AUCKLAND WOMEN LAWYERS' ASSOCIATION

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Submissions on the Employment Relations (Employee Remuneration Disclosure) Amendment Bill by the Auckland Women Lawyers' Association

1 The Auckland Women Lawyers' Association (**AWLA**) makes these submissions in support of the Employment Relations (Employee Remuneration Disclosure) Amendment Bill (**Bill**).

2 The Bill represents a significant legislative milestone in addressing the gender pay gap in Aotearoa New Zealand. By promoting pay transparency, remuneration information will be accessible to employees enabling them to negotiate salary from an informed position and to challenge pay inequity. In turn, this will hold employers accountable to make equitable remuneration decisions.

3 AWLA is a representative charitable organisation for lawyers identifying as women in the Auckland region. AWLA's constitution sets out the following objectives, inter alia:

(a) to make suggestions and work for the reform of the law and the administration of the law particularly as it affects women and children; and

(b) to participate as a body in matters of interest to the legal profession.

Proposed legislative change

4 The Bill seeks to protect employees who disclose their remuneration to others by amending the Employment Relations Act 2000 (**ERA**).

5 Clause 4 of the Bill inserts a ground to section 103 of the ERA, allowing personal grievances to be raised where an employer engages in adverse conduct due to remuneration disclosure.

6 Engaging in adverse conduct is detailed in clause 5 of the Bill as including the following conduct:

(a) dismissal of an employee;

(b) refusing or omitting to offer the same terms of employment, conditions or opportunities made available to other employees with the same or substantially similar qualifications, experience, qualifications, or skills in the same or substantially similar circumstances to other employees;

(c) subjecting an employee to any detriment in circumstances others would not be; or

(d) retires, causes or requires the employee to retire or resign.

7 Remuneration disclosure includes employees doing the following:

(a) inquiring about the remuneration of another employee;

(b) discussing remuneration with another employee; and/or

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(c) disclosing their remuneration to any person.

The gender pay gap in Aotearoa New Zealand

8 Despite legislative reform for equal pay between men and women having been introduced 65 years ago, first by the Government Service Equal Pay Act 1960 and then the Equal Pay Act 1972, the gender pay gap remains a concerning issue in Aotearoa today. Of particular significance is the extent of the disparity felt by Māori and Pacific women.

9 As of June 2024, the gender pay gap in Aotearoa was 8.2 per cent.[1] This percentage staggers to a 15 per cent pay gap between Māori women and all men.[2] The gap widens further to a gap of 17 per cent for Pacific women and all men.[3]

10 The gender pay gap has a significant intersectional impact as the complex interplay of factors that create the gap compound with other forms of systemic inequality related to ethnicity, disability, age, sexual orientation, and other identity factors. This results in greater disparities for women who identify with multiple marginalised groups. This intersectional impact is widely felt in Aotearoa as evidenced by the pay gap statistics.[4]

11 In Aotearoa, only 20 per cent of the gender pay gap is caused by varying education, occupation choice, age, type of work and family responsibilities.[5] The remainder of the pay gap is unaccounted for and has been attributed to factors such as behaviours, attitudes and the prevalence of unconscious bias and discrimination.[6]

Addressing the gender pay gap

12 Pay transparency is recognised as a powerful tool to address the systemic inequities that continue to allow the existence of the gender pay gap.[7] The transparency that the Bill seeks to create will assist in identifying disparities and prompting these to be addressed. Transparent pay practices promote employer accountability in establishing and maintaining equitable remuneration frameworks.

13 Confidentiality regarding pay has enabled discriminatory practices to persist as employees often lack the comparative information needed to assess whether they

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1 Statistics NZ "Labour market statistics (income): June 2024 quarter" (21 August 2024) <www.stats.govt.nz>.

2 Manatū Wāhine Ministry for Women "Report: Wāhine Māori and the gender pay gap" (2024) <www.women.govt.nz>.

3 Manatū Wāhine Ministry for Women "Report: Pacific women and the gender pay gap" (2024) <www.women.govt.nz>.

4 Amanda Reilly "Māori women, discrimination and paid work: The need for an intersectional approach" (2019) 50(2) VUWLR 321 at 326.

5 Susan Glazebrook "Women and the legal profession" (2022) 29 Canta LR 1 at 16; Mind the Gap *Ethnic and gender pay reporting for Aotearoa/New Zealand: The case for change and policy recommendations* (Mind the Gap, December 2021) at [1.2].

6 Glazebrook, above n 5, at 16; Mind the Gap, above n 5, at [1.2].

7 Reilly, above n 4, at 335.

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are being compensated equitably.[8] For women, who are disproportionately affected by pay inequities, transparency allows greater bargaining power during salary negotiations and career advancement discussions. Shared remuneration data creates a foundation for collective advocacy, allowing employees to identify patterns of bias and hold employers accountable.

14 It is anticipated that employers will be more likely to implement fair and objective compensation policies when discrepancies are exposed. This cultural shift towards openness dismantles barriers that have perpetuated the gender pay gap and encourages equitable workplace practices.

15 While the benefits of the transparency afforded by the Bill are significant, the impact this may have on the gender pay gap relies on the voluntary sharing of this information by employees. It is important that employees can maintain their privacy and autonomy over whether they share personal remuneration information with others. However, there may be barriers created by workplace cultures that may still discourage pay discussions. These concerns could be reduced by educational campaigns and resources about the gender pay gap and normalising transparency as a tool to address inequity.

Recommendation

16 The Bill provides a significant opportunity to address remuneration inequity in Aotearoa. Supporting a culture of transparency and accountability in employment pay practices has the potential to dismantle existing barriers in reducing the gender pay gap.

17 AWLA urges the Select Committee to recommend that the House support the Bill.

18 AWLA welcomes any opportunity to provide supporting oral submissions to the Select Committee.

Nāku noa, nā

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8 Marianne DelPo Kulow "Beyond the Paycheck Fairness Act: Mandatory wage disclosure laws - A necessary tool for closing the residual gender wage gap" (2013) 50 Harv J on Legis 385 at 386.