



# A just and practical pay equity framework

In the second half of 2019, a new pay equity framework is expected to be in place, providing a simple and accessible process to address systemic sex-based pay discrimination across female-dominated industries.

Historically, women were generally paid less than men. In certain occupations, the workforce has been dominated by women and, as a result of these historical pay imbalances, wages have been undervalued. The “going market rate” for employing people in these industries is not a fair or equal rate, but a suppressed wage born out of historical pay discrimination.

Our equal pay laws say that women and men should be paid the same for jobs of equal value, even if they are different. This is called pay equity. Until now, workers have only been able to make claims through the courts.

The Equal Pay Amendment Bill will allow workers to make a pay equity claim within New Zealand’s existing bargaining framework. By making court action a last resort, the proposed approach will lower the bar for workers initiating a pay equity claim, and utilise a collaborative process more familiar to unions and businesses.

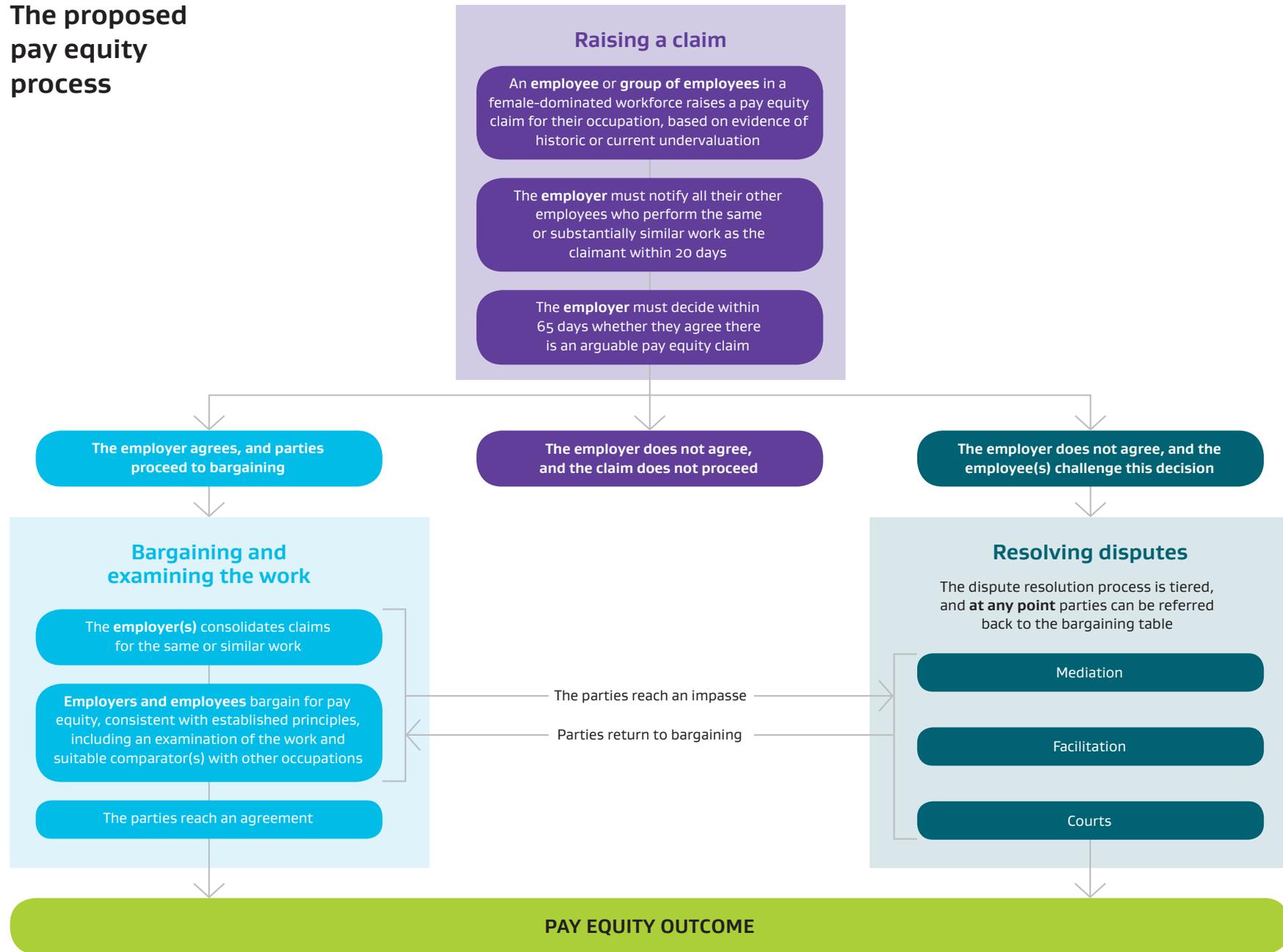
Under the Bill, employers, workers and unions will negotiate in good faith, with access to mediation and resolution services available if they are unable to agree.

