



Human Rights
Commission

Te Kāhui Tika Tangata

Crown Entities and the good employer: A Progress Report



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1. Introduction

Focus on pay and employment equity

This year's review of Crown Entity annual reports focuses on equitable, transparent and gender neutral remuneration as one of the seven key elements of being a "Good Employer", and specifically looks at the practices of District Health Boards (DHBs) in this area.

The seven elements are listed below. This and other good employer information can be found at www.neon.org.nz.

'The Good Employer'

7 Key Elements

- 1 Leadership, Accountability and Culture**
- 2 Recruitment, Selection and Induction**
- 3 Employee Development, Promotion and Exit**
- 4 Flexibility and Work Design**
- 5 Remuneration, Recognition and Conditions**
- 6 Harassment and Bullying Prevention**
- 7 Safe and Healthy Environment**

In June 2009, women earned only 81% of men's average weekly earnings and 87.8% of men's average hourly earnings.¹

The Human Rights Commission held a Pay and Employment Equity Roundtable in August 2009 to advance issues of pay and employment equity following the disestablishment of the Pay and Employment Equity Unit (PEEU) of the Department of Labour.

The intent of the roundtable was to explore ways of continuing the momentum towards closing the gender pay gap with the Government expressing interest in ensuring that pay and employment equity is the responsibility of all employers.

¹ Statistics New Zealand 2009

A legal opinion by Helen Aikman QC for the Human Rights Commission found that despite the disestablishment of the PEEU, public service departments would still be expected to address equality issues as part of being a good employer. The legal opinion can be found online at www.live.isitesoftware.co.nz/neon/documents/Legal%20Opinion%20-%20HRC.pdf.

In December 2009 the Department of Labour released government decisions relating to Pay and Employment Equity changes. Cabinet's Economic Growth and Infrastructure Committee noted that Cabinet had agreed to discontinue pay investigations and that public service departments' pay and employment equity response plans, excluding pay investigations will continue to be implemented.

The Cabinet Minute said government policy is focused on:

- Continued support for the implementation of Public Service departments' pay and employment equity response plans; excluding pay investigations;
- Continued support for Public Service departments reporting on pay and employment equity, as part of implementing the *Equality and Diversity: New Zealand Public Service Equal Employment Opportunities Policy*, including in departments' Statements of Intent and Annual Reports;
- Continued support for the implementation of public health and public education sector pay and employment equity response plans, excluding pay investigations;
- The obligation of Public Service chief executives, boards of trustees, and chief executives in the public education sector to ensure that they continue to address and respond to any identified gender inequities as part of good management practice and being a good employer;
- The obligation of District Health Board chief executives to ensure that they continue to address and respond to any identified gender inequities as part of good management practice and being a good employer, consistent with the pay and employment equity commitments of the Operational Policy Framework;
- The continued availability, to both public and private sector organisations, of Department of Labour's pay and employment equity resources, including the Equitable Job Evaluation System and the pay and employment equity review tools;
- Government encouragement of employers in the voluntary participation of both public and private sector organisations in pay and employment projects;
- An overarching policy for employment and workplace relations based on demonstrating good faith, natural justice, human rights, good employer practice, and meeting all statutory requirements.

Under Article 11 of the Convention on the Elimination of Discrimination Against Women (CEDAW), New Zealand has obligations to promote equal remuneration and equal treatment for work of equal value.

In response to New Zealand's recent periodic report to the CEDAW Committee in 2007, the Committee noted concern about women's disadvantaged status in the labour market and asked that efforts be intensified to eliminate occupational segregation and close the wage gap. It called on the government to monitor the impact of measures taken in both the private and public sectors and to report on the measures in the next periodic report.

Pay and employment equity explained

Pay and employment equity is about ensuring that pay, conditions, access to the full range of jobs at all levels, and experiences in the workplace are not affected by gender.

