



Submission to the education and workforce select committee on the

## **Fair Pay Agreements Bill**

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Thank you for the opportunity to make a submission on the Fair Pay Agreements (FPA) Bill. The New Zealand Disability Support Network (NZDSN) supports the objective of the Bill to ensure better and more desirable pay and work conditions for all employees. However, we believe Fair Pay Agreements are not desirable in the Disability Support sector. And hence, the New Zealand Disability Support Network opposes the Fair Pay Agreements Bill. This submission will start with an introduction about the New Zealand Disability Support Network (NZDSN) and the Disability Support Sector before explaining our reasoning for opposing the Fair Pay Agreements Bill.

## **About NZDSN**

NZDSN is the national peak body that represents over 160 organisations that provide support services to disabled people, mainly through contracts with government. As a membership-based organisation, we lead and influence changes required to support an inclusive life for disabled people in Aotearoa New Zealand. We represent the Disability Support providers in discussions with various government Ministries and Agencies. We also represent/advocate for Disability Support providers in pay equity negotiations and other relevant issues. Due to our close connection with our members, we have a unique understanding of the potential impacts of Fair Pay Agreements on the Disability Support Sector.

## **Disability Support Sector**

The Disability Support Sector is large and complex, with services delivered through a broad network of organisations<sup>1</sup>. The size of the workforce in organisations is extremely varied. There are a handful of large organisations that employ over two thirds of disability support workforce, and there are many small organisations that employ a small number of the workforce (less than 8%)<sup>2</sup>. The Disability Support Sector has a very high staff turnover rate (35%)<sup>3</sup> with the highest turnover rates among support workers, people in personal planning roles, and registered and allied health professionals. In addition, more than half of the disability workforce is employed part-time, so, the workforce is quite likely to move to other jobs with higher wages.

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<sup>1</sup> The New Zealand Health and Disability System: Handbook of Organisations and Responsibilities. (2017). [https://www.beehive.govt.nz/sites/default/files/2017-12/Health%20-%20Organisations%20and%20Responsibilities\\_0.pdf](https://www.beehive.govt.nz/sites/default/files/2017-12/Health%20-%20Organisations%20and%20Responsibilities_0.pdf)

<sup>2</sup> Te Pou o te Whakaaro Nui & New Zealand Disability Support Network. (2016). The New Zealand disability support workforce: 2015 survey of NZDSN member organisations – A summary report. Auckland: Te Pou o te Whakaaro Nui. <https://nzdsn.org.nz/wp-content/uploads/2021/05/Workforce-Survey-Summary-Report.pdf>

<sup>3</sup> Developing a workforce to support disabled people and they whānau. (2018) [https://nzdsn.org.nz/wp-content/uploads/2021/05/Workforce-Report-FINAL-PDF\\_Careerforce.pdf](https://nzdsn.org.nz/wp-content/uploads/2021/05/Workforce-Report-FINAL-PDF_Careerforce.pdf)

## **NZDSN's position on the Fair Pay Agreements Bill**

There is no doubt about potential benefits of the proposed Bill for the disability workforce. NZDSN supports the objective of the Bill to lift the wages of low-wage support workers through negotiating with employers. We also believe a national standard for the disability sector workforce will ensure better and more desirable Pay and work conditions for all employees. Improved work condition is something that NZDSN and service providers have been committed to implement. We also see potential in the proposed Bill to address the lag of wage growth behind increases in labour productivity that can potentially incentivise businesses to invest in training and innovation.

On the other hand, we have concerns about the proposed Bill and its impact. FPAs takes away the choice and flexibility from employees and employers to negotiate pay and work conditions as individual work agreements must comply with the minimum standards for a sector set by FPAs. In doing so, compulsory FPAs incorrectly assume that all aspects of an industry or a sector are the same. Furthermore, FPAs will drive the cost of labour up, and force businesses to recover that cost somewhere else, realistically in the price of the products or services they provide, if they have that option. As wages increase, small and medium businesses with low margins that cannot absorb the cost of further increase in minimum entitlements may be driven out of business. Therefore, FPAs will result in an increase in prices to the end consumer, and a reduction in the number of small and medium businesses able to sustain the ever-growing regulation and increasing cost of doing business.

There is also concern that the proposed Bill gives unreasonable law-making power to the Employment Relations Authority in fixing the terms of a proposed FPA, which will then apply to all New Zealand employers and employees who fall within the defined coverage. So far, setting of minimum standards for an entire sector or industry has been a legislative matter for the Parliament and relevant statutory delegations.

## **The impact of the Fair Pay Agreements Bill on the Disability Support Sector**

The FPA Bill will potentially have a significant impact on Disability Support Sector for a number of reasons. First, there is pay disparity between disability support workers and the workforce in similar roles in District Health Boards such as healthcare assistants and hospital aides (the difference was 18% in 2015)<sup>4</sup>. Therefore, if the FPT Bill goes ahead, the disability support workers will most likely be amongst the first groups of workers for whom unions present a fair pay case.

Second, the process to lodge a fair pay case based on the Fair Pay Agreement Bill is much faster and easier than any pay equity claim process. Hence, if the FPT Bill goes ahead, the disability support workers will most likely be amongst the first groups of workers for whom unions present a fair pay case.

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<sup>4</sup> Ibid.

Third, the Disability Support Sector relies on government's funding. Under the FPA, a union can start negotiations with an employer and request an x% increase on support workers' wage. However, according to provisions of the proposed Bill, the government sits outside of the equation in such negotiation; so, the government is not under any obligation to fund the increased wages. This can potentially create significant costs for disability support providers.

Fourth, some disability carers work as independent contractors. The proposed Bill has provisions to prevent an employer from engaging an independent contractor instead of an employee. This can potentially create issues for those disabled people who use their Individualised Funding/personal budgets to hire carers/support people as contractors.

### **NZDSN's position on the proposed Fair Pay Agreements Bill**

While NZDSN supports higher wages and better working conditions for support workers, we believe the proposed Bill will do more harm than good to our sector.

The disability support is not a Monday-Friday 9 to 5 sector. Some disability support workers provide 24/7 support, 365 days of the year. A one-size-fits-all minimum standard of minimum wages, hours overtime, penalty rates, work conditions such as working weekends or public holidays will not be feasible for all employees and employers in the sector.

FPA Bill does not differentiate between an employer with 5000 employees with an employer with 10 employees. Considering the Disability Support Sector's make up of a few very large organisations and many small service providers, the proposed Bill has a disproportionately detrimental impact on small to medium businesses.

Many disability service providers are concerned about the Bill and its timing. Over the past few years, New Zealand employment law has undergone several changes that increased employee entitlements (such as constant increase of minimum wage and increase of sick leave entitlements). These have created additional costs to providers. To these, one should add over two years of COVID-related disruption. The Bill will result in a significant change to New Zealand's employment relations landscape that come in a time when service providers are struggling.

NZDSN and disability support service providers recognise the wage/pay issue in the Disability Support Sector and the one benefit of FPAs in terms of lifting the wage rates of low-paid workers. However, our Sector believes there are other effective ways of achieving that; for instance, through pay equity, pay parity, and so forth. NZDSN would also like to emphasise that the wage rates in the Disability Support Sector are significantly influenced by government's funding to the sector so beyond the control of most employers. Hence, the wage/pay issue in the Sector can be addressed differently without creating potential problems with the proposed Bill. For these reasons, NZDSN opposes the proposed Fair Pay Agreements Bill.