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*Comment on the Results of the Government of New Brunswick's
Pay Equity Program for Non-Legislated Sectors*

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by the

New Brunswick Coalition for Pay Equity

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Executive Summary

In the spirit of collaboration and to advocate for a just and equitable pay equity process for the women of the Province, the New Brunswick Coalition for Pay Equity analyzed the Government of New Brunswick's reports published in June 2012 on the voluntary pay equity exercise for three government-mandated services: transition house workers, child care staff, and home support workers. The sectors that participated in the pay equity exercise do not have predominantly-male job classes (i.e. comparators). To address this problem, the Government of New Brunswick said it followed the Québec methodology and used two typical male job classes as comparators: the "maintenance worker" and the "foreman". However, many aspects of the Québec methodology were modified which led to significantly different – and lower - results.

The Coalition has identified the following issues with the process followed in New Brunswick:

1. Sector employees were in a minority position on the Joint Steering Committees that were created to help oversee the pay equity process. Decision making power was skewed in favour of the employers and government representatives, as they outnumbered the employees of the participating sectors.
2. The "foreman's" job description includes more responsibilities than that which is proposed in the Government of Québec regulation. This inflated the value of the "foreman's" job and resulted in assigning a lower dollar value to each point for the predominantly female job.
3. The maintenance worker's wage was based on 2010 data instead of 2011. The minimum wage rate had increased four times from April 1st, 2010 to April 1st, 2012. Inflation was not taken into account.
4. The wages of unionized maintenance workers were excluded which further depressed the wage level of the male comparator, and consequently of the female-dominated jobs.

5. The Government of New Brunswick did not use the market wage for the “foreman” and neither did they choose a wage differential of 40%, as required in the Québec methodology. It assigned a 20% wage differential between the lower skilled and the more highly skilled male comparators which deflated/lowered the wage rate of the “foreman”, and therefore of the female-dominated jobs. No research is provided to justify the 20% differential.

6. The full pay equity schedule for the few who will receive adjustments (Childcare Support Workers and Home Support Workers and Transition House Crisis Interveners) is five years except for the Transition House Crisis Interveners who will receive their full \$0.03/hour adjustment in 2012-2013. Yearly inflation rates for the next five years covering the payout schedule are not addressed.

7. Employees have no legal recourse if a dispute arises over some aspect of the pay equity process and/or the results of a pay equity exercise.

Recommendations

Therefore the New Brunswick Coalition for Pay Equity recommends:

- That the government reviews and improves the methodology used for workplaces that do not have male comparators.
- That the government seeks the help of experts and equality-seeking groups so that it can truly measure pay equity and give valid results.
- That pay equity legislation, with clear guidelines, be adopted for the private sector following the principles outlined in appendix 2.
- That legislation includes an independent body which promotes pay equity, receives complaints, has vested powers to conduct investigations on its own initiative, and make binding rulings on the application of the Act.
- That pay equity legislation specifies that government-mandated services be treated as part of the “broader public sector”.
- That the proxy comparison method be adopted for the broader public sector.

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The New Brunswick Coalition for Pay Equity prepared the *Comments on the Results of the Government of New Brunswick's Pay Equity Program for Non-Legislated Sectors* (the Brief) in response to the Government of New Brunswick's pay equity exercise for government-mandated services. We did so in the spirit of collaboration and to advocate for a just and equitable pay equity process for the women of the Province.

The Brief begins with an overview of what pay equity is and why the achievement of pay equity is important to women and in particular to the work that is performed in predominantly female jobs. Second, it summarizes the Government of New Brunswick's pay equity exercise with a focus on the results. Third, the Brief highlights issues and concerns and raises questions with the pay equity exercise for the child care, home support and transition house sectors. The Brief concludes with recommendations to the Government of New Brunswick.

Equal pay for work of equal value

Pay equity, equal pay for work of equal value, demands a re-evaluation of the work that women perform in female-dominated jobs. It is meant to address the issue of pay discrimination, discrimination that is based on the characteristics of female-dominated jobs that have been ignored or devalued and thus underpaid in contrast to male-dominated jobs. Pay equity, therefore, recognizes the value of the work that women do by drawing attention to the qualifications required for the job, the amount of responsibility the job requires, the effort required to carry out the job, and conditions under which the work is performed.

When jobs predominantly done by women are compared to jobs predominantly done by men using these four criteria, women's jobs with the same value are often underpaid. The following examples illustrate the discrepancy between the value often given to work predominantly done by women and that done by men. The effort of lifting heavy objects associated with "men's work" may be recognized, but not the lifting of residents or patients that women often face in caring work. The responsibility for equipment and finances may be valued, but not the responsibility for taking care of children, elderly and vulnerable people. Exposure to the weather, dirt and noise in male-dominated outside work may be recognized, but not exposure to human waste, odours, etc. in inside caring jobs predominantly performed by women. In fact, many of the female-dominated occupations including child care, home support, clerical, and food services remain low paid because this work is seen as an extension of women's "natural" unpaid role in the home rather than acquired by education, experience, and training.

Though pay equity is recognized as a human right internationally (in Canada federally under section 11 of the *Canadian Human Rights Act*), only the provinces of Ontario and Québec

have proactive pay equity laws covering both the public and private sectors. The New Brunswick law (*Pay Equity Act, 2009*) covers only the public sector.

**Job evaluation tools and comparison methods for recognizing
the work performed in female-dominated jobs**

To address the pay discrepancies between jobs predominantly done by women and those jobs predominantly done by men, pay equity advocates have turned to the process of job evaluation as a tool for job comparison – as a way to recognize the work that is performed in female-dominated jobs.

Job evaluations consider the four factors mentioned above for such comparison purposes: qualifications, responsibilities, effort, and working conditions. Job evaluation systems that are recognized as gender-neutral, gender sensitive, non-discriminatory or non-sexist take into account all job characteristics and assign fair points to those often associated with female-dominated jobs. While job evaluations are widely used to establish fairer pay scales, both for internal equity and pay equity purposes, it is important to draw attention to their different functions.

