



VICTORIAN
WOMEN
LAWYERS

PAY TRANSPARENCY: WHAT IT IS AND WHY YOU SHOULD CARE ABOUT IT

YOUR PAY IS CONFIDENTIAL.
BUT IT'S NO SECRET THE MAN
IN THE NEXT OFFICE IS
PROBABLY PAID MORE.

Women working full time in Australia are paid 17% less than their male counterparts.¹

A woman working full time in the legal sector earns 19% less than her male counterpart.² We know the pay gap begins at the bottom, increases with age and seniority and is usually worse if you work part-time.³ While statistics can differ depending on measure, the pay gap is real.⁴

TRANSPARENCY ARMS YOU
WITH INFORMATION TO ASSIST
IN NEGOTIATION

WHY AM I PAID LESS THAN HIM FOR THE SAME WORK?⁵

In a word, bias. Gender bias can be conscious or unconscious, but it has the same negative impact on women's pay. Unconscious bias is implicit thinking, based on stereotypes and associations, that affects our ability to make fair decisions.

Employers tend to reward a more assertive "male way" of working with career advancement, salary increases and bonuses.

Women do not usually negotiate salary in this style and routinely receive less successful pay outcomes than men. Although when women do ask, the problem remains! This is because when women act more assertively, they are perceived as less competent and less likable. This leads to worse performance ratings and a perception of less worth for salary increases and promotions. It's a double bind.

PAY TRANSPARENCY CAN IMPROVE THIS.

There may be a clause in your contract that says (more or less!): *"Don't talk about your pay. To anyone."* Or there may be an unspoken understanding in your workplace that nobody talks about their pay to anyone else.

But if we can talk about our pay, we can start asking questions. Questions like: *"Why is there a difference between her pay and his pay when they do the same job?"* And: *"What are we going to do about it?"* And: *"How can I negotiate better pay?"*

PAY TRANSPARENCY IS BETTER FOR WOMEN...

When pay is more transparent, the pay gap is significantly less. For example, in Australia the gap is much smaller in the public sector (12.3%) where pay banding is published for each seniority level, compared to the private sector (22.4%).⁶

IF WE CAN TALK ABOUT
OUR PAY, WE CAN START
ASKING QUESTIONS.

Businesses and governments around the world have used pay transparency as part of a strategy to successfully reduce the pay gap.⁷ It is also crucial for employees to be made aware that they can negotiate their pay.⁸

...AND BETTER FOR BUSINESS.⁹

People who have more information about what they earn in relation to their colleagues are less likely to quit and more likely to be satisfied with their job. Even when employees know they're paid below market, if they know why they're paid less, they say they're satisfied with their job and plan to stick around.

Pay transparency fosters trust and integrity between employees and employers, as employees can be sure of fair treatment. Compare this to the way pay gossip and misinformation can erode employee confidence and engagement.

Pay secrecy also hides the relationship between pay and performance. If good performers know they are being paid more, they do not quit. For those who are paid less, they can ask why.

WHAT CAN EMPLOYERS DO?

- Remove pay confidentiality clauses from new employment contracts and enterprise bargaining agreements. Tell your staff that existing clauses will not be enforced.
- Audit pay to check whether there is a gap in base salary, bonus and other discretionary payments. Report the results to the Board and staff and commit to an action plan to address any gaps you discover.
- Address unconscious bias in your performance review and reward systems. Put staff who make pay and performance decisions through bias training and implement design strategies to reduce the potential for bias.
- Give employees negotiation skills training.
- Improve transparency in your reward systems, including criteria for promotion.
- Publish pay band or median pay data for each role at your firm for employees to access before performance reviews and salary negotiations.

WHAT CAN EMPLOYEES DO?

Ask your firm to:

- conduct a gender pay gap review and inform you of the results;
- disclose how pay and performance criteria are related;
- publish pay bands or median pay and bonuses so you can see where you sit compared to your peers;
- conduct unconscious bias training for pay and performance decision-makers; and
- provide pay negotiation skills sessions for employees.

In your annual pay review, ask where your pay and bonus sits compared to your peers. For example, *"I have seen Workplace Gender Equality Agency data that reports a gender pay gap in the legal industry. I would like to make sure that pay and bonuses are equal across my peer group, women and men, and across the team and the firm. Is this the case?"*



- 1 The Workplace Gender Equality Agency (WGEA) has found the full-time base salary pay gap is 19% <http://data.wgea.gov.au/industries/1> and ABS data shows women's average weekly earnings are 30.2% less than men's (Average Weekly Earnings, Australia, Nov 2015, cat. no. 6302.0).
- 2 Total remuneration of all employees in the Legal and Accounting Services Group at <http://data.wgea.gov.au/industries/115>.
- 3 WageIndicator 2016, *All about the Gender Pay Gap* at <http://www.mywage.org/australia/main/salary/all-about-gender-pay-gap>.
- 4 Cassells, R, <https://theconversation.com/will-the-real-gender-pay-gap-please-stand-up-64588> 8 September 2016.
- 5 For a comprehensive and current review of the large number of studies supporting this section, see Bohnet, I, *What Works: Gender Equality by Design* (2016), particularly Chapter 1: Unconscious Bias is Everywhere in relation to gender bias and Chapter 3: Doing it Yourself is Risky in relation to negotiation. For example, volubility measures the amount of time women spend talking in group settings. Highly voluble women are perceived, by both male and female observers, as less competent and less suitable leaders than less voluble women, while the inverse is true for men. Brescoll, Victoria, "Who Takes the Floor and Why Gender, Power, and Volubility in Organizations" *Administrative Science Quarterly* 56.4 (2011): 622-641. Also see Artz, B, Goodall, H and Oswald, J *Do Women Ask?* Warwick Economics Research Paper Series, September 2016. It is important to acknowledge that these studies do not address how a woman's race, ethnicity, ability and sexual or gender identity could affect the pay gap.
- 6 WGEA 2016 reporting data.
- 7 See our online hub at vwl.asn.au for local case studies from ANZ, Telstra, BP Australia and law firms Maddocks and Herbert Smith Freehills, to international examples in American states and European nations.
- 8 See studies cited in *What Works* at 68.
- 9 US PayScale survey of 70,000 employees reported on by Fisher, A, "How pay transparency can keep people from quitting" *Fortune*, 15 October 2015, <http://fortune.com/2015/10/15/pay-transparency/>.

WANT TO KNOW MORE?

The Workplace Gender Equality Agency has the tools and resources you need to conduct a pay gap analysis and create a pay equity strategy: <https://www.wgea.gov.au/lead/addressing-pay-equity>.

To access live links to the resources in this flyer, legal sector case studies and more on the gender pay gap, visit our website at vwl.asn.au