

Time for mandatory gender equality reporting in New Zealand?

*Amanda Reilly and William Townsend**

New Zealand women are paid 12% less than men on an hourly basis and, far from improving, the gap is widening (Statistics New Zealand, 2016). Dr Jackie Blue, the Equal Employment Opportunities (EEO) Commissioner at the Human Rights Commission (HRC), has called for mandatory gender equality reporting as one intervention that might narrow the gap (Human Rights Commission, 2016). New Zealand is lagging behind both Australia and the United Kingdom in its failure to implement such gender reporting.

Current New Zealand reporting

Existing mandatory gender equality reporting in New Zealand is minimal. Companies listed on the New Zealand Exchange Main Board are required to provide a gender breakdown for the Directors and Officers in their annual reports (NZX, n.d.). Apart from this, New Zealand private sector employers are not subject to any gender reporting requirements at all.

More is required in the state sector. Crown entities and other state organisations are required by the Crown Entities Act 2004 to be 'good employers'. If subject to this obligation, organisations must operate a personnel policy that complies with the principle of being a good employer and report in their annual reports on the extent of their compliance. While these reporting requirements are not onerous, the Human Rights Commission's 2015 review of the Crown Entities annual reports found that 26 of 93 Crown Entities achieved a lower compliance rating than the previous years. In 2014, when the HRC investigated EEO in the New Zealand public service they found only scant reporting of good employer programmes and EEO despite the fact that reporting is a statutory requirement (Human Rights Commission, 2014).

Australia requirements

By contrast, Australia has much more extensive reporting requirements and has had since 1986. In 1986 all private sector employees with 100 or more employees were required to develop and report on an 8 step affirmative action programme (Smith & Hayes, 2016). Various other developments followed but it is key to note that this first step was already a step further than New Zealand has, to date, attempted. Most recently, the Workplace Gender Equality Act 2012 (Cth) represented a significant shift from process focussed reporting to an outcome based framework. This legislation requires organisations that are employers that have 100 or more employees to report annually on certain gender equality indicators (GEIs):

- GEI 1: Gender composition of workforce
- GEI 2: Gender composition of governing bodies of employer

**Dr Amanda Reilly is a senior lecturer in Employment Law in the School of Accounting and Commercial law, Victoria University of Wellington and a CLEW Associate. William Townsend is a tutor and research assistant in the School of Accounting and Commercial Law, Victoria University of Wellington.*

- GEI 3: Equal remuneration between women and men
- GEI 4: Availability of flexible arrangements for employees with family/caring responsibilities
- GEI 5: Consultation with employees on gender equality issues
- GEI 6: Any other matters specified by the Minister in a legislative instrument

The respective Minister must set minimum standards in legislative instruments and section 19D(2) of the Act allows the Workplace Gender Equality Agency (WGEA) to name employers that fail to comply with the act in a report to the Minister.

From the 2015-16 reporting period onwards there were also a number of changes to the reporting requirements (WGEA, 2016), the most important being:

- Reporting on number of appointments made by gender and manager/non-manager
- Reporting on number of promotions by gender, employment status and manager/non manager
- Reporting on number of employees who ceased employment during parental leave, by gender and manager/non-manager.

It is thus apparent that a much wider array of organisations are required to report in Australia than in New Zealand. They are also required to report on a wider and more specific array of gender equality indicators.

UK gender reporting regulations

The UK is about to introduce limited gender reporting with regulations set to commence in April 2017. From 6 April 2017 all employers in Great Britain with more than 250 staff will be required by law to publish the following four types of figures annually on their own website and on a government website (Government Equalities Office, 2017):

- Gender pay gap (mean and median averages)
- Gender bonus gap (mean and median averages)
- Proportion of men and women receiving bonuses
- Proportion of men and women in each quartile of the organisation's pay structure

Conclusion

While gender equality reporting will not instantly close the gender pay gap, better reporting could contribute to its closing in a number of ways. Smith outlines how reporting requirements can potentially improve organisational compliance through processes of legislative translation, rule illustration and dissemination of best practice (2014). Reporting will allow good employers the opportunity to showcase their successes and where results fall short of expectation to find solutions.