Pay equity means gender does not affect what people are paid. It means women receive the same pay as men for doing the same work, and for doing work that is different, but of equal value. The value of work is assessed in terms of skills, knowledge, responsibility, effort and working conditions. Other considerations in setting remuneration include market factors, productivity and performance.²

Employment equity is about fairness at work. It means women have the same opportunity as to men to participate fully in employment.

The Pay and Employment Equity Unit before its disestablishment in August 2009, assisted with reviews in 39 core public service, public education and public health agencies including the 21 District Health Boards (all of which are Crown Entities). Three other Crown Entities also conducted reviews.

Findings from the reviews showed significant gender pay gaps from 3% to 35%. In some cases women's starting salaries were lower than men's and men moved more rapidly through pay scales. Women were also under-represented at senior levels.

2. Findings – Pay and employment equity

In November 2009, the Commission sent all Crown Entities a brief questionnaire on pay and employment equity and asked that this be returned along with a copy of the 2009 Annual Report for the organisation.

This is in line with the Commission's responsibility for Equal Employment Opportunity (EEO) monitoring and guidance. Section 118(1) of the Crown Entities Act 2004 states: "*A Crown Entity must, if it employs employees, operate a personnel policy that complies with the principles of being a good*

² Department of Labour

employer (including the equal employment opportunities programme); and ensure its compliance with that policy (including its equal employment opportunities programme) and report in its annual report on the extent of its compliance”.

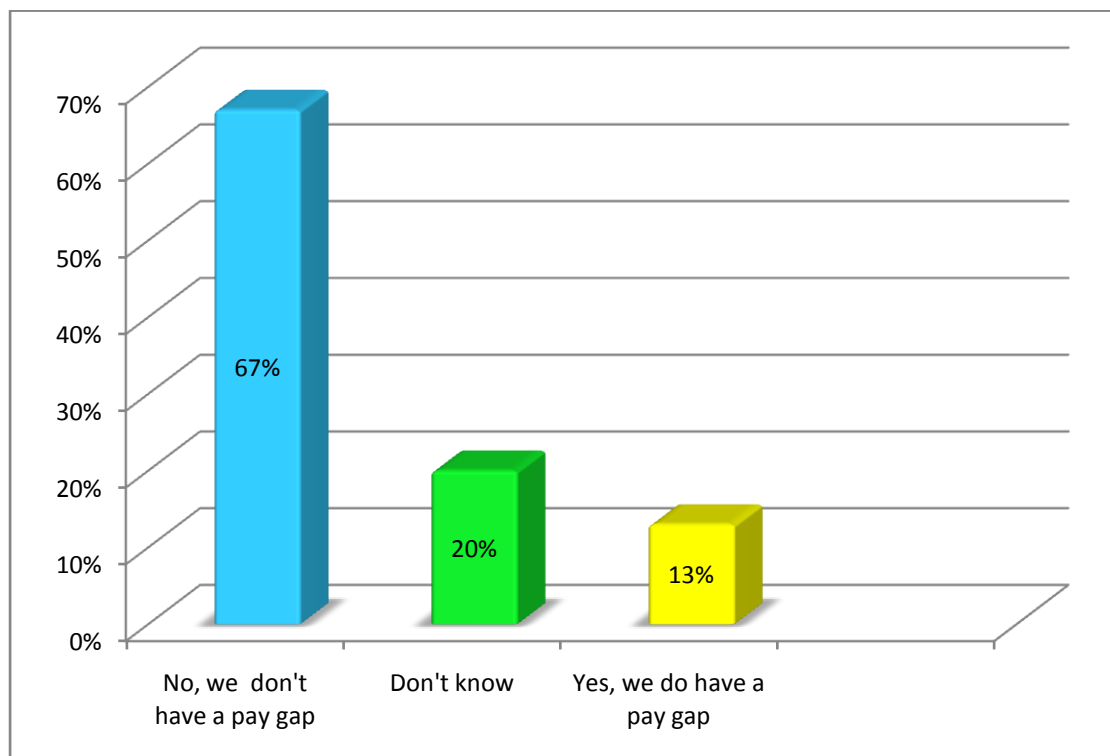
Crown Entities overall

Forty five Crown Entities responded to questions on pay and employment equity including numbers of women in senior roles.

