

# Fair Pay Agreement Bill

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New Zealand Council Of  
Christian Social Services

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Organisation Name:	New Zealand Council of Christian Social Services (NZCCSS)
Organisation Description:	The New Zealand Council of Christian Social Services (NZCCSS) welcomes the opportunity to provide feedback on the Fair Pay Agreement Bill. NZCCSS has six foundation members: the Anglican Care Network, Baptist Churches of New Zealand, Catholic Social Services, Presbyterian Support and the Methodist and Salvation Army Churches. Through this membership, NZCCSS represents over 250 organisations providing a range of social support services across Aotearoa. We believe in working to achieve a just and compassionate society for all, through our commitment to our faith and Te Tiriti o Waitangi. Further details on NZCCSS can be found on our website <a href="https://nzccss.org.nz/">https://nzccss.org.nz/</a>

## Tirohanga Whānui | Overview

### **Item 1 - A positive step towards eliminating exploitation in our workplaces:**

Fair Pay Agreement legislation is a significant change in the economic structure of Aotearoa, making negotiations more equitable and reducing power imbalances between employers and employees.

### **Item 2 - Concerns around workers right to strike:**

The bill as proposed forbids workers from striking during the negotiation process, NZCCSS has concerns around this issue.

### **Item 3 – Equity for Contractors:**

We believe that gig workers and contractors must be protected by this bill, as they are at high risk of exploitation.

### **Item 4 – Ensure Government contracts reflect legislation:**

The not-for-profit and community sector sources key funding is via central government. We strongly urge Government to ensure their budgets are such that they can actively support the implementation of the Fair Pay Agreements legislation.

## Taunakitanga | Recommendations

### **Item 1 - A positive step towards eliminating exploitation in our workplaces:**

NZCCSS strongly supports the kaupapa and intent of this Bill. Our members see daily the impacts of successive decades of low and inadequate wages. We work directly with those who are paid the least, often for the most important mahi. We hear the stories of those who are offered zero-hour contracts, who work for minimal and minimum wages and whose economic value has been exploited for super-profits. We have watched the rise of food-parcelling, the rapid increase in household debt to predatory lenders and the normalisation of government-provided benefits to top workers incomes up when big business won't. We believe deeply that an agreement to receive fair pay for work is far more of an incentive for work than any other that can be developed, punitive or otherwise.

The not-for-profit sector itself faces crises in our workforce through the lack of agreed rates of pay. We have seen Government Ministries in *their* need, provide far greater rates of pay than we can to attract and retain staff. No one can be expected to work for \$20-30K less than their peers, and yet due to a lack of adequate structure, this is what is now the reality for social workers, community / support workers and nurses in Aotearoa. We look to this legislation for a solution.

Analysis of similar bargaining approaches internationally have shown that productivity does not reduce due to collective bargaining (Doucouliagos, 2019). While profits may be reduced, it is most likely to be to be focused in areas where employees are exploited. Partially due to the reduction of power held by union movements in the early 1990s, labour productivity has grown far more quickly than wages have in Aotearoa. NZCCSS sees this as an important mechanism to support the Labour Party principle of a 'just distribution of wealth.'

NZCCSS sees this legislation as a positive step to a fairer economy in Aotearoa, and a hoped for first step towards dismantling old, outmoded economic systems that no longer serve us. Fair Pay Agreement legislation as a significant change in the economic structure of Aotearoa, making negotiations more equal and reducing power imbalances between employers and employees.

**Recommendation 1: We tautoko the initiative shown by this bill to create a fairer work environment for employees in Aotearoa.**

### **Item 2 - Concerns around workers right to strike:**

No one wants to be in the position to need to strike. Having breakdowns in communication between employees and employers is challenging for both parties. Being able to strike is the last resort. This legislation requires robust and clear structures to ensure equity in what is often an imbalance of power. The ability to withhold work for improved conditions is a key facet of the labour movements. Any contractual arrangements that exclude this right risk becoming a human rights issue.

Workers in Aotearoa have seen productivity rise exponentially while their wages have stagnated. Conditions have been eroded, largely because of neoliberal legislation intended to "break" unionism. There is hope that in part this legislation mitigates or at least alleviates some of the impacts of the recent past. We hear much in the media about different sectors being "the backbone of New Zealand economy", the reality is that *workers* within these sectors are the backbone. This legislation must give power to workers, both to honour their mahi and to break down barriers to equity.

In removing the ability to strike during negotiation, this legislation enhances the inherent power imbalance between employees and employers. Striking is an integral part of collective action as it demonstrates the inability of business to function without its workers. By restricting the ability of workers to exercise this right, the legislation may impact the effectiveness of negotiation and infringe on the basic rights of workers.

**Recommendation 2: Strengthen worker rights to strike**

**Item 3 – Equity for Contractors:**

The decision to operate as an employee or as a contractor is more complicated than simply the preference of the person being paid for their work. Unless we can be sure that all workers employed as contractors are doing so for their personal benefit, and with the mutual agreement of their employer, then we must ensure this legislation is extended to include them.

Many lower income workers have seen an opportunity via the “gig-economy”, with the rise in ride-share and meal delivery services being a clear example. However, their protections under current legislation are scant and exclusion via this legislation further challenges their rights. These are not well-paid people; we know through reporting via FIRST and E tū Unions that their conditions are low, and the profits of the business owners are high. It is highly likely that these workers are accessing a range of government supports as a top-up to their income. In excluding contractors from this legislation, we place the onus on the taxpayer to provide this support.

Employees in contracting and gig employment are in some cases contractually obligated not to unionise and are generally not afforded the security guaranteed by other forms of employment. Alongside this increased risk of exploitation, MBIE has identified an additional risk of “regulatory arbitrage”, meaning that some employers will look outside of the scope of traditional employment to contractors to avoid the restriction of an FPA (MBIE, 2020).

Despite being some of those most in need of collective bargaining, such workers have been ignored by this legislation with the promise that their case for inclusion will be looked at in the future. We strongly suggest that gig workers and contractors be included in this legislation, for it to become truly equitable and to protect the livelihood of all workers in Aotearoa in the immediate present.

**Recommendation 3: We recommend that contracted workers be covered by this legislation.**

**Item 4 - Ensure Government contracts reflect legislation:**

As a joined-up Government, we hope that as legislation is agreed that the next step is ensuring that resource for implementation exists. And that in doing so, the resource provided is adequate.

The pay increases which may be legislated through Fair Pay Agreements are most likely out of the reach of NGOs under the current funding structure. We completely agree that these increases are both deserved and necessary. But in order to ensure that they occur, we need Government – as the main funder of these services - to plan to financially support these increases. What we need, is a process in place that allows for this crucial legislation to be resourced to the level required.

**Comment 4: Ensure adequate funding exists to enact Fair Pay Agreements across the NGO / Community Sector.**

## Tohutoro | References

Doucouliagos, D. (2019). *Unions do hurt profits, but not productivity, and they remain a bulwark against a widening wealth gap*. The Conversation. <https://theconversation.com/unions-do-hurt-profits-but-not-productivity-and-they-remain-a-bulwark-against-a-widening-wealth-gap-107139>

Ministry of Business, Innovation and Employment. (2020). *Advice on contractors in the Fair Pay Agreements system*. <https://www.mbie.govt.nz/dmsdocument/15437-advice-on-contractors-in-the-fair-pay-agreements-system-pdf>