

New Zealand Parliament
Education and Workforce Committee
Submitted online at <https://www.parliament.nz/>

Thursday, 19 May 2022



Platform Charitable Trust

Salmond House
57 Vivian Street
Te Aro
Wellington, 6011

admin@platform.org.nz

www.platform.org.nz

Kia ora Education and Workforce Committee,

Atamira | Platform Trust (Platform) welcomes the opportunity to comment on the Fair Pay Agreements Bill (the Bill).

Our submission focuses on the impact of the Bill on the sustainability of mental health and addiction (MH&A) non-governmental organisations (NGOs) and community providers, alongside the wider concerns of the not-for-profit community sector. Platform's submission is complementary to the ComVoices submission that has been made to the Committee, of which we are a member.

Who are we?

Platform represents a network of 82 NGOs and community providers that provide support to tāngata whaiora (people seeking wellness) and their whānau, who are directly impacted by mental health and addiction. Among our members are kaupapa Māori providers, Pasifika providers, and MH&A lived experience providers.

We also represent a wider network of MH&A NGOs and community providers who share the same aspiration of a MH&A system and sector that is driven by the need for better and more equitable outcomes for tāngata whaiora and their whānau.

Our position on this Bill

In principle, Platform supports the general kaupapa of the Bill. We believe that this Bill can correct conditions of employment that over years have led to worsening inequality, impacting negatively on MH&A NGO and community sector workforces, tāngata whaiora, and the wider communities they serve.

However, the ability of the MH&A NGO and community sector to continue to provide services to tāngata whaiora and whānau is seriously at risk if the Bill is enacted in its current form. Funding and other inhibiting conditions need to be urgently addressed before the Bill can be progressed.

We also note that the Bill is unnecessarily complicated and lengthy. We suggest the 'purpose' of the Bill is not clear enough, and that it be simplified so that it makes clear the Bill is meant to improve the labour market, and ensure all employers deliver decent wages to their employees.

We recommend:

1. The purpose of the Bill be simplified and clarified where possible, for ease of interpretation and operationalising of the Act.

Appropriate funding for Fair Pay Agreements for not-for-profit service providers

We have serious concerns about the lack of discussion around the support provided to MH&A NGO and community providers that are funded by the Government to deliver services. In 2019, research in New Zealand indicated that the Government underfunds social service providers by one-third of the actual cost of delivering essential services, which is estimated annually at \$630 million (1).

We need to ensure that the financial impact of a Fair Pay Agreement will be delivered by appropriate Government agencies, that fund MH&A community providers, so that increased wage rates and associated oncosts will not fall on the employer to pay. There is serious potential for not-for-profit MH&A NGO and community providers to be undermined by the Bill, as they are already struggling to ensure equitable pay for their workforce due to chronic underfunding in the community sector.

Paying for the workforce is typically the biggest cost for MH&A NGO and community providers. In recent years, service delivery has occurred in the context of COVID-19, fiscal constraints driven by funding, and heavily increased demand for services. Between 2014 to 2018, the number of people accessing MH&A NGO services increased by 26 percent (2). Meanwhile, NGOs and community sector health contract incomes have not kept up with fiscal demands such as wage inflation (2).

Furthermore, NGO and community providers operate within complex environments, often with multiple contracts held across different Government agencies. Funding insecurities and challenges can impact on the sustainability and performance of NGOs to provide effective support to tāngata whaiora (3). Furthermore, small NGO and community providers may have to stop or reduce their services if they cannot operate within any new parameters set by a Fair Pay Agreement.

We recommend the following addition to the Bill to ensure funding accountability for the not-for-profit sector:

2. For the not-for-profit community sector that is funded by the Government, any wage rate increases and oncosts associated with a Fair Pay Agreement will be addressed as part of a Fair Pay Agreement.

We also want to note that this issue goes wider than the Bill, and the crux of the point lies within the Government's responsibility to ensure appropriate levels of funding at the first point of commissioning services. It is unacceptable that an industry such as the MH&A NGO sector, or specific occupations such as support workers, would have to resort to the mechanism of a Fair Pay Agreement because their employers cannot afford to pay them fair wages.

