "Settlement"). The Settlement and this draft Bill are important steps in recognising the proven disadvantage women have in the workforce in regards to pay¹.

Our federation is pleased that the Settlement is being enshrined in an act of Parliament. This gives the Settlement status and makes clear the Government's obligation to fund fully the Settlement, as well as employers' obligations to pass on the full Settlement to workers.

We also support the mechanism to keep pay rates up with the Labour Cost Index; the recognition of qualifications; the requirement for employers to support workers to acquire relevant qualifications; and the inclusion of penal rates.

We have several recommendations that we believe will help the Bill better reflect the intent and language of the Settlement.

In our submission below, we discuss our work for gender pay equality, New Zealand's commitments to pay quality, BPW's experience with equal pay/pay equality, and explain our recommendations in further detail.

2. BPW NZ and the Gender Pay Gap

For the past sixty years, BPW NZ has supported and at times provided leadership to the gender pay gap movement. BPW NZ is committed to representing the interests of working women and advancing and empowering women in the workplace.

Examples of our work are:

¹ <https://www.employment.govt.nz/hours-and-wages/pay/pay-equity/gender-pay-gap/>



- 2.1 **1959**, the National Council for Equal Pay and Opportunity was set up by the Public Service, trade unions, the Federation of University Women (NZFUW), the National Council of Women (NCW) and the New Zealand Federation of Business & Professional Women (BPW NZ), to work for equal pay for work of equal value, and equal opportunity in employment.
- 2.2 **1960**, representatives of BPW NZ worked on the Council, lobbying, discussing and making submissions to the Minister of Labour on behalf of working women. This was instrumental in persuading the Government of the day to pass the Government Services Equal Pay Act, which provided for most women working in government positions to receive the same pay as their male counterparts.
- 2.3 **1969**, BPW NZ prepared and presented submissions to the Commission of Enquiry into Equal Pay.
- 2.4 **1972**, BPW NZ worked towards the establishment of the Equal Pay Act for equity of pay in the private sector.
- 2.5 **1989**, BPW NZ adopted a policy that urged the Prime Minister, the Minister of Labour and the Minister of Women's Affairs to enact legislation before the end of that year, embodying the principles of equal opportunity in appointment, training and promotion, and pay equity in the workforce. Further, that measures be taken to ensure that the necessary resources be available and mechanisms in place, to implement the provision of the Act immediately upon legislation being passed. (Policy 14.4.5.)
- 2.6 **1992**, BPW NZ adopted a policy that requested the Ministers of Women's Affairs, Labour and Employment to undertake a study of how equal pay is being retained within the public and private sectors, given that employment contracts are now required. (Policy 14.4.2.)
- 2.7 **2000**, BPW NZ adopted a policy which recognised that the gender pay gap is continuing to widen, to the disadvantage of women. (Policy 14.4.4.)
- 2.8 **2012**, BPW NZ with UN Women Aotearoa New Zealand launched the Women's Empowerment Principles: Equality Means Business.
- 2.9 **2012**, BPW International announced its collaboration as a Gender Expert with the International Organisation of Employers (IOE) to bring the voice of women of business as an expert resource on gender diversity.

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In addition, BPW has policy specifically for Aged Care Worker's pay:

- 2.10 **2015**, urging the Minister of Health to increase funding to Aged Care Providers to provide pay equity for all aged care workers and to change the funding model to ensure any funding increases to include ring fencing for pay increases and accountability.

3. National Gender Pay Gap Commitments

Historically, the New Zealand government has been working to address the gender pay gap for over fifty years. We believe any legislation should strive to meet these commitments:

- 3.1 Initial legislation introduced to address the gender pay gap was the **Government Service Equal Pay Act (1960)**, which was intended to ensure "women were to be paid the same as men for doing the same work under the same conditions". Further legislation that addressed the gender pay gap includes the **Equal Pay Act (1972)**, **the Human Rights Act (1993)**, **the Employment Relations Act (2000)**, **the State Sector Act (1988)**, and **the Crown Entities Act (2004)**. The broad intent of all of this legislation was to "reduce the gender pay gap".²
- 3.2 In 1967, the National Advisory Council on the Employment of Women (NACEW) was established and its **Committee of Inquiry into the Implementation of Equal Pay** in New Zealand provided recommendations which led to the Equal Pay Act. The Committee noted that the narrow distribution of women's work across occupations contributed to the gender pay gap by enforcing societal views about the value of women's labour.
- 3.3 In 2016, the Human Rights Commission issued the *Tracking Equality at Work* report. Key findings showed:
- Pay differences exist in both the broader labour market and the public service. Men are paid more than women, European New Zealanders are paid more than other ethnic groups, and disabled people have lower incomes than non-disabled people.

