



ASSOCIATION OF SALARIED MEDICAL SPECIALISTS  
TOI MATA HAUORA

# ASMS submission to the Ministry of Business, Innovation and Employment on the Draft Employment (Pay Equity and Equal Pay) Bill

11 May 2017



## Introduction

The short timeframe for submissions on this draft bill have not allowed for this submission to cover all matters on which the Association of Salaried Medical Specialists (ASMS) has a view. It focuses on brief key points that we believe are of the most critical importance - in particular, in applying the principles of fairness and parity in the draft bill.

## Background

- 1.1 The Association of Salaried Medical Specialists (ASMS) is a union and professional association of salaried senior doctors and dentists employed throughout New Zealand. We were formed in April 1989 to advocate and promote the common industrial and professional interests of our members and we now represent more than 4,400 members, most of whom are employed by District Health Boards (DHBs) as medical and dental specialists, including physicians, surgeons, anaesthetists, psychiatrists, oncologists, radiologists, pathologists and paediatricians. Over 90% of all permanently employed DHB senior doctors and dentists eligible to join the ASMS are in fact members.
- 1.2 Although most of our members work in secondary and tertiary care (either as specialists or as non-vocationally registered doctors or dentists) in the public sector, a small but significant number work in primary care and outside DHBs. These members are employed by the New Zealand Family Planning Association, ACC, hospices, community trusts, Iwi health authorities, union health centres and the New Zealand Blood Service.
- 1.3 The ASMS promotes improved health care for all New Zealanders and recognition of the professional skills and training of our members, and their important role in health care provision. We are committed to the establishment and maintenance of a high quality, professionally led public health system throughout New Zealand.
- 1.4 The ASMS is an affiliate of the New Zealand Council of Trade Unions.

## Principles of fairness

The Ministry of Business, Innovation and Employment (MBIE) states in its introduction to the draft bill that it is “to provide a process and principles to guide employers and employees in making, assessing and resolving pay equity claims in bargaining”. Given the purpose of equal pay and pay equity law is to uphold the basic human rights principles of fairness and parity, it follows that the law itself must adhere to those principles.

However, the ‘process and principles’ described in Clause 23 of the draft bill, particularly concerning the establishment of a hierarchy for selecting appropriate comparators for pay equity cases, create obstacles towards achieving a fair outcome. Under the proposals, those making pay equity claims would have to prove there are no appropriate comparators in each of the steps before moving onto the next step. The process is also prone to confusion. For Family Planning doctors, for example, would a ‘similar business’ comparator be with salaried doctors employed in private businesses, such as general practitioners, or salaried doctors employed in district health boards?

Clearly, pay comparators are a fundamental part of assessing whether pay inequity exists, and it is vital that those making pay equity claims are not restricted in choosing the equal-value comparison they wish to make in supporting their claim, including, where appropriate, cross-industry comparisons.

While in practice comparators may most often come from within an industry, it is sometimes appropriate – and fairer – for comparators to come from outside the industry, especially where the industry in question has a history of pay inequities. Cross-industry comparisons are also important considering the level of gender segregation in the New Zealand workforce.

It appears the main argument for introducing a hierarchy for selecting appropriate comparators is that similar restrictions exist overseas, such as in the United Kingdom, Ontario and some European countries.<sup>1</sup> The record on addressing pay inequities in such jurisdictions, however, leaves much to be desired. Calling on examples where equal pay and pay equity policies have so far fallen well short of the stated intent is a weak argument.

To uphold the principles of fairness and parity, and in order to foster better progress in achieving equal pay and pay equity, we call on the Minister for Workplace Relations and Safety and the Minister of State Services to remove the content of the draft bill relating to the introduction of hierarchical ranking for selecting appropriate comparisons.

A more detailed submission is being made by the Council of Trade Unions, which the ASMS endorses.

---

<sup>1</sup> Office of the Minister of States Services, Office of the Minister for Workplace Relations and Safety. Response to the proposals of the Joint Working Group on Pay Equity, to the Chair Cabinet Social Policy Committee.