



Te Kawa Mataaho

Public Service Commission

2 May 2024

9(2)(a) privacy

9(2)(a) privacy

Official Information Request

Our Ref: OIA 2024-0054

I refer to your official information request received on 15 March 2024 where you have asked the following:

- “1. All advice Te Kawa Mataaho has provided to Ministers on Pay Equity for Care and Support workers since July 2023*
- 2. All advice Te Kawa Mataaho has provided to government departments, agencies, or entities on Care and Support Pay Equity since July 2023.*
- 3. Any information provided to or correspondence or engagement with Link Consulting related to its "CARE AND SUPPORT WORKER PAY EQUITY CLAIM - SECONDARY REVIEW OF METHODOLOGY TO DETERMINE SEX-BASED UNDERVALUATION OF CARE AND SUPPORT WORK". I am particularly interested in any initial information provided to the reviewers as well as feedback on the draft report.”*

We notified you on 16 April 2024 that due to consultations needed to make a decision on your request we needed to extend the timeframe to make our decision to 2 May 2024.

Information being released

Please find enclosed and listed in the table below, advice provided to government agencies on Care and Support Pay Equity.

Item	Date	Document Description	Decision
1	11 July 2023	Memorandum – Taskforce advice for the Oversight Group on Milestone 5 Paper for the Care and Support Workers Pay Equity Claim	Released in full
2	7 September 2023	Memorandum – Pay Equity Taskforce Advice for Oversight Group on Care and Support Workers, PE Claim Addendum to Milestone 3 Report and Milestone 4 Report	Released in full

Please find enclosed and listed in the table below, advice that has been provided to Ministers on Pay Equity for Care and Support workers since July 2023.

Item	Date	Document Description	Decision
3	12 July 2023	Joint Aide Memoire: Meeting with PSA National Secretaries, Kerry Davies and Dwayne Leo on Tuesday, 18 July 2023	Released in part
4	11 August 2023	2023-0230 – REPORT - Care and Support workers’ pay equity Claim extension advice	Publicly available https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Care-and-Support-Workers-pay-equity-Claim-extension-advice.pdf
5	17 August 2023	2023 0236 - AIDE MEMOIRE- Ministerial oversight forum on pay equity	Publicly available https://www.publicservice.govt.nz/assets/DirectoryFile/2023-0236-AIDE-MEMOIRE.pdf
6	28 August 2023	Email to the Minister for the Public Service titled: bullets as requested on care and support	Released in part
7	31 August 2023	2023-0256 - REPORT – Care and support pay equity claim – An assessment of risks and options	Publicly available https://www.publicservice.govt.nz/assets/DirectoryFile/2023-0256-REPORT.pdf
8	3 October 2023	Email to the Minister for the Public Service titled RE Letter to the PSA about the Care and Support pay equity claim – comments by 9.30am	Released in part

Please find enclosed and listed in the table below, correspondence received from or sent to Link Consulting regarding the “Care and Support worker pay equity claim - secondary review of methodology to determine sex-based undervaluation of care and support work”.

Item	Date	Document Description	Decision
9	8 November 2023	Email titled Table of approaches to comparability	Released in part
10		Attachment: Care and Support Worker Pay Equity Claim Milestone 5 Report: Employers’ Bargaining Strategy August 2023	Withheld in full

11		Attachment: Care and Support Claim 2022 table of docs for review	Released in full
12	9 November 2023	Email titled RE table of approaches to comparability	Released in part
13	13 November 2023	Email titled Table of approaches to comparability	Released in part
14		Attachment: Table of approaches to comparability	Released in part
15	27 November 2023	Email titled RE: Care and Support Worker claim – methodological review – follow up questions	Released in part
16		Attachment: Email titled Endorsement of Milestone 3 and 4 – Care and Support Worker Pay Equity Claim	Released in part
17		Attachment: Template – Pay Equity Bargaining Process Agreement (Terms of Reference)	Publicly available https://www.publicservice.govt.nz/assets/DirectoryFile/Template-Terms-of-reference-for-pay-equity-bargaining.pdf
18	25 January 2024	Letter from Te Kawa Mataaho Public Service Commission to Link Consulting Group Limited	Released in part
19		Overview document – Secondary Review of Methodology to Determine Sex-Based Undervaluation of Care and Support Work	Released in part

I have decided to release the documents listed in the tables above, subject to information being withheld under one or more of the following sections of the Official Information Act 1982:

- section 9(2)(a) – to protect the privacy of natural persons, including that of deceased natural persons;
- section 9(2)(ba)(i) – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied;
- section 9(2)(j) – to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

In addition, some information has been deleted where it is not within the scope of your request. In making my decision, I have considered the public interest considerations in section 9(1) of the OIA.

Also outlined in the table above is information covered by your request that is publicly available on Te Kawa Mataaho Public Service Commission’s website and the website link to where the information can be found. Accordingly, I have refused your request for these documents listed under section 18(d) of the OIA – the information requested is publicly available.

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@publicservice.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) and enclosed documents on Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks
Manager – Ministerial and Executive Services
Te Kawa Mataaho Public Service Commission



Memorandum

Oversight Group for Care and Support

To:	Oversight Group for Care and Support (Oversight Group)
From:	Amy Ross, Pay Equity Taskforce (the Taskforce)
Date:	11 July 2023
Subject:	Taskforce advice for the Oversight Group on Milestone 5 Paper for the Care and Support Workers Pay Equity Claim

Purpose of Milestone 5

Milestone 5 is where the employer has prepared their settlement bargaining strategy or plan for the settlement phase of the pay equity process, ensuring their approach is based on a complete analysis of all the evidence gathered throughout the assessment phase.

Key questions:

- Will the proposed settlement bargaining strategy enable a settlement that is supported by the evidence gathered and conclusions reached during the assessment phases?
- Do the proposed pay equity rate(s) and any potential enhancements to other terms and conditions reflect the work and remuneration assessments undertaken?
- What approach is the employer proposing to take to implementing a corrected pay rate?
- How is the employer thinking about the process for review process of terms and conditions, including remuneration, to ensure that pay equity is maintained?

Background

The Care and Support Workers Pay Equity Claim (the Claim) was raised on 1 July 2022 at the expiry of the Care and Support Workers (Pay Equity) Settlement Act 2017. An Oversight Group was formed under the 'Framework for Oversight and Support of Pay Equity Claims in the Funded Sector' (Funded Framework). The Oversight Group is made up of funding agencies of which Te Whatu Ora is the lead funder. The Oversight Group is chaired by Gráinne Moss, Chief Executive and System Lead Pay Equity, and has representation from Manatū Hauora. Employers have agreed to (as required) a Multi-Employer Pay Equity Process Agreement (MEPEPA) which details how the named employers will work together and be represented.

So far, the Claim has reached:

- Milestone 1 endorsement by the Oversight Group in September 2022.
- Milestone 2 endorsement by the Oversight Group in February 2023.
- Milestone 3 and 4 endorsed by the Oversight Group in June 2023

Overview

The role of the Taskforce is to provide advice to the oversight group on whether the proposed corrections and changes outlined in the bargaining strategy responds to the evidence the parties gathered and is in line with the Equal Pay Act.

We are cognisant that many of the other remuneration element may have complexities in terms of intersecting legislation, tripartite agreements, and other challenges regarding implementation. However, in this forum it is not within our collective remit to consider this as the role of oversight is focused on pay equity process.

Separate discussion on these issues and challenges may be needed in a different forum.

Overall, the taskforce view is that milestone 5 paper is comprehensive and sets the employers well for settlement bargaining.

There are a few places where more explanation could be useful, and this can mostly be addressed through seeking clarification from employers at the oversight group meeting- getting them to talk members through their thinking.

There are a couple of issues where the connection to why the change proposed addresses a component of undervaluation has been drawn weakly or not at all (sleepovers and enhanced sick leave). This could use clarification.

There is also an issue which employers have identified as unrelated to gender (precarity of work) which the Equal Pay Act does require consideration of. This is likely to impact remuneration over time and is a relevant feature of the work. The Taskforce have set out the related part of the Act in our advice and recommend the parties actively consider and address this issue.

There also remain concerns about the emphasis placed on funding to settle or maintain pay equity which does not properly reflect the employers own legal obligation adequately. Another reminder may be needed in this space.

The Taskforce recommends the paper is endorsed, subject to clarification being provided on the issues outlined.

Milestone 5 paper

A Milestone 5 paper has been provided to the Oversight Group. This has been broken down into 11 strategy components:

- Strategy Element 1: Multiple Employers/Collective Approach
- Strategy Element 2: Scope
- Strategy Element 3: Remuneration
- Strategy Element 4: Other Terms and Conditions
- Strategy Element 5: Qualifications
- Strategy Element 6: Process for Maintaining Pay Equity
- Strategy Element 7: Anticipated Bargaining with Unions
- Strategy Element 8: Funding of Settlement
- Strategy Element 9: Implementation of Settlement

- Strategy Element 10: Implications for Wider Sector Workforce
- Strategy Element 11: Risks and Issues Arising

Strategy 1 – Collective approach (pg.10)

The commitment from the employers to approach settlement negotiations working collaboratively while acknowledging and surfacing sector differences is a positive and constructive approach. This kind of approach is in line with the Equal Pay Act 1972 which provides a strong emphasis on joint work.

Strategy 2 – Scope (pg. 11-13)

The scope of the claim was well defined from the start, with this definition being further refined as the work is explored in line with the requirements of the Equal Pay Act to look at work that is the same or substantially similar. ***The scope appears clear and consistent with Equal Pay Act requirements.***

The 80%/20% threshold for identifying workers who may move in and out of the care and support workers space is helpful as it provides a clear delineation to understand scope if questions arise. It has been tested on roles for which questions had arisen such as activities coordinator in aged care. This test produced a clear answer.

It should also be noted that 80% was also the test used for those undertaking work the same or substantially similar to social work in the extension process, so this has some established precedent.

Strategy 3- Remuneration

Pay scale and translation (pg. 13-15)

The proposed new remuneration scale is well presented and extremely comprehensive. It is useful to be able to see that the different sectors have been able to develop their specific criteria which connect to the placement and progression up the pay scale. This alleviates concerns that the single work profile would not allow for recognition of the specific skills, responsibilities, effort, and conditions of those in different sectors.

