

Pay equity case – New Zealand College of Midwives alleges gender discrimination under the New Zealand Bill of Rights Act 1990

Introduction

On 31 August 2015, the College, on behalf of Lead Maternity Carer (LMC) community midwives, is filing a claim in the High Court against the Ministry of Health for discrimination on the grounds of gender in breach of section 19 of the New Zealand Bill of Rights Act 1990 (NZBORA). The case is being argued for us by Mai Chen, Managing Partner of Chen Palmer Public and Employment Law Specialists.

The case alleges that the inadequate remuneration of self-employed, community based LMC midwives is due to discrimination on the basis of gender. Midwives have a high level of education and the lives of mothers and babies in their hands. They deserve better recognition.

99.9% of midwives are women and 100% of their clients are women, so the outcome of this case will resonate with all women. This is the first case of its kind in New Zealand: it is the first time a gender discrimination case relating to pay has been brought under the NZBORA. Other pay equity claims have been dealt with under the Equal Pay Act 1972 or the Human Rights Act 1993.

Remuneration experts agree that the role midwives perform has been systematically undervalued, and have expressed concern that midwives are being paid at the approximate level of unqualified and semi-skilled workers such as a receptionists or junior secretaries, despite midwives' highly skilled and specialist role.

Overview and background

25 years ago on 22 August 22 1990, midwives were given the legal right under the Health and Public Service Act to claim under the Maternity Payment Schedule (the former equivalent of Section 88 and Section 51 Notices).

In 1993, midwives fought and won the right to stay on the Schedule when they won their case of 'equal pay for work of equal value' at the Maternity Benefits Tribunal. The New Zealand midwifery profession is a role model for many other women-predominant professions and countries struggling to gain recognition for the value of midwifery services.

However, midwives only retained the same or similar rate of pay as doctors providing maternity services until 1996. Since maternity care has become predominantly midwives the fee rates have steadily decreased.

In 1996, there was a major structural change to maternity services with the introduction of the Lead Maternity Carer (LMC) model, which changed the fee structure and resulted in a substantial reduction in income for midwives. Midwives were affected the most by this structural change because the work least rewarded in financial terms was the work they undertook, including travelling to women's homes, attendance during labour and postnatal and rural services. . The College of Midwives says that the undervaluing of midwifery services has continued unabated for almost 20 years and further contends that the financially unsustainable

nature of the funding arrangements under the Section 88 Notice has resulted in experienced midwives leaving the profession.

“We live in New Zealand...this land was the first country to give women the vote. 100% of our clients are women; 99.9% of midwives are women - this is a women’s issue and this is a human rights issue. Midwifery is almost entirely a woman’s workforce, providing care for women and their babies. We are professional women who work hard to become midwives and maintain what is required to hold a current practising certificate. We are the main workforce providing community services in all communities, including some of our most vulnerable, and we do this 24/7. We expect and deserve more. We have to act. We have no other choice.”

Karen Guilliland, Chief Executive, NZ College of Midwives
August 31, 2015

Images to use to support release and media liaison (all avail. as hi res):

Karen Guilliland (NZCOM)



LMC Midwife Jacqui Anderson and mum to be, Rosie

