GUIDANCE

Eliminating the Public Service Gender Pay Gap 2018-2020 Action Plan

STATE SERVICES COMMISSION
TE KAWA MATAAHO

Ensuring gender is not a factor in salaries for the same or similar roles

PURPOSE

This guidance will help agencies ensure that gender is not influencing the salaries of current employees in the same or similar roles or within roles evaluated as being of similar size.

This guidance gives advice on how to:

- review the salaries of current employees in the same or similar roles
- determine whether salaries are justified and reasonable according to agencies' gender-neutral salary criteria
- correct salaries if necessary.

This guidance will help agencies to:

- meet the Gender Pay Gap Action Plan milestone of closing gender pay gaps (GPGs) within the same roles
- give effect to the Gender Pay Principles

This guidance is part of a suite of guidance on removing bias from remuneration and human resources policies and practices.

This guidance provides advice on reviewing and correcting the salaries of employees. Agencies, however, may also engage self-employed contractors and/or third party organisations supplying goods or services.

The Gender Pay Principles require agencies to consider how the Principles apply to all employment arrangements, (including contractors and third party organisations supplying goods or services, see GPP 2 and 4) and we recommend that agencies do the same with this guidance.

For instance, in relation to self-employed contractors, we recommend that agencies identify and address any unjustified gender differences in their agreements with these contractors. In relation to third party organisations, we recommend that agencies review Government expectations that procurement processes be used to support wider social, economic and environmental outcomes, beyond the immediate purchase of goods and services. In that context, where agencies contract third party suppliers, we recommend agencies work with those suppliers to consider how they can apply the principles.

APPLICATION

Human resources managers and people managers are advised to use this guidance in consultation with employees and unions.

Definition of "same" or "similar" role

Agencies can apply this guidance to employees in:

- the same roles, where these can be reliably identified, e.g. roles involving the same or similar tasks or duties and clear, consistent job titles, OR
- roles that have been determined as requiring the same level of skills, responsibility, knowledge, and experience, such as roles in the same pay band.

If there is only one employee in the role or pay band, agencies will not be able to apply the salary review and correction process recommended in this guidance. However, broader reviews of remuneration systems and practices to remove bias may provide opportunities to ensure the salaries of these employees reflects their value to the agency.

Definition of "salary corrections"

Salary corrections resulting from the process outlined in this guidance are distinct from salary increases resulting from annual remuneration processes.

Agencies may run the salary review and correction process in this guidance alongside an annual remuneration round. If so, we recommend:

- these processes are run separately so each is seen as fair and equitable for all employees and true to the purpose of each
- agencies are transparent and engage with employees and union representatives about each process and its outcomes
- funding for each process is separate.

SUMMARY OF RECOMMENDATIONS

We recommend agencies take the following steps to ensure that gender is not a factor in the salaries within the same or similar roles:

- **engage** with their employees and unions
- decide whether to undertake this process within the **same roles or within similar roles**
- **review salaries individually**
- **correct salaries** if necessary
- **keep gaps closed.**

In taking these steps agencies should:

- **be transparent and engage with employees and unions** around the design and oversight of the salary review and correction process and its outcomes
- **review the salaries of every employee individually** to decide whether they are justifiable and reasonable against gender-neutral salary criteria and, if not, by how much to correct salaries
- **include all employees** in this process
- for comparison purposes **use total remuneration**
- **make decisions on individual employees collaboratively**
- **inform decisions about individual employees** with consistent employee, role and salary information
- ensure decisions on individual employees are **objective**, **consistent** and **replicable**
- **ensure salary criteria are gender-neutral.**

TYPE OF ACTION REQUIRED

Agencies may not need to take all the actions in this guidance. The following scenarios will help agencies decide what level of action they should take.

Scenario 1

Agencies operate a system of fixed salaries for entry and progression within roles. In this case, gender or other unjustifiable factors, such as ethnic bias, are unlikely to influence salaries.

Action: If there is any discretion in placing employees on pay scales or in progression rates, we recommend agencies that have not already done so review their salary data to ensure unjustified gender differences don't exist.

Scenario 2

Agencies have already reviewed their salaries in line with this guidance and have:

- found that gender is not a factor in salary differences among employees within the same or similar roles; or
- already corrected salaries, in line with this guidance, where differences could not be justified by their formal gender-neutral salary criteria.

