

November 2017

Submission on the Employment (Pay Equity and Equal Pay) Bill

To the Transport and Industrial Relations Committee

This submission has been collated by Youth Voice Canterbury on behalf of the young people in Canterbury who had their say via survey.

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Contents

- 1. Executive Summary and Recommendations - Page 3**
- 2. Introduction and Background - Page 4-5**
 - 2.1 Participant Breakdown
 - 2.2 Survey Questions
 - 2.3 About Youth Voice Canterbury
- 3. Reviewing the Employment (Pay Equity and Equal Pay) Bill - Page 6**
 - 3.1 Young people's experiences of gender discrimination in the form of unequal pay
 - 3.1.1 Opinions on extending language beyond 'male' and 'female'
 - 3.2 Young people's' perspectives on the claims process - Page 9
 - 3.2.1 Young people's confident undertaking the claims process
 - 3.2.2. Making the process more youth-friendly
 - 3.3 Young people's' perspectives on what makes a claim have merit - Page 12

***“If it is going to affect young people, it
needs to be youth friendly!”***

1. Executive Summary and Recommendations

Youth Voice Canterbury (YVC) is a network of young people and Youth Participation groups from around Canterbury. YVC gathered the voices of 127 young people to submit on the Employment (Pay Equity and Equal Pay) Bill. Below is an executive summary of questions asked and responses.

When asked if they had experienced sex discrimination in the form of unequal pay the majority of young participants had not. Several were unsure because they did not know what their co-workers are paid, and 5.5% of participants had experienced it. A large majority of young people (74%) felt that the language in the Bill should be extended beyond 'male' and 'female' to also include those that do not identify as male or female, or a gender fluid.

When discussing the claims process, only 36.2% of participants said they would feel confident undertaking this process. 18.1% did not feel confident, while 45.7% said they were not sure. Many commenters felt that making a claim would make them afraid of being attacked or bullied for standing out by making a claim. There was also a general fear of employers, and the repercussion of losing jobs.

46.5% of young people felt that aspects of the process could be changed to make it more youth-friendly. These included:

- Having an external party involved to review the claim and support the employee/employer
- Greater emphasis on confidentiality
- Shorter timeframes
- More education for youth (see page. 11)

When discussing what makes a claim have merit, 42.5% of respondents did not think the grounds upon a claim having merit were fair or reasonable, questioning the specifics of 'predominantly female work' and why work should be historically undervalued to have merit.

Youth Voice Canterbury would like the Transport and Industrial Relations Committee to consider the following recommendations:

- This could be a landmark Bill not only for gender pay equity but for challenging heteronormativity within New Zealand law. Please consider including non-binary and gender fluid terms in this Bill, alongside male and female.
- Establishing an external party with the purpose of supporting young people seeking to make a claim but also determine whether the claim has merit. They would help hold the employer accountable and ensure the young person's voice is being heard.
- Put a greater emphasis privacy, making the process automatically confidential unless the claimant decides otherwise.

- Have a shorter timeframe for the process. Many felt 90 days was far too long for the employer to decide whether a claim has merit. Please consider shortening this to six weeks.
- There needs to be greater education for youth around these issues and this process. We suggest:
 - Creating a template for youth to use to make the process less daunting
 - Make youth more aware of their rights around minimum wage and training regulations
 - Have the process taught in schools
 - Provide access to free legal aid and resources to research the grounds to make a claim. Put resources into supporting youth during the bargaining process.

2. Introduction and Background

2.1 Participant Breakdown

YVC gathered the voices of 127 young people to submit on the Employment (Pay Equity and Equal Pay) Bill. The majority of participants were from the Selwyn District (57.5%) with input also coming from young people in Christchurch (24.4%), Waimakariri (6.3%), Hurunui (3.9%), Ashburton (1.6%), Kaikoura (0.8%), and also several young people from outside of Canterbury (5.5%).

A large portion of young people surveyed were in the 16-18 (40.2%) age group, which YVC recognises as the main age young people are entering the workforce while still at high school or after leaving secondary education. While the majority of participants were New Zealand European (80%), 12.5% of participants were Māori and Pacific Peoples with a wide range of other ethnicities lending their voices to our survey (including Asian, Indian, African American, British, Nepalese, Bhutanese, Sri Lankan).

Since a focus of this Bill was on sex discrimination we found it appropriate to add a question about the gender of our participants. The majority identified as female, with 43 participants identifying as male and one person preferring not to say.

2.2 Survey Questions

Our subcommittee included three members from the YVC Management Team who read the Bill and formed questions based on what we felt was relevant to the young people we were surveying. Our aim was to keep the survey as short as possible so we had a higher chance of engaging young people.

