



Centre for Labour,  
Employment and Work

## Achieving Pay Equity – What needs to happen?

Report of CLEW seminar from Sue Ryall, Centre Manager, CLEW

The current court case on equal pay (*Terranova vs Bartlett*) has reinvigorated the discussion and debate around gender pay difference and why women's pay still lags behind their male counterparts. The May 19 seminar **Achieving Pay Equity – What needs to happen?** organised by CLEW in partnership with the PSA brought together a range of people from different perspectives to look at this issue.

Erin Polaczuk, National Secretary of the NZ Public Service Association outlined the historical campaigns for pay equity. The PSA has a long history of campaigning for pay equity with the issue first raised at the inaugural PSA conference in 1914 when it was agreed *'That female employees of equal competence with male employees shall receive equal treatment as to pay and privileges.'*

In 1956 the PSA women a landmark equal pay test case and in 1961 the Government Service Equal Pay Act, introduced by the Labour Government and supported by the opposition National Party, came into force. However, women in the private sector had to wait until 1972 for the Equal Pay Act to win the right to pay equity with their male counterparts.

Erin Polaczuk commented, *"Some might have thought the battle had been won and indeed some big shifts occurred immediately following its passage, but 44 years on the Act seems both arcane and not fit for purpose for ensuring equal pay for work of equal value."* Despite this perception, Lisa Heap later commented the arguments in the *Terranova* case for establishing pay equity for care workers may have proven more difficult if changes had been made to the Act.

The 1980's saw another rash of initiatives to address pay equity - New Zealand ratified the International Labour Organization Remuneration Convention 100 (1983); we followed that up by signing up to the UN Convention on the Elimination of Discrimination Against Women (1986), the establishment of the EEO Unit in the State Services Commission; the report *Towards Employment Equity* became the basis for the short-lived Employment Equity Act 1990 that addressed equal employment opportunity and pay equity. However, the Act was repealed within a few months after a change in government.

Erin observed that despite the past campaigns and legislative change the gap still exists and it remains to be seen what impact the Terranova case has on equal pay for work of equal value but the PSA will continue their work with other union members through the Worth 100% campaign with the goal of eliminating the gap by 2020.

Prue Hyman, an economist and former associate professor at Victoria University, took a labour economic lens to the issue and drew on her February 2015 article on Policy Quarterly<sup>1</sup>. Prue began by pointing out that there is no one economic view and no consensus across economists. She would look at the social and political factors as well as economic.

The extent of the gender pay gap is difficult to determine. There is both horizontal and vertical occupational segregation between men and women and women are frequently in areas of insecure work. Women also work part-time more than men and there are big differences in pay rates between part time and full time employees. Also, more women are in trainee positions with lower pay rates but are absent in the higher levels of most organizations where remuneration is higher.

It is also important to note that there are also big disparities **among** women and men on the

*It is also important to note that there are also big disparities **among** women and men on the basis of other factors particularly ethnicity. Maori and Pacific women are over-represented in the low wage sectors and Maori and Pacific men and women on average earn much less than their pakeha counterparts*

basis of other factors particularly ethnicity. Maori and Pacific women are over-represented in the low wage sectors and Maori and Pacific men and women on average earn much less than their pakeha counterparts.

Another issue for measuring the gender pay gap is the payment level that is being measured. *'The gap is often expressed as a single measure for the sake of simplicity, but the reality is whether you look at hourly, weekly or annual earnings, for example, or only those working in full-time employment [part-time employees make significantly less], can really change how the numbers look. To make it more challenging to assess, there are different sources of data.'*

Prue posed the question - 'How much is due to discrimination?' She considers that there are multiple factors involved. She commented, *'It is partly judgment but predominantly that women's occupations are undervalued by the market, and less than productivity would justify. Biases cannot all be detected in individual employment agreements. Individual productivity is unknown and variable.'*

So how can the gender pay gap be narrowed? In Prue's view gender wage gaps will narrow as women's economic capital builds up. Low wage workers are an increasing proportion and women are over represented in this group.

---

<sup>1</sup> Hyman, P (2015) 'Is Active Intervention Still Needed to Improve the Position of Women in the New Zealand Labour Market? If so, what can be done?' *Policy Quarterly, Volume 11, Issue 1, February 2015: Institute of Governance and Policy Studies, School of Government, Victoria University of Wellington*

She commented that *'There is also discrimination against women at the upper end of organizations and initiatives that get more women on Boards or ensure that women are better represented in management are attempting to address this. But improvements for women at the top will not necessarily spin down to lower wage workers'*.

With much discussions and concern around inequality and poverty issues narrowing the gender pay gap is proposed as a positive means of dealing with these issues. The gender pay equality argument is that money in women's hands is more likely to be spent on the next generation. It has a multiplier effect. If the pay of underpaid women is increased there is a long term gain.

Prue commented finally that from the traditional economists' point of view, if wages do not reflect productivity and are based more on social and political factors, they will distort the allocation of resources and be inefficient.

### **The HR perspective**

Susan Doughty a partner in Human Capital at EY looked at organisations and how the gender pay gap develops both outside and inside the workplace.



Susan Doughty

From her perspective it starts at school - what courses are girls accessing and what advice are they given. This then leads into tertiary education where women are over-represented in social sciences, education and health and almost invisible in the hard sciences, engineering and IT. They are therefore already disadvantaged when they arrive in the workplace and poorly represented in the well-paid work areas.

