Care and Support Workers (Pay Equity) Settlement

Operational Policy Document

*For Aged Residential Care*

Working Document Released 12 MAY 2017
## Version control

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<td>v.0.1 – 1 May 2017</td>
<td>Original draft</td>
</tr>
<tr>
<td>v.0.2 – 12 May 2017</td>
<td>Key updates:</td>
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<tr>
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<td>• Section 4: Clarified translation</td>
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1 Introduction

The Ministry of Health recognises the important role of care and support workers and the services that they provide. It is committed to both the implementation of the Settlement Agreement across all parties and the ongoing management of these critical services.

This is an Operational Policy Document for the Care and Support Workers (Pay Equity) Settlement. The purpose of this document is to provide guidance on the implementation of Settlement Agreement for the Vote Health funded sector.

This document is specific to Aged Residential Care providers. Providers for Home and Community Support Services or Community Residential Living should refer to the specific guidance document for those sectors.

This document aims to provide guidance for two groups:
1. **Funders.** This document will give guidance for the implementation of the Settlement Agreement and the role that funders will play over the coming months.
2. **The Providers of eligible services.** This document will give guidance to providers on how to consistently implement the Settlement Agreement. It will also outline the process to gather and submit data required to pass on funding to enable the settlement agreement and collect workforce data.

This document only applies to the implementation of the additional costs as determined by the settlement. The Ministry and Funders will continue to substantively fund and manage services through normal mechanisms.

Please take the time to consider the information below. We value your views and if you have general questions or feedback about the information, please email us at payequity_implementation@moh.govt.nz.

**This guidance is a living document and may be updated as required.**
2 Background

2.1 History to settlement

In 2012, proceedings under the Equal Pay Act 1972 were lodged on behalf of, Kristine Bartlett with the Employment Relations Authority. The proceedings claimed that, because support workers are predominantly women, a support worker is paid less than what would be paid to a man performing work involving the same, or substantially similar, degrees of skill, effort, and responsibility, and that the conditions of work are the same or substantially similar.

In 2013, related proceedings were lodged by the Service and Food Workers union with the Employment Court seeking a statement, pursuant to section 9 of the Equal Pay Act, of the general principles to be observed for the implementation of equal pay.

Preliminary questions of law relating to section 3(1)(b) of the Equal Pay Act, on both matters, were submitted to the Employment Court for determination.

In August 2013, the Employment Court answered those questions (the questions and answers) were as follows:

Question [1] - In determining whether there is an element of differentiation in the rate of remuneration paid to a female employee for her work, based on her sex, do the criteria identified in s 3(1)(b) of the Equal Pay Act require the Court to:

(a) Identify the rate of remuneration that would be paid if the work was not work exclusively or predominantly performed by females, by comparing the actual rate paid with a notional rate that would be paid were it not for that fact; or

(b) Identify the rate that her employer would pay a male employee if it employed one to perform the work?

Answer: Section 3(1)(b) requires that equal pay for women for work predominantly or exclusively performed by women, is to be determined by reference to what men would be paid to do the same work abstracting from skills, responsibility, conditions and degrees of effort as well as from any systemic undervaluation of the work derived from current or historical or structural gender discrimination.

Question [6] - In considering the s 3(1)(b) issue of “...the rate of remuneration that would be paid to male employees with the same, or substantially similar, skills, responsibility, and service, performing the work under the same, or substantially similar, conditions and with the same or substantially similar, degrees of effort”, is the Authority or Court entitled to have regard to what is paid to males in other industries?

Answer: They may be if those enquiries of other employees of the same employer or of other employers in the same or similar enterprise or industry or sector would be an inappropriate comparator group.

1 Bartlett v Terranova Homes and Care Ltd (Wellington) [2012] NZERA 743
2 Now Etū,
3 Service and Food Workers Union Nga Ringa Tota Inc v Terranova Homes and Care Limited [2013] NZEmpC 51
Terranova Homes and Care Limited (Terranova) appealed those findings to the Court of Appeal, in October 2014 the Court of Appeal confirmed the answers of the Employment Court and dismissed the appeal.

Terranova sought leave to appeal the findings to the Supreme Court, in December 2014 the Supreme Court dismissed the application for leave to appeal.