The findings show that women account for 61% of staff within the respondent Crown Entities but that only 6 women (11%) are Chief Executives. The representation of women in tier two manager positions is 42% and in tier three 39%.

In Figure 1 only six (13%) Crown Entities who responded, reported having a pay gap. Of those Crown Entities the findings show significant gender pay gaps from 3 to 29%. Nine Crown Entities (20%) said they did not know whether they had a pay gap and 30 (67%) reported they had no pay gap at all.

Figure 1 – Crown Entities Responses to Gender Pay Gap



Eighty percent of respondents said they were not interested in analysing the pay gap in their organisations in the next two years and an additional 10% (90% of respondents) did not feel the need for further information or guidance on pay and employment equity issues.

District Health Boards

When analysing annual reports and remuneration this year, the Commission resolved to pay specific attention to District Health Boards (DHBs). The 21 DHBs as part of the health sector undertook pay and employment equity reviews and developed response plans with staff from January 2007 to April 2008.³

DHBs employ 59,212 permanent staff and 8,948 casual staff. These are female dominated organisations in which 79% of permanent staff and 82% of casual staff are women.⁴

Figure 2 shows that of the 21 DHBs, only 7 (33%) responded to the Commission's pay and employment questions. None of the respondent DHBs had women Chief Executives and none indicated the presence of a gender pay gap.

Six reported they did not have a pay gap and the seventh did not know. The Commission finds this information surprising and at odds with the findings of the 2009 Pay and Employment Equity Unit (PEEU) Overview Report which states, "There is a significant gender pay gap in this [health] sector".

The PEEU Overview Report was produced prior to the disestablishment of the Pay and Employment Equity Unit in 2009 and based its recommendations on the previous five-year process of pay and employment equity reviews and the development of response plans. Of the 21 DHBs, five undertook a full pay and employment equity review and the other 16 were involved in verification of the findings.

The report found that in the public health sector the difference in average total remuneration varied between 50% and 100% in most DHBs. The PEEU recommended that DHBs investigate any gender pay gaps identified in their reviews to ensure that any differences were explainable and justifiable and rectify any that were not.

One district health board which reported on full time equivalent earnings found a pay gap of 31 percent. As with the core public service women in the core public health sector were over-represented in lower-paid occupations and under-represented in higher paid jobs. Gender pay gaps were also found within occupations, including starting rates in some cases.⁵

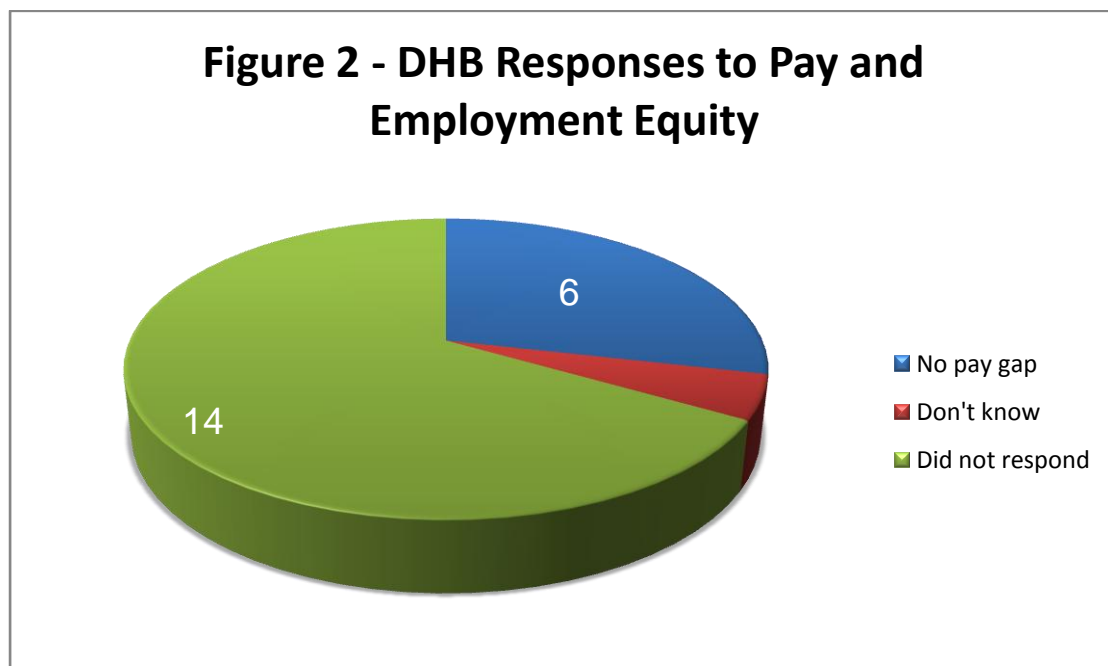
³ Public Sector Pay and Employment Equity Reviews: Overview Report June 2009, Pay and Employment Equity Unit, Department of Labour