In the case of internal equity, job evaluations are used to compare all jobs performed for the same employer, regardless of gender, to ensure that employees performing work of comparable value are compensated comparably across, for example, departmental lines or job classifications. On the other hand, pay equity exercises require employers to evaluate positions and compare the value of jobs predominantly performed by women (female-dominated jobs) with those jobs predominantly performed by men (male-dominated jobs).

The process of evaluating the predominantly male jobs for comparison with predominantly female jobs requires gathering information on those jobs from individuals who perform the tasks required by the position. Detailed questionnaires with questions based on the four factors and a series of sub-factors are completed by the workers in the predominantly female and male job classifications.

Once a job description has been developed, each sub-factor is assigned a value based on the required qualifications, responsibilities, effort, and working conditions. The female-dominated jobs must then be compared with the male-dominated jobs. Various methodologies are available:

- 1. Job-to-job comparison.** The female jobs are compared directly with male jobs that are found to have the same value. If the value is the same, the pay should be the same. If not, the pay of the female job has to be raised to reach the male job pay. This is the preferred method in the province of Ontario¹. It works well when there are male and female jobs with equivalent job values, less well when comparators are unevenly distributed or missing;
- 2. Proportional value comparison (also known as job-to-line).** The job value and job rates of all male job classes are plotted on a graph and a line is drawn following a regression analysis.² Female jobs are compared to the line. If they fall below the line, they are raised to reach the level on the regression line;

¹ Ontario's Pay Equity Commission. (1993). *A guide to the proxy comparison method*. Toronto, ON, p 1. Available at http://www.payequity.gov.on.ca/en/resources/guide/ope/ope_11.php. (Page visited September 25, 2012)

² "Regression analysis is the mathematical way of accurately finding the line which best fits the points on the graph. Regression analysis calculates a line that produces the smallest sum of distances of points to the line. The calculations can be done using a computer program or a calculator with the regression function. Unlike drawing a line free-hand, this method does not entail a trial-and-error process." Ontario Pay Equity Commission, http://www.payequity.gov.on.ca/en/resources/pv_plan.php (page visited on October 7, 2012)

3. **Proxy.** In many female-dominated sectors, there are no jobs predominantly done by men. To address this issue, the province of Ontario has adopted a “proxy” method which allows public or broader public sector female jobs to be compared with other public or broader public sector female jobs of the same value that have finalized their own pay equity exercise;
4. **Regulation respecting pay equity in enterprises where there are no predominantly male job classes.**³ The Québec regulation stipulates that employers who do not have male-dominated job classes to compare predominantly female jobs to predominantly male jobs that are outside their workplace, using current market wages.

The New Brunswick pay equity exercise for government-mandated services

In 2006, the Government of New Brunswick promised to start “job evaluations to extend pay equity to workers providing contracted services to government”. Since then, it has begun pay equity exercises for: transition house workers⁴, child care staff working in provincially licensed child care facilities (Day Care Regulation established under the *Family Services Act*),⁵ nursing home workers working in licensed facilities established under the *Family Services Act*,⁶ home support workers in agencies contracted by government and direct caregivers working in community residences established under the *Family Services Act*.⁷

³ Consult the regulation at <http://www.ces.gouv.qc.ca/documents/publications/R-male-aout.pdf> (page visited on September 17, 2012).

⁴ Considered in the definition of residences Regulation 83-77 under the Family Services Act. See Standards and Procedures for Adult Residential Facilities 2012 found at <http://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Standards/AdultResidential-e.pdf>. (Page visited September 25, 2012)

⁵ See New Brunswick Regulation 83-85 under the Family Services Act at <http://laws.gnb.ca/en/showpdf/cr/83-85.pdf> (Page visited September 25, 2012)

⁶ See Standards and procedures for adult residential facilities, 2012 <http://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Standards/AdultResidential-e.pdf> (Page visited September 25, 2012)

⁷ See Family Services Act Regulation 83-77 for definition of residences covered under the Act.

These groups, all from the caring field, are part of the private sector in New Brunswick, but they offer services mandated by the provincial government and are largely dependent on government funding. They are not covered by the *Pay Equity Act, 2009*.

The pay equity process followed for the nursing home workers differed from that which was followed for the other groups (identified above). Most nursing homes workers are unionized with the Canadian Union of Public Employees (CUPE). In 2010, they obtained wage parity with CUPE hospital workers who had obtained internal equity within their bargaining unit.⁸ The government considered it as pay equity, even though the hospital workers followed an internal equity rather than a pay equity exercise.

Though the Government of New Brunswick promised that the remaining four groups would begin to see adjustments as early as 2010, funds were only announced in the 2012 budget. Pay equity reports were published in June 2012 for three groups: child care, home support and transition houses.⁹ At the time of this Brief, the pay equity exercise for community residences had not yet been completed. Results, however, are expected before the next fiscal year, 2013-14.

The Government of New Brunswick stated that for the job classes receiving pay equity adjustments, a total of \$13.8 million would be paid over a five year period (approximately \$3 million per year).¹⁰

⁸ New Brunswick Association of Nursing Homes, Inc. (January 25, 2010). Press Release. Available at www.nbanh.com/files/press_releases_100125_en.pdf (page visited on September 23, 2012).

⁹ For more information see : New Brunswick. (2012). Child Care Sector : Pay Equity Program 2012 / New Brunswick. (2012). Home Support Sector : Pay Equity Program 2012 / New Brunswick. (2012). Transition House Sector : Pay Equity Program 2012. Sector reports are available on the Government of New Brunswick website at : <http://www.gnb.ca/0012/Womens-Issues/wg-es/payequity-e.asp>

¹⁰ New Brunswick. (2012). Hansard Dailies 2011-2012, 57-2\40 2012-05-11 Women's Issues Estimates. Fredericton, NB.

A summary of the results of the pay equity exercise is in Table 1. Note that the hourly wage estimates are based on March 31, 2011 statistics.

