

Secure Jobs Better Pay Review

Finance Sector Union of Australia

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Finance Sector Union

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About the Finance Sector Union (FSU)

The FSU is a registered employee organisation representing approximately 22,000 members across the banking and finance sector throughout Australia. FSU members work in banking, insurance, superannuation, financial planning and finance. Our membership is predominately female, many of whom are engaged in part-time and casual employment.

The FSU is a democratic organisation with representative governance by elected officials and volunteer members. The FSU is a member-led organisation in which rank and file members are elected to honorary official positions to governing bodies within the Union. This includes the National Congress which is the supreme governing body of the Union.

National Congress has the management and control of the affairs of the Union and is comprised of predominately volunteer members. These members are elected by the wider membership to represent their interests. They are not paid officials.

The FSU is proud of its long history representing members to achieve better wages and fairer conditions.

Our members are committed to higher integrity in the finance sector and see their role as advocates for a better industry.

Introduction

The **Secure Jobs, Better Pay Act** (The Act) was welcomed by the FSU as it addressed job security and gender equity issues and introduced measures for which the FSU has been at the forefront of campaigning. These measures included the introduction of a prohibition on pay secrecy clauses. The finance industry has a large gender pay gap with recent Workplace Gender Equality Agency Data¹ calculating the gap currently sits at 22% despite women making up 53% of the industry. In contrast, the average gender pay gap for the private sector is just 12%. While the prohibition of pay secrecy clauses in employment contracts and enterprise agreements is a good start, it does not go far enough to equalise access to pay information between employers and workers.

Wage setting in the finance sector

There are significant issues in the finance sector relating to the setting of wages. There exist companies that collect proprietary data from employers, subject to guarantees of confidentiality. This data is collected by organisations such as AON, Mercer, Hays (and others) and used to create algorithms that employers rely on to make decisions about pay. These organisations operate by collecting both a

¹ [Industry Data Explorer | WGEA Gender Equality Data](#)

subscription fee as well as pay data from a group of employers who employ workers in the same class of jobs. The payment of this fee and the provision of their own pay data entitles companies that subscribe to access deidentified data on the actual “pay rates” including incentives and bonuses that apply to different classes of jobs. This information is confidential and is only provided to companies that provide their own pay data – creating an artificial “market” rate for common roles.

This inequity in access to data is considered by the Fair Work Act’s good faith bargaining requirements, however the use of third-party proprietary data allows employers to refuse to share or provide information that would level the playing field between workers and employers when negotiating wages. During wage negotiations, employers that subscribe to this proprietary data will often declare that they want to sit at the “median” of the “market rate” for a particular role or roles (for example). Requests for employers to share the information they have relied on to identify the “market rate” – as the FSU is entitled to test declarations under good faith bargaining – are routinely denied on the basis that they are subject to confidentiality obligations (S228 (1)(b)²).

There are employers that have clauses in their enterprise agreements that commit employers to internal pay equity and/or gender pay equity audits – it is impossible for either employees or the FSU to verify their compliance with such clauses when pay data is confidential. While individual workers have the right to choose to share their pay data either with the union or their colleagues, it is unreasonable to expect unions to pursue this information individually with workers when employers with much larger resources have access to this information at the push of a button.

Finally, there is no obligation on employers to include actual rates of pay in Enterprise Agreements (EAs). There are several employers who “peg” their EA pay rates to “15% above the Award rate”, for example. This rate is often the lowest rate possible that will allow the agreement to pass the “better off overall” test and sets the “minimum” rate payable for particular jobs. These rates often bear absolutely no resemblance to the actual rate of pay received by workers. Companies take this approach to setting EA rates to “protect” their pay information and to ensure that there is no way for their competitors to access information about pay rates – it also ensures that workers have no way of understanding how their pay rate compares to other comparable roles within the industry.

This lack of transparency means that there is disparity between the information readily available to workers and that available to employers. The lack of accurate information reinforces the lack of power available to workers and their representatives in wage setting negotiations and does nothing to drive down the gender pay gap.

Recommendation 1 – The Act be amended to ensure proprietary pay information is available to all bargaining representatives during EA negotiations.

Recommendation 2 – That the Act be amended to include an obligation that wage rates in EAs reflect actual wage rates.

² FAIR WORK ACT 2009 – SECT 228 Bargaining representatives must meet the good faith bargaining requirements

The advertising of job vacancies

There has been an increasing trend in the advertising of job vacancies to advertise roles without pay rates attached. This is yet another vehicle that employers are using to ensure that workers are not on equal footing when it comes to wage negotiation. It is impossible for workers to negotiate pay increases with reference to what the “going rate” is for a particular role when jobs are advertised with either no salary rate at all, salary ranges as large as \$30,000 - \$40,000 or jobs that say the salary is “negotiable, commensurate with skills and abilities”.

SBS Australia reported in December 2023³ that most Australian job advertisements do not include salary information and while employers continue to hide these pay rates, job seekers want to access this information to avoid wasting time applying for unsuitable roles. In November 2023, as many as two-thirds of job ads posted on SEEK did not contain this information.

Employers that do not include this information argue that it gives them flexibility to offer a candidate a package that they “believe they are worth” while also arguing that making this information public could lead to existing employees discovering that their current pay rate is not as much as what is on offer for new starters. It is the latter that is the experience of finance workers – in one well publicised case prior to the introduction of pay transparency laws, a trainer at one of the big banks discovered they were paid less than those they were training. Upon asking their employer for an explanation, they were sacked. There was some hope that the abolition of pay secrecy clauses would increase the transparency of job ads but that has not been the case. There has been sufficient time for these changes to work their way through the system and yet there has not been an increase in the transparency of job ads.

It is time for the government to increase the regulations around pay transparency and to introduce laws requiring job ads to include a salary range. This regulation has been introduced in eight US states⁴ with more considering the adoption of this type of transparency regulation. The outcomes in those states that have introduced this regulation has shown benefits for both employers and workers. Recruitment costs have decreased as it has lowered postings’ “cost per click” and has helped employers attract talent. For workers, additional transparency has driven down gender and racial wage gaps and helped reduce time wasted on job searching.

Recommendation 3: The federal government introduce salary range transparency legislation and/or regulations to require employers to disclose salary ranges in every job advertised.

Conclusion

The Secure Jobs Better Pay legislation has taken steps to abolish pay secrecy and allow workers to discuss their pay outcomes without fear of retaliation. This legislation is a good start, but for workers to have a better understanding of pay outcomes and be successful in advocating for appropriate pay increases they need more transparency. The Act needs to be amended to ensure that workers can

³ <https://www.sbs.com.au/news/article/the-key-pay-detail-job-seekers-want-that-employers-arent-giving-them/vpykd33qk>

⁴ <https://www.americanprogress.org/article/quick-facts-about-state-salary-range-transparency-laws/>

access the same level of detail as their employers about pay rates during enterprise bargaining. This can be achieved by explicitly ensuring that good faith bargaining obligations cannot be sidestepped due to “commercial” confidentiality agreements and ensuring that job advertisements are required to include details of both base remuneration and incentives.

Summary of recommendations

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Recommendation 2 – That the Act be amended to include an obligation that wage rates in EAs reflect actual wage rates.

Recommendation 3: The federal government introduce salary range transparency legislation and/or regulations to require employers to disclose salary ranges in every job advertised.