



Bargaining for pay equity

Bargaining could be the fastest route to pay equity.

A way of facilitating pay equity at work is needed following a recent Appeal Court ruling.

In the court case *Kristine Bartlett and Service & Food Workers Union vs. Terranova Homes & Care Ltd* caregiver Kristine Bartlett sought increased wages comparable to men's pay.

Ms Bartlett was not seeking equal pay - the same pay for doing the same work as a man.

Rather, she was seeking pay equity - the same pay for (different) work of equal value that is performed by a man.

The Equal Pay Act 1972 has long enabled equal pay. But it has not been viewed as enabling pay equity until now.

In the *Terranova* case the Appeal Court ruled that pay equity means equal pay for work of equal value, not just the same pay for the same work.

That means a process must be found for determining 'equal value'.

A working group made up of government, business and union representatives chaired by Dame Patsy Reddy has made recommendations on how that value might be decided.

The group has recommended that pay equity claims should be resolved the same way as pay claims – by bargaining.

This is preferable to having pay equity claims decided in court which could take lengthy periods of time and be subject to ongoing litigation.

Pay equity claims should be managed by bargaining in good faith following the principles and processes set out in the Employment Relations Act, say the working group.

Dispute resolution processes for normal bargaining would be used, with any differences escalated through mediation to the judicial process, and including the use of industrial action. Courts would use the processes of mediation, adjudication, facilitation and pay fixing provided in the Employment Relations Act.

An important effect of using a bargaining approach would be that the outcomes of bargaining would only bind the parties to it, i.e. a successful pay claim in one company would not impose costs on others, for example a successful pay equity claim in hospitals would not impose costs on banks.

The Government is yet to respond to the working group's recommendations.

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