The proposed new pay scale follows the process used in a number of successful settled pay equity claims, where the pay scale is lengthened and transformed to better reflect the diverse levels of skill, responsibility effort and conditions of the work. The intersection between tenure and qualifications appears to be well considered and retain some of the critical elements of the remunerations system employer and employees will be familiar with from the earlier care and support worker settlement. ***The scale connects well to the evidence gathered and looks to provide an evidence-based solution to the identified sex-based undervaluation.***

The translation process does appear to be quite complex given the need for an individual assessment for each employee. This seems very resource and time intensive. The Taskforce considers that given there is appeals process available an agreed, principle-based approach could be taken to translation in the first instance to expedite implementation. Given the parties commitment to there being an extension of this settlement this would also ensure the process was workable if the extension is agreed to by Cabinet.

Other remuneration elements (pg. 16-19)

Penal rates- the suggested penal rates connect directly to the comparators entitlements and the patterns of work identified. The rationale is clear and straightforward.

Overtime-The introduction of overtime once 48 hours per week or 96 hours per fortnight is reached also responds to the comparator data. It is good to see the acknowledgement of health and safety in this proposal as it does seem highly likely that any pattern of hours over this number could pose significant risk to the quality of care and to the wellbeing of the employee. In settlement negotiations this could be taken further to ensure that employers actively manage the volume of hours worked to minimise overtime.

Multiple work period allowance-It appears reasonable to provide limited compensation for what is effectively the employee being available to deliver services at multiple times in the day. ***The strategy could use better defining of what constitutes "multiple". At the moment the strategy indicates it will be applied "broadly" but it is unclear what this may mean.***

Sleepovers-The Taskforce considers that there may well be strong rationale for shifting the sleepover rates. ***The strategy could use a bit more detail on why this is important however it as currently just states that the employers consider it a core element of an equitable pay correction.*** The employers could speak to why this is important at the meeting to consider milestone 5.

In between travel time and mileage-HCSS and Disability -purely based on the connection of the proposed correction to the evidence the approach outlined does seem to connect to what the comparators are entitled to.

Strategy 4 -Other terms and conditions (pg. 20-21)

Mileage use of personal vehicle- the transitioning of non IBT employees to the IRD rate align with the evidence around what the comparators had access to.

Paid training – Ensuring that there is consistent access to paid training across all four sectors is logical and follows the evidence.

Extended sick leave- while it is a worthwhile offering the consideration of extended sick leave seems weakly connected to evidence of undervaluation. Only one comparator had extra days, and this was after 2 years. The proposal the employers are considering is significantly better than this. More detail on why the proposed offer is being put forward would be useful.

Higher duties- the introduction of a higher duties allowance makes logical sense in terms of ensuring fair and equitable remuneration for extra skills responsibility and effort. The approach will need better defining (i.e., after how many days acting up does it kick in).

Strategy 5: Qualifications (pg.21)

The proposal here is a bit confusing –it seems to propose principles for settlement which relate to further work with other agencies. ***The Taskforce recommends that the oversight group ask the employers to speak further to this at the meeting.***

Strategy 6: Process for maintaining pay equity (pg.22)

The taskforce is concerned about the wording in paragraph 64. This implies that the employers will not review or maintain pay equity without a guarantee in place regarding related funding increases. ***While funding is an understandable concern for the employees, they have a legal obligation to review and maintain pay equity. This obligation does rest with them and not the funders. They will not be able to 'opt out' of any process due to funding concerns.***

The Taskforce supports not having an automatic trigger when one of the comparators remuneration changes as maintaining pay equity is not about pay parity and should not be read as such. There may be multiple reasons why remuneration changes over time.

Strategy 7: Anticipated Bargaining with Unions

This section usefully outlines the understanding the employers have garnered about how the union will be approaching settlement bargaining. Most of the issues the unions have indicated they will raise the employer have already outlined a clear strategy for addressing. The primary issue the taskforce has identified here is the approach to the precarity of work issue. It will not suffice for employers to take a position that this is not related to gender. The Equal Pay Act requires as part of the matters to be assessed (13ZD) all of the factors listed in 13F to also be considered, which include:

- (e) any sex-based systemic undervaluation of the work as a result of any of the following factors:
 - (i) a dominant source of funding across the relevant market, industry, sector, or occupation:
 - (ii) a lack of effective bargaining in the relevant market, industry, sector, or occupation:
 - (iii) occupational segregation or occupational segmentation in respect of the work:
 - (iv) the failure by the parties to properly assess or consider the remuneration that should have been paid to properly account for the nature of the work, the levels of responsibility associated with the work, the conditions under which the work is performed, and the degree of effort required to perform the work:
 - (v) any other feature of the relevant market, industry, sector, or occupation.

This does provide grounds for the union to argue that precarity is a relevant feature of this workforce and it is also likely to impact remuneration over time. While precarity may not be able to be eliminated, consideration should be given by the parties as to how they can address the issues raised by this feature of the work.

Strategy 8 Funding of Settlement (pg.25)

The Taskforce is mindful that funding is top of mind for the employers, and this is understandable. ***However, it must be made clear to the employers that the option of not considering settlement (para 77) until funding agreements are reached which include implementation plans is not a lawful approach. They have a legal obligation to progress the claim.***

Strategy 9: Implementation of Settlement (pg.26)

The Taskforce notes there are multiple matters here which intersect with decisions that Ministers will make about funding, extension and mechanism of delivery. It is useful to see that the proposal for the effective date is looking to be forward looking (i.e., not proposing back pay).

Strategy 10: Implications for wider workforce (pg.27)

While the wording in this section is slightly inaccurate in terms of the *Framework for Oversight and Support of Pay Equity Claims in the Funded sector* it appears to be a simple placeholder to flag the importance to the parties of an extension. The process outlined in the Funded Framework will be followed by officials and Ministers will make decisions on this.

Strategy 11 Risks and Issues Arising (pg. 27)

This section restates identified risks around funding and time delays. This is particularly pertinent given that it is election year with limited time left for ministerial decision making. Given these elements are all well know all parties will do their best to progress the work required within the parameters we have available.

Memorandum

Oversight Group for Care and Support

To: Oversight Group for Care and Support (Oversight Group)

From: Anna Pallesen, Pay Equity Taskforce (the Taskforce)

Date: 7 September 2023

Subject: Pay Equity Taskforce Advice for Oversight Group on Care and Support Workers, PE Claim Addendum to Milestone 3 Report and Milestone 4 Report

Background

The Care and Support Workers Pay Equity Claim (the Claim) was raised on 1 July 2022 at the expiry of the Care and Support Workers (Pay Equity) Settlement Act 2017. In accordance with the Equal Pay Act 1972, employers have agreed to a Multi-Employer Pay Equity Process Agreement (MEPEPA) which details how the named employers will work together and be represented. An oversight group was formed under the 'Framework for Oversight and Support of Pay Equity Claims in the Funded Sector' to provide guidance and quality assurance of the pay equity process in the Crown funded sector. The Oversight Group is made up of funding agencies, including Te Whatū Ora as the lead funder of the Claim.

So far the Claim has reached:

- Milestone 1 endorsement by the Oversight Group in September 2022.
- Milestone 2 endorsement by the Oversight Group in February 2023.
- Milestone 3 and 4 endorsement by the Oversight Group in June 2023.

Addition of comparators

Milestones 3 and 4 were completed and endorsed in June 2023 by the Oversight Group after scrutiny to ensure legal and technical consistency with the Equal Pay Act 1972 and Pay Equity Principles and guidance.

Following Oversight Group endorsement, the parties returned to the comparator selection and work assessment stages (Milestone 3 and 4) to add two more comparators. Their M3 and M4 Addendum Report advises that the addition of comparators resulted from the Lead Funding Agency writing to employer parties to the claim in August 2023 requesting that Health Care Assistants and Mental Health Assistants be considered as comparators for Care and Support Workers.

The additional Milestone 3 and 4 Addendum paper has been provided to the Oversight Group to outline the pay equity process undertaken to add the extra comparators.

The Taskforce advises that the process undertaken is exemplary, with no legal or technical issues. The Taskforce further notes that whilst the process undertaken for extra comparators does not need endorsement from Oversight Group because the legal requirements for the Milestone 3 and

4 were already met and accordingly endorsed in June 2023, the process undertaken for Health Care Assistants and Mental Health Assistants was consistent with the Equal Pay Act and Pay Equity Principles.

Criteria for selecting comparators

Health Care Assistants and Mental Health Assistants fit the comparator criteria set out in Section 13ZE of the Equal Pay Act and additional criteria agreed by the parties and set out in the Milestone Two report.

Work assessment process

Summary work profiles of Health Care Assistants and Mental Health Assistants used in the Nursing Pay Equity Claim were provided to the parties' assessors for both roles. Both profiles stated that they were drawn from interviews conducted using the foundation of the State Services Commission Pay Equity Work Assessment Factor Plan questionnaire. The M3 and M4 addendum reports that all those involved as assessors and moderators had been trained in and had previously undertaken assessment in the job evaluation process for pay equity and were familiar with the Commission's gender-neutral job-sizing tool, Te Orowaru, and its requirements.

Work assessment results

The addendum illustrates that the methodology used for assessing undervaluation using the two extra comparator is the same as was endorsed by the Oversight Group in the original Milestone 4. It was based on the results that emerged from the work assessment process, the rates of pay that were paid to Care and Support Workers and those paid to comparators, the terms and conditions of employment available.

The work assessment of Health Care Assistant scored lower than those of the original three comparators. The scores of Mental Health Assistant work assessment were between those of Customs Officers and Corrections Officers.

The original Milestone 3 and 4 assessment showed undervaluation in the range 24% to 38%. The additional comparators did not materially change this original assessment.

The Taskforce considers that the process for generating work assessment results was consistent with the Pay Equity Act 1972 and Pay Equity Principles.