On 2 June 2015, Cabinet approved the Crown entering into negotiations, limited to care and support workers in the aged and disability residential care and home and community support services sector to:

seek to resolve the Terranova case out of the courts to enable the government to better manage the process and outcomes

An agreement has been reached and announced by the Prime Minister, Minister of Health and Unions on 18 April 2017.

2.2 Prioritisation of documents

There are number of documents that give effect to the enabling and implementation of the settlement including: the Settlement Act, Agreed Position of the Parties, Settlement Agreement and this Operational Policy Document. While the overall intent is the same from those documents the wording is necessarily different. To avoid any potential for conflict or misunderstanding of meaning, the documents are prioritised as follows:

- where the matter is covered by the Settlement Act, that prevails;
- where the matter is covered by the Agreed Position of the Parties, that prevails;
- where the matter is covered by the Settlement Agreement, that prevails;
- in any other case the wording is given its meaning in this Operational Policy Document.

2.3 Settlement Agreement

A Settlement Agreement (published on the Ministry website) has been reached with the Employee Representatives, subject to ratification. The Settlement Agreement records the main terms of the Settlement, provisions that are included in the Legislation, operational and related matters.

The Agreed Position of the Parties reflects the final agreed position of the Government and Union negotiators. This is attached in Appendix One. This should be read before this document.

This Operational Policy Document further elaborates on both the Settlement Agreement and Agreed Position of the Parties to provide practical guidance on implementation and the process for workforce data collection and payments.

2.4 Legislation

For statutory certainty, and to enable the Funding to be lawfully paid, Legislation will be enacted for parts of the Settlement Agreement.

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4 Terranova Homes & Care Limited v Service and Food Workers Union Nga Ringa Tota Incorporated [2014] NZCA 516
5 Terranova Homes v Services and Foodworkers Union [2014] NZSC 196
6 Particularly matters relating to Employers
Subject to Executive and Parliamentary processes, the Legislation will cover the following matters:

A. an obligation on Employers to pay the Pay Rates to Employees;

B. an obligation on Employers to provide support for training for Employees. The intention (as indicated in the Agreed Position of the Parties) is that Employers create the right incentives for Employees to achieve the NZQA qualifications within the timeframes specified; support for training is covered by the definition of Pay Rates, the obligation to provide support for training is a significant requirement over a sustained period of years to warrant a statutory obligation on Employers; much of the training is ‘on the job’, however the Settlement includes a financial contribution, by the Crown, to that training support of 2 days’ pay per Employee per year;

C. extinguish retrospective claims by Current Employees against Employers;

D. prevent prospective claims by Employees against Employers. 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 ie 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 performed after that date (but not for work performed before that date);

E. provide that no Employee will be paid less than the appropriate Pay Rate after 1 July 2017;

F. provide that no Current Employee will be paid less than the rate of pay they were receiving on the Commencement Date;

G. provide for deemed variations to Funding Agreements to:
   a. enable the lawful payment of the Funding;
   b. enable the Crown, ACC, and DHBs to require Employee information from Employers;
   c. enable the Crown, ACC, and DHBs to conduct random audits of Employers;
   d. ensure that it is clear that the deemed variations apply from the Commencement date to 30 June 2022;

7 The intent is that the Legislation will extend only so far as is necessary to give effect to the Settlement Agreement for the matters covered by the Legislation

8 The Crown, ACC and DHBs acknowledge that 4,000 contracts recording payments of the Funding to Employers would be required to be specifically varied. As Employers are not party to the Settlement Agreement their Funding Agreements cannot (for Privity reasons) be varied through a deemed variation through the Settlement Agreement. Accordingly, the Legislation will provide for deemed variations to those Funding Agreements. Deemed variations are required due to the limited timeframe to ensure that the operational processes for the payment of the Funding, and timely payments can be made. That may not occur or may not be able to be guaranteed if contracts were required to be varied and signed before payments were made. Accordingly, the deemed variation to funding agreements is primarily for the benefit of the Employees and Employers

9 The purpose of the reporting requirement is to capture relevant and actual Employee information for the payment of accurate Funding; the information includes names, addresses, individual IDs, qualification levels, employment status (permanent full-time, part-time, or temporary), roles and working hours