TABLE 1. Results of the pay equity programs in the child care, home support and transition house sectors

	Current Wages, March 31, 2011 (\$)	Inequity (surplus) (\$)	"Fair wage" according to government (\$)
Support worker (Child Care)	10.00	2.52	12.52
Primary Care (Child Care)	13.32	(0.17)	13.15
Administrative/ Primary Care (Child Care)	16.33	(2.16)	14.17
Home Support Workers	11.00	2.15	13.15
Crisis Intervener (Transition House)	13.37	0.03	13.40
Outreach Workers (Transition House)	19.20	(5.39)	13.81
Support Workers (Transition House)	15.64	(2.21)	13.43
Child Support Workers (Transition House)	13.85	(0.45)	13.40

Child care workers: At the beginning of the pay equity exercise, the child care sector was comprised of approximately 2600 employees. In this sector, three groups were evaluated. Administrators/Primary Care and Primary Care workers already earn above "fair wage"

according to the results of the Government of New Brunswick's pay equity exercise. Child care support workers will receive an hourly adjustment of \$2.52, spread over five years.

Home support workers: There were 3254 home support workers at the beginning of the pay equity exercise. They will receive a \$2.15 increase, spread over five years.

Transition home workers: This sector includes 60 workers, divided in four categories: Crisis interveners in transition houses who will receive a \$0.03 adjustment to be paid in the first year. According to the Government of New Brunswick's pay equity exercise, outreach workers, support workers and child care support workers already earn above "fair wage".

Group home workers: The government promised that the group home workers' evaluation would be completed by the end of summer 2012. If the pay equity exercise determines that a wage adjustment is needed, pay outs will begin in the 2013-2014 budget year and will be spread over four years.

Analysis of New Brunswick pay equity exercise for government-mandated services

This section of the Brief provides an analysis of the Government of New Brunswick's pay equity exercise for the child care, home support and transition home sectors. It does not include the nursing home sector because, as stated above, the methodology differed from the other sectors. The information is organized according to the chronological steps of a pay equity process: 1. decision making bodies; 2. choosing the male comparators; 3. job descriptions and evaluations; 4. creating male job classifications; 5. lengthy payouts and inflation; and 6. lack of recourse.

1. Decision making bodies

Sector employees represented less than half of the individuals who served on the Joint Steering Committees that were created to help oversee the pay equity process. Three home support workers served on a committee of nine, three child care workers served on a committee of eight, while five transition house employees served on a committee of eleven.¹¹ The remainder was comprised of employer and government representatives. Representation and thus decision making power was skewed in favour of the employers and government. The vast majority of the participating employees was from the non-unionized sector and therefore had little support in developing and negotiating important elements of the pay equity exercise (e.g. selecting male comparators, developing the job descriptions, determining the wage level, and setting the wage differential between the male comparators). Even the minority of employees who were unionized did not have union representation on the committees.¹² The employer and the Government of New Brunswick exerted more control over the pay equity exercise than the employees of the participating sectors.

2. Choosing the male comparators

In New Brunswick, there are no male job classes within the sectors participating in this pay equity exercise. The government could consider two methods developed by other provinces where pay equity legislation covers the private and public sectors and where its implementation is overseen by an independent Pay Equity Commission. Ontario uses the proxy method, as stipulated for the broader public sector workplaces without male comparators in the *Pay Equity Act*. In Québec, when there is no male comparator, enterprises establish their pay equity process

¹¹ Women's Issues Branch, Pay Equity Sector Reports (Child Care, Transition House and Home Support), June 2012, p. 9, available at <http://www.gnb.ca/0012/Womens-Issues/wg-es/payequity-e.asp>

¹² Some employees are unionized in the home support, community residence (group home) and transition house sectors.

in accordance with the *Regulation respecting pay equity in enterprises where there are no predominantly male job classes*.

To create male job classes (i.e. comparators) the Government of New Brunswick adapted the Province of Québec regulations.¹³ According to the 2012 pay equity reports, “In order to conduct a pay equity analysis, New Brunswick opted to follow the Province of Quebec’s legislated methodology where a maintenance worker was chosen to be the typical male job class or comparator in situations where none exist.”¹⁴ In fact, the Québec regulation identifies two male comparators: “maintenance worker” and “foreman”. Similar job titles for a “maintenance worker” are: caretaker, handyman, labourer, maintenance man, etc. A “foreman” is comparable to the similar job titles of: manager, team leader, supervisor, coordinator, etc.¹⁵

To determine the existence of pay equity, the Government of New Brunswick developed job descriptions for a fictitious “maintenance” job and a fictitious “foreman” job, evaluated them, established the market average wage for the “maintenance worker”, decided that the “foreman” would be making 20% more than the “maintenance worker”, drew a regression line from this data, and compared the female jobs to this line.¹⁶

Ontario addresses the issue of unmatched female job classes for those organizations unable to find male comparators for certain female job classes through a proxy comparison method.¹⁷ The proxy method enables workplaces that have mostly female job classes to find

¹³ Backgrounder: Creation of Male Job Classes, available at <http://www.gnb.ca/0012/Womens-Issues/PDF/BackgrounderMaleComparator-E.pdf> (page visited on September 12, 2012).

¹⁴ Transition House Sector - Pay Equity Program - Report 2012, p. 141.

¹⁵ Info-Équité. 2005. Pay equity in enterprises where there are no predominantly male job classes. <http://www.ces.gouv.qc.ca/documents/publications/infregl-a1.pdf> (Page visited September 17, 2012. p.14).

¹⁶ For more information, available in French only at <http://www.ces.gouv.qc.ca/documents/publications/infregle.pdf> (Page visited September 17, 2012).

¹⁷ Ontario. (1993). *Pay Equity Amendment Act*, (SO 1993). Available online: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_930396_e.htm (Page visited October 22, 2012).

comparators (i.e. similar female dominated job classes) outside of the workplace. Eligible broader public sector employers called “seeking employers” may go outside their own workplace to other broader public sector employers called “proxy employers” and borrow job and salary information about similar female job classes in order to complete job comparisons. The Ontario Broader Public Sector Accountability Act (2010)¹⁸ includes a definition of “broader public sector organization” to mean, (a) a designated broader public sector organization, and (b) a publicly funded organization. The Guide to Interpreting Ontario’s Pay Equity Act¹⁹ specifies that:

Also included in the public sector are organizations subject to government licensing, such as childcare agencies licensed under the *Day Nurseries Act*, nursing homes licensed under the *Nursing Act*, legal aid clinics established under the *Legal Aid Services Act*, child welfare services, long-term care facilities, Native friendship centres, community health services, residential care facilities, developmental and rehabilitation services, and sexual assault centres.