Hon Jan Tinetti
Minister for Women

JOINT AIDE MEMOIRE: Meeting with PSA National Secretaries, Kerry Davies and Dwayne Leo on Tuesday, 18 July 2023

Date:	12 July 2023	Priority:	Medium
Security classification:	In Confidence	Reference:	MW AM 22-23 0331
Proactive Release:	This document will be considered for proactive release within 3 months		
Contact	Nardine Sleeman, Manager, Gender, Māori, Pacific and Ethnic Pay 9(2)(a) privacy Amy Ross, Manager, Pay Equity Advice and Assurance 9(2)(a) privacy Riripeti Reedy, Policy Manager 9(2)(a) privacy		

Purpose

- 1 On Tuesday 18 July, you are meeting with the Public Service Association Te Pūkenga Here Tikanga Mahi (PSA) National Secretaries Kerry Davies and Dwayne Leo from 4:30-5:00pm in your office. They would like to discuss the process of pay equity and ensuring that it delivers equity.

Out of scope

out of scope

Funded Sector Care and Support Workers claim

- 22 The parties to the Care and Support claim are progressing at pace with milestone 5 (settlement bargaining strategy) being considered by the Care and Support oversight group at the end of July. The Taskforce is beginning work with parties to meet the criteria for Cabinet to consider extending the settlement to the rest of the workforce. The Claim represents approximately 17,405 employees, within an estimated wider sector workforce of 60,000 employees performing the same work.
- 23 Parties have agreed on the importance of having this settlement and any extension agreed prior to the Support Workers (Pay Equity) Settlements Act 2017 expiring in December 2023.
- 24 On 9 June 2023, the Collective Peak Bodies peak body wrote to Ministers and officials urging the government to progress decisions on any extension with urgency. Minister Verrall responded to that letter indicating that she was looking forward to considering any proposed settlement and extension with her Cabinet colleagues.
- 25 You will be receiving advice seeking Ministerial direction on the next steps for work on the extension. The Taskforce is mandated to lead the validation of the work assessment collate to meet the Cabinet criteria for extension, collate workforce data to provide cost-modelling and options for funding methodology in collaboration with Funding agencies, Treasury and the Ministry of Health.

Issues that may be raised

- 26 The PSA may raise the concerns in the recent letter from the Collective Peak Bodies in the Care and Support claim. Officials recommend you emphasize the commitment to progressing consideration of any extension, with support from the Taskforce.

9 out of scope

From: [Amy Ross](#)
To: [Christina Connolly](#); [Ministerial Services](#)
Cc: [Bryan Dunne](#); [Gaye Searancke](#); [Alex Chadwick](#); [Grainne Moss](#)
Subject: bullets as requested on care and support
Date: Monday, 28 August 2023 10:50:00 am
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

Te Kawa Mataaho has real concerns about the process being progressed to advance the pay equity claim for care and support.

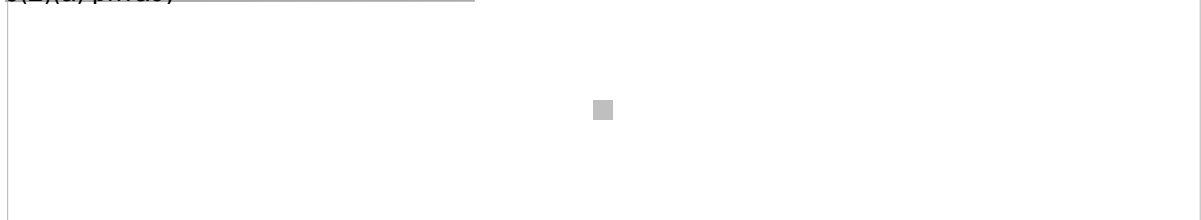
- Te Whatu Ora has indicated to Te Kawa Mataaho that an offer has been made to parties by the Minister of Health to settle the claim for a particular figure. This is prior to any contingency being sought from Cabinet.
- This figure offered does not respond to the full employers bargaining strategy. The parties were asked to use other comparators despite the computers they did use being formally endorsed by the oversight group overseeing the claim. This approach introduces as a key consideration for parties the issue of affordability. This is in breach of the Act as affordability is not a relevant matter for consideration when resolving pay equity claims.
- This process has effectively placed Te Whatu Ora and Ministers into the bargaining process which by law is between the parties- in this case the care and support employers and unions. A possible consequence of overreach is that Crown is found to be the employer of these employees or a party to the claim.
- The figure offered does not respond to the evidence gathered by the parties in the pay equity assessment process and endorsed by the oversight group. Proceeding with this in a pay equity process would mean that any resulting pay equity settlement would not be accurate or compliant with the Equal Pay Act in which affordability cannot be used to influence the outcome.
- The offer has been rejected by both unions and employers as unable to deliver pay equity as per the evidenced process.
- The employers wrote to Te Whatu Ora indicating *"All parties, including the Government representatives in the Oversight Group, have committed to following the Government's Pay Equity Funded Framework process. The union and employer representatives have carefully followed this process and the related feedback and requests to-date. Importantly, milestone steps have already been completed with 3 comparators and resulting agreed undervaluation. The parties cannot ignore this prior analysis and related findings"*. Te Kawa Mataaho also considers that if they did agree to this, they may be found to be in breach of their good faith obligations for considering non relevant matters.
- Te Whatu Ora have responded indicating that without acceptance of this offer timeframes will not be met.
- Te Kawa Mataaho consider that the process as it is operating presents significant legal risk for Ministers, Te Whatu Ora the Ministry of Health and future pay equity processes.
- Fiscal concerns should be dealt with separately to a pay equity process, as the Crown retains the right to make choices about quantum of funding to manage these issues.

Officials are available to discuss these matters if you should wish.

Amy Ross ([she/her](#))

**Kaiwhakahaere Kaupapa – Te Utu Taurite, ngā Kupu Āwhina me te Whakataurangi
Manager – Pay Equity, Advice and Assurance**

9(2)(a) privacy



Te Kawa Mataaho Public Service Commission
www.publicservice.govt.nz | www.govt.nz

From: [Amy Ross](#)
To: [Fiona McCourt](#); [Saini Te](#)
Subject: RE: Letter to the PSA about the Care and Support pay equity claim - comments by 9.30am
Date: Tuesday, 3 October 2023 8:37:00 am
Attachments: [image001.jpg](#)

Our feedback is as follows:

The Pay Equity Taskforce, who is charged with overseeing and supporting pay equity claims across the system has previously advised Ministers that the process undertaken within the care and support claim has been robust and compliant with the Equal Pay Act 1972. The methodology and assessment has been in line with other settled claims and with best practice guidance. We remain concerned that a review of this nature could undermine other settlements.

Te Whatu Ora is able to accurately assess costs both within the claim and across the system utilising the findings of the parties to the claim, which have followed due process.


The precedent set by a review initiated by funders could cause a domino effect whereby funded sector claim results, even when compliant with the Act, are challenged. This may lead to more court action and industrial unrest. The intention of the Act was to ensure that a joint process was undertaken by the parties. For Care and Support this has been undertaken thoroughly, coordinated by an experienced pay equity practitioner Brenda Pilott ONZM.

We support an interim pay equity payment not being delivered as these can set precedent and conflate collective bargaining with pay equity processes. We do however consider that there are other options available to Ministers if there is pressure on wages prior to settlement. A 3% wage adjustment – not connected to pay equity- was delivered last year to the care and support workforce and this mechanism could be utilised again if Ministers want an option to lift wages outside of pay equity to deal with cost of living pressures.

Amy Ross ([she/her](#))

waea pūkoro: 9(2)(a) privacy

out of scope



From: Amy Ross
To: 9(2)(a) privacy
Cc: Grainne Moss; Alex Chadwick
Subject: Table of approaches to comparability.docx
Date: Wednesday, 8 November 2023 8:49:00 am
Attachments: [Table of approaches to comparability.docx](#)
[Pay Equity for SWS Employer Bargaining Strategy REVISED v3 Aug 2023 final.pdf](#)
[Care and Support Claim 2022 table of docs for review 2 November 2023.docx](#)
[image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

Kia ora

As agreed here are some of the documents that you may find useful. One is a list of documents in chronological order- the links are SharePoint ones so they wont work for you but if you want anything that is listed there please sing out.

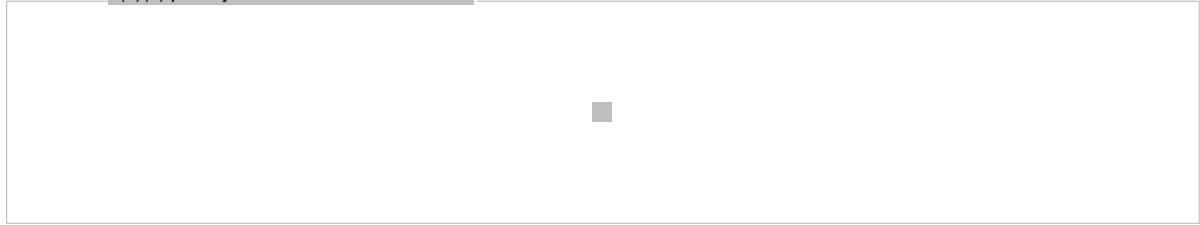
Please do not hesitate to reach out to me if you have any question or need further information.

Please note in the table of approaches to comparability I did not include claims pre the 2020 Act amendments (except TAPEC which was close to so had knowledge of) or claims that have been through litigation to reach settlement. Also, there is one education one missing as the way they assess comparability is pretty similar each time.