⁴ Ibid

⁵ Ibid

The report also found that there were gender issues relating to job security, staff development, training and career progression for administrative support staff and part-timers. This is a significant finding given that half of all female staff in the sector are employed on a part-time basis.

It concluded that the implementation of the recommendations in this large sector would require continuing oversight to ensure gender aspects of mainstreamed projects are not lost and momentum is maintained. It recommended the appointment of a senior manager to have overall responsibility for pay and employment equity issues and implementation of the response plan.



The Commission’s analysis of DHB annual reports for 2009 (see Table 1) show just over half made reference to having an equitable, transparent and gender neutral remuneration system.

The other 10 DHBs failed to mention remuneration in any meaningful way. Some provided tables indicating those positions earning over \$100,000 as required in their financial statements. These however were not counted as being part of good employer commentary. Eleven DHBs listed remuneration as part of their good employer elements, some provided an accompanying commentary.

Three DHBs specifically mention pay and employment equity. One DHB said that it was “undertaking a Pay and Equity in Employment review to identify any pay or equity anomalies”. No DHB indicated ongoing work in relation to response plans.

3. Findings – Good employer reporting

Leaving remuneration and pay equity aside, DHBs continue to steadily improve the reporting of their good employer obligations.

Hard copies of annual reports were received from 19 of the 21 DHBs at the time of this review. Two DHBs had yet to print their reports and instead sent their 'Good Employer' sections for analysis.

Of the 21 DHBs all but one complied to some extent with their legal obligations to report on being a good employer in their annual report. This DHB appears to be in breach of s118(1c) of the Crown Entities Act 2004.

When analysing their annual reports Table 1 shows 19 DHBs referred to both good employer and EEO. The description about good employer obligations and EEO varied among DHBs. Some reporting was comprehensive, while other DHBs provided minimal or no commentary.

One particularly good statement comes from Lakes District Health Board. They state, *"Lakes DHB, as part of its good employer practices and in line with its objective of growing a positive organisational culture, ensured the fair and proper treatment of employees in all aspects of their employment by continuing to review and renew policies, procedures and programmes in accordance with a set review timeline. In order to enhance equity, transparency and fairness to all groups, the organisation is participating in a further EEO study through the University of Waikato"*.

A crucial part of the analysis was to see how many organisations reported on one or more of the seven elements of being a good employer in their annual reports.

Again Table 1 shows 20 DHBs reported one or more of the seven good employer elements. Nine DHBs reported all seven elements compared to eight in 2008. Those who reported well did so by listing each element and providing a narrative about the initiatives they undertook.

Health and safety is the most reported element followed by employee development and recruitment.

Similar to previous years the elements that are least reported despite gaining ground were 'remuneration, recognition and conditions' and 'harassment and bullying'.

As stated in an earlier section, 11 DHBs listed remuneration as part of their good employer elements, some with a commentary. Three DHBs made specific reference to pay and employment equity initiatives as stated above.