The seeking employer’s female job classes are compared to the proxy female job classes using a proportional value method.²⁰ Note that the proxy method applies to all female job classes in the seeking employer’s workplace, regardless if some female job classes could have been compared using the job-to-job or proportional value comparison methods.²¹

3. Job descriptions and evaluations

In job evaluations, job value is based on job descriptions and sub-factors are measured in points for responsibilities, qualifications, work conditions and effort. These points determine the value and therefore the pay rate for the female jobs.

¹⁸ Ontario. (n.d.). Ontario *Broader Public Sector Accountability Act* (S0 2010, c 25, s 1, p. 1). Available at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_10b25_ev005.htm (Page visited September 17, 2012)

¹⁹ Ontario Pay Equity Commission. (2012). *Guide to Interpreting Ontario’s Pay Equity Act*. Available at <http://www.payequity.gov.on.ca/en/resources/guide/ope/index.php>. (Page visited September 17, 2012)

²⁰ Ibid, p 87.

²¹ Ibid.

Appendix 1, at the end of this Brief, shows that in the Government of New Brunswick's pay equity exercise, the "foreman" job description includes more responsibilities than that which is proposed in the Government of Québec regulation. The effect is an inflation of the value of the "foreman" job. For example, since the "foreman" wage was predetermined (at 20% over that of the "maintenance worker"), the more points that are given to the job, the less dollar value that will be attributed to each point. The problem is that the higher the valuation given to the "foreman" job, the lower the dollar value attributed to each point for the predominantly female job.

An example from the child care sector report, illustrates how the value of each point was determined by using the following formula:

Difference between the valuation of the typical male job classes = 468 points (855-387)

Difference between the rate of remuneration for the typical male job classes = \$2.97
(\$14.83 - \$11.86)

$\$2.97 \div 468 = \0.00635 ²²

If the value attributed to the "foreman" had been lower (e.g. 300 points) each point would have been worth more ($\$2.97 \div 300 = \0.0099). In that case, the child care administrator/primary care's pay equity wage would have been determined to be \$3.60 above the "maintenance worker" rather than \$2.31.

4. Creating male job classifications

The creation of the male job classifications raises numerous concerns, involving: i. the creation of the fictitious male comparator; ii. the selected wage level of the male comparator; iii.

²² New Brunswick. (2012). Child Care Sector - Pay Equity Program - Report 2012, Women's Issues Branch. Fredericton, NB, p. 90.

the selection of non-unionized sectors; and iv. the assignment of the differential rate of pay between the lower skilled and the more highly skilled male comparators.

i. Comparisons are confined to two fictitious male comparators

Wage comparisons where no male comparator exists are complex. In the current pay equity exercise, no male comparator existed within the sectors. The Government of New Brunswick created a fictitious “maintenance worker” and “foreman” and assigned job descriptions to them. Job descriptions and evaluations are subjective (e.g. they have the effect of assigning value to job classes that is inflated or deflated). “Maintenance worker” and “foremen” jobs can be found in many workplaces with different responsibilities and wide-ranging wage rates of pay. The Government of New Brunswick’s solution to these issues raises questions about the Government of New Brunswick’s choice of procedure.

ii. Determination of the wage level of the male comparators

In the creation of the fictitious job classes, the Government of New Brunswick rejected data from Statistics Canada because “the wage was deemed low, and not necessarily reflective of New Brunswick’s market.”²³ However, according to the Government of New Brunswick’s documents, the Statistics Canada data that was consulted (e.g. NOC 6663; 2006 Census) came from 2006. Instead of consulting the most recent data from the Statistics Canada Labour Force Survey, the Government hired MarketQuest Research to conduct a survey of 49 New Brunswick employers with non-unionized workforces. Three employers were excluded because they did not know or did not respond. Another four were excluded: “... four average wages were removed as they were significantly out of range related to both the Statistics Canada survey, as well as the

²³ Government of New Brunswick. (n.d). Backgrounder: Creation of Male Job Class. Available at <http://www.gnb.ca/0012/Womens-Issues/PDF/BackgrounderMaleComparator-E.pdf> (page visited September 17, p. 2).

data within the MQR survey, and thereby deemed not to be representative of the average wage for this job class.²⁴ Were these wages considered outside of the acceptable range of rates because they were too high?

Another decision that certainly influenced the results was the choice of using data from 2010 instead of 2011. The Government of New Brunswick announced the results of the pay equity programs in June 2012. The minimum wage rate had increased four times, by 50 cent increments, between April 1st, 2010 and April 1st, 2012, going from \$8.50/hour to \$10.00/hour. The Government of New Brunswick ignored these changes which would have had an effect on overall wages. It based adjustments on 2010 information gathered for “maintenance workers” and included wages which would have been below the minimum wage as of April 1st, 2012.

Table 2 provides average wage data from the Statistics Canada Labour Force Survey (2012)²⁵ for the Janitors, Cleaners, Caretakers and Building Superintendents category that correspond broadly to the “maintenance worker” job description used by the Government of New Brunswick. The Statistics Canada average wage data for this predominantly male job category²⁶ includes job titles such as custodians, maintenance men, handymen and building maintenance workers located in New Brunswick.

Results from the MarketQuest Research survey show an average of \$11.86 for the “maintenance worker”. These wages are similar to the Statistics Canada’s 2010 rates reported for

²⁴ Government of New Brunswick, Backgrounder: Creation of Male Job Class, <http://www.gnb.ca/0012/Womens-Issues/PDF/BackgrounderMaleComparator-E.pdf>, (page visited September 17, p. 3).