## Pay equity vs equal pay

**Pay equity is about women and men receiving the same pay for doing jobs that are different, but of equal value (that is, jobs that require similar degrees of skills, responsibility and effort).**

**Equal pay is about men and women getting the same pay for doing the same job. The process for making equal pay claims is largely unaffected by this Bill.**

# The proposed pay equity process



A pay equity outcome includes a settlement with new wages and may also include employment terms and conditions. Alternatively, the outcome may be an agreement or determination that pay inequity does not exist.

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# Questions and answers

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## How will parties bargain a pay equity claim?

The parties to a pay equity claim determine whether the employee's work is undervalued on the basis of gender. They will propose suitable comparator occupations not subject to gender-based undervaluation.

Parties may reach a settlement that aims to achieve pay equity, featuring remuneration and potentially other terms and conditions.

If, at any stage, parties cannot agree, they may refer to the dispute resolution process.

## What comparators will be used?

Employers and employees will be able to choose comparators that they consider are most relevant and appropriate from the outset, which should create a more efficient process. These could include work that is the same or similar, or different work that involves similar skills and experience, responsibilities, working conditions or degrees of effort.

Comparators serve as a basis for negotiation and do not need to be agreed between employers and employees. A bundle of comparators can be used during negotiations.

## How will the dispute resolution process work?

The dispute resolution process for pay equity bargaining is the same as that for other employment relations matters.

The Employment Mediation Services can assist in collective bargaining between employers and unions. Their support includes assisting parties to unravel difficult issues and develop options, steering parties back into negotiations, and providing coaching and feedback on behaviour.

When a matter has not been resolved through mediation or other processes, an employee or employer may take the matter on to the Employment Relations Authority or the Employment Court.

## What about the issue of back pay?

The Bill recognises that pay equity is an issue stemming from structural discrimination, and the issue of pay equity cannot be attributed to the actions of a single employer. A balanced approach is therefore required.

If parties wish, they will be able to discuss back pay as part of their pay equity bargaining. If back pay is considered and parties are unable to agree, the dispute resolution process is available. The courts will also be able to exercise discretion in awarding back pay. This will be done according to criteria set out in the Bill and, in general, restricted back to the date a pay equity claim is first raised. This approach encourages parties to resolve pay equity claims quickly.

## What does the proposed framework mean for businesses?

The question here is not if, but how we implement pay equity. The proposed framework uses the existing bargaining process in the *Employment Relations Act*, which many businesses will be familiar with. It was developed jointly with unions and business groups.

The other option was to leave it to the courts. We believe good faith bargaining offers the opportunity to build productive relationships through a collaborative process. Pushing parties into an adversarial court process in the first instance is not a way to build good employment relationships.

We understand guidance and information will be important for small businesses that might not have access to specialist employment relations staff. We will be providing support to small businesses and workers through MBIE's information and advice services, like [Business.govt.nz](http://Business.govt.nz) and Employment New Zealand.