The questions in the survey first focused on people's experiences of sex discrimination in the form of unequal pay in the workplace, as well as whether young people believed the gendered

language in the Bill was outdated and should extend beyond 'male' and 'female' to include all gender types (such as transgender and nonbinary).

We then moved on to focus on the process to making a pay equity claim and what is involved, asking young people if they would feel confident going through the process and if they would change anything to make the process more youth friendly.

Finally, we explained what it meant for a claim to have merit and whether they thought that was fair and reasonable. There was also the option for people who have experienced sex discrimination in the form of unequal pay in the workplace to say if their experience fit under the guidelines of a merited claim and if not what would need to be added to the list to make their claim merited.

2.3 About Youth Voice Canterbury

Youth Voice Canterbury (YVC) is a network of young people from Youth Councils and youth participation groups from around Canterbury. YVC aims to support these groups and young people to get their voices heard by decision-makers. Our vision is a region where there are pathways for young people to be included and involved in decision-making and supported to have a voice and be leaders in their communities. This is achieved through our aims to:

Connect Young People: We bring young people together for events such as 'youth connects', often over a common issue to connect, network, and share ideas. This is also about connecting young people to opportunities to participate in democracy, for example submissions.

Develop the Youth Voice: We want to develop the youth voice, which is about providing training's and workshops to our network and also promoting professional development opportunities and ways for youth to get their voices heard.

Champion Youth Participation: This is about championing the fact that young people exist, they are inheriting tomorrow, and their voices matter too. We contribute to collaborations, panels, and projects and advocate and present on youth participation, engagement and why it is important to get young people involved.



3. Reviewing the Employment (Pay Equity and Equal Pay) Bill

3.1 Young people's experiences of sex discrimination in the form of unequal pay

Youth Voice Canterbury asked young people if they had ever experienced gender discrimination in the form of unequal pay. We also asked them their thoughts on the language used in the bill surrounding genders, and whether they thought that this should include other genders such as transgender and nonbinary rather than just 'male' and 'female.'

As part of our submission, we interviewed one young person who indicated that they had experienced pay inequality in the workplace. We asked her to tell us more about her experience and to expand on her initial response.

"When I was 15 I got myself a part-time job at the local bakery. I started off on a training wage while I grasped the ropes of the business and figured out my way around. I came off the training wage after a few months, on to minimum wage. I worked my way up the business, eventually managing the shop of the bakery on the weekends. When it came to part timers, there were 2 types of jobs. All of the boys had to work out the back and clean, while only the girls were trained both out the back and out the front with barista skills, as well as cash handling and customer service. The shop girls did all of the out the back jobs and more. When I was 16, after about a year of 'running the show' I was still on minimum wage. I asked my coworker a question about payslips, confused about the holiday pay section, and when he showed me his I noticed that he was getting paid \$2 more than I was, for doing less work. Only the boys were offered apprenticeships at the bakery, with the females never being offered any way to gain more skills. I left my job after feeling undervalued due to another staff member being paid \$2 an hour more than I was, after he had worked for half the amount of time, doing half the amount of jobs with half the amount of responsibilities."

The three main themes we discovered were:

- Young people had experienced sex discrimination in the form of unequal pay
- They were unsure as they did not know of their co-workers pay
- They had not experienced sex discrimination in the form of unequal pay

Theme 1:

94.5% of young people that undertook our survey stated that they had never experienced sex discrimination in the form of unequal pay. However, 5.5% stated that they had. An interesting comment made by one of the 7 that had experienced unequal pay on the basis of gender said "I worked in a small business where there were 2 jobs for the part timers - the boys out the back and the girls out the front of the shop. The girls out the front also did the exact same work as the boys out the back, plus extra duties. I did a lot more work than the other part timers, since I had been there a lot longer and had more experience. I ended up managing the shop on both days of the weekend - working both days of the weekend every weekend for 1 1/2 years - until I found out that the 'boys out the back' got paid \$2 an hour more than me after being there for half the amount

of time, doing half the amount of work.” This came from the 16-18 age bracket, the age where most young people are entering the workforce, either while in high school or after completing high school education.

Theme 2:

In regards to the majority of respondents who had not experienced sex discrimination in the form of unequal pay, we received a comment from a female in the 19-21 age bracket, that said “Not that I know of - but I could face sex discrimination in the form of unequal pay without realising it, as I don't know what my male co-workers are paid.” The other comment we received was similar, with the same view point of being unaware. This is a concern as pay is often something not talked about, meaning that young people could quite often be accustomed to unequal pay without knowing it.

Theme 3:

94.5% of our respondents said that they had not experienced unequal pay on the basis of gender, however only 2 of those commented. This leads us to believe that there is a third trend for this example, that some young people hadn't experienced this at all and were sure of that.

We then asked for their thoughts and opinions surrounding the language used in the bill, and whether it should be expanded from 'male' and 'female' to include other genders such as transsexual and non-binary.