²⁵ Statistics Canada, Labour Force Survey, 2012, custom tabulation, National Occupation Classification G93 (Light Duty Cleaners, Specialized Cleaners, Janitors, Caretakers and Building Superintendents). Examples of job titles at <http://stds.statcan.gc.ca/soc-cnp/2006/cs-rc-eng.asp?cretaria=G93>. (Page visited September 15, 2012)

²⁶ Men accounted for approximately 60% of the total 9,900 employees in this category in New Brunswick in 2011. Statistics Canada (n.d.). Labour Force Survey, 2012, custom tabulation, National Occupation Classification G93 (Light Duty Cleaners, Specialized Cleaners, Janitors, Caretakers and Building Superintendents). Available at <http://stds.statcan.gc.ca/soc-cnp/2006/cs-rc-eng.asp?cretaria=G93>. (Page visited September 15, 2012)

non unionized workers. However, given the time of the announcements (June 2012) and given that the Government of New Brunswick compared the female wage levels for 2011 with the male wage levels for 2010, why did the government not use the 2011 figures, when the non unionized “maintenance worker” wages had reached \$12.33/hour?

TABLE 2. Average Hourly Wage Rates for Janitors, Cleaners, Caretakers and Building Maintenance Workers, New Brunswick, 2010 and 2011²⁷

	2010	2011
Total (all employees)	\$13.92	\$14.11
Non-unionized	\$11.89	\$12.33
Unionized	\$17.35	\$17.13

Further, MarketQuest Research gathered data only on a "maintenance worker" job type and drew on a limited number of employers which raises more questions about how the Government of New Brunswick gathered the wage data for the “foreman” position. In addition, the “foreman” type job as created by the Government of New Brunswick for the pay equity exercise includes management duties and high levels of responsibility for which employees in the real world get paid substantially higher salaries. For example, Statistics Canada Labour Force Survey wage data for management occupations, excluding senior management jobs, indicates that in 2011, employees working in middle to low level management type jobs in New Brunswick earned on average \$30.98/hour.²⁸ This average hourly wage rate includes positions

²⁷ Ibid, Examples of job titles. (Page visited September 15, 2012)

²⁸ Statistics Canada. (n.d.). CANSIM Table 282-0070, Labour force survey estimates (LFS), wages of employees by type of work, National Occupational Classification for Statistics (NOC-S), sex and age group, annual (current dollars); average hourly wage rates for 15 years & over, full-time & part-time employees; Excludes “Senior Management” category, covers job categories A1 – A39, <http://stds.statcan.gc.ca/soc-cnp/2006/ts-rt-eng.asp?cretaria=A>. (Page visited September 15, 2012)

such as Facility Operation and Maintenance Managers, Human Resources Managers, and Purchasing Managers. These positions encompass job duties found in the Government of New Brunswick's "foreman" job description used for comparison purposes in the pay equity exercise.

All of this raises questions about the Government of New Brunswick's use of wage rate data and the choices they made in selecting the male-dominated job descriptions for their pay equity exercise and the corresponding wage rates. This point is especially critical given that the wage rate for the "maintenance worker" is key to the Government of New Brunswick's entire calculation and ultimately the results because it determined both the other male comparator's wage rate and therefore the women's "fair wage".

iii. Selecting non-unionized sectors for pay equity exercise

The Government of New Brunswick decided to exclude the wages of unionized workers from the pay equity exercise. The effect is to further depress the wage level of the male comparator, and consequently of the female-dominated jobs. Yet there is no reason to exclude unionized workers and using a non-unionized comparator for the job evaluations in the private sector is that pay equity exercises will differently benefit unionized and non-unionized women...

When combining unionized and non-unionized wage data, it is found that those working as janitors, cleaners, caretakers and building maintenance workers in New Brunswick earned on average \$14.11/hour in 2011 (\$13.92/hour in 2010).

A similar range of wage rates can be found in unionized jobs in the municipalities (Table 3). The 2011 hourly wage data for unionized (CUPE/SCFP) blue collar workers in municipalities, large and small, across New Brunswick shows the following ranges for

“maintenance worker” and “foreman” type positions: from a low hourly wage of \$14.94 for a Maintenance Cleaner in Woodstock to a high of \$28.92 for a Commons Caretaker in Moncton and from a low of \$21.80 for an Assistant Foreman in Fredericton to a high of \$30.68 for a Building Services General Foreman in Saint John (2010).

TABLE 3. Average Hourly Wage Rates for Selected Unionized Blue Collar Workers in New Brunswick municipalities²⁹

Job Title	Region	Hourly Wage
Maintenance Cleaner	Woodstock (2011)	\$14.94
Commons Caretaker	Moncton (2011)	\$28.92
Assistant Foreman	Fredericton (2011)	\$21.80
Building Services General Foreman	Saint John (2010)	\$30.68

The selection of non-unionized male comparators has the effect of keeping the wages low as compared with unionized male comparators. It creates downward pressure on classifications that are already historically devalued, which will translate into normalized lower pay scales for the work of women – i.e., jobs which are predominantly female will continue to earn lower wages than comparable predominantly male jobs. Therefore, this adds to the risk of maintaining the status quo – a gendered wage gap.

iv. Assignment of the differential

In the *Regulations for achieving pay equity where there are no predominantly male classes*, the Province of Québec established that the hourly rate of remuneration in the “maintenance worker” category must be 60% of the hourly rate of remuneration of the

²⁹ CUPE New Brunswick Collective Agreements, municipal public works locals in Fredericton, Moncton, SJ, Bathurst, Dieppe, Edmundston, Miramichi, Quispamsis, Campbellton, Caraquet, Dalhousie, Grand Falls, Grand Bay Westfield, Oromocto, Sackville, Shediac, St. Stephen, Tracadie-Sheila, Sussex, Blacks Harbour, Woodstock, Chipman, McAdam, Minto, Nackawic, Petit-Rocher, Shippagan, Sainte-Anne, St-Leonard. See Government of New Brunswick, Department of Postsecondary Education, Training and Labour, Collective Agreement Retrieval System (CARS) at [http://www2.gnb.ca/content/gnb/en/services/services_renderer.2235.Collective_Agreement_Retrieval_System_\(CARS\).html](http://www2.gnb.ca/content/gnb/en/services/services_renderer.2235.Collective_Agreement_Retrieval_System_(CARS).html)

