

## **SPEAKING NOTES**

**Alanna Palmer. Chair, New Brunswick Human Rights Commission**

**Standing Committee on Law Amendments**

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### **BILL 77, PAY EQUITY ACT**

Thank you, for the opportunity to address you this morning on behalf of the New Brunswick Human Rights Commission.

As the Preamble to Bill 77 points out, the right to equal pay for work of equal value is a basic human right. And so, the Commission maintains that efforts to enforce that right should start from a rights framework analysis.

That was the thrust of our submission to The New Brunswick Wage-Gap Working Group almost a year and a half ago. At that time, the Commission endorsed pay equity and wrote:

“...the compliance requirement is there in our human rights legislation backed up by constitutional guarantees, international legal obligations and case precedents. More law is perhaps not as important as better enforcement. According to this view, we do not need a new carrot or stick, we need more education and better enforcement.”

To elaborate, the New Brunswick Human Rights Code makes no explicit reference to pay equity. In part this may be due to the fact that ours was one of the first adopted in Canada.

The Human Rights Code does provide that any person claiming to be a victim of sex discrimination in the employment sector may file a complaint with the Commission. The Commission will investigate complaints of both direct and indirect discrimination including complaints of systemic discrimination. Thus, a woman, or a group of women, claiming to be aggrieved as a result of pay scales or practices which treat them differently from men may file a complaint with the Commission.

And some have. For example, in 1986 the Human Rights Commission argued at the first and only New Brunswick Board of Inquiry into a pay equity complaint. As a result, 30 female workers at Kings Landing

Corporation were ordered to receive a wage adjustment and awarded \$100 each as nominal damages for injury to their dignity.

In the more recent past, the Commission has investigated and settled several complaints where wage gap issues were raised as an element of a sex discrimination complaint.

A large manufacturer's comptroller was paid for several years at roughly the same rate she received upon hire as an accounting clerk. The employer's comptroller in another division received roughly twice her rate of pay. The parties agreed to settle the complaint for \$85,000.00. There was also an undertaking by the employer to share its gender and cultural diversity initiatives and plans with the Commission for review and comment.

In another case, female lawyers in a large public authority complained that they were paid less than their male counterparts in another service division. The complaint was settled and there was a wage adjustment made for the female lawyers working in the division.

I cite these cases as success stories and positive examples of how individual women in the province have been able to obtain redress for wage gap issues affecting them in their workplaces: through complaint under the Commission's sex discrimination provisions.

Relatively few systemic discrimination complaints based on pay equity concerns have ever been filed with the Commission.

Unfortunately, the Human Rights Act has not been amended to grant more explicit remedies or powers to the Commission in this field despite the subsequent adoption of federal employment equity provisions in the Canadian Human Rights Act, despite the adoption of the Charter of Rights and Freedoms, and despite repeated calls at the international level for stronger legislative measures at the provincial level.

It's possible that if the Commission's legislated mandate contained more explicit provisions in the area of pay equity, that it might have insisted in these cases upon stricter enforcement of the right to equal pay for work of equal value. For example, it might have required the employers in question to file annual pay equity plans and reports on an interim basis as a term of settlement

The Commission recommends against the Pay Equity Commission proposed in Section 66 of Bill 77. We maintain that the better place to center responsibility for the establishment, monitoring and compliance with meaningful pay equity standards for the private sector in New Brunswick is with the Human Rights Commission.

This approach has several advantages. Firstly, this approach is consistent with existing approaches in Canada federally, in Quebec and in Ontario. It was recommended in the Abella Commission's Report on Equality in Employment in the mid 1980s and remains a proven and successful method for achieving more equity in employment.

Secondly, it allows employment equity concerns to be addressed squarely for what they are: basic human rights issues. Pay equity concerns can be investigated on the basis of underlying equality rights abuses. The root causes of employment and pay equity concerns are diverse and deeply ingrained, but often constitute in and of themselves grounds for filing a complaint of discrimination.

Thirdly, the Commission's mandate to promote compliance with human rights standards within the province would be reinforced and the use of existing educational resources within the Commission would be maximized.

Finally, this approach would be more affordable. Clearly, it would require the investment of additional resources in the New Brunswick Human Rights Commission to cover the responsibility to promote and monitor pay equity plans by employers in the province. But, the Pay Equity Act of 1989 could be repealed and new provisions dealing with pay equity added to the New Brunswick Human Rights Act.

In conclusion, I reiterate that pay equity is fundamentally a human rights issue and that, as such, the Human Rights Commission is best situated to promote, monitor and enforce it.

The Commission continues to support the urgent need for concrete action on the wage-gap front. We also support the voluntarist approach adopted by Government in response to the wage-gap report. We urge, however, that it be backed up by better resourcing of the Commission with a greater investment in educational efforts so that New Brunswick Women, and other groups affected by wage disparities, feel confident enough to assert their equality rights and access the Code's complaint mechanism when necessary.

Thank you for your time.