3.1.1 Young people's opinions on extending the language used in the Bill beyond 'male' and 'female' to include all genders

74% of respondents said that they believe the language used in the bill should be extended to include other genders other than male and female. However, 26% did not believe that this should happen, many of them wanting it to remain as just male and female.

We found that there were 3 main themes from our respondents;

- Acceptance, all genders are equal
- Extending of the language will be too complicated and there are only two genders
- Not extending the language could create a loophole for employers

Theme 1:

Majority of our respondents fitted into the first trend of accepting and welcoming all genders. One person said “I believe everyone who is doing the same job regardless of whether they are female, male, non-binary, gender fluid etc, should be paid the same as they are all doing the same job and it would only make sense they are getting paid the same for the same work.” Interestingly, this comment came from the 12-15 age bracket. This shows an opinion coming through from the next generation. This point of view was very common in the comments we received surrounding

this, with many mentioning how “It’s 2017” and that it would “be a step backwards” to not include other genders. Another interesting comment was “Just defining this bill in relation to women’s pay to men’s pay fails to accommodate for and acknowledge those who do not identify neatly into a binary understanding of gender. This could be a landmark bill not only for gender pay equity but for challenging heteronormativity within New Zealand law.” This comment came from a male in the 22-25 age bracket.

Theme 2:

From the 26% of respondents that selected no, majority held a strong opinion that there are only two genders, and didn’t see any reason to extend the language to include those who don’t identify as ‘male’ or ‘female’. Part of this group also just felt that expanding the gendered language of this Bill would just be too complicated.

Theme 3:

The last trend that we discovered was a part of the majority 74% that believed the language should extend beyond ‘male’ and ‘female.’ They were worried that not including these genders and limiting it to just male and female could create a loophole for employers receiving a claim. A few comments we received surrounding this were:

- “I’m worried that if this is strictly only for male and female that there could be a loophole for employers if the staff making a complaint don’t identify as either of these and are gender fluid. “
- “Totally agree with this! It’s 2017, the world as we know it is changing and we are becoming a much more open, accepting and loving society - why take a step backwards? It’s so important that all genders included in this bill, not just ‘male’ and ‘female’. I worry that this could be used as a loophole by employers against transgender or nonbinary staff members - a small tweak in the language from “male and female employees” to “all employees” would fix this.”

“Young people need to feel valued”

3.2 Young people's' perspectives on the claims process

For this section we broke the claims process down to make it read in a more simple way so it was easier for the participants to understand. We wanted to find out whether young people would feel confident going through this process and what they would change, if anything, to make it more youth friendly.

3.2.1 Young people's confidence undertaking the claims process

When asked if they would feel confident to undertake the claims process, 36.2% said they would feel confident, 18.1% said they did not feel confident, and 45.7% said they were unsure if they would be confident enough to undertake this process.

Many commenters felt that making a claim would make them susceptible to 'Tall Poppy Syndrome'. This means that they were afraid of being attacked or bullied for standing out by making a claim. There was also a general fear of employers, and the repercussion of losing jobs. Almost all respondents valued confidentiality. Below are some of the comments that reflect this:

- *"Definitely not! I myself am a highschool student, and the idea of all of my coworkers (and high school peers) finding out that I have made a claim against our boss is my worst nightmare."*
- *"Confidentiality needs to be an important aspect of this bill."*
- *"You would think the employer would not be very happy with the employee at the end and may be inclined to ask the employee to leave."*
- *"Odds are this kind of thing mostly happens when employer-employee relations aren't really a priority for the employer. In tall poppy syndrome NZ, you're really taking a risk when you make a claim like this..."*
- *"The process is straightforward and understandable but where I believe this could cause problems is where youth are new to a working force or company. being new to a company would generally make you not want to 'rock the boat' and in doing so could potentially have a negative effect."*
- *"you would look like a nark"*
- *"I wouldn't feel confident submitting complaints about my employer to my actual employer, even if it is a fair process it might have repercussions"*
- *"It would depend on the relationship with the employer and workplace culture."*

3.2.2 Making the process more youth-friendly

Opinions of whether or not to change anything about the claims process to make it more youth-friendly were nearly half and half. 53.5% didn't think anything about the process should be changed, with one person saying they thought it was "straight-forward", while 46.5% thought that aspects of the process should be changed to make it more youth-friendly as it seemed "daunting" and "intimidating". There were not many comments from those who didn't think the process needed to change, only that they felt it was "relatively straightforward and non-threatening" and just that it would only need "a more basic breakdown".

Below are some ideas and comments from young people about what would make the process more youth-friendly.

