



BPW Australia

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Pay Transparency

Purpose BPW Australia takes action for women's equality at work, on boards and in leadership, and works for women's economic independence and equal opportunity. The 2018 BPW Australia Conference resolved to advocate nationally for legislation to enforce pay transparency in employment contracts and company policies and to make gag clauses illegal as a strategy to help close the gender pay gap.

Context BPW has a global campaign to close the gender pay gap. In many countries, the BPW campaign includes removing gag clauses in pay contracts that prevent an employee from asking what a colleague earns or revealing what she earns. Australia still allows such pay secrecy clauses in employment contracts and agreements. Other countries are making such clauses illegal or unenforceable as a means of reducing the pay gap within organisations and workplaces.

Key message

BPW Australia advocates for Australian governments and political parties to address the unfair and unacceptable national gender pay gap by:

- ensuring existing and new legislation and policies do not exacerbate pay inequity, but always take into account the persistent pay gap and its impact on working and retired women and seek to minimise and eventually eliminate it
- requiring remuneration to be based on the value of the job or work undertaken, not the individual doing the job
- making secrecy clauses in contracts and company policies illegal and unenforceable.

The Economic Case The case for gender pay equity has been made by United Nations bodies, the ILO and Australia's Workplace Gender Equality Agency. The case for including pay transparency as a strategy to address pay inequity is well made by [David Burkus](#) in his TED talk, where he points out that pay secrecy makes it easier to ignore the discrimination that's already contributing to the gender pay gap. He reports that in government, where salaries relate to classification and this information is accessible, the gender wage gap is less. Eliminating pay secrecy clauses in employment contracts enables employees to know if they are being paid fairly and to challenge any discrepancy in pay rates that seems unfair or unjustified.

Actions BPW Australia will lobby the Australian Government, MPs and political parties to make gender pay equity a priority and to amend the Fair Work Act to make secrecy clauses in contracts and company policies illegal and unenforceable and provide anti-reprisal protections.

BPW Australia will work to raise public and media awareness of how gag clauses contribute to pay inequity and the need for pay transparency to be a legal requirement.

Audience The Australian Government, Members of Parliament, political parties and the media.

Partnerships BPWA is an affiliate of [economicSecurity4Women](#), a national alliance of women's organisations advocating for women's economic wellbeing and financial security, and is a founding member of the [Australian Gender Equality Council](#), a collective of organisations working for gender equity.

BPW Australia Policy Position Statement on Pay Transparency

BPW Australia affirms the following principles:

- Equal pay for work of equal value is a core principle of BPW International and BPW Australia.
- BPW members value equity and justice, transparency and respect.
- Policies, whether explicit or implicit, that benefit one gender or the other, such as requirements to not disclose remuneration, are unfair and unreasonable.

BPW Australia notes the following evidence:

In some industries pay secrecy is an explicit employer policy, but it can also be a workplace culture that implicitly prevents employees from sharing information about their salaries. Keeping salaries secret leads to "[information asymmetry](#)" whereby, in a negotiation, the employer or manager knows all employees' remuneration but the employee only knows their own. In hiring or promotion or annual raise discussions, an employer can use that "information asymmetry" to keep salaries down, which has serious implications for the gender pay gap.

An explicit legal right to share information about salaries and making pay secrecy clauses and policies illegal will help eliminate this obstacle to pay equity. It will benefit women and men, but the benefits of such policies in other countries have been found to be greater for women who tend to be paid less than men for the same type of work and level of responsibility. Where pay rates are secret, there is a risk that, when asked about their salary expectations, applicants for new positions or promotions will nominate a salary that is significantly less than the current rate for existing employees.

- High-profile cases such as [the BBC](#) in the UK and the [Today Show](#) in Australia, where male presenters were paid up to 50% more than female colleagues, illustrate the legal and reputational risks of unjustifiable pay gaps and secret pay rates. Pay secrecy provisions were a factor in both cases, and removing the secrecy provided a means to resolve the discriminatory pay gap.

Studies show that pay transparency can boost employee [performance](#), [productivity](#) and morale, and reduce staff turnover. It can also reduce the '[negotiation gap](#)' between men and women. Knowing that salary decisions will be visible provides an incentive for managers and employers to address inequities in pay structures.