Thanks

Amy Ross (she/her)

**Kaiwhakahaere Kaupapa – Te Utu Taurite, ngā Kupu Āwhina me te Whakataurangi
Manager – Pay Equity, Advice and Assurance
waea pūkoro: 9(2)(a) privacy**



Te Kawa Mataaho Public Service Commission
www.publicservice.govt.nz | www.govt.nz

Claim	Tool	9(2)(ba)(i) confidential with prejudice
Social workers in 5 NGOS	EJE	
Teacher aides employed in Schools	PEAM	

		9(2)(ba)(i) confidential with prejudice
Librarians in Schools (LPEC)	PEAM	
Science Techs in Schools (SPEC)	PEAM	

		9(2)(ba)(i) confidential with prejudice
Kaiarahi I te Reo in Schools	PEAM	
Allied, Scientific and Technicians in Te Whatu Ora	EJE (with Te Ao Māori factor from Te Orowaru)	

			9(2)(ba)(i) confidential with prejudice
--	--	--	---

Care and Support Claim 2022 – table of papers in chronological order

Date	Action	Docs
1 July 2022	Original leg expires Claim raised	Pay Equity Claim for Care and Support Workers 1 7 2022.pdf
1 and 9 September 2022	Arguability letters	20220909 Pay Equity Employer Letter to Public Service Commission re Claim Arguability and Next Steps.docx Support Worker Claim Employer Letter to Unions re Arguability 1 Sept 2022.pdf
29 September 2022	ToR and Comms protocols correspondence	220929 Terms of Reference - Care and Support Workers Pay Equity Claim Oversight Group.msg
29 September 2022	Milestone One – Taskforce advice on scope and Milestone 1 report	Taskforce advice to Oversight group for scope - Care and Support Workers' Claim.docx Taskforce advice to Oversight group for Milestone 1 - Care and Support Workers' Claim.docx
30 September 2022	Milestone One endorsement	Letter from Oversight Group - milestone 1.docx
30 November	ToR – updated from September	202211 ToR Oversight Group Care and Support Workers Pay Equity Claim - updated 30 Nov 22.pdf
6 December 2022	MoU	Support Worker Pay Equity MoU 6 December 2022.docx
Jan 2023	Bargaining Strategy	Milestone 2 Employer Initial Bargaining Strategy_Final 31 Jan 2023 Signed copy.pdf
17 February 2023	Milestone Two – Taskforce advice	230217 Milestone 2 Taskforce Advice for oversight group on the care and support workers paper.docx
Feb 2023	Milestone Two - endorsement	230310 Letter to Brenda Pilott in response to M2.pdf

31 March 2023	Milestone Three – Final report on work assessment	Milestone 3 report - Final 31 March .pdf 1 Appendix One Analysis of Long List of Potential Comparators.pdf 2 Appendix Two Care and Support Work Profile FINAL.pdf 3 Appendix Three Care and Support Workers and Comparators Work Assessment Panel Rationale Document FINAL GL 20230303.pdf
19 April 2023	Milestone Three – Taskforce advice – endorsement recommended	Milestone 3 advice care and support.docx
5 May 2023	Milestone Three – employer updates/response to questions	Oversight Group Employer Update on Single Work Profile May 2023.docx Memo 1 Further info on comparators May 2023.docx
21 May 2023	Milestone Three – MoH/TWO/funder comments	IN CONFIDENCE - Comments on the support worker M3 Report.msg
May 2023	Milestone Four – report	Milestone 4 report FINAL.pdf
1 June 2023	Milestone Four – Taksoforce advice (including re-consideration of M3)	Milestone 4 advice care and support.docx
12 June 2023	Milestone Three and Four endorsement	Endorsement of Milestone 3 and 4- Care and Support Worker Pay Equity Claim.msg
9 June 2023	Peak bodies/Ministerial correspondence	Letter to Hon Dr Ayesha Verrall 9 June 2023.pdf
16 June 2023	Milestone Five – report (Bargaining Strategy) and email accompanying report	RE Milestone 5 Care and Support Claim Paper.msg RE Milestone 5 report employer bargaining strategy.msg
22 June 2023		RE Milestone 5 Care and Support Claim Paper.msg

29 June 2023	Peak Bodies/Ministerial Correspondence (TKM not consulted on the Ministerial response)	Hon Dr Ayesha Verrall letter to Peak bodies re care and support.pdf
11 July 2023	Milestone 5 – Taskforce advice	4. Milestone 5 advice care and support.pdf
25 July 2023	MoH – work assessment analysis	Fwd IN CONFIDENCE - Support Worker factor analysis .msg
26 July 2023	MoH – issues M3, 4 and 5	FW IN CONFIDENCE - Commentsfeedback to Oversight group on SW pay equity claim concerns - BARGAINING SENSITIVE.msg
27 July 2023	Oversight Group Chair email to OG re MoH concerns	Follow up from yesterdays meeting - in confidence.msg
28 July 2023	Email re endorsement of M3 and 4 post PSC facilitated meeting	RE DRAFT Agenda C & SW oversight group meeting 30 Aug 2023 .msg
28 July 2023		thoughts on questions on Milestone 5.msg
7 August	Oversight Group meeting minutes 3 August	- Not finalized version as could not be agreed
15 August	Oversight Group emails about questions from funders about sleepovers and progress towards endorsement	RE Oversight Group tomorrow.msg RE Fortnightly Care & Support Workers Oversight Group Meeting.msg

From: [Amy Ross](#)
To: [Deborah Kent](#)
Cc: [Grainne Moss](#); [Alex Chadwick](#); [Dale Farrar](#); [Sally Munro](#)
Subject: RE: Table of approaches to comparability.docx
Date: Thursday, 9 November 2023 8:33:00 am
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

Kia ora ano

I can certainly expand the table with some of the information you have asked for. To clarify, I mentioned in my email I did not include the nurses or midwives claims as they were ultimately decided through litigation and a subsequent deal, which takes it outside of an evidence-based assessment process that the other claims have followed. I think this precludes it from relevance in comparison.

I also excluded the claims settled pre-Act (except TAPEC as mentioned) as these were following different pathways and did not have the same legislative process to adhere to. I could add these if you wanted however we may have less info on some though as we did not exist then.

I can include DHB admin clerical and librarians and interpreters (which originated from the same claim but ended up in two) as additional health claims.

To clarify I think the point that Grainne and I were making is not that the claim is not complex- to a degree every claim is complex, but that the standard we have seen of 2-4 years for settlement was influenced by a range of factors, such as union resourcing, employer resourcing, the introduction of the Act, intersection with collective bargaining etc which has caused unnecessary delays. So it is not that claims should take that long in order to progress. They can and should progress much more quickly when those things are not an issue and we were trying to relay that up until the review point those features had not been present- great resourcing of the claim was arranged, there was no interface with collective bargaining, the parties prioritised the work and there was no litigation or ingrained dispute.

I will summarise some of these factors for the claims though some of them are long and complex so may be better through a conversation.

I can have updated table to you cop Friday or early next week at latest.

Thanks

Amy Ross ([she/her](#))

9(2)(a) privacy [REDACTED]

From: Deborah Kent 9(2)(a) privacy [REDACTED]
Sent: Wednesday, November 8, 2023 6:41 PM
To: Amy Ross 9(2)(a) privacy [REDACTED]
Cc: Grainne Moss 9(2)(a) privacy [REDACTED]; Alex Chadwick 9(2)(a) privacy [REDACTED]; Dale Farrar 9(2)(a) privacy [REDACTED]; Sally Munro 9(2)(a) privacy [REDACTED]
Subject: Re: Table of approaches to comparability.docx

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Thank you Amy, this is very helpful and very much appreciated.

As we mentioned yesterday, as we are 1. taking an evidential approach to the review we are seeking some further evidential and analytical documents from the parties and 2. interested in better understanding how this claim compares to the methodical approaches used in other claims. In that context I am hoping that, with the Pay Equity system leader hat you and Grainne could expand the table of approaches please. If it is not possible to get this information, please let us know. We are not in huge rush for this, so if you need to take a couple of weeks to do that, that is ok.

- Can we please check why you have included only some claims in your table (ie Social workers in 5 NGOs, Teacher aides employed in Schools, Librarians in Schools (LPEC), Science Techs in Schools (SPEC), Kaiarahi I te Reo in Schools, Allied, Scientific and Technicians in Te Whatu Ora). We would like to include other claims, particularly in the health sector eg Mental Health Assistants, Nurses, Health Care Assistants. Is that possible?
- Can you please provide a bit of context for each claim -
 - eg the workforce coverage quantum , whether they are a funded sector claim, and if decision have been made to extend the claim . Can you please include what claims have been extended etc. This will probably pick up the evidence basis your point that claims are unique
 - The approx length of time it took to progress through the milestones (excluding bargaining), the year the claim was deemed arguable etc . This should hopefully pick up the evidence basis for your point that claims are progressing quicker now there is guidance
- Anything about complexity of the parties to the claim negotiating environment - eg was the claim a multi employer claim, a multi-employer claim, or both multi employer claim and multi-employer claim, number of role types covered etc - this should hopefully provide an evidence basis for Grainne's point that this was not a comparatively complex claim
- Anything about the inputs into the factor analysis assessment of the role- eg number of roles interviewed for scoring, the validation of the interview information - eg - were duties from interviews widely tested - eg with the entire of workforce through survey , with managers, organisation owners etc. Which claims used a single profile for factor scoring and what we know about the rationale for that

Hopefully that is pretty straight forward and already in your database of claims.

Happy to chat as needed, many thanks

Deborah and Dale

From: Amy Ross <9(2)(a) privacy>
Sent: Wednesday, November 8, 2023 8:49 AM
To: Deborah Kent 9(2)(a) privacy Dale Farrar 9(2)(a) privacy Sally Munro 9(2)(a) privacy
Cc: Grainne Moss 9(2)(a) privacy Alex Chadwick 9(2)(a) privacy
Subject: Table of approaches to comparability.docx

Kia ora

As agreed here are some of the documents that you may find useful. One is a list of documents in chronological order- the links are SharePoint ones so they wont work for you but if you want anything that is listed there please sing out.

Please do not hesitate to reach out to me if you have any question or need further information.

Please note in the table of approaches to comparability I did not include claims pre the 2020 Act amendments (except TAPEC which was close to so had knowledge of) or claims that have been through litigation to reach settlement. Also, there is one education one missing as the way they assess comparability is pretty similar each time.