10 The purpose of the audits is to ensure that the appropriate level of Funding is being paid to Employers by reconciling that Funding with the payment of the Pay Rates by Employers to their Employees. The intent is that payments will be based (at least for a limited time) on actual costs therefore audits are required to reconcile Funding claims with actual costs; audits will not be for the purpose of checking that Employers are complying with their obligation to pay the Employees the appropriate Pay Rates; the Parties acknowledge that compliance for that purpose will be a statutory requirement with enforcement through Employees being entitled to take personal grievances or recovery of wages
H. provide for deemed variations of collective employment agreements and individual employment agreements, between Employers and Employees, to provide for the payment of the Pay Rates. There are approximately 55,000 Employees employed under several collective employment agreements and many under individual employment agreements. All such agreements are required to be in writing to comply with the Employment Relations Act 2000 [section 54, Form and content of collective agreements; and section 65, Form and content of individual employment agreements]. As Employers are not party to the Settlement Agreement, the Legislation will need to make it clear that the terms and conditions of all employment contracts are to be treated as varied to give effect to this Settlement Agreement. These deemed variations will record the Employers obligation to pay the Pay Rates and support Employees training to achieve the qualifications in the Agreed Position of the Parties, and the right of Employees to receive the Pay Rates and training; for clarity, the collective employment contracts and individual employment contracts will be varied (by deemed variations) for the purpose of maintaining currency of Pay Rates under the Agreed Position of the Parties from 1 July 2021;

I. ensure that it is clear that Employees can recover arrears of wages for non-compliance by Employers with the Legislation;

J. ensure that it is clear that Employees can take a personal grievance claim against their Employer for failure to support their training to achieve the qualifications in the Agreed Position of the Parties;

K. acknowledge that it is intended that the Legislation will be repealed 6 years after the date of its commencement;

L. provisions directly incidental to paragraphs (a) to (k).

The deemed variation to contracts between Funders and Providers mean that a formal contract variation is not required. For the relevant contracts a letter will be issued to give notice on the change to payments and any other relevant information. Nationally negotiated services that take account of the Settlement Agreement, such as the plan for ARC, will not be included in this deemed variation process.

11 The intention is that the deemed variations apply only once for the period of 5 years; no other variation (during that period) to the Funding Agreements is intended to be deemed

12 Under section 131 of the Employment Relations Act 2000

13 Under section 103 of the Employment Relations Act 2000; the intent is that this promotes the good employer principle and is for the sole benefit of Employees to have every opportunity to reach the maximum Level 4 Certificate on the New Zealand Qualifications Framework

14 If the Legislation commences on its intended date of 1 July 2017, the intended repeal date will be 30 June 2022; the intent of the 6 year period is to align with the time period for Employees to make claims under section 142 of the Employment Relations Act 2000, which permits claims [other than personal grievances] to be made within a period of 6 years from the date that the cause of action arose
3 Eligibility

This section provides guidance for the completion of the data collection process and is based on the signed Settlement Agreement. This will be enacted through the legislation. Funders and providers will be notified as soon as possible if there are any substantive changes through the legislative process.

3.1 Who is eligible

The Settlement Agreement covers care and support workers employed by Providers funded by the Ministry of Health, District Health Boards (DHBs) or by the Accident Compensation Corporation (ACC) who work in the areas of:

- aged residential care (includes some ACC and Ministry of Health clients under 65 who require rest-home level care or high and complex needs for up to 24 hours a day);
- community residential living (these services are generally known in the disability and support sector as day programmes, day services, residential services for disability support, facility-based respite, supported living and choices in community living); and
- home and community support services following a needs based assessment including residents who are in independent living setting, in a retirement village.

For the avoidance of doubt, the following are covered by the settlement:

- home support workers employed by the following District Health Boards, who are not paid as healthcare assistants, are covered by this settlement: Waikato DHB, Wairarapa DHB, Hutt Valley DHB, Canterbury DHB and West Coast DHB;
- disability support workers employed by Nelson Marlborough DHB, who are not paid as healthcare assistants; and
- care and support workers providing the Services (defined in the Settlement Agreement) known as Individualised Funding or Enhanced Individualised Funding as employees are eligible.

3.2 Who is not eligible

The Settlement Agreement does not include the following workers or services:

- any health practitioner who is registered under and in accordance with the Health Practitioners Competence Assurance Act 2003, and is working in a role that required the employee to be a health practitioner;
- any employee whose primary work purpose is not care and support even if care and support is incidental to their primary work;
- behavioural support services;
- caregiver support;
- child development services;
- environmental support;
- funded family care;
- mental health services;
• those provided directly by employees of DHBs, except as noted in 3.1 above;
• vocational and disability services funded by the Ministry of Social Development and Ministry for Vulnerable Children, Oranga Tamariki; and
• private services to a client, by a person whether or not they are performing those services as an Employee.