International context

Pay secrecy has been the norm in most countries over many generations. It is generally enforced through employee contracts, employer policy or workplace culture that either explicitly or implicitly prevent employees from sharing information about their salaries.

The OECD, ILO and UN Women's Equal Pay International Coalition have identified pay transparency as an important tool in closing the gender pay gap. A 2013 European Commission Report stated that the primary obstacle to effectively implementing the equal pay principle was the lack of transparency in pay systems. In 2014, the European Commission adopted a Recommendation to strengthen the equal pay principle through pay transparency based on the finding that an awareness of different pay levels within a company can make it easier for individuals to challenge pay discrimination before national courts.

- Since 2014, 11 European Member States [Austria, Belgium, Germany, Denmark, Finland, France, Ireland, Italy, Lithuania, Sweden and UK] have legislated for pay transparency. In some countries, pay transparency legislation requires employers to disclose the salaries they pay to prove compliance with their legal obligations. Portugal ascribes its relatively small gender pay gap to pay transparency measures introduced in 2009.

- [Iceland](#) passed legislation in January 2018 becoming the first country in the world to legally enforce equal pay, acknowledging that their stubborn pay gap was hidden behind a lack of transparency.

Some USA States and Canadian Provinces have pay transparency laws. In May 2018, Canada's Ontario government passed a new Pay Transparency Act to help close the gender pay gap. The Act which applies from 1 January 2019 and makes secrecy clauses in contracts illegal and includes anti-reprisal protections and provisions that require employers to advertise the salary range for a position and prohibit questions about prior salaries.

There is no economic analysis available of the impact of introducing pay transparency measures, but research shows a relationship between such measures and reduced national pay gaps. There is evidence of a [rising expectation](#) of pay equity and [pay transparency](#) amongst young male and female employees – the global future is equal.

Australian context

Australia debated making pay secrecy clauses illegal in 2015. A Private Member's Bill tabled in the Australian Parliament, the [Fair Work Amendment \(Gender Pay Gap\) Bill](#), aimed to amend the Fair Work Act 2009 to render unenforceable any requirement in an award, enterprise agreement or contract of employment prohibiting an employee from disclosing their pay. It didn't progress and lapsed with the 2016 election, but it was restored in March 2018 and debated by the Senate. As a Private Member's Bill, it will lapse at the 2019 election and will only be retabled in the Parliament if pay transparency is seen as an important contribution to addressing the pay gap.

The Australian Labour Party and the [Greens](#) have recognised that pay transparency contributes to addressing the gender pay gap. The ALP has developed a pay transparency plan that targets the national gender pay gap and announced an intention to amend the Fair Work Act to ban pay secrecy clauses if they win government in 2019.

BPW Australia seeks the following actions:

Political parties to adopt an election policy that supports pay transparency.

The incoming government to review, adopt and prioritise the [Fair Work Amendment \(Gender Pay Gap\) Bill 2015](#), ensuring the amendments render unenforceable any requirement in an award, enterprise agreement or contract of employment that prohibits an employee from disclosing their pay.

Government, employer and industry stakeholders, unions and employee advocates to collaborate to actively promote and implement best-practice strategies to tackle the gender pay gap in Australia's workplaces.

The incoming government to ensure that Fair Work remuneration decisions are based on the value of the job or work undertaken, not the individual doing the job.

The media to help raise public awareness of the value of pay transparency to help reduce the gender pay gap and the impact of gag clauses particularly on women's wages and retirement incomes.

BPW develops the business, professional and leadership potential of women through its advocacy, mentoring, networking, skill building and economic empowerment programs and projects.

BPW Australia is a well-established organisation of women who advocate and take national action for women's equality at work, on boards and in leadership. We are affiliated with BPW International, a globally influential women's organisation with consultative status at the United Nations. BPW International works for global gender equality in power and decision-making through our advocacy and UN participation.

BPW Australia welcomes as members women in paid and voluntary work, including women who used to work and women who aspire to work. Our membership includes: employers and employees; corporate women and small business women; women in professions, crafts and trades; and from the non-profit and government sectors.