

Good morning and thanks for the invitation to speak to you today.

This morning, I would like to give you a greater understanding of Labour's take on employment relations in New Zealand.

I want to highlight our concerns around the status quo and start a robust discussion as to how to address these concerns.

But before I do that, I want to welcome our Australian visitors.

Kiwis can learn quite a lot from Australians. Your superannuation arrangements are an example. We had a Savings Working Group report earlier this week. I don't think I've seen such a trite collection of incoherent slogans, well since Don Brash and his 2025 Taskforce reported last year. I think a lot of us hoped that the Savings Working Group would report back with recommendations around which a new consensus could be built but the report is unacceptable to just about everyone.

Labour wants to build a strong economy, one that is both balanced and resilient. We want an economy that boosts New Zealand's income, and prospects as a trading nation.

We want real wage increases, improved training and productivity, and more capital intensity.

Most New Zealanders felt the brunt of the recession, particularly businesses and workers.

Labour recognises the struggle many businesses faced in order to keep businesses afloat during tough economic times.

Business confidence is up, but still fragile. However, I am still worried about the possibility of further European stimulated financial uncertainty.

Treasury is telling us that we have been well and truly out of a recession for a number of months now.

The recession told us what we already knew. Those most affected by economic downturn are those on the lowest incomes.

As the economy has come right, working people have still struggled to get ahead, even though they are working harder and longer.

We have seen pay freezes across a number of sectors. Yet, even through the recession, we witnessed many of the people who set the wages of the lowest paid receive exorbitant pay increases.

Our current employment relations framework gives employees the right to individually negotiate their employment contract directly with an employer, or collectively through a union.

Whilst there's a chance for people in higher paying and skilled jobs to have some flexibility to negotiate, the reality is that those on the lowest wages in the labour market are expected to take what is given to them.

For most workers, the idea of negotiating their employment conditions with their employer directly, after attaining a job, is simply inconceivable.

The view that if you are lucky enough to have a job, you are best to take it at whatever cost, is prevalent across the workforce.

Our approach now is closer to the third world than it was a generation ago.

And there are some basic changes that should be taken as automatically being part of Labour policy. For example:

- The requirement to give a reason for dismissal at all times including during a trial period, and the right to challenge unfair dismissals
- The strengthening of certain legal minimums, including extending paid parental leave provisions
- For reinstatement to be the primary remedy for successful personal grievance claims
- For unions to have the right to enter workplaces with the pre-2010 conditions
- To guarantee four weeks holiday
- And for the minimum wage to move to \$15 at the first opportunity

Labour will provide more support for workplaces as places of learning – with an emphasis on a greater investment in skills, apprenticeships and management training.

Labour will look towards re-establishing a tripartite processes at the national level, with the cooperation of Government, employers and unions. Having industries cooperating, setting standards will help remove the race-to-the-bottom effect of using cuts in wages and conditions as a competitive edge.

Labour is considering how better protections can be provided for dependent contractors and other non-standard workers, such as casual and temporary employees, and will look towards establishing stronger protections for those who are currently employed in these often-precarious arrangements.

We are concerned that many companies and even government enterprises are increasingly contracting workers to avoid employment rights. This is a growing phenomena in many jurisdictions and has been the subject of recent ILO discussions, because ultimately, it undermines fundamental protections for all workers.

Under NZ law, dependent contractors have almost no rights, apart from the right to contest whether they are dependent contractors or employees under the Employment Relations Act.

This is a huge hurdle for many workers, and while there have been a few successful cases, as we have seen in recent times with the Hobbit legislation even that basic right can be removed.

Labour wants to avoid the growing situation where the employment relationship, with its rights and obligations under current law is becoming meaningless for large numbers of NZ workers.

Labour is very concerned at the structural imbalance of power between employers and employees.

Labour wants to find a way to address this imbalance and wants to work with unions and employers as social partners in doing so.

Labour supports an employment relations framework that recognises the interdependence of workers and employers, promotes and sustains economic growth and assists with providing a safety net to the most disadvantaged in our society.

We believe New Zealand's employment relations framework must recognise that the balance of power and influence between workers and employers is not equal.