3.3 How should eligibility be assessed

A multi-step decision process needs to be used to assess eligibility of any particular worker:
1. First, is to determine whether the service is covered by the Settlement Agreement; and
2. Second, is to test whether the worker is within scope of the Settlement Agreement.
3. Third, the service is funded by public monies not private.

Step 1 Service
Determine whether the service is covered by the Settlement Agreement

Step 2 Worker
Test whether the worker is within scope of the Settlement Agreement

Step 3 Funding
Ensure the service is funded by public monies not private

A process will be established between the Ministry, DHBs and ACC to consider eligibility and/or translation questions where there is doubt.

Clarification on eligibility should be sought from payequity_implementation@moh.govt.nz.

3.4 New employees from 1 July 2017

All new eligible Care and Support Workers from 1 July 2017 will progress through the pay bands only on the basis of obtaining qualifications. The pay bands can be found in Section 4 of this document and in Appendix One: the Agreed Position of the Parties.

Section 4 of this document outlines the translation to new payment bands for the existing workforce (as at 30 June 2017).
3.5 Audit and compliance

Providers are responsible for compiling the appropriate evidence to confirm eligibility and translation to new pay bands (for example, keeping a record of qualifications). This information will be subject to the usual audit and compliance process established in contracts.

The Ministry and Funders are focusing on early up-front training and education to enable Providers to meet these requirements. This document, Q&A on the Ministry’s website and the centralised implementation support team are all part of this process.
4 Translation to new pay bands for the existing workforce (as at 30 June 2017)

4.1 Guidance for Providers

This section provides guidance on how care workers employed as at 30 June 2017 (‘the Existing Care and Support Workers’) should transition on to the new pay bands at 1 July 2017.

The agreed transition and progression process for ‘the Existing Care and Support Workers’ at 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.

This means the transition of ‘the Existing Care and Support Workers’ may be done on either current qualifications or their service with their current employer, whichever is the most advantageous. New care workers (employed on or after 1 July 2017) will progress on the basis of qualifications alone.

1 July 2017 Translation for Existing Care and Support Workers

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Qualification</th>
<th>Pay Band</th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Year 3 &amp; 4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;3 years’ service OR</td>
<td>Level 0*</td>
<td>L0</td>
<td>$19.00</td>
<td>$19.80</td>
<td>$20.50</td>
<td>$21.50</td>
</tr>
<tr>
<td>3+ to 8 years’ service OR</td>
<td>Level 2*</td>
<td>L2</td>
<td>$20.00</td>
<td>$21.00</td>
<td>$21.50</td>
<td>$23.00</td>
</tr>
<tr>
<td>8+ to 12 years’ service OR</td>
<td>Level 3*</td>
<td>L3</td>
<td>$21.00</td>
<td>$22.50</td>
<td>$23.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>12+ years’ service OR</td>
<td>Level 4*</td>
<td>L4b</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$25.50</td>
<td>$27.00</td>
</tr>
</tbody>
</table>

*Qualifications* are those recognised by NZQA or equivalent

How length of service for eligible employees should be assessed

- Length of service is the calendar length of continuous service on an eligible service at the current employer.
- Continuous service includes service recognised as continuous under the provisions of Part 6A or Schedule 1B of the Employment Relations Act 2000.
Applying qualifications

The qualification must be a Level, 2, 3 or 4 New Zealand Certificate in Health and Wellbeing from an NZQA-accredited provider. The Ministry is continuing to work with the Industry Training Organisation and NZQA to develop an equivalency list for care and support qualifications.

Employees have a responsibility to notify employers when they have gained a qualification. Employers should validate this using information (for example, cite the certificate from the employee).

In general, new pay rates should apply from the later of the date the employee notifies the employer, or the date on the qualification certificate, that is, when the qualification was achieved.

**Post-1 July 2017 length-of-service progression for existing care and support workers**

Existing care and support workers (as at 30 June 2017) can progress to the next pay band step on achieving the length of service for that pay band as shown in the table below. They may also proceed on the basis of qualifications – whichever is most advantageous.