Action: If they do not already do so, we recommend agencies monitor their salaries to ensure gender does not become a factor in salaries in the future.

Scenario 3

In all other cases we recommend that agencies follow this guidance in full.

Land Information New Zealand (LINZ) case study

Agency Context

Around half of LINZ employees are covered by a collective employment agreement. The majority of staff are paid on pay bands.

Initial GPG analysis

In 2018 LINZ analysed salaries by gender in the 17 bands of its new remuneration framework. It found that men were paid more on average than women in seven of these pay bands and women were paid more on average than men in 10 of these pay bands.

Comparing equity in pay practice

While its high-level statistical analysis did not point to gender disparities, LINZ understood that comparing average salaries can mask individual anomalies. LINZ undertook a regression analysis of female/male salaries to determine whether salary differences were explained by differences in performance and tenure but found this was not the case. As a result, it concluded the only way to identify pay anomalies for women is to review pay rates individually.

LINZ is working with the Public Service Association (PSA) to agree a process for:

- identifying salary anomalies within the same roles and roles evaluated as being the same size
- correcting salaries of employees that fall below those of comparable employees in the group.

Keeping gaps closed

LINZ's has found that gender differences in starting salaries within bands don't typically exist but will continue to monitor trends in starting salaries by gender. The wider GPG action plan that LINZ is working on with the PSA aims to revisit the key drivers of pay differences across the organisation and establish a strategy that will have an enduring impact on all aspects of its GPG.

RECOMMENDATIONS IN DETAIL

Be transparent and engage with employees and unions

Engagement with employees and unions should provide assurance that the salary review and correction process is designed and run fairly and delivers on its objectives. Agencies should be guided in their approach to engagement and transparency by the Gender Pay Principles.

We recommend agencies:

- take a proactive and collaborative approach to involving employees and unions from the earliest stages of developing their process
- are transparent about the process, its progress and its outcomes, within the bounds of privacy legislation.

Agencies can achieve this by involving employees and unions in the design and establishment of the process, in any oversight mechanisms and by sharing information on the outcomes.

To maintain the privacy of individual employees, information on outcomes may include anonymised information on the number and gender of employees whose salaries require correction, the average size of correction, and impact on the agency's overall GPG.

Review the salaries of every employee individually and decide the level of any salary correction individually

Agencies should review every employee's salary to decide whether it is:

- justifiable and reasonable in line with the agency's gender-neutral salary criteria, such as skills, responsibility, knowledge, and experience
- consistent with the salaries of similarly skilled and experienced employees performing the same or similar roles.

If the salary review shows that an employee's salary is lower than can be justified according to the criteria above, agencies should also decide the level of correction for each employee individually.

Agencies may use the salaries of other similarly skilled and experienced employees in the role or band, in line with the agency's gender-neutral criteria, as an indicator of the appropriate salary level for each employee.

Optional Measurement of GPGs

Larger agencies may find it useful to undertake an initial measurement of GPGs within the same or similar roles to help them plan their individual salary review and correction process. Measurement of GPGs can be undertaken within the same or similar roles that include at least 20 men and 20 women. Agencies may start their individual salary review and correction process within the roles with the highest measurable GPGs. Agencies can refer to the guidance on measuring GPGs.

Agencies should note, however, that even roles or pay bands without measurable GPGs may still include employees whose salaries are not justifiable and reasonable in line with an agency's gender-neutral salary criteria. Therefore, it is important that agencies also review the salaries of all employees, not just those in roles or pay bands with measurable GPGs.

Include all employees

This review process should include all permanent, fixed-term employees, and casual (both full-and part-time) of all gender identities i.e. employees identifying as male or female and gender-diverse employees. Seconded employees should be included in the review process of their home agency.

While the purpose of this review process is to identify and address gender-based salary anomalies, this process may also identify salary anomalies caused by:

- ethnic or other forms of bias[1]
- aspects of salary systems or practices, such as placing internal hires lower in bands than external hires or groups of employees that have been placed in the wrong band.

As a result, agencies might find salary anomalies affecting its male and/or gender diverse employees, or a disproportionate number of employees of particular ethnicities. If this happens we recommend agencies correct the salaries of these employees.

We also recommend agencies consider amending any aspect of their salary systems or practices that are contributing to salary anomalies, as part of their wider work to close GPGs.

