



23 August 2018

Dear [REDACTED]

**Official Information request regarding employment conditions for legal staff**

**Our Ref: SSC2018/0122**

I refer to your official information request received on 26 July 2018 with various questions relating to the employment conditions for legal staff.

The questions you asked are repeated below with the State Services Commission's specific responses. However, we thought it would be useful to set out the wider sector context for our response and to highlight the programme of work in place across the State services.

SSC holds gender pay gap information centrally. This includes statistics at Public Service-wide and whole-of-agency level published in the Human Resources Capability (HRC) survey (<http://www.ssc.govt.nz/public-service-workforce-data>).

However, the HRC does not provide the level of specificity required for us to respond to your request at an agency or sector level. This is because the HRC aggregates occupations at a higher level (legal is combined with human resources and finance professionals) and does not capture progression of work arrangements. In addition, because of the small number of legal staff in many agencies data cannot be released for reasons of privacy.

We believe agencies are unlikely to have conducted such specific pay analysis unless they have a substantial legal function. On the whole, analysis is done by job size and level (or tier) rather than role. This allows the agency to ensure jobs with similar levels of responsibility and required experience are paid equally.

It is worth noting that all Public Service chief executives, along with the Government and the Public Service Association, recently jointly and publicly committed to a Gender Pay Gap Action Plan (<http://women.govt.nz/documents/eliminating-gender-pay-gap-public-service>).

This high level plan includes an initial focus on the following four focus areas:

- equal pay
- flexible work by default
- the removal of bias and discrimination from remuneration systems and human resources practices
- gender balanced leadership.

The plan requires that by 2020 all agencies will have been able to measure and closed any gender pay gaps within the same roles, removed bias from remuneration systems and HR practices, and will be operating all roles as 'flexible-by-default' with no adverse impact on

pay or progression. The SSC and the Ministry for Women will be working with agencies to provide guidance and support them to reach these milestones.

*What assessment(s) have been done by your organisation (including but not limited to assessments for the purpose of reporting to the SSC and or any other governmental authority) to check that women legal staff are not being paid less and are not less likely to get promotions than male legal staff because of gender discrimination?*

*If any assessment has been done*

- *What type of tool or analysis was used to make the assessment?*
- *What were the results of the assessment?*
- *What steps have been taken by your organisation to remedy any differences that were identified in pay or promotion opportunities? Eg have you made any adjustments in pay for women legal staff?*
- *What steps have been taken by your organisation to monitor the setting of pay and giving of promotions to ensure gender discrimination (including unintentional discrimination) does not impact on these processes in the future?*

*If no such assessment has been done, the reasons for this.*

The SSC takes an organisation-wide view of the gender pay gap. The legal function at SSC is made up of three full-time equivalents, so no analysis has been done on that as a discrete function. At an organisational level, we set remuneration ranges through a process of role sizing and benchmarking. The final positioning in that range is based on the candidate's experience and skill set, set against the role requirements and expectations.

*What policies or processes does your organisation have in place to assist to prevent gender discrimination?*

The SSC created and applies the Equality and Diversity: New Zealand Public Service Equal Employment Opportunities policy. This is intended for use across the New Zealand Public sector, including at SSC.

This work is supported by SSC's Diversity and Inclusion team. This team works across the sector to promote flexible work initiatives, diverse and inclusive recruitment and supply, and inclusive workplaces.

The team has produced a number of resources, often in collaboration with others. More information and links to the resources can be found at: <http://www.ssc.govt.nz/diversity-and-inclusion>.

*What provision does your organisation have for flexible work arrangements for legal staff (both men and women)?*

There are no flexible work arrangements specifically for legal staff. We have a Flexible Working Arrangements policy which applies to all staff. This policy covers staff seeking ongoing or temporary arrangements in relation to different hours of work (e.g., part-time hours or a compressed working week), different working days of the week, or alternate places of work. Requests for flexible working arrangements are considered on a case-by-case basis.

*What numbers of men and women (please identify both groups separately) have had flexible work arrangements for the purpose of looking after children in the past 5 years?*

None of our legal staff have applied for or made use of formal flexible working arrangements in the past five years. Casual arrangements to cover one off or occasionally requirements are able to be discussed and agreed by line managers, and are not required to be recorded.

*What steps have been taken by your organisation to ensure that gender discrimination does not negatively impact on women legal staff returning to work after having a baby and/or who work flexibly?*

No specific steps have been taken in relation to women legal staff. We have a standard parental leave policy for any parent that includes access to an ex gratia payment, annual leave paid at their current daily rate as at the time of taking parental leave, and the ability to access flexible working arrangements in line with the policy described above.

*What training has been given to managers in your organisation to assist them to ensure that processes they implement and decisions they make do not, even unintentionally, discriminate against women legal staff.*

No specific training has been provided. It is an expectation of our managers that they are familiar with the relevant internal policies to ensure SSC is an inclusive, non-discriminatory workplace. The SSC Leadership Team receives a quarterly organisational health report which provides health and safety indicators such as turnover, unplanned leave, EAP referrals and exit interview themes. These indicators are discussed and any trends noted, and appropriate decisions are taken as required.

SSC also collects and workforce data to monitor diversity in the public sector. We are working with Statistics New Zealand to present more and more information around the state of our workforce, our diversity and identifiable trends.

Key areas of work have been the pay equity and gender pay gaps. By publicising our results, the public service can celebrate success while identifying gaps in need of improvement to better support our workforce. This information informs next steps for senior leaders in creating a world-class public service.

The State Services Commissioner, as with all Public Sector chief executives, must act as a good employer promoting equal employment opportunities as described in sections 56 and 58 of the State Sector Act 1988. That includes the operation of a personnel policy with provisions that include equal employment opportunities, impartial selection of suitably qualified persons for appointment, opportunities for the enhancement of the abilities of individual employees, and recognition of the employment requirements of women. SSC's policies include "Maintaining a Positive Workplace", "Speaking Up", and our recruitment and disciplinary policies. The Commissioner expects all managers to act in accordance with such policies.

*What steps has your organisation put in place to ensure that gender discrimination does not impact on recruitment decisions?*

All recruitment for SSC vacancies involve a selection panel that includes the manager the successful appointee will report to.

The same members of the selection panel must be involved in all key stages of the selection process for each applicant, from shortlisting to identifying a preferred applicant. The outcome of the process, including criteria used and the rationale for decisions is documented and sign off by the hiring manager. All selection panels have a mix of men and women.

*What assistance have you provided in the past 5 years to other organisations to:*

- *identify and/or prevent gender discrimination; or*
- *check or assess whether gender discrimination issues are present in the organisation?*

In the past five years SSC has published the Human Resources Capability (HRC) report and its replacement the Public Service Workforce Data report. These show the unadjusted gender pay gap across the Public Service since 2006 and by agency since 2015.

This ensures chief executives, Public Service employees, and the public, are aware of the gender pay gaps in government organisations, and allows them to track the progress in closing it. As noted above, chief executives have good employer obligations under the State Sector Act that are required to be met. The ability to access data and evidence on this issue is a vital tool in achieving transparency and measuring change.

We are, through this, supporting agencies to develop their own action plans and address any pay gaps specific to their workforce.

The wider work programme of the SSC's Diversity and Inclusion team, referred to above, provides support and resources to those at and below chief executive across the sector to produce a more diverse and inclusive workforce and workplaces.

If you wish to discuss this decision with us, please feel free to contact [Ministerial.Services@ssc.govt.nz](mailto:Ministerial.Services@ssc.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) on the State Services Commission's website

Yours sincerely



Rachel Bruce  
**Deputy Commissioner**  
**State Services Commission**