This does not apply to new care workers (employed on or after 1 July 2017): they will progress on the basis of qualifications alone.

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Pay Band</th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Year 3 &amp; 4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;3 years’ service</td>
<td>L0</td>
<td>$19.00</td>
<td>$19.80</td>
<td>$20.50</td>
<td>$21.50</td>
</tr>
<tr>
<td>3+ to 8 years’ service</td>
<td>L2</td>
<td>$20.00</td>
<td>$21.00</td>
<td>$21.50</td>
<td>$23.00</td>
</tr>
<tr>
<td>8+ to 12 years’ service</td>
<td>L3</td>
<td>$21.00</td>
<td>$22.50</td>
<td>$23.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>12+ years’ service</td>
<td>L4a</td>
<td>$22.50</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$26.00</td>
</tr>
</tbody>
</table>

Example: Sam has a Level 2 qualification and 7 years’ service as off 1 July 2017. On 1 July 2017 she will be translated to pay band L2. On 1 July 2018 (when she has 8 years’ service), she will progress to pay band L3.

**Level 4a exemption**

Existing Care and Support Workers who reach 12 years current continuous service with their employer after 1 July 2017 and who have not achieved a Level 4 Certificate will move on to a “Level 4a” rate unless there are genuine reasons based on reasonable grounds that the employee’s employer did not provide the support necessary for the employee to achieve the Level 4 qualification, in which case the employee will be entitled to move to the Level 4b step (not Level 4a). Any dispute about the provision of the necessary support will be dealt with through the normal dispute resolution processes.

### 4.2 Illustrative examples

Once the settlement comes into effect, existing workers can expect significant pay rises. Illustrative examples are outlined below:
Once the settlement comes into effect, workers can expect significant pay rises. Illustrative examples are outlined below:

- **Minimum Wage**: Elizabeth is an aged residential care worker on the minimum wage of $15.75 per hour. She has three years’ experience. On 1 July 2017 her rate will increase by 27 percent to $20.00 per hour.
- **Home and Community Support Services**: Susan has three years of experience and a Level 3 care and support qualification. She is currently paid $16.22 an hour. Based on the proposed rates, her pay would increase by 29.4 percent on 1 July 2017 to $21.00 an hour.
- **Aged Residential Care**: Joy is on an average pay rate of $16.65, with a Level 2 care and support qualification. Based on the rates proposed, her pay would increase by 15 percent to $20 per hour from 1 July 2017.
- **Community and Residential Living**: Ngaire is on the average disability support worker pay rate of $17.72, with a Level 2 care and support qualification. She has eight years of experience. Under the rates proposed, her hourly rate would rise by 18.5 percent to $21 an hour on 1 July 2017.
5 Payment and data collection mechanism

5.1 Principles

This payment approach has been developed with the following principles in mind:

- To allow Providers to pay for the wage increase to qualifying employees from 1 July 2017;
- To consistently implement the settlement across all eligible workers in all Providers;
- To allow for the first stage of workforce data gathering on the approximately 55,000 workers;
- The Ministry and Funders will continue to substantively fund and manage services through normal mechanisms.

5.2 Methodology for payments

From 1 July 2017, providers will have a legal obligation to pay the new pay rates to their employees.

In order for providers to commence payment to qualifying employees from 1 July 2017, a process to pass additional funding to providers is required. In the Aged Residential Care sector, for most services this will be done by an increase to the prices paid for those services.

For the national ARC contract, there will be an increase to the price paid for the ARC nationally contracted services (rest home, hospital, dementia and psycho geriatric). This will be delivered through the usual annual national ARC contract process and DHBs will communicate the process and timeframes for this through the usual communication channels. Providers should refer any questions on this process to their industry association body or DHB Central TAS.

For other services paid at a bed day rate (e.g. facility-based respite care and palliative care), the pay equity settlement payment will also be made by increasing the prices paid for those services.

Initial analysis shows there are approximately 80 – 90 providers who also provide other services that are neither part of the ARC national contract nor paid at a bed day rate (e.g. HCSS, day services). Pay equity funding for these services will be passed through an interim advance payment, which will require more information. DHB contract managers or the central Ministry of Health support team will be in contact with these providers shortly.

