

## Questions and Answers

### **1. What is the TerraNova court case?**

The case was filed by the Service and Food Workers Union (now part of E Tū) on behalf of Kristine Bartlett, a care worker employed by TerraNova Homes and Care Limited in the Employment Court in 2012. The case claimed that a caregiver's pay is less than what would be paid to a male with the same skill set in a different occupation due to the fact that caregivers are predominantly female. The Court of Appeal found that the Equal Pay Act 1972 went beyond requiring equal pay for men and women doing the same work, which had been the previous view, but required equal pay for men and women doing different work deemed to be of the same value (pay equity). In June 2015, Cabinet appointed a Crown negotiator to lead negotiations with employer, employee and funder representatives to come to an agreed pay equity settlement for the care and support workforce. The negotiations aimed to resolve the case outside of court, and all other outstanding pay equity cases for this workforce, as well as supporting a sustainable workforce into the future as demand for care and support services continue to increase.

### **2. What does this settlement mean for Kristine Bartlett, the care worker employed by TerraNova Homes and Care Limited?**

Part of the negotiating brief was to find an agreed settlement for Ms Bartlett. A confidential settlement has been reached and it is up to her whether or not she wishes to disclose this information publicly.

If we look at Kristine Bartlett as an example, a worker on the minimum wage, with no qualification and more than 12 years' experience, this settlement would see her rate go from \$15.75 to \$23.50 on 1 July 2017. By year five their rate would be \$27 an hour – a total increase of 71 per cent.

### **3. Who are the negotiating parties?**

Parties to the negotiations are the Ministry of Health, ACC, and District Health Boards, E Tū, the Public Service Association (PSA), and New Zealand Nurses Organisation (NZNO). Business New Zealand and the Council of Trade Unions (CTU) have also been involved. While employers have been represented in the negotiations by the Aged Care Association, Home and Community Health Association, and New Zealand Disability Support Network, they are not a party in the settlement agreement which is between the Crown and unions. However, additional funding will be made available to employers in order for them to pay their workers the new wage rates.

### **4. What sort of jobs do care and support workers do?**

The settlement relates to care and support workers in aged care and disability residential care and home and community support services (including caring for injured clients under ACC). Across the sector there are an estimated 55,000 workers (equal to approximately 29,300 full-time equivalents). These services are provided in a person's home, home like setting, residential care facility or workplace to assist the person with care and support to enable them to continue to live or work in that place and participate in everyday life in their community.

There are three kinds of care and support workers:

**Home and community care workers** help with home management and personal care. Household management may include help with preparing meals, washing, drying or folding clothes, house-cleaning, vacuuming and tidying up. Personal care may include help with eating and drinking, dressing, getting up in the morning and getting ready for bed, showering and going to the toilet.

**Aged residential care workers** support people in rest homes with personal and health care (including some clients under 65 who require rest-home level

care). They may help with eating and drinking, dressing, getting up in the morning and getting ready for bed, showering and going to the toilet, and the treatment of minor injuries (such as cuts and bruises).

**Community residential support workers** allow disabled people to live in a home-like setting in the community, with 24 hour support. This might include help with shopping, preparing and cooking meals, household chores such as washing and vacuuming, personal care, and going out, such as to see a movie or visiting friends.

### 5. What types of work does the settlement not cover?

Settlement parties agreed that the settlement does not include behavioural support services, caregiver support, child development services, environmental support, funded family care, and mental health services. Meanwhile, the Ministry of Social Development and Ministry for Vulnerable Children, Oranga Tamariki have agreed in principle to enter into negotiations with unions and providers on the basis that vocational and disability workers they fund will be covered by terms consistent with the settlement agreement.

### 6. What is the makeup of the workforce and their average pay rates prior this agreement?

	Estimated number of workers	Average Wage Rate	1 July 2017 rates
Aged Residential Care	22,000	\$16.65	From \$19.00  to  \$23.50
Home and Community Support Services	24,000	\$16.22	
Community Residential Living	9,000	\$17.72	

\*Excludes any payments on top of base rate e.g. overtime, penal rates etc.

**7. When will workers begin receiving extra pay?**

Employees are expected to receive their increased wages in their first pay run from their employer after 1 July 2017 (i.e. weekly or fortnightly, depending on their normal pay run).

**8. Will workers still receive the new rates if they are not a member of a union?**

All employees in the aged and disability residential care and home and community support sectors will receive the new wage rates regardless of whether or not they belong to a union.

**9. What is the new wage structure?**

The new wage structure needs to be ratified by union members but is on a range from \$19 to \$27 an hour over the five year period.

**10. What are the transition arrangements for workers who have a number of years of experience in the sector but not the formal qualifications?**

The Government recognises the historic nature of this agreement in addressing systemic gender inequality. The agreed transition and progression process for existing care and support workers from 1 July 2017 reflects the fact that many long-serving and experienced care and support workers have never had their skills and experiences recognised through formal qualifications.

Therefore on 1 July 2017 all existing care and support workers will move on to a step on the scale that recognises their current qualifications or their service with their current employer, whichever is the most advantageous.

The transition process needs to be ratified by unions before being publicly released.