[1] Agencies should also note that gender and ethnic pay gaps compound, so that Māori, Pacific and Asian women and women from other ethnic groups are likely to experience wider pay gaps than European women.

Use total remuneration

Agencies can choose an approach that reflects their remuneration structure. For example, an agency may include base pay (i.e. the fixed rate of ordinary pay for the job) and any additional fixed or discretionary remuneration, such as performance-related payments, allowances and other benefits attracting fringe benefit tax. Benefits can be excluded if they are available to all employees, such as a car park being provided to all employees in a role or pay band.

We recommend agencies record the definition of "remuneration" used in this process and how different types of remuneration have been treated.

To simplify review and ensure that remuneration is considered comparably, agencies can:

- choose a pay period or point in time and include all employees at that time
- translate the salary of part-time employees into the equivalent of a full-time annual salary. For instance, an employee working 30 hours a week in an agency where 40 hours is full-time will be working 0.75 of a full-time position. If the employee receives $80,000 a year, equivalent full-time salary would be $106,667 ($80,000 divided by 0.75)
- give an annual monetary value to any non-monetary benefits. This is likely to have been done already for tax purposes.

We recommend agencies also consider addressing gender pay or representation differences in other income not included in the salary review and correction process outlined in this guidance. Other income might include such things as higher duties allowances, overtime or membership of superannuation schemes attracting an employer subsidy. For instance, if an agency finds gender or ethnic differences in the membership of a subsidised superannuation scheme, it could aim to increase membership of under-represented groups with some targeted promotion.

Make decisions about the salary of individual employees collaboratively

Decisions made by individuals are more prone to bias than those made by groups.

We therefore recommend agencies establish groups of managers and human resources staff to implement their salary review and correction process and make decisions on the salaries of individual employees.

The review process implemented by these groups will have been developed with the engagement of employees and unions, as outlined above.

Inform decisions about the salaries of individual employees

We recommend groups of decision-makers in this salary review and correction process receive consistent information on roles or pay-bands, employees and salaries.

Information on the role or pay bands could include:

- the range, midpoint, and average salary of the role/pay band, broken down by gender
- salary criteria for the role/pay band (as above).

Information on employees could include:

- appointment dates, position in range on appointment and current position in range
- evidence related to the gender-neutral salary criteria being used, such as any performance ratings for the previous few years or comparable information.

Make objective, consistent and replicable decisions

We recommend that agencies:

- use clear and consistent gender-neutral salary criteria. Agencies can refer to the section below, *Ensure salary criteria are gender neutral* to help them review the gender neutrality of their salary criteria if they have not already done so
- provide decision-makers with evidence that is as comprehensive and accurate as possible
- maintain careful records of process, criteria, discussions and the evidence leading to all decisions.

Smaller agencies may be able to use simple spreadsheets with relevant information about employees and salaries.

Larger agencies should consider how to ensure the process and decision-making is consistent across the agency. This may require:

- the use of specific tools and resources, such as guides on applying gender-neutral criteria and/or templates with criteria, weightings and prompt questions
- building in additional time to produce information and communicate with all participants in the process
- moderation processes to review decisions before they are finalised.

New Zealand Customs Service case study

Agency Context

Approximately 85% of Customs' staff are employed on a collective employment agreement with an eight-band pay system. Positions are assigned to pay bands based on job size and complexity. Job holders tend to start on the same step and progress within bands based on an annual assessment. The structured nature of this system has contributed to a low GPG for this workforce.

The remaining workforce comprises managerial and senior advisory positions, with a less structured pay system. The actions below relate to this segment of the workforce.

Initial GPG analysis

In 2018 Customs analysed pay by gender in the eight pay ranges applying to this workforce. With small numbers of employees in each pay range, Customs looked at positions assessed as of similar size and complexity, rather than analysing by the same discipline or occupation. This analysis identified GPGs in most ranges.

Individual review of employees

Following the 2018 performance review process, managers worked in groups to allocate staff into one of five levels of performance and contribution. Customs then mapped the current position in range (PIR) of each employee against the PIR of most employees in the same level of performance and contribution. This provided a comparison of current PIR with appropriate PIR for each employee.

The cost of correcting the salaries of all staff below the appropriate PIR for their performance group was more than was budgeted in 2018. Customs, therefore, decided to phase their salary corrections over two years. Most of the correction for all employees was made in 2018, allowing Customs to prioritise employees furthest from where they should be while staying within budget. Customs is planning a further review in 2019 to identify the need for further salary corrections. This will enable it to meet the milestone in the GPG Action Plan.