We believe that the best way to address this imbalance is to promote collective bargaining as the preferred means of establishing the rights and obligations of workers.

The Employment Contracts Act failed to accept that there is a fundamental imbalance in the employment relationship, with power being held by the employer.

The Employment Relations Act was enacted to re-balance the employment relationship, to protect the rights of working New Zealanders in law and to allow collective bargaining for the benefit of both workers and employers, including through the promotion of productive employment relations.

However, I don't think it has succeeded.

The only real way to address the imbalance in employment relations is to change the legal framework.

While Australia maintained a system for regulating basic industry wage rates and core conditions, New Zealand dismantled its industry award structure and the industry employer and union structures developed around those awards. This was done in favour of the voluntary system which I touched on before.

A number of people within the employment relations sector believe this has limited the options for Government, with the assistance of its employer and union social partners, in implementing policies that address labour and skills shortages and address the issues of low pay and gender inequity in particular areas of the economy.

I believe that a significant number of workers want to join a collective of workers and participate in collective bargaining if a real opportunity was given to them.

The outcome of good labour law should be that any worker that wants to be represented at work, should be able to, without great effort.

The current bargaining provisions do not match the requirements of the modern labour market.

Take someone working at the Four Square in Taumarunui.

In order for them to exercise their right to collectively bargain, they must first be in a position to join a union, have sufficient fellow members and density on an enterprise basis to have bargaining power, have sufficient financial means to take the risk of enterprise based industrial action with all its possible consequences, or be employed in an enterprise where multi-employer bargaining is possible in order to come to a reasonable agreement with their employer.

The Labour Party is currently looking into the advantages of implementing a rights based legal framework to address the inequalities in the labour market, to ensure workers can be on par with employers in the setting of pay and conditions, and that workers can be effectively represented.

A move to a rights based framework would extend representation and collective bargaining to the widest possible group of workers, as a matter of right.

A framework is needed that allows every worker in every workplace the ability to have access to a genuinely negotiated collective agreement and be able to gain coverage of that collective if they choose to do so. The reality for many low income workers is that almost all of their terms and conditions are set unilaterally by their employer, on a take it or leave it basis.

A rights based framework would mean setting up a system that ensures that the worker at the Four Square in Taumarunui is able to have the same rights to join a union and participate, as a worker in a large workplace in Auckland.

This new framework would consist of a new layer of involvement above the current employer or multi-employer based collective bargaining that allows all workers to have the right to be involved in a new form of facilitated bargaining with an arbitration body that extends the standard terms and conditions in an industry, created by unions collectively bargaining with employers in that industry, to all workers in that industry.

This possible direction would include some form of industry codes/industry standards setting mechanisms, and an enterprise (including multi-enterprise) level bargaining.

To give you an example of how this model would work:

- The National Distribution Union could negotiate and come to an agreement on a collective agreement with three large supermarkets

- The "Standards" of those agreements (the conditions that are agreed in most of them), are put into an industry document through negotiation and agreement (in the first instance), or by a "third umpire" where the parties cannot agree.

- Once negotiated, that industry document "extends" to set the wages and conditions of supermarket workers in all the other supermarkets across the country.

Some of the advantages of this model are:

- It would require unions to organise and prove their legitimacy in the industry through enterprise bargaining

- Workers in the industry would have a voice in the bargaining outcomes

- Employers could argue industry documents don't meet the needs of their particular business and would be able to opt out by negotiating a collective agreement with the union.

This model could be a solution to addressing our major concern, which is the structural imbalance of power between workers and employers which sees workers being unable to effectively exercise their right to freely associate and collectively bargain.

If such a model was to be introduced into law a discussion would need to take place around:

- What is an industry?

- What would be the threshold for the number and size of enterprise collective agreements needed to be negotiated before an industry document can be negotiated?

To reiterate, this is a model we are considering and is not Labour Party policy.

It would be good to have a discussion with you about how we can balance employment relations to ensure all parties work in good faith and that the setting of employment conditions and pay within the labour market are fair.

Once again, thanks for the opportunity to speak today.