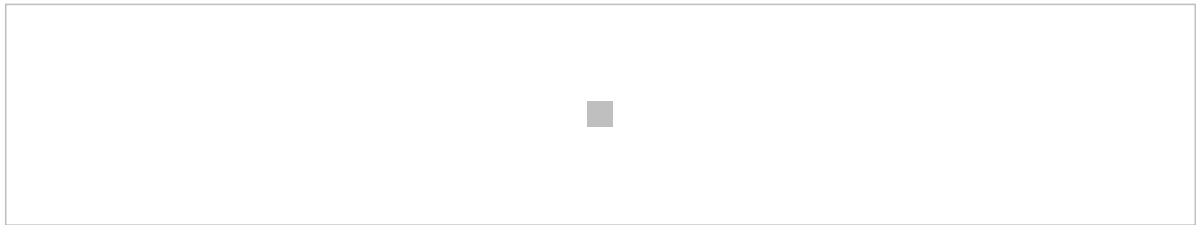
Thanks

Amy Ross (she/her)

Kaiwhakahaere Kaupapa – Te Utu Taurite, ngā Kupu Āwhina me te Whakataurangi

Manager – Pay Equity, Advice and Assurance

waea pūkoro: 9(2)(a) privacy | īmēra: 9(2)(a) privacy



Te Kawa Mataaho Public Service Commission

www.publicservice.govt.nz | www.govt.nz

.....
Confidentiality notice: This email may be confidential or legally privileged. If you have received it by mistake, please tell the sender immediately by reply, remove this email and the reply from your system, and don't act on it in any other way. Ngā mihi.

From: [Amy Ross](#)
To: [Deborah Kent](#); [Dale Farrar](#); [Sally Munro](#)
Cc: [Grainne Moss](#); [Alex Chadwick](#)
Subject: Table of approaches to comparability
Date: Monday, 13 November 2023 2:11:00 pm
Attachments: [Table of approaches to comparability.pdf](#)
[image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

Kia ora

I have fleshed out the table a bit- I hope its answers what you are looking for. Please note I am sharing this information for you as reviewers only and ask that you do not share it more widely.

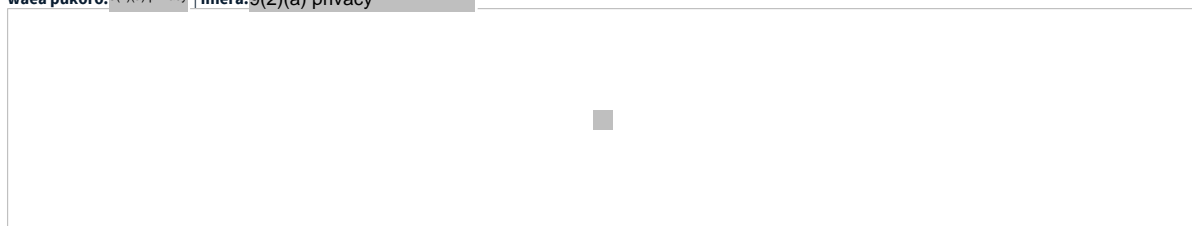
As always please feel free to reach out if you have any questions

Amy Ross (she/her)

Kaiwhakahaere Kaupapa – Te Utu Taurite, ngā Kupu Āwhina me te Whakataurangi

Manager – Pay Equity, Advice and Assurance

waea pūkoro: 9(2)(a) privacy | **imēra:** 9(2)(a) privacy



Te Kawa Mataaho Public Service Commission
www.publicservice.govt.nz | www.govt.nz

Claim/context	Size of workforce	Tool	Interview number	What was factor scored and validated	How was comparability assessed
Social workers in 5 NGOS Funded Sector Raised 2019 (pre-Act) Settled 2022. Union did not progress claim immediately. Work began in earnest post Equal Pay Act amendments. Work pivoted once funded framework was passed in 2021 order to ensure it met criteria Multi-employer claim- single union.	497 Extended to a further 5008 workers in 2020	EJE	19 interviews	9(2)(ba)(i) confidential with prejudice	
Teacher aides employed in schools Education Sector Raised 2018 (pre-Act) settled Mid 2020 (just before Act passed) This claim was the first education claim to use PEAM so some of the work and time was dedicated to the joint creation of PEAM and training the parties on its use.	22,000	PEAM	92 Teacher Aides		
Librarians in Schools (LPEC) Education Sector Raised December 2020 Settled 2023 9(2)(ba)(i) confidential with prejudice [Redacted text]	1029	PEAM	36 Librarians (including supervisors)		
Science Techs in Schools (SPEC) Education Sector	319	PEAM	28 (including supervisors)		

Raised December 2020 settled 2023 Context as above				9(2)(ba)(i) confidential with prejudice
Kaiarahi I te Reo in Schools Raised 2018 (pre-Act) settled 2022 Education Sector 9(2)(ba)(i) confidential with prejudice [Redacted]	79	PEAM	18	
Allied, Scientific and Technicians in Health Sector Raised 2018 (pre Act) settled 2023 9(2)(ba)(i) confidential with prejudice [Redacted]	17,000	EJE (with Te Ao Māori factor from Te Orowaru) Shortened version of online questionnaire and interviews used.	See appendix 1	

Librarian and interpreters Health Sector 9(2)(ba)(i) confidential with prejudice	77	EJE		9(2)(ba)(i) confidential with prejudice	
--	----	-----	--	---	--

IN-CONFIDENCE

Te Whatu Ora
Health New Zealand

Appendix 3 - interview and questionnaire response rates

Group1 Role	Responses	Interview	Group2 Role	Responses	Interview	Group3 Role	Responses	Interview
A&OD	10	7	Audiologist	17	2	Diversional Therapist	1	n/a
Assistants (incl Dental)	148	11	Community Support Worker	16	2	Drinking Water Assessor	1	n/a
Dental/Oral Health Therapist	28	6	Medical Imaging Technologist	52	3	Embryologist	4	n/a
Dietitian	36	9	Optometrist	13	2	Family Advisors	2	n/a
Health Promoter	9	7	Physicist	15	2	Health Informatics	3	n/a
Health Protection	7	8	Play Specialist	17	2	Maori Health Workers	45	16
Medical Lab Scientist	19	8	Podiatrist	12	0	Nuclear Medicine Technologist	10	n/a
Needs Assessor/Coord	7	6	Radiation Therapist	49	1	Orthoptist	13	n/a
Occupational Therapist	40	10	Recreation & Welfare Officers	0	0	Wheelchair and Seating Therapist	5	n/a
Pharmacist	46	8	Sonographer	20	2	Perfusionist	3	n/a
Physiotherapist	75	8	Genetic Counsellors	12	0	Professional Advisor	9	n/a
Psychologist	53	8	Total	223	16	Psychotherapist	7	n/a
Scientific & Technical group	310	21				Rehab Support Workers	10	n/a
Social Worker	83	7				Scientist	59	n/a
Speech & Lang Therapist	13	5				Smokefree Officers	7	n/a
Total	884	129				Technical Officer	4	n/a
						Visiting Neurodevelopment Therap	9	n/a
						Total	192	16

Comparator role	Questionnaire Responses	Interview
Detective (Police)	0*	7
Detective Sergeant (Police)	1*	9
Detective Senior Sergeant (Police)	2*	7
Veterinary Technical Supervisor 1 (M)	4	7
Veterinary Technical Supervisor 2 (M)	1	6
Travelling Technical Supervisor (MP)	5	6
Snr/Fisheries Officers (MPI)	0**	10
Total	13	52

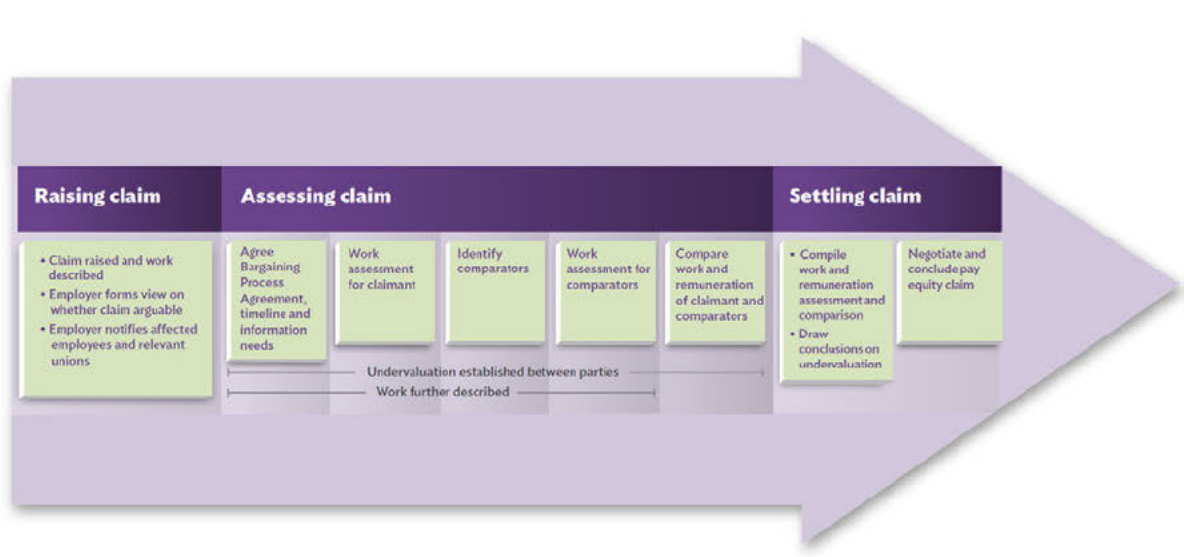
Note these are not all the occupations- different occupations have been groped under these titles. - they have been grouped under these titles and some roles have multiple levels (i.e from intern through to specialist)

From: [Amy Ross](#)
To: [Sally Munro](#)
Cc: [Dale Farrar](#); [Deborah Kent](#)
Subject: RE: Care and Support Worker claim - methodological review - follow-up questions.
Date: Monday, 27 November 2023 3:07:00 pm
Attachments: [Endorsement of Milestone 3 and 4- Care and Support Worker Pay Equity Claim.msg](#)
[Template-Terms-of-reference-for-pay-equity-bargaining \(2\).pdf](#)
[image002.png](#)

Kia ora ano

The guidance we provide on same or substantially similar is that its primary function is to move away from job titles (which can be misleading or confusing) to ensure that all employees who may do similar work regardless of title, are captured in a pay equity claim for that work. Conversely it is expected that employees who are doing very different work have access to their own process to investigate their work thoroughly.