“foreman” category (i.e. a wage differential of 40%). The 40% differential was based on extensive research that determined the average wage difference between the two types of jobs in the province of Quebec. “This standard represents the labour market’s average relativity between the remuneration of the ‘maintenance worker’ and that of the ‘foreman’.”³⁰

The Québec regulation speaks to the need to determine the market wage rates for both the “foreman” and the “maintenance worker” job classes. Once completed, the wage differential is calculated and if it does not reach 40%, the wage rate for either the “foreman” or the “maintenance worker” must be adjusted:

The relativity between hourly rates of remuneration you have just assigned to the typical job classes might differ from the 60% standard if, for instance, your sector of activity is largely female. If such is the case, the remuneration is potentially gender biased. The standard prevents you from perpetuating the systemic discrimination present in your sector of activity.³¹

The Government of New Brunswick did not use the market wage for the “foreman” and it chose a wage differential of 20% instead of a 40% wage differential. Minister Margaret-Ann Blaney stated: “The wage line, which is the basis of comparison for the maintenance worker and the supervisor ... was a 20% differential in salary.”³² This was confirmed in the pay equity reports:

The hourly rate of remuneration assigned to the Maintenance Worker must be equal 80% of the hourly rate of remuneration assigned to the Foreman. (...) The 80% standard represents the New Brunswick labour market’s average relativity between the

³⁰ Info-Équité. 2005. Pay equity in enterprises where there are no predominantly male job classes. <http://www.ces.gouv.qc.ca/documents/publications/infregl-a1.pdf> (Page visited on September 17, 2012, p.7).

³¹ Commission de l’équité salariale Québec. (2005). Info-Équité; Pay equity in enterprises where there are no predominantly male job classes. <http://www.ces.gouv.qc.ca/documents/publications/infregl-a1.pdf>. (Page visited on September 17, 2012, p. 7-8).

³² New Brunswick. (2012). Hansard Dailies 2011-2012, 57-2\40 2012-05-11 Women’s Issues Estimate. Fredericton, NB, p. 16.

remuneration of the Maintenance Worker and that of a Foreman (i.e.: differential in salary between employee and supervisor).³³

The effect of the assignment of a 20% wage differential between the lower skilled and the more highly skilled male comparator is to deflate/lower the wage rate of the “foreman”. If the Government of New Brunswick had used the 40% differential rate, the salary for the “foreman” would be \$18.93 instead of \$14.83 and there would have been more adjustments for more of the female-dominated job classes.

The Coalition for Pay Equity asked the government of New Brunswick how it chose a 20% differential. The Government of New Brunswick argues that the 40% differential used in Quebec “is not reflective of New Brunswick’s labour market relativity”. Research to justify the differential percentage is not presented.

5. Lengthy payout schedules and inflation rates

The 2012-2013 pay equity payout amount is \$6.4 million and covers both the public sector (\$3 million) and the three private sector (\$3.4 million) groups of employees who participated in the pay equity exercise. The full pay equity schedule for the few who will receive adjustments (Childcare Support Workers, Transition House Crisis Intervenors, and Home Support Workers) is five years. Note that the Transition House Crisis Intervenors will receive their full \$0.03/hour adjustment in 2012-2013.

Furthermore, yearly inflation rates for the next five years covering the payout schedule are not addressed. By spreading the adjustments over five years and not taking inflation into account, the government is maintaining a downward pressure on women’s wages.

³³ New Brunswick. (2012). Child Care Sector - Pay Equity Program - Report 2012, Women’s Issues Branch. Fredericton, NB, p. 89.

6. Lack of recourse

According to the federal *Pay Equity Taskforce, 2004*, if employees are “to participate freely in developing the pay equity plan, present their comments, request revisions or possibly file a complaint ... they must not feel threatened by the possibility of retaliatory measures taken against them.” Yet, in the absence of legislation for the private sector, there is no such protection for the employees of those sectors that participated in the Government of New Brunswick’s pay equity exercise. Employees have no legal recourse if a dispute arises over some aspect of the pay equity process and/or the results of a pay equity exercise.

Concluding remarks

Pay equity demands a re-evaluation of the work that women perform in predominantly female jobs. It recognizes the value of the work that women do by drawing attention to the qualifications required for the job, the amount of responsibility the job requires, the effort required to carry out the job, and the working conditions of the job that are ignored and undervalued and thus underpaid in contrast to the jobs that men perform.

To address these discrepancies, non-sexist job evaluation processes compare female-dominated jobs with male-dominated jobs. There are various methodologies to conduct a pay equity exercise that are outlined in the Brief.

In 2007, the Government of New Brunswick began a pay equity process which eventually included workers in child care settings, nursing homes, home support settings, transition houses, and community residences. Nursing homes used a proxy method, but the jobs were compared to a public sector bargaining unit which had followed an internal equity process, not a pay equity process. For the four other groups, the Government of New Brunswick used a methodology with elements borrowed from Québec’s *Regulation respecting pay equity in enterprises where there*

are no predominantly male job classes. The results of the pay equity exercises for the child care, home support and transition house sectors were publicly available by June 2012. They were based on 2010 wage calculations for the male comparators. The community residences are completing their process and no information is available yet.

This Brief highlights major issues that the New Brunswick Coalition for Pay Equity has identified with the Government of New Brunswick's pay equity exercise used for the child care, home support and transition house sectors. Specifically it draws attention to and raises questions about significant methodological problems that negatively impacted the results of the pay equity exercise for the participating employee sectors: 1) underrepresentation of employees in the decision-making process; 2) the selection of male comparators; 3) job descriptions and evaluations; 4) creating male job classifications; 5) lengthy payout schedules and inflation; and the 6) lack of recourse for employees if disputes arise.