When they are in the workforce - females with no childcare and career breaks start lower and increase at lower rate. With career breaks for children career plateaus. Often seek lower roles and part-time work.

Susan is quoted in the PSA journal article that reported on the Pay Equity seminar as saying, *"My contention would be these are not "choices" in the traditional sense, but instead complex decisions that are based on what options and support are made available through school and into the workplace, societal expectations, as well as personal abilities and strengths."*<sup>2</sup>

Susan went on to outline three levels of gender pay gap in an organisation.

1. *Like for like* – pay gaps that exist between men and women undertaking work of equal/comparable value. Examples of this type of gender pay gap are: inequality in starting pay rates; bias (both conscious and unconscious) in performance ratings and management

---

<sup>2</sup> Biswell, S. 'Achieving Equal pay: What's the deal?' *Working Life: The PSA Journal* June 2015: Wellington, PSA. pp 8-11.

systems; inequality in access to discretionary pay such as bonuses and incentives. Other factors that influence 'like for like' gender pay gap are the cumulative effects of pay inequality, the impact of long-term leave, and periods of part-time employment.

2. *By-level* - where there are pay gaps between women and men at the same organisational level. The cumulative effect of 'like for like' gender pay gaps contribute to 'by-level' gender pay gaps such as women predominantly in support roles and men in organizational roles.

3. *Organization wide* - differences between men and women in average remuneration across an organization. This can be identified as more men at higher levels and more women at lower levels; conscious and unconscious bias in the way 'mothers' and pregnant women are treated such as pregnant women not included in long-term projects or either of these groups of women not being offered development opportunities that would contribute to career advancement.

Susan Doughty pointed out that even top female executives are not immune to the gender pay gap. Research from the Federal Reserve Bank of New York (March 2015)<sup>3</sup> shows that:

- Female executives receive less incentive pay or stock overall than men.
- Men benefit more when company stock increases than women do.
- Women's earnings are more exposed to decline in a company's market value than men and conversely growth in a company's market value is inequitably shared between male and female executives at the same level.

In addressing the gender pay gap in an organisation, Susan stressed the importance of good information that looks across all three levels. *'Use data to drive strategy. With that*



*information, develop a proactive strategy and ensure the leadership is actively and consistently engaged in meeting targets to narrow the gap. Key to all of this is educating and training.'*

*information, develop a proactive strategy and ensure the leadership is actively and consistently engaged in meeting targets to narrow the gap. Key to all of this is educating and training.'*<sup>4</sup>

Lisa Heap, adjunct professor at the Australian Catholic University, who is currently advising the PSA on equal pay was the final speaker. She focused on the legal campaign, particularly in relation to low-pay care workers.

Lisa was involved with landmark equal pay case for Australia's social and community workers. Lisa identifies care work as a prime example of systematic undervaluation of 'women's work'. In both Australia and New Zealand this sector is dependent on government funding and as public expenditure has tightened over the last thirty years this funding has been set on an assumption low labour costs, effectively placing a ceiling on wages for care workers.

---

<sup>3</sup> Gender and Dynamic Agency: Theory and Evidence on the Compensation of Top Executives (Federal Reserve Bank of New York - March 2015)

<sup>4</sup> Biswell (2015:11)

But a major difference between the two countries in relation to the current legal case is that the Australian award system *'provides a vehicle for changes in wages for workers collectively that is not readily available in New Zealand (unless class action cases become the norm).'*<sup>5</sup> Lisa commented that in New Zealand the absence of an award system means that the only protection for wage rates, with the collapse of collective bargaining, is the legislated minimum rate. But *'the collapse in the minimum wage has meant that the gap between male and female wages has converged, not because of advancement in pay equity, but because of the reduction in remuneration of male workers.'*

There is also a difference in the legislation between the two countries. There has been little change since the 1972 Act in New Zealand and it is still framed in the 'equal pay for work of equal value' concept whereas in Australia the legislation has moved toward 'equal pay for

*In Australia the legislation has moved toward 'equal pay for work of equal or comparable value'. It does not rely on discrimination as the foundation for proving inequity, but rather has adopted the framework of undervaluation.*

work of equal or comparable value'. 'It does not rely on discrimination as the foundation for proving inequity, but rather has adopted the framework of undervaluation'.<sup>6</sup>

However as Lisa pointed out, this difference may not be as big as it seems as the New Zealand Court recognises the need to look at historical undervaluation. The Court of Appeal, in sending the *Terranova* case back to the Employment Court to develop a 'statement of principles' that would provide a 'workable framework for the resolution of Ms Bartlett's case' indicated that the Court 'may for example in its statement of principles identify appropriate comparators and guide the parties on how to produce evidence of other comparator groups or issues relating to systematic undervaluation.'<sup>7</sup>

The seminar concluded with a discussion that concluded that this case may be a game changer but the achievement of pay equity will only happen through work at multiple levels and there is no certainly that its time has come.

*Presentations from the seminar are available on our [web-site](#).*

---

<sup>5</sup> Heap, L. 'Point of View'. *Working Life: The PSA Journal* June 2015: Wellington, PSA. p20

<sup>6</sup> Ibid, p20.

<sup>7</sup> *Terranova Homes and Care Ltd and Service and Food Workers Union Nga Ringa Tota Inc* [2014] NZCA 516 at [239]