The term is not further defined either in legislation or in MBIE's policy intent documentation so in our pay equity bargaining template we cover this lightly noting that best practice is to note the scope of your claim clearly at this point but also to observe that roles may come into or out of scope during the investigation and assessment process as more information about the work is uncovered. To that end we also indicate "work further described" in our process arrow exists throughout the pay equity process. Some claims **9(2)(ba)(i) confidential with prejudice**



Amy Ross [\(she/her\)](#)
waea pūkoro: 021 975549

From: Sally Munro **9(2)(a) privacy**
Sent: Monday, November 27, 2023 12:31 PM
To: Amy Ross **9(2)(a) privacy**
Cc: Dale Farrar **9(2)(a) privacy**; Deborah Kent **9(2)(a) privacy**
Subject: Care and Support Worker claim - methodological review - follow-up questions.

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora Amy

Hope all is well with you. I am imagining there is a huge burst of activity at PSC now the new government is underway.

There are a couple of pieces of information the review team would like to access, if you could please provide:

1. Any PSC (or other) guidance on how to assess 'same or similar' in relation to the requirement in the Equal Pay Act on claim coverage of same or substantially similar work .
2. Grainne's endorsement note for Milestones 3 and 4. (This note was referred to in paragraph 4.14 of the 7 June Minutes of the Oversight Group.)

Many thanks,
Sally

From: [Grainne Moss](#)
To: [Brenda Pilott](#)
Cc: [margaret.eccleto](#)^{9(2)(a) privacy} [Larissa Haami](#); [Amy Ross](#)
Subject: Endorsement of Milestone 3 and 4- Care and Support Worker Pay Equity Claim
Date: Tuesday, 13 June 2023 9:35:00 am
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)


Kia ora Brenda

Thank you for your attendance and thank-you to Margaret and Rose too for attending the Oversight Group meeting on the 7 June.

The Oversight Group would like to acknowledge the high-quality papers that you presented and the clarity and detail with which you answered our follow up questions.

Based on the information you provided and the subsequent discussion the Oversight Group can formally endorse Milestone 3 and 4. This email confirms that endorsement.

9(2)(j) prejudice to negotiations



Once again thank-you for your work and your constructive and positive engagement with us.

If you have any queries do not hesitate to contact me

Warmest regards

Gráinne Moss *(she/her)*

Te Tumu Whakahaere, Tōkeke ā-Utu | Chief Executive & System Lead Pay Equity

waea pūkoro: ^{9(2)(a) privacy}



Te Kawa Mataaho Public Service Commission

www.publicservice.govt.nz | www.govt.nz





Te Kawa Mataaho

Public Service Commission

25 January 2024

Link Consulting Group Limited
Level 2, 318 Lambton Quay
Wellington 6011

By email: 9(2)(a) privacy

Kia ora Deborah and Dale,

Thank you for the opportunity to review and provide feedback on the draft report.

Our review has unfortunately found a number of points where we have concerns about what is stated in the report, and therefore the conclusions it makes.

As a result, we have provided detailed feedback explaining our concerns, and where possible, alternatives or recommendations to assist with making the changes necessary for accuracy. The Pay Equity Taskforce is happy to answer any questions and provide any further information you require.

Given the number of possible changes to the report and conclusions, we also recommend refraining from comment about the overall system (that we believe were also not part of the commissioning of this report). Work is underway with Ministers in this area, and as this commentary is outside the terms of reference, we would prefer that this commentary is not included so that it does not cut across this process.

We also note that the terms of reference for the review have necessitated a different level of analysis to that required under the governance frameworks. This context is important for readers to understand so it would be helpful to note this in your final report.

I have engaged with Deputy Commissioner, Workforce Alex Chadwick both in our consideration of this draft report, and the system response more generally. We are both available to you for further discussion as needed.

I appreciate this is probably not the feedback you wanted, but it is important, very important, that this report is accurate given the impact it will have on outcomes for people.

Nāku iti noa, nā

Grainne Moss
Chief Executive & System Lead Pay Equity



Overview

This document provides Te Kawa Mataaho Public Service Commission (PSC) feedback on the draft report ‘Secondary Review of Methodology to Determine Sex-Based Undervaluation of Care and Support Work’ (the report).

Overall comment

There are four key themes in the report that we are concerned about:

1. The statement that “the parties largely followed guidance” and the risk that this implies there were aspects of the claim where guidance was not followed.
2. The basis on which the review draws its conclusions, particularly where the information leading to the conclusions is inaccurate or without evidence provided.
3. Lack of reference to and acknowledgement of the Equal Pay Act requirements and the resulting commentary on guidance and its application
4. Conclusions made on issues outside the Terms of Reference which have the risk of undermining existing pay equity settlements and work underway across the system.

Detailed feedback

1. Purpose

Claim context

The context of the claim is that it received endorsement of all milestones by the Oversight Group up until milestone 5. This is not stated in the review but is relevant because a number of the concerns raised in the review were addressed and resolved as part of the milestone process with discussions held, questions answered, and evidence provided and endorsed.

Genesis of review

The ‘Genesis of this review’ section may benefit from more detail. For example, some other relevant key facts are:

Te Whatu Ora and the Ministry of Health (MoH) are required to manage affordability concerns; however the Act does not allow the issues of affordability to affect the evidence of undervaluation. Decisions made on the affordability of correcting undervaluation must be kept separate. The undervaluation evidence for the claim was gathered and agreed by

the parties and considered by independent technical and their legal experts. Te Whatu Ora and the MoH can provide Cabinet with choices about funding the correction, such as partial or contributory funding, reducing service volume or other options to manage the fiscal implications for the Crown. The conflation of fiscal management which sits outside of the Act with the oversight of pay equity process is problematic. However, it is noted that this conflation was inherent in the Terms of Reference.

Documentation reviewed

Milestone 5 is not listed as a document that has been considered. This included a detailed bargaining strategy which responded to questions requested at the endorsement of Milestone 3 and 4, and also some extra detail in response to further questions from the oversight group. This document ties together integral parts of the assessment and analysis process and ensures that there is a clear connection between different levels of skill, responsibility, effort and remuneration. We would strongly encourage the reviewers consider this documentation.

Clarity on pay equity frameworks and the legislated pay equity process

The draft review illustrates the need for further clarity for the reviewers on the different frameworks for oversight of the pay equity process, and how the frameworks interact with legislation. The relevant section of the review is under 'Context' at page 2.

"claims being developed under the funded framework have different considerations and a different governance arrangement"

Clarity for this confusion can be found in the Cabinet papers establishing both the State Sector Framework and The Funded Framework. To summarise, the core differences in the governance arrangements between the Funded Sector Oversight Framework and the Central Agencies Governance Group framework are who provides the oversight, and that the Funded Framework is voluntary.

All other aspects of the frameworks are the same because they respond to the pay equity process as outlined in the Act which governs all pay equity claims.

If by 'different considerations and a different governance arrangement' the review refers to the ability of the 'Funded Sector' to seek extension and 'in-principle agreement to fund' for pay equity claims, it is critical to understand that in the care and support claim, the extension process was yet to commence, so has no part of this review. Only the 'in-principle agreement to fund' had been completed, which was led by the MoH. It has no bearing on the integrity of the claim process to establish undervaluation. The Funded Framework is clear *"that the existence or extent of undervaluation cannot be known at the early stage of the claim."* Also, all claims in government departments have an "agreement in principle" to fund in theory (i.e. an expectation of being able to access funding).

For an extension, the parties need evidence that the wider sector does the same or substantially similar work.

Te Kawa Mataaho is required to lead the work to ascertain this, as mandated by Cabinet. This is not something the parties to the claim are required to evidence as part of their pay equity work assessment process for the claim itself. Therefore, consideration of how well the claim represents the whole sector should not be considered by the reviewers. Similarly, the fiscal implications for the whole sector are irrelevant to the methodological robustness of the pay equity process as:

- affordability is an unlawful consideration in ascertaining a pay equity rate
- an extension had not been agreed by Cabinet

Milestone 3 and 4 email

We recommend adding to this statement in the draft review as below in red. Without this statement a reader could be left with the impression that the Chair endorsed the milestone papers independently from the oversight group, rather than on behalf of them:

*“On 13 June 2023, the Chair **on behalf of, and with agreement from, the Oversight Group** wrote to the Project Lead thanking her for the further information and confirming endorsement of Milestones 3 and 4. This email also set out the Oversight Group expectation that the information which had been verbally articulated be provided in some depth at Milestone 5, along with responses to a set of questions related to pay scales and working conditions. Email correspondence also indicates that Te Whatu Ora and the MoH had outstanding matters, raised earlier, they wanted to see addressed in the Milestone 5 report”* (page 7)

Legislative and policy underpinning Settlement Act

It was anticipated a pay equity claim would be raised for Care and Support under the Equal Pay Act, because the amended Care and Support Workers (Pay Equity) Settlement Act 2017 does not technically create a pay equity settlement under the Equal Pay Act. It had no mechanism for maintenance, the pay was corrected over time, in phased increases to pay (which is now unlawful) and rates were overtaken by the minimum wage in the meantime. The result was that the growth in the minimum wage and inflation overtook the implementation of equity, and the pay equity rate became outdated.

The acknowledgement of the likelihood of an up-to-date care and support claim being raised under the Equal Pay Act is recorded in multiple places, including the settlement agreement document that went before Cabinet:

“The intent is to prevent any claim by any care and support worker, who is an Employee, for pay equity being filed after 1 July 2017 for the period of 5 years i.e. 1 July 2017 to 30 June 2022 (or such other dates as specified in the Legislation); nothing in this Settlement

Agreement prevents pay equity claims after 30 June 2022 for work commenced after that date (but not for work performed before that date)”

2. Context for the review Background

2.1. Genesis of this review

2.2. Matters for Review

2.3. Review approach

Parties to a pay equity claim

The summary conclusion on page 26 says that the Funded Framework “excludes the funder from participating as a party to the claim.” This is inaccurate. It is the Act that expressly defines the ‘parties’ as the employer and the claimant/s. The funder is not a ‘de-facto employer’ in a funded sector claim, as stated on page 28. There is legal risk associated with making this statement, because it could be seen to state that Te Whatu Ora accepts legal responsibility for all fiscal liability generated by a pay equity settlement in full. In the absence of any commitment, funders have no legal obligation to increase funding, nor any legal liability for the pay equity settlement. It is explicit in the Funded Framework Cabinet paper, available to reviewers, that the Crown retains its right to change the service model or volume of contracts (or indeed cease contracts) at any time.