Thirteen DHBs provided evidence of staff participation in the development of EEO programmes.

4. Best practice examples

There is evidence that DHBs are delivering EEO with innovation and creativity. The following examples demonstrate the commitment of leaders and staff to gain from the advantages that fair treatment and equitable practices bring to their organisations.

Some DHBs provided examples demonstrating their commitment to implementing best practice in equal employment opportunities.

The following best practice examples relate to some of the elements of being a good employer that have been the core of the guidance to Crown Entities from the Human Rights Commission. These examples provide an illustration for other DHB and Crown Entities wanting to improve their EEO practice.

In **recruitment** the Waikato DHB has engaged with the Mainstream Programme set up to support disabled people back into the workforce. They write, *“The first staff member under this programme is employed in Human Resources with plans to consider other appropriate placements”*. Other DHBs including the Bay of Plenty have also employed staff with disabilities through the use of Mainstream. Recruitment initiatives have also been utilised to assist with the employment of migrants as highlighted by a number of DHBs. Northland DHB is part of “Business 2 Business” a pilot scheme run by NZ Immigration that provides an *“on-site solution to effectively administer work permits for applicants...within days rather than weeks”*. Orientation programmes for migrant employees has also been mentioned by other DHBs.

Flexibility and Work design is a feature in many DHB annual reports. At the Auckland DHB *“flexible rostering practices, a staff crèche on site and review of family friendly initiatives”* are particularly featured. In Taranaki, leadership understanding is critical to ensuring flexible work policies are effective. *“Managers are fully informed and supportive of flexible working legislation”*. One staff member wrote, *“I’m more committed to the job and have more energy and drive to get things done”*, as a result of flexible work practices.

All DHBs have commented on the importance of **health and safety (H&S)** in their work environments. Many, including Waitemata Health, have written about dedicated H&S teams who contribute to staff wellbeing. *“A dedicated multi-disciplinary in house team undertakes the development and implementation of systems and processes, through an holistic approach”, ‘Safe Way of Working’*. Other DHBs have written about wellness programmes like the Healthy Living Programme in the Bay of Plenty. The programme has *“been very successful with 165 staff utilising a free medical warrant of fitness”*, which has been the catalyst to make changes to a healthier lifestyle for many.

Employee development is another element that features in the annual reports of most DHBs. Access to a comprehensive range of education and learning opportunities including a large number of programmes focused on cultural diversity and inclusion to enhance good working relationships have

been mentioned. In the Northland DHB 1943 staff members participated in 47 programmes in 2008-2009.

5. Where to from here?

The responses to the survey and in Annual Reports show that addressing pay and employment equity is not seen as a priority for Crown Entities.

This may be for a number of reasons, economic constraints being a primary concern. However Crown Entities have obligations under good employer provisions, human rights law, international instruments and a sense of fairness to address pay and employment equity in their workplaces.

There has been considerable public funding of pay and employment equity reviews and response plans in the health sector from 2002 until 2009 when the Pay and Employment Equity Unit was operating. Given that the gender pay issue is well identified emphasis in the sector should now be on implementation.

6. Possible consequences of inaction

The EEO Commissioner, Dr Judy McGregor says inaction on redressing identified pay and employment equity issues may have the following consequences:

- Apparent slowdown in proactive commitment to closing the gender pay gap;
- Impact on turnover, retention and job satisfaction of women in the workforce;
- Increased scrutiny of New Zealand's progress in pay and employment equity by the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee;
- Exposure of Chief Executives to "good employer" accountabilities in light of the legal opinion from Helen Aikman QC;
- Increased union pressure in collective bargaining and advocacy from female dominated occupations;
- Possible risk of litigation.

7. New tool

The Human Rights Commission has developed a new self assessment and monitoring tool for use in the public and private sectors and as part of the EEO Commissioner's guidance to Crown Entities. The tool provides a quick 'health check' for organisations who have not undertaken pay and employment equity reviews. It also provides key progress indicators for departments and agencies that have undertaken reviews and developed response plans. It contains general information and step by step specifics for workplaces.