Table 4 suggests how the results of the pay equity exercise could have been different depending not so much on "who" is conducting the exercise, but on some of the choices that can be made/have been made in terms of the issues identified in this Brief: 1) the differential between the two fictitious male comparators and 2) the use of exclusively non-unionized private sector wages. Though incomplete because it does not have the benefit of an adequately conducted job evaluation/pay equity exercise, the table does show how two of the choices work to keep women's wages low.

TABLE 4. Partial results of the pay exercise addressing the choices of pay differential & unionized wages

	Current Wages (\$), March 31, 2011	"Fair wage" (\$) according to government when using 2010 non-unionized workers' wages (11.86) and a 20% differential (foreman = 14.83)	"Fair wage" (\$) when using 2010 non-unionized maintenance workers' wages (11.86) and a 40% differential (foreman = 19.77)	"Fair wage" (\$) when using 2011 unionized and non-unionized maintenance workers' wages (14.11) and a 20% differential (foreman = 17.64)	"Fair wage" (\$) when using 2011 unionized and non unionized maintenance workers' wages (14.11) and a 40% differential (foreman = 23.52)
Support worker (Child Care)	10.00	12.52	13.62	14.89	16.20
Primary Care (Child Care)	13.32	13.15	15.29	15.63	18.19
Administrative/ Primary Care (Child Care)	16.33	14.17	18.01	16.84	21.43
Home Support Workers	11.00	13.15	15.29	15.63	18.09
Crisis Intervener (Transition House)	13.37	13.40	15.94	15.93	18.97
Outreach Workers (Transition House)	19.20	13.81	17.05	16.43	20.29
Support Workers (Transition House)	15.64	13.43	16.02	15.97	19.06
Child Support Workers (Transition House)	13.85	13.40	15.94	15.93	18.97

The Brief concludes with a number of recommendations to the Government of New Brunswick.

Recommendations

The methodology that the Government of New Brunswick employed in the pay equity processes for child care, home support and transition homes resulted in surprisingly low, or no, wage adjustments. The Coalition identified a number of major issues with the methodology that need to be reviewed and adopted to ensure pay equity. Therefore we recommend:

- That the government reviews and improves the methodology used for workplaces that do not have male comparators.
- That the government seeks the help of experts and equality-seeking groups so that it can truly measure pay equity and give valid results.

It is known that voluntary measures are vulnerable to arbitrary decisions that may not achieve pay equity³⁴ Therefore we recommend:

- That pay equity legislation, with clear guidelines, be adopted for the private sector following the principles outlined in appendix 2.
- That legislation includes an independent body which promotes pay equity, receives complaints, has vested powers to conduct investigations on its own initiative, and make binding rulings on the application of the Act.

Ensuring pay equity for employees offering government-mandated services is complex. These employees are spread among many small workplaces where there are no male comparators. They provide services that are an extension of government services, yet are paid much less than public employees doing comparable work. These employees work for employers that are dependent on government's standards and funding but government often does not provide sufficient funding to ensure pay equity. Therefore we recommend:

- That pay equity legislation specifies that government-mandated services be treated as part of the "broader public sector".
- That the proxy comparison method be adopted for the broader public sector.

³⁴ Marie Thérèse Chicha, A Comparative Analysis of Promoting Pay Equity: Models and Impacts, International Labour Office, Geneva, 2006, p.17.

Appendix 1

Foreman - Job Description

QUÉBEC

Guidelines for the foreman’s job description in the Québec regulation³⁵:

The “foreman” is usually in charge of different jobs that are regrouped to form a department, an administrative or production unit or any other form of organization, depending on the practices in your enterprise. He plans activities, coordinates tasks and duties and supervises the personnel occupying positions in such groups. The most part of his job consists in managing. However, during peak periods he can occasionally perform tasks that are related to routine operations. It is important to note that under the Regulation, the “foreman” does not necessarily supervise the “maintenance worker”.

NEW BRUNSWICK

Job description - Foreman³⁶

Foreman is responsible for the day to day operations of Early Learning and Child Care Facility in accordance with Acts, Regulations, Standards, Policies and Procedures. They are responsible to plan, organize, direct, control and evaluate the operations of an Early Learning and Child Care Facility. They are responsible for Financial and Human Resource Management and to ensure the maintenance of the facility. In addition, they coordinate the implementation of quality learning experiences for infants, preschool and school-aged children that stimulate and respond to each child’s intellectual, physical, social and emotional growth. The Foreman is responsible for the health, safety and well-being of staff and children in their care.

Job Duties

A Foreman carries out the following duties:

- Ensure that policies, standards and regulations are adhered to (Child Daycare Facilities Operators Standards, Employment Standards, Public Health Standards, Fire prevention standards)
- Develop, implement and revise, as needed, facility/operational policies and guidelines
- Human resource management (i.e. job evaluation, disciplinary action, guidance and support, recruitment, professional development)
- Financial management (i.e. budgeting and forecasting, revenues and expenditures, payroll management, monitoring petty cash, cost analysis, grant proposals)
- Planning and conducting meetings (staff, resource professional, case conference, parent/staff)
- Monitor implementation of programs and early learning and child care curriculum frameworks
- Record(s) management (i.e. personnel files, child files)

³⁵ Commission de l’équité salariale du Québec. May 2005. Pay equity in Enterprise Where There Are No Predominantly Male Job Classes. Info-Équité.

³⁶ New Brunswick. (2012). Child Care Sector: Pay Equity Program 2012 / New Brunswick. (2012).