The existence of the Funded Framework Oversight Group, and the availability of technical and legal matter expertise available from the centre of the system (Te Kawa Mataaho), was designed to provide independent oversight and provide funders a better line of sight than catered for in the Act, which has no legal role for the funder.

The risk of funder/central agency overreach into ‘de facto employer’ status was a key risk flagged by Crown Law in the development of both the Central Agency Governance Group and the Funded Framework. It is a legal risk for funders or oversight parties to step into the space of assessing work themselves, or anything which may deem them to be acting as the employer. These kinds of ‘de facto employer’ actions are also contrary to the process required of claim parties under the Act. Overreaching into the analysis of evidence undermines the intent of the Act, which was set up to be a joint process between the parties. MBIE pay equity best practice guide page 26 notes:

“Parties are encouraged to resolve any problems together during the assessment, bargaining, and settlement processes. The process of working through a pay equity claim should be a joint one, where parties work together to gather information, assess and analyse work and agree on a pay equity settlement to address pay inequity”

9(2)(j) prejudice to negotiations

9(2)(j) prejudice to negotiations



3. Consideration of Review Matters

3.1. Part 4A - Description of the work and Single Work Profile

3.1.1. Identifying Roles in Scope

3.1.2. Parties approach to capturing the work


3.1.3. Development of a single role profile

3.1.4. How the single profile has been applied

3.1.5. Review observations and findings on the single profile approach

3.1.6. Review observations and findings

9(2)(j) prejudice to negotiations



d) an inability to identify sector-based differences or nuances in competency frameworks

The sector-based competency frameworks in Milestone 5 clearly show differences and as above, we do not see these effects in the pay scale and the competency frameworks, rather they set out different skill levels, and prevent work undertaken at lower levels from being placed in higher-levels.

The Milestone 5 bargaining strategy states:

“The single work profile highlighted the range and diversity of work performed by care and support workers and has been valuable as the basis for further developing sector-specific criteria to be applied in the Employers’ proposed new remuneration model.”

3.2. Part 4B - Scope of the Claim

3.2.1. Equal Pay Act requirements on 'same and similar' work

3.2.2. Guidance on 'same or substantially similar'

3.2.3. Application of the 'same and similar work' requirement to this claim

3.2.4. Review observations and findings

Scope

The review asserts that the claim’s scope cannot be validly determined because reviewers were not provided with a list of job titles. In a pay equity process it is well established that job titles can be misleading and unhelpful for ascertaining whether work is the same or substantially similar. It is unclear how a list of job titles would assist with ascertaining the scope of the claim. Role titles can be different and do the same work or have the same title and do different work. Nomenclature of work in Aotearoa New Zealand is random and often reveals very little about the actual role.

The review does not appear to acknowledge the strong evidence on scope provided by the parties. This evidence can be found in:

- a) the claim letter which details the work comprehensively, and for clarity includes some direct exclusions to coverage of the claim.
- b) the definition of care and support work in legislation
- c) the work of the parties to apply a threshold for roles that may do other work as well, which is reflected in the creation of the 80/20 rule in the Milestone 5 report page 13 –

“For workers who fall in and out of the work definition at different times because they are ‘performing the work’ only periodically, it is proposed that there is a threshold introduced for practical application. The employers consider an 80 percent/20 percent threshold to be appropriate for this purpose. This means that where an employee is only performing ‘the

work' for part of their overall work, they will need to do this at least 80 percent of their overall work time in order to be captured within scope of this pay equity settlement."

The parties go further to think through the application of 'same or substantially similar' work in the following way:

"With regard to any employees who may claim that they are performing 'substantially similar' work (and therefore may fall within the settlement scope), the Employers consider that the likelihood of this occurring is very low. This view is based on:

a. This particular workforce is already well established and has been clearly defined in recent years, especially following the 2017/18 original pay equity settlements and related legislation.

b. The Claim's definition of the work is significantly broad and is considered to effectively capture employees performing any components of the work.

c. The Employers have identified that a possible example is activities coordinators in the aged residential care sector. On review, the components of this role's work has some similarities, but they are not considered to come close to the substantial threshold".

We note that other claims have also incorporated a range of roles with significant numbers of job titles, such as the administration claims. Work performed by numerous roles in a single claim can all still meet the definition of the 'same or substantially similar'.

3.3. Part 4C - Work assessment methodology – translating the work description into factor scoring

3.3.1. Guidance on work assessment and factor scoring

3.3.2. Preparation of the Work Assessment Panel

3.3.3. Translating the single profile description of the work into factor scoring for the claimants

3.3.4. Assessment and factor scoring of the comparator work

3.3.5. Review observations and findings

Repository comparator data

The review's portrayal of comparator data in the repository is inaccurate. The review states that data in the repository is not validated (page 19). All interview material, profiles, GARS etc in the repository has been quality assured and validated by interviewees and their managers/supervisors. It is material that has gone through the same quality assurance and validation processes as claimant material, used in previous claims, so it is fit for purpose.

It is therefore not accurate to say that the rigorous process does not apply to data held in the repository (page 18 para 7).

There is also indication on page 19 that who validates which parts of the pay equity process has been misunderstood by the reviewers:

“We note there is no required validation process for assessing work and assigning factor levels for comparators, particularly when this is held in the repository”

Pay equity claims have never sought validation from comparators or claimants of the factors scores allocated. What is validated is the information about the work such as transcripts, profiles/GARS etc. As indicated, all material in the repository has been through this process.

Reviewers ‘light touch’ factor scoring

We are concerned by the statements at page 18, paras 2 and 3 that the reviewers undertook their own brief factor-scoring exercise without undertaking the factor scoring training or adhering to the factor-scoring process necessary for robust outcomes, and that the draft review conclusions have been drawn from this. Some of our concerns are detailed below:

a) Validity of light touch assessment

The draft review acknowledges the ‘caution in the guidance about external checking of factor scores’ on page 8 at the end of 3.3 and again at page 18, para 2. Despite the acknowledgment of this, the ‘light touch exploration’ undertaken by the reviewers forms a key part of significant draft conclusions drawn in the review i.e. that there may be overvaluation.

The pay equity process is designed to remedy the assumptions, interpretations and judgements that creep in when a light touch exploration is undertaken. A thorough examination of the work, undertaken by collaborating parties to the claim, is required by the legislation. The light-touch exploration therefore can have no meaningful use. A light touch assessment by its very nature would fail the legal test in section 13ZD of the Act.

b) Different factor score outcomes

The review states on page 19, para 2 *“Our light touch exploration in relation to two factor claimant scores (factors 1 and 4) with employer representatives demonstrated how easily scores could differ and the role that individual judgement plays.”*

The statement is presented as if the ‘light touch exploration’ conducted by reviewers proves a failure or weakness in the methodology undertaken by the parties. This is a misunderstanding of how the established pay equity assessment process operates. Every work assessment panel will have some differences in ideas about where scores should sit

when they begin an analysis of material to score. This is why a work assessment panel will undergo training and will work together to reach a consensus based on developing a shared understanding of the material in front of them. The claim conducted this process with an independent facilitator on board. It is directly in line with other settlements. Without being party to this process and/or the full suite of rationale behind the decisions made, any conclusions drawn by the reviewers risks importing bias and error and breaching the requirements of 13ZD.

It is true of all pay equity claims that if interview/job profile material is looked at by another group of people it could result in that group reaching slightly different conclusions. This is also true of any job evaluation system. It is why we emphasise and train around 'internal integrity'. Internal integrity means one group applying the same logic to claimant and comparator information. In this claim parties note that they did apply the same logic to claimant and comparator information, and also went back to review the comparators' scores again, to ensure they were consistent with the thinking behind how the claimant was scored. This is recommended practice.

c) What is scored by the parties

The review states on page 27, para 2 that there is an issue with the work assessment panel scoring the profile without access to the transcripts:

'The parties agreed early in the process to use comparators with data contained in the data repository and not to interview comparator workers. ... Without direct engagement it is more difficult to get a good understanding of the nature of comparators' work, to inform factor scoring and remuneration assessment'

It is common in pay equity claims using job profiles as an aggregation mechanism for the profiles to be the data source for factor scoring. Regardless of whether the parties to a claim have undertaken the interviews themselves or utilised data from the repository (or a combination), the validation and assurance processes ensure the profiles are robust, accurate and fulsome.

The factor scorers do not need to be the interviewers. Even in a claim where all comparators and claimants are interviewed directly, it is common for a different team may make up the work assessment panel. All data that is scored, whether transcripts or profiles, must have been validated and agreed by employers and employees to remove any risk of data being called into question in court for breaching the requirements of the Act. The factor scoring in this claim was undertaken according to best practice.

Nonprescriptive guidance

The Taskforce, as authors of the guidance, were not asked specifically about areas of the process where the parties may have strayed from guidance, in their interviews for this review. The reviewer's claim is made without the context that the parties regularly

engaged with the Taskforce to seek advice, clarity and information on interpreting guidance and any novel issues encountered.

“Broad non-prescriptive guidance has upsides and downside (sic). On the upside it provides the parties with flexibility to adopt methodologies that fit their context. On the downside there may be risks that need to be mitigated with some approaches to ensure robustness” (page 27, para 6).

The use of such a statement without examples in a review may create the wrong impression of the guidance to a reader unfamiliar with pay equity. The 2020 amendments to the Act expressly provide a permissive pay equity process which is accessible to claimants and collaborative between the parties. Prescriptive guidance runs the risk of breaching the act, also given that guidance, by definition, does not have the same status as legislation, it is difficult to see how the review’s interpretation that the guidance is ‘non-prescriptive’ could lead to an outcome less robust than that required by the Act.

The ‘non-prescriptive’ point is also raised on page 12, para 4 *‘the guidance, however, is not prescriptive and leaves considerable scope for interpretation and judgements by the parties.’* Guidance, as an instrument, does not have the ability to bind parties to a particular course that is not prescribed in the Act. Making the guidance more prescriptive would not be appropriate as it would reach across the legislative imperative for parties to collaborate and compare work based on the factors in the Act – that is the role of primary or secondary legislation, not guidance. The review expresses concern that, due to non-prescriptive guidance, it is open to parties to have different ‘interpretations’ and ‘judgements’ during the pay equity process (pages 3,12, and 26). The Act requires parties to work together to interpret and make judgements on the evidence within evidential parameters. The gender-neutral job-sizing tools follow an evidence-based process, the data is provided to both parties, who work through the job-sizing factor-plan to arrive at consensus.