While uncovering salary anomalies for women, Customs also found a group of men who were paid below the appropriate PIR for their performance group. This was driven by a high proportion of men who had been appointed internally, and a practice of placing internal appointees lower in salary ranges. Customs has subsequently changed the practice of placing internal appointees lower than others.

As result of the mix of men and women requiring salary corrections, this process has not reduced Customs' organisational GPG. However, Customs is confident that by addressing both the impact of gender bias and one of its salary practices it is ensuring all its employees within the same pay ranges are paid equitably.

Keeping gaps closed

Customs expects that its actions to ensure gender is not a factor in starting salaries and its ongoing commitment to monitoring will ensure that gaps in the same or similar roles remain closed. Customs has also worked with the Customs Officers Association, E tū and the Public Service Association, in developing its wider plans for addressing the range of factors contributing to its overall GPG.

Keep gaps closed

Agencies can ensure that gains made in their salary review and correction process are sustainable through a combination of:

- the action they will have already taken to ensure gender is not a factor in the starting salaries of new employees
- monitoring GPGs within the same or similar roles as part of their annual agency GPG action plan
- implementing recommendations in guidance on removing bias from wider remuneration systems and practices, to be released later this year.

If monitoring shows that GPGs in the same or similar roles may be re-opening, agencies can consider:

- revisiting the salary review and correction process in this guidance
- revisiting their actions to ensure gender does not affect starting salaries.

Ensure salary criteria are gender neutral

Just as bias is more likely to affect decisions made by individuals than those made by groups, bias is also more likely to affect decisions if criteria are not clear and/or are open to interpretation. We therefore recommend that agencies check their formal salary criteria for gender neutrality, if this has not already occurred.

The following are two examples of how gender bias can affect some common salary criteria and an example of how agencies can check the gender neutrality of criteria they may be using in this process.

Example One: Qualifications and/or experience

If **qualifications and/or experience** are used as indicators of skills and/or competencies, we recommend agencies ensure these are not being applied in ways that disadvantage particular groups. For instance, if too much emphasis is given to length of experience, or experience gained in paid work only, women who have taken breaks from paid work could be disadvantaged.

Similarly, agencies should be mindful of not placing too much weight on specific qualifications or experience that are not **necessary** for particular roles. Doing so could disadvantage women or other groups less likely to hold these qualifications or who are under-represented in these roles.

Example Two: Performance ratings

If agencies are including **performance ratings** as one of the criteria in their salary review and correction process, we recommend they check their performance ratings by gender. Men and women should be relatively evenly distributed within performance ratings. Differences in distribution may suggest gender bias has been a factor in decision-making. Justifiable variations can occur in small groups, so if the group (role or pay band) under consideration is small, we recommend agencies review ratings in aggregated groups with at least 20 men and 20 women.

Treasury case study

Agency context

All of Treasury's approximately 500 employees are on individual contracts.

Initial GPG analysis

Most roles are grouped into bands by role size/complexity. Treasury used these bands as the basis for analysing differences in the salaries of men and women in each band. GPGs were found in some bands.

Individual review

Human Resources partnered with managers to review salaries in all bands. This review sought to determine whether individual factors might justify salary differences, such as prior experience, experience in the role, or performance. In some cases, high market values associated with some roles within a band had led to higher salaries for employees in those roles.

This process identified employees whose salaries were not consistent with the salaries of other employees who had similar experience and performance. These were mainly women, but some men were also identified. Treasury ringfenced budget within the 2018 remuneration round to correct salaries.

As the total number of salary corrections was relatively small this process made only a small difference to Treasury's organisational GPG. However, the process has assured Treasury that its employees are paid equitably, and it can concentrate on addressing its other GPG drivers, such as women's underrepresentation in its senior roles.

Keep gaps closed

A six-month review found few additional salary corrections were needed and Treasury is satisfied gaps within the same bands no longer exist. It has committed to ongoing six-monthly reviews to ensure gaps do not reopen.

Treasury's actions to ensure gender is not a factor in starting salaries will also contribute to keeping these gaps closed. An online tool is being introduced to give hiring manages information on current salaries for the role being appointed to. Senior leaders are also reviewing all appointment and starting salaries proposals to roles from team leader up, before appointments are confirmed.