Improved gender equality reporting could also play a role in resolving pay equity claims. Following the decision in *Terranova v Service and Food Workers Union and Bartlett*, the government established the Joint Working Group to recommend universally applicable pay equity principles for consideration by the government. The working group has now reported government has largely accepted the recommendations which set out a process and principles which requires the parties to bargain in good faith to resolve claims (State Services Commission, 2016). The Joint Working Group

(2016, p.3) noted that both employers and unions agreed that parties bargaining on pay equity matters should have “ready access to adequate information and resources to assist them in their deliberations” and suggested that “government give further consideration to its role in supporting pay equity information”. Improved, publically available gender equality reporting can only enhance the process of claim resolution.

New Zealand was the first country in the world to grant women the vote in 1893. It is unclear why in 2017 less transparency should be expected of New Zealand employers than of employers in Australia and the UK. It is time for mandatory gender equality reporting.

References

Crown Entities Act, section 118 (2004) retrieved 27 February, 2017, from

Government Equalities Office,. (2017). *Gender Pay Gap Reporting*. Gov.uk. Retrieved 27 February 2017, from <https://www.gov.uk/government/news/gender-pay-gap-reporting>

Human Rights Commission,. (2014). *Human Rights Commission: What’s Working: Improving Equal Employment Opportunities in the public service*. Hrc.co.nz. Retrieved 27 February 2017, from <https://www.hrc.co.nz/your-rights/business-and-work/tools-and-research/whats-working-improving-equal-employment-opportunities-public-service/>

Human Rights Commission,. (2015). *Crown Entities and the Good Employer Interactive Annual Report Review*. Good-employer.hrc.co.nz. Retrieved 27 February 2017, from <http://good-employer.hrc.co.nz/#2015/report/all-entities>

Human Rights Commission,. (2016). *Human Rights Commission: Public reporting needed to address gender pay gap*. Hrc.co.nz. Retrieved 27 February 2017, from <https://www.hrc.co.nz/news/public-reporting-needed-address-gender-pay-gap/>

Joint Working Group,. (2016). *Recommendations of the Joint Working Group on Pay Equity Principles*. ssc.govt.nz. Retrieved 27 February 2017, from <http://www.ssc.govt.nz/sites/all/files/pay-equity-jwg-recommendations.pdf>

NZX,. *NZX Regulation - Diversity Statistics*. Nzx.com. Retrieved 27 February 2017, from https://nzx.com/regulation/diversity_statistics

Smith, B. (2014). How might information bolster anti-discrimination laws to promote more family-friendly workplaces?. *Journal of Industrial Relations*, 56(4), 547-565. <http://dx.doi.org/10.1177/0022185614540128>

Smith, B. & Hayes, M. (2015). Using Data to Drive Gender Equality in Employment: More Power to the People?. *Australian Journal of Labour Law*, 28(3), 191-213. Retrieved from <http://www.lexisnexis.com.helicon.vuw.ac.nz/lnacui2api/api/version1/getDocCui?oc=00240&hnsd=f&hgn=t&lni=5JOB-0D21-DY6R-H2R4&hns=t&perma=true&hv=t&hl=t&csi=267868&secondRedirectIndicator=true>

State Services Commission,. (2016). *Joint Working Group on Pay Equity Principles | State Services Commission*. Ssc.govt.nz. Retrieved 27 February 2017, from <http://www.ssc.govt.nz/pay-equity-working-group>

Statistics New Zealand,. (2016). *Labour Market Statistics (Income): June 2016 quarter*. Stats.govt.nz. Retrieved 27 February 2017, from http://www.stats.govt.nz/browse_for_stats/income-and-

[work/Income/LabourMarketStatisticsIncome_HOTPJun16qtr/Commentary.aspx](#)

Terranova Homes & Care Limited v Service and Food Workers Union Nga Ringa Tota Incorporated [2014] NZCA 516

Workplace Gender Equality Act (Cth), (2012) retrieved 27 February, 2017, retrieved from <https://www.legislation.gov.au/Details/C2012C00899>

Workplace Gender Equality Agency,. (2016). *Guide to Reporting under the Workplace Gender Equality Act (2012) 2015-16*. *wgea.gov.au*. Retrieved 27 February 2017, from https://www.wgea.gov.au/sites/default/files/2015-16_Reporting_Reference_Guide.pdf