4. International Gender Pay Gap Commitments

BPW NZ presents that the New Zealand government has adopted a number of international gender pay gap initiatives:

- 4.1 The **International Labour Organisation (ILO) Convention concerning Equal Remuneration for Men and Women Workers of Equal Value (ILO 100)** was ratified by MBIE in 2015. ILO 100 requires equal remuneration to be paid to men and women workers for work of equal value without discrimination based on sex and notes that

² <http://women.govt.nz/work-skills/income/gender-pay-gap/what-government-doing>



differential wage rates that correspond to differences in job content are not contrary to the principle of equal remuneration.

- 4.2 BPW International upholds the outcomes of the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**. The New Zealand government signed CEDAW in 1980 and ratified the Convention in 1985. Article 11 (d) of the Convention, states that parties shall ensure, on a basis of equality of men and women, the same rights, in particular “The right to equal remuneration, including benefits”
- 4.3 The **International Covenant on Economic, Social and Cultural Rights** was signed by New Zealand in 1968 and ratified in 1978. Article 7 recognises the right of everyone to “fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work”.
- 4.4 Ratified by New Zealand in 1948, Article 7 of the **Universal Declaration of Human Rights** states that “All are equal before the law and are entitled without any discrimination to equal protection of the law.” Article 23 states that “(2) Everyone, without any discrimination, has the right to equal pay for equal work.”

The above commitments are significant and our government is responsible for upholding them.

5. Recommendations

We would like to acknowledge and support the work of the New Zealand Public Service Association and Pay Equity Coalition Auckland (of which BPW NZ is a member) in the preparation of these recommendations.

- 5.1 **Clause 4 definition of care and support services:** this has excluded the term “home like setting” which is provided in the Settlement Part 17, Services, (a) (i) and (ii).

Recommendation: that “home like setting” be inserted into the Bill, Clause 4 (a), after “person’s home”.

Rationale: this is to ensure that the Bill aligns with the Settlement.

- 5.2 **Clause 4 definition of employer:** paragraph (b) states that the definition does not include “a natural person who receives funding directly from the Ministry of Health, ACC, or a DHB towards the cost of care and support services for the person or a family member”.

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Recommendation: that (b) be revised to read “does not include behavioural support services, caregiver support, child development services, environmental support, funded family care”

Rationale: the Settlement did not intend for “family care” to refer to individuals receiving funding to provide care for family members.

BPW believes it is unfair to discriminate against those carers, who are doing the same job, in similar settings.

- 5.3 **Clause 11 how employers provide training:** states that “An employer must take all reasonable steps to ensure that a care and support worker is able to attain [qualifications]”

Recommendation: insert a new clause 11(c) that states:

In this section, reasonable steps include, but is not limited to:

- (a) paying the fees of training course; and
- (b) providing paid study leave or training leave where required; and
- (c) providing adequate access to supervisors and assessors.

- 5.4 **Clause 18 funding arrangements:**

BPW NZ PECA submits that employers must be fully funded so that they can pay care and support workers in accordance with the terms of the Settlement Agreement. There would be no benefit to these undervalued workers if other terms and conditions were reduced – for example, cutting hours of work.

Recommendation: that the word “towards” should be deleted from clause 18(1).

Rationale: this is to ensure that employers are fully funded and the achievement of pay equity and recognition of qualifications gained, is not subsidised by the reduction of other terms and conditions of employment, including hours of work, resulting in cuts to service delivery to people in need of care and support.

Our federation has concerns that funding increases are ring-fenced to ensure that there is accountability for the funding.

- 5.5 We would also like to acknowledge and support the work of CEVEP (coalition for equal value equal pay) (of which BPW NZ is a member) in the preparation of there recommendations.



6. Concluding summary

BPW NZ is hopeful that this Settlement and this act will serve as a model for future pay equity claims. The same gender discrimination and low wages suffered by care and support workers is the lot of tens of thousands of other women in Aotearoa. Those women are disproportionately Māori, Pasifika, immigrant and disabled women. We look forward to pay equity through many other occupational areas and the rewriting of the Exposure Draft of the Employment (Pay Equity and Equal Pay) Bill.

BPW NZ supports this legislation but urges the Committee to consider our recommendations in order to ensure the intent of the Settlement and the rights of all carers is preserved.

We wish to end this submission by acknowledging the important and often challenging work of carers throughout New Zealand and the dedication to service that their role requires.

Thank you for the opportunity to speak to our submission and we hope that our comments are of use to you.

On behalf, of

New Zealand Federation of Business and professional Women Inc.

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