Having an external party involved

Several comments reflected a desire to see an external party involved to support the employee but also determine whether the claim has merit. One person believed it was really important to have an external party other than the employer that has the ability to "help the young person with the claim from the very beginning", as well as someone to "hold the employer accountable and make sure the young person's voice is heard". One young person said that having an external party to go to "would likely be the difference between making a claim and not making one."

Confidentiality

Confidentiality was a common theme among the responses of those who believed the process could be more youth-friendly. They felt there should be more privacy and the process should be "automatically confidential". Responses in support of this can be summed up nicely in the quote below:

"I think adding in extra layers of confidentiality and support for the claimant would improve this process also - sexism can destroy confidence especially in young people, especially in the workforce. The last thing any young person wants is for the whole world to know that they have been paid unequally because they were born a female."

Timeframe

Many commenters felt 90 days was far too long for the employer to decide whether the claim has merit and thought the time for the whole process to happen should be shorter. Several people felt that this gave a lot of power to the employer and thought maybe 6 weeks would be better. It was mentioned that any young person making a claim could feel more vulnerable during the 90 days.

"There is nothing to ensure that the person won't be removed from their job. If they are on a casual contract then there is nothing to stop the employer from not rostering the employee. This needs to be addressed as many young people are on casual contracts."

Education for Youth

Young people who participated in our submission survey has some great ideas for how this process could become more youth-friendly by ensuring young people are informed. Many felt youth needed to be more educated about these matters “so that they have informed opinions and can from there feel comfortable to take the required action.

- One idea was to provide youth specific advice on how to undertake the process by “actively advertising and putting resources into supporting them making a claim potentially in the bargaining process”.
- Creating a template for youth to use in order to make the process less daunting
- Make youth more aware of their rights, about minimum wage, and training regulations
- Possibly have online forums or have the process taught in schools
- Provide free access to legal aid and resources to research the grounds to make a complaint

“There should be more power given to the employees, at the moment this process gives the employer all the power”

3.3 Young people's' perspectives on what makes a claim have merit

The YVC team highlighted that the Bill states that for a claim to have merit, it needs to:

- Relate to work that is predominantly carried out by female employees
- Have reasonable grounds that the work has been historically undervalued
- Have reasonable grounds to believe that the work continues to be undervalued

(In hindsight, it would have been beneficial to explain the subsections of each of the above requirements.)

Following the above summary, we then asked if young people thought that this list is fair and reasonable. This was marked as a compulsory question and of the 127 people surveyed, 42.5% thought that this list was NOT fair and reasonable while 57.5% agreed that it was a fair and reasonable list.

Theme 1

41 participants commented on this question with the majority (22) questioning the specifics of 'predominantly female work' and several queried pay discrimination within male dominated professions.

In commenting on the requirement for the work to be carried out predominantly by female employees in order for it to have merit participants responded with comments such as:

- *"The 'relate to work that is predominantly carried out by female employees' should also account for jobs predominantly carried out by male employees in the same fashion to be truly equal - females are not the only ones discriminated against because they are seen as undervalued due to their sex/gender."*
- *"I feel like regardless of job or gender if you're not being paid the same as others with same skills, doing the same or similar work then that is where the problem is."*
- *"Personally, I think these conditions are very unfair. Women in high level executive positions not been paid the same as men for example, would be disregarded in these guidelines. This is one of many examples of women carrying out work predominantly or historically carried out by men. Does this mean there claim for equal pay is able to be disregarded? These guidelines need a serious re-think"*
- *"Relate to work that is predominantly carried out by female employees' this really does not scream equal if the job I am doing is predominantly carried out by males then I cannot make a claim?"*

Theme 2

Secondary to this many participants questioned why work should be historically undervalued to have merit. There was a general consensus throughout this theme of the

- *“I'm unsure the relevance of the work being "historically undervalued", or what this actually means. If it's a new kind of field - for example some field of I.T., can this apply? Furthermore, on an individual basis, you could still face gender discrimination in your pay, even if historically your field hasn't been undervalued - -an employer might be sexist even if another isn't, in the same field, or historically.”*
- *“It should have merit in its own right without having to be historically devalued or predominantly carried out by female employees.”*
- *“Just because something is not historically undervalued does not mean it is not undervalued today.”*
- *It shouldn't matter if it has been historically undervalued, if it is undervalued now.”*

We also asked young people to tell us if they had ever experienced sex discrimination in the form of unequal pay, if their experience fit under the guidelines of a merited claim. While a majority of participants had not experienced this, a couple of people still shared their thoughts.

One young person stated that although they have not experienced this before, “the only guideline to make your claim merited should be evidence of unequal pay for the same job. Particularly when there are no other justifying factors for this, such as different levels of experience or different work hours.” Another young person felt that this Bill give the employer a lot of power in the sense that “they decide a lot of what actions are taken, and creates many opportunities for employers to put the discrimination down to factors other than gender.”

