

## **MEDIA RELEASE**

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### **CLASS ACTION WIN POSITIVE FOR MIDWIVES AND WOMEN AND BABIES IN THEIR CARE**

The High Court has today found in favour of the New Zealand College of Midwives in its class action against the Crown on behalf of self-employed Midwives, a decision the College says is a significant step toward fair and non-discriminatory contracting for community-based Lead Maternity Carer (LMC) midwives.

The Court found the Crown breached its contractual promise to ensure self-employed midwives receive fair and reasonable remuneration, and also found the Crown's method for paying LMC midwives unlawfully discriminated on the basis of sex in breach of section 19 of the New Zealand Bill of Rights Act 1990.

College of Midwives CEO Alison Eddy says the High Court decision is welcome confirmation that community-based midwives have not been valued and have been discriminated against by successive governments. She says the decision also confirms that the Crown must honour its contractual obligations or face the consequences, just like any person who signs a contract.

“This is a win for midwives but ultimately for the women, babies, whānau and communities at the heart of LMCs work. More than 55,000 women and their babies receive essential pregnancy, birth and postnatal care every year from community-based midwives. Society benefits if these midwives are appropriately paid; their working conditions and contracts are fair and non-discriminatory; and they have the support systems in place to allow them to do what is a 24/7 job.”

Eddy says the decision to pursue legal action was not taken lightly, but came after almost a decade of attempting to secure a fair and equitable outcome from government and two separate settlement agreements, both of which were breached by the Crown.

“From as early as 2015, the College identified pressing and systemic issues facing the LMC workforce. Since then, the College has been advocating for these issues to be addressed and while legal action was not our preferred course of action, we eventually felt it was necessary to enact change,” she says.

“We hope today's successful Class Action decision will enable the more sustainable future for midwives and their communities we have been fighting for.”

Under current legislation LMC midwives are unable to negotiate their pay or working conditions with the Crown, unlike other primary health contractors such as GPs or community pharmacists. Holding the Crown to its contractual commitment to develop and implement a new contract model that gives LMC midwives similar entitlements was a key impetus for legal action, Eddy says.

The College of Midwives also sought appropriate national investment to promote workforce sustainability and manage the demands of the 24/7 service provided by community-based midwives.

The class action was funded by global litigation funder, Omni Bridgeway. Jacob Kerkin, Investment Manager at Omni Bridgeway in New Zealand says, “Midwives play an essential role in our communities, providing critical care and support to women and their families across New Zealand. Omni Bridgeway is pleased to be able to support the New Zealand College of Midwives in pursuing this claim through the courts to vindicate the rights of its members.”

Eddy says Health NZ identifies midwifery as the regulated health profession with the most critical workforce shortage. This is in some ways related to the system of remunerating self-employed midwifery professionals, she says.

The College says the decision is important for the future of midwifery because it supports a more sustainable and equitable basis for LMC midwives to deliver a 24/7 service, helping retain experienced practitioners and ensuring women, babies and whānau can continue to access timely community-based care.

### **Midwives say the decision is validation - but more work is needed**

North Canterbury LMC midwife Bex Tidball a mother of four who has worked as an LMC for more than a decade - says the decision validates what community midwives have been saying for years.

Tidball says the judgment is a turning point, but it does not automatically deliver a new contract - that will still need to be worked towards and negotiated. She says the class action was pursued reluctantly after many years of trying to engage in good faith, and because LMC midwives work under a government “Notice” that sets remuneration and terms one-way, without giving self-employed midwives the right to negotiate.

“I have worked for many years underpaid and I am grateful that the Court has recognised the value of the work self-employed midwives carry out. Appropriate pay and conditions are necessary for a sustainable health workforce to continue to provide a world-respected continuity of care model to mothers and babies in New Zealand. We are really humbled by Her Honour’s comments - her acknowledgement of the gender bias and the need for change is a vindication and validation of what LMC midwives have been saying for many years,” says Tidball.

Rural LMC midwife Sheryl Wright has provided on-call community care for more than 22 years and, in recent years, has supported around 30–40 families annually in the northern Coromandel Peninsula - one of the most remote midwifery areas in New Zealand. Wright says she joined the class action because of long-standing concerns about underfunding and a lack of resourcing, and the impact this has on the viability of rural services. Due to the shortage of rural LMC midwives, for the past four years she has worked alone, with just 10 guaranteed days off-call per year. The demands of being constantly on call, combined with long travel distances, loss of income when women must leave the area to give birth, and the absence of back-up support, have placed significant strain on both her professional and personal life.

“These conditions are not sustainable. I love my work and my community, but without meaningful change, we risk losing our rural midwifery services altogether,” says Wright. “This outcome is validation for the hard work LMCs do and their professional contribution to the health system and communities.”

“It’s a win for women and babies who have been unable to secure LMC midwifery care. If LMCs are fairly compensated and have proper working conditions, it becomes a much more attractive career option,” she says. Wright hopes the decision will encourage experienced midwives to stay in the profession, while also attracting a new generation who see midwifery as a valued and sustainable career.

“I feel the Judge has truly seen and heard us. This decision is a vindication of all the efforts we’ve made over many years to be properly valued,” she says.

Eddy says the College has always been committed to working constructively with Government to improve outcomes for mothers and babies. To achieve this a sustainable workforce to deliver midwifery services is essential. “We want to work in tandem with government to ensure this essential part of the health sector is future-proof and will be a fulfilling career for those entering the profession in years to come.”

The Court also ordered the Crown to pay each of the Representative Plaintiffs \$1,000 for Bill of Rights damages for the “inherent loss of dignity” arising from the unlawful discrimination, noting the award serves to vindicate the public interest.

The High Court also determined the inputs to be used for the purposes of calculating the compensatory damages owed to each of the representative plaintiffs for the Crown’s breaches of contract. If a second phase of the proceedings is required, the High Court will be asked to determine the compensatory damages to be paid to the remainder of the LMC midwives in the class action. The quantum of such damages is likely to be substantial.

“The College remains committed to working constructively to resolve these issues in the most efficient manner possible but will take steps to enforce LMC midwives’ legal entitlements in the courts, if necessary,” concludes Eddy.

The Crown has until 28 April 2026 to file any appeal.

**Key findings (summary):**

- The Crown breached its contractual promise to ensure self-employed midwives receive fair and reasonable remuneration, with loss of income for each Representative Plaintiff to be backdated to 1 July 2020 and to continue in subsequent years.
- The Crown did not act in good faith in its dealings with the College in the period leading up to proceedings.
- Going back as far as 2007 and continuing to the present, the Crown’s method for paying LMC midwives unlawfully discriminated on the basis of sex, breaching section 19 of the New Zealand Bill of Rights Act 1990.

- In addition to contractual damages, the Crown must pay each Representative Plaintiff \$1,000 in Bill of Rights damages for the “inherent loss of dignity”, to vindicate the public interest.

Ends.

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Further background information and images can be found [here](#)