An example of the current impact of unsustainable funding in the MH&A NGO and community sector, is the ongoing discussions related to the Care and Support Worker (Pay Equity) Settlement Act 2017 which ends on 30 June 2022. Even though pay equity was achieved in 2017 for support workers, the negotiations for a fully funded continuation of wage increases continue to be fraught. Not having a fully funded solution, as part of a Fair Pay Agreement process, will have dire consequences for not-for-profit service providers at a national level.

Bargaining support provisions for not-for-profit service providers

The introduction of Fair Pay Agreements will force not-for-profit organisations, many of which have never been around an employment bargaining table before, to be involved in industrial relations processes. This may be confronting to have unions visit their organisation and seek access to workplaces and workers for the first time, especially for small service providers that do not have capacity over and above providing business-as-usual.

The bargaining support provisions in the Bill need to be strengthened to ensure that employers in not-for-profit sector are fully supported in this process if they need it. This will minimise potential unintended consequences resulting in excessive costs being incurred due to the Fair Pay Agreement process.

The Bill places bargaining obligations on bargaining parties, based on the duty of good faith obligations within the Employment Relations Act. Whilst we support bargaining processes as set out in the Bill, we are concerned that these will potentially result in significant unfunded bargaining costs being incurred by the not-for-profit sector. This would impact on the long-term viability and sustainability of the wider not-for-profit community sector. We recommend the following:

3. There will be extended and full provisions to fund bargaining costs for the not-for-profit community sector where needed.

The Fair Pay Agreement Bill has provisions for an employer association to bargain on behalf of employers. The employer association requires at least one member that is a covered employer.

We have concerns that many not-for-profit organisation may not be members of an association for the purposes of bargaining for a proposed Fair Pay Agreement. Such requirements impose unnecessary barriers for those in the not-for-profit sector who cannot afford to be members of an employer association.

Furthermore, the Bill proposes that the employer association may join an employer bargaining side after it has been formed. We are concerned that the not-for-profit organisations run the risk of being at arm's length from the employer bargaining side, and therefore being bound by agreements reached for which they have had no say in.

General kaupapa of the Bill

In light of our concerns as detailed above, we do want to reiterate that we agree with the general kaupapa of the Bill, which will ensure wage inequality is lower and employment is higher for vulnerable populations such as tāngata whaiora, Māori, and Pasifika peoples (4).

Summary

Thank you for the opportunity to comment on the Fair Pay Agreements Bill. As currently drafted, we believe the Bill may worsen conditions or impact negatively upon not-for-profit service providers such as the MH&A NGO and community sector, and it has the potential to free the Government from its funding responsibility to their workforces under pay equity. Whilst we support the general kaupapa of the Bill, we suggest the following:

1. The purpose of the Bill be simplified and clarified where possible, for ease of interpretation and operationalising of the Act.
2. For the not-for-profit community sector that is funded by the Government, any wage rate increases and oncosts associated with a Fair Pay Agreement will be addressed as part of a Fair Pay Agreement.
3. There will be extended and full provisions to fund bargaining costs for the not-for-profit community sector where needed.

Thank you for the opportunity to comment on this Bill. If you have any questions, please contact Abigail, Policy Analyst, at abigail@platform.org.nz.

Ngā mihi,

Memo Musa
Chief Executive



References

1. Martin Jenkins. Social service system: the funding gap and how to bridge it. 2019;
2. Te Pou o te Whakaaro Nui. NGO adult mental health and addiction workforce: 2018 survey of secondary care health services. Auckland: Te Pou o te Whakaaro Nui; 2018.
3. Mental Health and Addiction Inquiry. He Ara Oranga - Report of the Government Inquiry into Mental Health and Addiction. 2018.
4. Fair Pay Agreements Working Group. Fair Pay Agreements: Supporting workers and firms to drive productivity growth. 2018.