**11. How will the Government ensure providers invest in training their staff?**

Settlement parties have agreed to create incentives to help care and support workers gain formal qualifications. Therefore the contracts between funders and providers will require employers to provide the necessary systems and support to enable workers covered by the settlement to reach the following

New Zealand Qualifications Authority Health and Wellbeing Certificate (or their relevant equivalent) qualifications within the following time periods:

- Level 2 NZ Certificate – within 12 months of employment
- Level 3 NZ Certificate – within 3 years of employment
- Level 4 NZ Certificate – within 6 years of employment

The Government will fund employers for two days per employee per year as its contribution to education and training.

## **12. How will the settlement be implemented?**

Legislation will be introduced to Parliament shortly which will prescribe the minimum pay rates to ensure providers pass on the new wages to employees. It will also extinguish all other pay equity claims made prior to 1 July 2017 for employees covered by this settlement.

## **13. How will the settlement be funded?**

The settlement is primarily being funded through additional funding to Vote Health and ACC, and will not impact on health funding or the provision of frontline health services in other areas.

ACC levies are set for the coming years, but may possibly increase over the next decade to support this. However, that is not definite.

In the first year, the Ministry of Health/District Health Board funding is estimated at \$303 million and ACC at \$31 million.

## **14. What are the changes in ACC levies as a result of the settlement?**

The settlement results in an estimated \$424 million of additional costs to be recovered from ACC levies over 10 years. As levies for 2017/18 and 2018/19 have already been set, the costs will be factored into ACC's levy recommendations for 2019/20 onwards.

## **15. What additional costs could there be on private individuals who purchase these services?**

All residents in aged care pay a portion of the cost themselves, with the amount depending on their assets.

For the 11,000 people with assets over the threshold, they are required to pay the maximum contribution for their care. This is set in legislation and equal to the rest home price which is currently in a range of \$884 and \$971 a week depending on the location.

As a result of the settlement, it is likely that the cost of their aged residential care could increase. It is estimated that it could increase by around up to 6 per cent or an average of \$66 per week on 1 July 2017. This will be worked through in the annual Aged Residential Care contract negotiations in June. The actual amount residents will pay will depend on the negotiation of contracts between representatives of DHBs and representatives of individual providers.

**16. How will this impact on the Government's books. What cost, if any, was included in the Treasury's HYEFU?**

Around 90 per cent of the settlement costs were included in the Government's recent HYEFU forecast, and the balance will be included in the Budget 2017 fiscal forecasts. The Terranova settlement will not be included in the Budget 2017 operating allowance.

**17. Will this settlement lead to a relatively adjustment for other groups?**

This settlement addresses historic issues of systemic gender discrimination and by its nature involves a change in wage relativities. The parties to the settlement agree that it will not be used as a precedent for other occupational groups. With regards to wider pay equity work, in November 2016 the Government announced the pay equity principles and the Equal Pay Amendment Bill will be progressed in 2017 to implement the changes and establish a process for groups to raise and resolve pay equity claims through bargaining as opposed to through the courts.

**18. Why is this settlement important?**

This settlement is a historic milestone for women workers in the elimination of systemic undervaluation of care and support work and is a significant step in addressing gender-based inequality in New Zealand.

**19. Are there any additional benefits from the settlement?**

As New Zealanders live longer, care workers help more people to stay in their own homes for as long as possible. Changing models of care mean that disabled people are increasingly living in home-like settings in the community with 24 hour support from care workers. Where people are no longer able to live in their own homes, care workers help them live as well as possible in residential care facilities.

The care and support workforce has traditionally had high turnover of around 30 per cent. The increased wage rates are expected to help with recruitment and retention of workers which means better continuity of care for clients and a more stable workforce overall, which is especially important with an ageing population. As the settlement also links pay rates to qualifications, this will encourage care and support workers to increase their qualifications, meaning that over time, workers are likely to be more highly trained.

**20. What work is underway to ensure the care and support sector is sustainable?**

There is significant work underway to transform the care and support sector to ensure its long-term sustainability. This includes through the New Zealand Health Strategy, the disability transformation through Enabling Good Lives, the Healthy Ageing Strategy and exploring future models of care that are person-centred, needs-based, equitable, and deliver better outcomes through aged residential care and home and community support services across New Zealand.

**21. What is the difference between equal pay and pay equity?**

**Equal pay** refers to women and men receiving the same remuneration for doing the same job. This might be, for example, a male drainlayer and a female drainlayer being paid the same wages. Until the Equal Pay Act 1972, it was legal to set separate rates of pay for men and women, and to exclude women from certain types of work.

**Pay equity** is the principle that women and men should receive the same remuneration for doing different jobs that are of equal value. For example, a male drainlayer receives the same pay as a female cleaner if the 'value' of the work is determined to be the same.

## **22. What approach is the Government taking to pay equity claims?**

In parallel to Cabinet appointing a Crown Negotiator for the TerraNova settlement, the Government established a Joint Working Group on Pay Equity Principles. The working group was made up of Crown, employee and employer representatives and was tasked to develop a process and principles that could be used to raise and resolve pay equity claims. The principles were announced in November 2016 and the Equal Pay Amendment Bill will be progressed in 2017 to implement the changes. The intent is for claims to be settled by bargaining, rather than parties having to resort to the courts. The Group also agreed that a pay equity claim must be for work predominantly performed by women and that the work has been historically and continually undervalued.