The draft review states that the guidance is silent on how to *reach a final view on the extent of undervaluation* (page 21). This silence is appropriate in guidance, given the legislation is clear that a claim is settled when remuneration is determined that the parties agree does not differentiate between male and female employees ... (section 13ZH(a)(i)). Again, the guidance can ensure that people have access to tips, ideas and precedent, but cannot go outside the Act by prescribing one “correct” way. This would undermine the Act which has created the pay equity process to be located within a bargaining framework.

It is appropriate at this point to pick up the statement the review makes on page 18:

“This discussion indicated that in one factor score the parties’ interpretation of guidance was not that of the reviewers, and in the other factor score the parties’ interpretation of

guidance was consistent with the reviewers' understanding of the guidance; but not reflective of the skills outlined in the transcripts of job holder interviews”

No examples are provided about which aspects of the guidance the reviewers refer to.

3.4. Part 4D - Comparing claimants with comparators and estimation of the sex-based undervaluation

3.4.1. Guidance on methodology and approach to assessing the degree of undervaluation

3.4.2. Methodology on assessing comparability adopted in this claim

3.4.3. Impact of Adding 14 percent

3.4.4. Review observations and findings

Reliance on job evaluation and how results were used

The review states on page 24:

“A high degree of reliance has been placed on factor scoring which is a qualitative process relying heavily on the judgement of assessors in arriving at factor scores using the Te Orowaru job evaluation system. Job evaluation systems are used to assess comparability of different roles and work. They are not intended to be used as a precise tool or a structure to be used to set remuneration. As with any job evaluation process there will be a margin for error.”

This relevance of this statement would benefit from the context that the three job-sizing tools utilised across the system for all pay equity claims use factor scoring. Two, PEAM and Te Orowaru, are especially designed for the pay equity process, and compliance with the Equal Pay Act. They provide clear parameters for bargaining equitable remuneration. The tools include special training and other built-in processes to mitigate bias and to ensure that there is internal integrity and robust outcomes. The use of the specialist evidence-based pay equity tool, Te Orowaru, is therefore in line with best practice and the Act. The reviewers have not described how the correct use of the tool can be perceived as creating artificial ‘precision’. Rather the factor scoring identifies the range of undervaluation and feeds into a framework for how this range may be corrected, as it is intended to do in every claim.

The portrayal of the factor scoring process in the review belies the analysis and work undertaken by the parties to understand the work in its totality, design detailed competency framework, thoroughly analyse remuneration, interview payroll; and understand how remuneration operated differently in the different organisations. To assist, the reviewers can find the work of the parties clearly articulated in the information provided.

Discounting remuneration

The review raises as an issue that ‘no discount’ was made for comparators whose penal rates were absorbed into base pay. Remuneration has a broad definition in the interpretation section of the Equal Pay Act as follows:

***remuneration**, in relation to any employee, means the salary or wages actually and legally payable to that employee; and includes—*

(a) time and piece wages and overtime and bonus and other special payments:

(b) allowances, fees, commission, and every other emolument, whether in 1 sum or several sums, and whether paid in money or not.

It would have been unlawful for the parties to ‘discount’ penal rates that had been worked into base pay. This is because they must consider all aspects of remuneration to meet the requirement of the Act. If penal rates are worked into base pay in the way that some comparator employees receive their pay then legally penal rates cannot be “discounted”.

Crown Law advice indicates that there must be “cogent evidence” provided to remove any element of remuneration. The employers detail their consideration of multiple aspects of remuneration in the Milestone 4 and Milestone 5 papers, articulating how and where there are sex-based differences. The reports underwent a legal review by the Principal Solicitor Pay Equity, in light of the Crown Law advice, which confirmed the findings were reached legally and appropriately considered.

Detailed analysis has been provided by the parties that talks to how the claimant and comparator pay systems work, the hours that are worked, allowances and leave benefits received, and median and average pay rates. This methodology is in line with what other claims have done. It is useful to consider that the union parties represented in the claim are also the unions who represent most of the comparator occupations and have a line of sight into the operation of their pay systems and terms and conditions to ensure a detailed analysis can be undertaken.

When the guidance refers to a desktop-based analysis being inappropriate this refers to an analysis of remuneration undertaken without any consideration of anything outside paid and printed rates. Such analysis would contain no context about how progression worked, how terms and conditions may have changed over time or about all the elements that make up total remuneration. This does not apply to this claim when considering the detail provided throughout through Milestone 4 and Milestone 5 reports.

14 percent “loading”

A key concern in the draft review is the so-called ‘loading’ or ‘adding’ of 14 percent (page 25). Across the system, parties to claims have used a similar method as follows – where comparators with similar factor scores to claimants have higher pay than claimants, the

percentage by which the comparators are paid higher is factored into the claimants' pay. The use of the word 'loading' in the review at the top of page 22 might imply that an 'extra' or 'unjustified' percentage has been lumped onto a settlement figure, belying the evidence-based and widely used rationale that determines the difference between claimant and comparator remuneration. Similarly, the use of the word 'adding' 14 percent is not accurate as it might suggest that claimants with the same factor scores but 14 percent less remuneration than their comparators should not have the 14 percent correction factored into their settlement when this would not have met a legal test of achieving pay equity.

Implied precision

Page 24, para 2 states:

'The logic of the 14% loading is based on the difference in factor scoring. This approach suggests a degree of precision that belies the many judgements involved in assigning factor levels. It is particularly problematic where the factor scoring has potentially been weighted to higher skill levels.'

The statement above asserts that the 14% difference applied to remuneration based on differences in factor scores means that the parties have artificially created a level of precision in the process that is not evidence based. The draft review goes on to infer that this has inflated the correction required. Neither of these claims are accurate.

Factor scores emerge from purpose built pay equity tools and are the result of process is based on the judgments of the parties combined, reached by consensus, based on evidence, in line with best practice, the law, and within the parameters of the job-sizing tool. This is a legitimate evidence base that pay equity claims use which has produced a range of settlements to date.

Parties to claims across the system regularly average the comparator data of those comparators with scores close to the claimant scores. There is sound evidence outlining rationales for how parties agreed which comparators would be included in the average. This decision is up to the parties to make between them, under the legislation, and has been widely used and accepted in previous settlements.

To ignore the significant discrepancy of 14 percent in comparator and claimant remuneration, the figure strengthened by being the average of a number of comparators, would be to increase imprecision. The parties to the claim also did consider other methodologies for comparing remuneration, which demonstrated that there were not significant differences in the range of undervaluation when using a different methodology. This strengthens the evidence base that the undervaluation has been accurately established.

The review is silent on any preferred alternative that solves the perceived issue of precision. It implies that a 'lack of precision' in job-sizing processes justifies ignoring significant differences in pay between comparators and claimants that factor score similarly, despite that the purpose of section 2AAC of the Equal Pay Act is to correct for sex-based differentiation.

Exclusion of comparators

Page 19, para 5 of the review makes reference to the choice to exclude some comparators:

“Although out of scope of the review, we note that the decisions and processes around selection and exclusion of comparators are important in comparing roles that have similar skills, responsibilities and effort. At an early stage the panel excluded the NGO non-registered social workers, because their work profile information was at individual transcript level; and Police were later excluded because of concerns about the sufficiency of the information to assign a level on Te Ao Māori factor”

The inclusion of the sentence leaves the reader with the impression that the exclusion of these comparators is problematic. On the contrary, it is clear in guidance (and precedent seen in other settled claims) that excluding some comparators post analysis is reflective of best practice, as long as it is backed up by the right reasons. To be clear comparators are only 'potential comparators' until analysis proves them comparable and the data is robust enough to warrant a comparison. It is expected that parties may exclude a comparator if it turns out not to be comparable or the material analysed on the comparators proves insufficient. An example of an invalid reason to exclude a comparator would be if one of the parties feels the comparator is paid too highly or not highly enough to meet their expectations of an outcome.

Methodology in other claims

The review makes the following statement on page 27:

“We know from the methodology used in other claims that an alternative way of approaching assessment could have been for each panel member to factor score transcripts or a selected sample of transcripts thereby delivering a range of scores to better distinguish the range of levels of skill and complexity in both support and comparator roles. We acknowledge that this approach is more resource and time intensive than use of a single profile.”

Scoring transcripts is not inherently more or less robust than scoring job profiles.

It is correct that other claims have factor scored selected transcripts. However no clear evidence is presented in the review to indicate that scoring transcripts would have had a better outcome. In this method of job sizing, the profile is a way of collecting and

presenting data, which then informs detailed competency frameworks and a nuanced pay scale, with different entry and exit points related to levels of skill, responsibility and effort. This is outlined well in the milestone 5 paper. In the method of job-sizing that factor scores a range of transcripts, scores are usually then averaged to provide a competent rate, from which other pay steps are accordingly bargained.

Time period of claim

The 18-month time period, bullet point 6, page 27, states this is a 'system design' issue. No evidence has been presented in the review to show that the indicative timeframe influenced methodology in any negative way. Parties set out indicative time-frames and adjust them accordingly, based on capability and capacity. Every pay equity claim has entered into the pay equity process with an idea or plan of a timeframe to working to. This is adapted as required as the process unfolds and delivers unforeseen challenges or opportunities to expedite. The Act requires parties to progress a pay equity claim as effectively and efficiently as possible.

Clarity of Taskforce role

There is a claim made that the 'role of the Taskforce [was] not sufficiently clear' in the final bullet point of page 27. The review contains no supporting evidence outlining the concern or perceived impact.

- a) The role is defined by Cabinet minute and was not impacted by the amalgamation of the DHBS into Te Whatu Ora
- b) There was never a question raised by any party, oversight group or other stakeholder as to the role of the Taskforce so we remain unclear on why it has been raised as an issue.
- c) This is also outside the Terms of Reference