The self assessment and monitoring tool was developed as part of the EEO Commissioner's mandate to develop guidelines and voluntary codes of practice to promote EEO.

The tool is online at <http://www.neon.org.nz/payequitymonitoringtool/>.

Table 1 – Analysis of Annual Reports

Crown Entity	Estimated	Good employer	EEO	Good employer	Remuneration	Workplace	Staff participation
	Staff nos.	reference	reference	elements	Commentary	profile	EEO programmes development
		Yes/No	Yes/No	List #	As part of GE elements	G,M,P,D,E,A	Yes/No
Auckland District Health Board	7424	Y	Y	1,2,3,4,5,6,7	Y	G,M,P,E,A	Y
Bay of Plenty District Health Board	2963	Y	Y	1,2,3,4,5,6,7	Y	M,P,D,E	Y
Canterbury District Health Board	6175	Y	Y	7	N	NPR	N
Capital Coast District Health Board	4133	Y	N	2	N	NPR	N
Counties Manukau District Health Board	-	Y	Y	2,7	Y	NPR	N
Hawkes Bay District Health Board	2035	Y	Y	3,7	N	NPR	N
Hutt Valley District Health Board	2200	N	N	None	N	NPR	N
Lakes District Health Board	1360	Y	Y	1,2,3,4,5,6,7	Y	G,M,P,A	Y
Midcentral District Health Board	2100	Y	Y	1,2,3,4,5,6,7	Y	M	Y
Nelson Marlborough District Health Board	1836	Y	Y	2,3,6,7	N	NPR	N
Northland District Health Board	2273	Y	Y	1,2,3,7	N	NPR	Y
Otago District Health Board	2395	Y	Y	1,2,3,4,5,6,7	N	NPR	N
South Canterbury District Health Board	952	Y	Y	1,2,3,5,6,7	N	G,M,P,E,A	Y
Southland District Health Board	-	Y	Y	1,2,3,4,5,6,7	N	NPR	Y
Tairāwhiti District Health Board	584	Y	Y	2,3,7	N	M	Y
Taranaki District Health Board	1411	Y	Y	1,2,3,4,5,6,7	Y	G,M,P,E	Y
Waikato District Health Board	5866	Y	Y	2,3,4,7,	N	D	Y
Wairarapa District Health Board	461	Y	Y	1,2,3,4,5,6,7	Y	NPR	Y
Waitemata District Health Board	4411	Y	Y	2,3,4,5,7	Y	NPR	Y
West Coast District Health Board	1167	Y	Y	2,7	N	NPR	N
Whanganui District Health Board	797	Y	Y	1,2,3,4,5,6,7	Y	G,M,P,D,E	Y

(A key to reading Table 1 is provided below):

Estimated staff numbers

Staff numbers are based on information in the Annual Report and information sent to the Commission at the time of verification.

Good employer reference

The words “good employer” appear in the Annual Report.

EEO reference

“Equal Employment Opportunity or “EEO” appear in the Annual Report.

Good employer elements

- 1= Leadership, accountability and culture
- 2= Recruitment, selection and induction
- 3= Employee, development, promotion and exit
- 4= Flexibility and work design
- 5= Remuneration, recognition and conditions
- 6= Harassment and bullying prevention
- 7= Safe and healthy environment

The number of the element appears if the Crown Entity reported on or provided evidence of related EEO programmes or activities. If little detail was reported the number is asterisked to indicate reference only.

Remuneration commentary as part of GE elements

Y for yes appears if there has been any commentary about remuneration but does not include the salary tables for those earning over \$100,000 as part of financial reporting. N for no if commentary was absent. Y* indicates where commentary refers specifically to pay and employment equity.

EEO groups

- G = Gender
- M = Māori
- P = Pasifika
- D = Disability
- E = Ethnicity
- A = Age
- NRP = No reported profile

Staff participation

Y for yes appears if staff participation in the development of policy and practice is mentioned, N for no, if this was absent.