- Daily management (i.e. parent complaints, staff complaints, staff/child ratios, replacements, scheduling)
- Crisis management (i.e. power outages, communicable diseases, floods, fires, serious illnesses and/or injuries)
- Purchasing, receiving and inventory control of supplies, materials and equipment
- Registration and enrollment management
- Create and maintain an environment that protects the health, safety and wellbeing of children and staff
- Coordinate the planning of menus that take into account the children's ages, recommended serving sizes and nutritional needs according to Canada's Food Guide, cultural and religious practices, and any allergies and/or medical conditions a child might have (i.e. tube feeding)
- Coordinate cleaning, ice and snow removal and landscaping operations
- Direct the maintenance and repair of a facility's machinery, equipment and heating, cooling, ventilation, plumbing and electrical systems
- Identify potential or actual health hazards in a child day care setting
- Implement and maintain effective procedures and protocols for completing fire and emergency exit drills and handling emergency situations, for example, an injury
- Establish and maintain an open and cooperative relationship with each child's family
- Oversee transportation (driver, vehicle maintenance, gas expenses)
- Fundraising and special events coordination

Qualifications

Work at this level requires a High School diploma or equivalent and successful completion of a college program in Business or equivalent training program and a minimum of five (5) years progressive and/or related experience.

Other

- Demonstrate a sound knowledge of Provincial Acts, Regulations, Standards, Policies and Procedures governing the operation and administration of Early Learning and Child Care Facilities
- Ability to work in a team environment
- Excellent communication, written, problem-solving, decision making and interpersonal skills
- Ability to maintain confidentiality and a high degree of discretion
- Ability to work effectively with others (children, families, employees, government agencies, community partners, and professionals, etc.)
- Ability to remain calm and make timely and effective decisions during emergency situations
- Ability to multitask and prioritize

Working Conditions

A Foreman works in an environment that is demanding, hectic and noisy. They must take precautions to ensure the health and safety of all children, families, staff and themselves. They may be exposed to unpleasant or demanding verbal interactions with children, families and/or staff. They are responsible to ensure that all information gathered within the Early Learning and Child Care Facility is kept confidential.

Appendix 2

Principles of the Private Sector Pay Equity Act

To guarantee that all women and men may fully exercise their right to pay equity, the Private Sector Pay Equity Act must be based on the following 15 essential and fundamental principles:

1. **Pay equity is not negotiable.** Pay equity is recognized as a fundamental human right by a number of international agreements ratified in Canada. Like any other human right, it should not be subjected to negotiations.
2. **A pro-active law.** It must ensure that the employer provides pay equity in the workplace and show that they have complied with the requirements of the law. A law is considered pro-active rather than reactive when its implementation does not require employees to file complaints.
3. **An inclusive law.** It includes part-time as well as full-time staff, in term and permanent positions, casual, temporary and seasonal employees.
4. **This legislation takes precedence over all other agreements.** Any provision of an agreement, individual employment contract, collective agreement, order, decree or agreement concerning conditions of employment, contrary to the legislation, is void.
5. **Positions are evaluated using a gender neutral evaluation tool, against four factors: responsibilities, qualifications, working conditions, and all aspects of efforts including physical and mental.**
6. **A predominantly female job class** designates an employment category that meets at least one of the following criteria: at least 60% of the employees are women; historically, the progression of the representation rate of women indicates that the job class is predominantly female; the job class is customarily associated with women; or the difference between the rate of representation of women within the job class and their rate of representation in the employer's total workforce is considered significant by the Commission.
7. **A predominantly male job class** designates an employment category that meets at least one of the following criteria: at least 60% of the employees are men; historically, the progression of the representation rate of men indicates that the job class is predominantly male; the job class is customarily associated with men; or the difference between the rate of representation of men within the job class and their rate of representation in the employer's total workforce is considered significant by the Commission.
8. **A pay equity program includes:**
 - identifying female-dominated and male-dominated job class;
 - describing the methods and tools used to evaluate these job class and developing a sound evaluation process;
 - evaluating job classes according to the four factors listed above, comparing them, estimating the wage gap between them, and calculating the salary adjustments needed;

- developing a means for remitting the salary adjustments calculated.
9. **A law ensures employees participation in developing and implementing the pay equity plan.**
- It sets out the need for employers to establish a pay equity committee in which non-unionized non-management, and unionized employees, and the employer are represented. At least two-thirds of the members of this committee will represent the employees, and at least one-half of the members must be women who, preferably, occupy female-dominated jobs.
 - Each group will select their own representatives. As required, the composition of the workers' representation will be all-inclusive, on a per capita basis.
 - The pay equity committee will be responsible for the establishment and implementation of the pay equity program.
10. **A law that ensures that employees have access to information.**
- The employer has the obligation to give the pay equity committee any information necessary to carrying out its duties.
 - The employer must post, in locations visible and easily accessible to employees, the committee report which shall include the job classes, the wages, the evaluation tool, the evaluation and any salary adjustments determined to reach pay equity, or a notice that no such salary adjustment has been deemed necessary.
11. **An independent Pay Equity Commission is established by law.**
- This Commission has sufficient financial and human resources and reports to the Legislative Assembly.
 - The Commission is composed of three members, a majority of whom are women, including a president appointed by the lieutenant-governor-in-council in consultation with organizations which are the most representative of employers, employees and women. The members appointed must possess general expertise in the area of pay equity, human rights, and labour relations.
 - The Commission promotes pay equity, receives complaints, has vested powers to conduct investigations on its own initiative, and make binding rulings on the application of the Act.
12. **A law that prohibits a reduction of salaries to reach pay equity.** Notwithstanding any other article of law, the employer is not permitted to act in any of the following ways in order to reach pay equity:
- reduce, freeze or remove from the pay scale the wages of any employee, or,
 - place an employee in a lower rank on the pay range than the rank deemed subject to an increase in pay.
13. **A law that provides for a maximum period** of two years, following its adoption, for a pay equity program to be implemented and for the adjustments which follow from the evaluation to be made.

14. The salary includes the composite value of employment income, benefits, bonuses and flexible wages.

15. A law that provides for the maintenance and monitoring of pay equity on an ongoing basis.

- The law clearly sets out the employer's obligation to ensure ongoing compliance with pay equity provisions.
- The law sets out the means of maintaining and monitoring pay equity (establishment of a committee, frequency of reviews, schedule for adjustments to be made, etc.)
- The law sets out how pay equity is to be maintained when new jobs or job classes are created, when changes to existing jobs or working conditions are made and to which the pay equity program applies, or when a collective agreement is being negotiated or renewed.