5.3 Workforce data requirements

The Ministry needs to:

- Ensure that the Care and Support Worker Pay Equity Settlement Agreement Legislation is successfully implemented. Critical to this implementation is ensuring accurate settlement payments are made to care and support workers under the (Pay Equity) Settlement Agreement legislation.
• Provide government with information about the outcomes and benefits of its investment to settle historic pay equity claims for care and support workers: this means the Ministry must be able to conduct workforce analysis to provide an accurate picture of the care and support workforce, and monitor changes over the course of the settlement period. This includes changes to the workforce’s size, makeup, stability and qualifications.

This information is required from all providers. See Section 7 for further information on workforce data requirements.

5.4 Data submission guidance for providers

The data collection and submission process for providers consists of the following steps:

1. Download the **Workforce Translation Tool** from the following Ministry of Health webpage: http://www.health.govt.nz/new-zealand-health-system/care-and-support-workers-pay-equity-settlement
2. Review the Workforce Translation Tool in correspondence with the guidance document in Section 7. Please contact the Ministry on payequity_implementation@moh.govt.nz as soon as possible regarding any questions or clarifications.
3. Complete the tool using payroll reports for the eligible workforce as at 1 May 2017.
4. Upload the tool to the portal link: http://tinyurl.com/MoH-NZ-PE1
   The Workforce Translation Tool must be uploaded by Friday 2nd June. Providers will need to enter their contact information when they upload their completed submission.
5. The central implementation team may contact you should there be any need to clarify your data submission.

A central Ministry team will be actively working with providers to help them with completing the Workforce Translation Tool. Where providers are unsure they will meet the 2 June deadline they need to flag this as soon as possible with the team at payequity_implementation@moh.govt.nz so they can proactively work with providers.

5.5 Ongoing workforce reporting

As part of the settlement, ongoing workforce reporting is required. Further workforce monitoring data points may be required and the Ministry will communicate this through the regular newsletters.
5.6 Timelines and responsibilities

1 May 2017
Draft Operational Policy Document available to all providers

15 May – 2 June 2017
Providers complete data collection tool

15 May 2017
Data Collection Tool made available to providers

22 – 26 May 2017 (TBC)
Regional information sessions held

8 – 26 May 2017
DHBS determine funding arrangements and communicate decisions to providers

From 15 May – 30 June 2017
Providers update HR and Payroll systems for new agreement and for qualifying employees new pay bands

1 July 2017
Providers begin paying eligible employees on their new pay rates

1 July 2017
New prices take effect
Roles in making the data collection and the interim advance payments

<table>
<thead>
<tr>
<th>Week beginning</th>
<th>Week 1</th>
<th>Week 2</th>
<th>Week 3</th>
<th>Week 4</th>
<th>Week 5</th>
<th>Week 6</th>
<th>Week 7</th>
<th>Week 8</th>
<th>Week 9</th>
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<td>24 April</td>
<td>1 May</td>
<td>8 May</td>
<td>15 May</td>
<td>22 May</td>
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<td>5 June</td>
<td>12 June</td>
<td>19 June</td>
<td>26 June</td>
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**Providers**
- Week 1: Read draft Operational Policy Document (OPD) and Workforce Translation Tool (WTT)
- Week 2: DHBs determine funding arrangements and communicate with providers
- Week 3: 15 May receive updated OPD and WTT
- Week 4: 22-26 May Attend information roadshows (TBC)
- Week 5: 31 May submit ratification claim to receive payment by 20 June
- Week 6: Collect and then submit data using the Workforce Translation Tool
- Week 7: Discussions as required to clarify data submissions
- Week 8: Secure resource/vendor to make payroll system changes if required
- Week 9: Make changes in payroll system
- Week 10: 1 July Providers pay employees new pay rates

**Central (MoH) team**
- Provide guidance and support for providers
- Log queries and data returns (status tracking of all provider returns)
- Consider eligibility and translation questions from providers

**Funders**
- DHBs determine funding arrangements and communicate with providers
6 Key contacts

6.1 Initial engagement

The document is intended to be a living document developed with Funders and Providers in May.

There will be updates of this document and regular newsletters. These will be made available on the Ministry website: http://www.health.govt.nz/new-zealand-health-system/care-and-support-workers-pay-equity-settlement.

6.2 Central contact on payments

A central team has been established to assist providers with this process and answer any questions.

FAQs and guidance: As questions are answered these will be updated on the Ministry website http://www.health.govt.nz/new-zealand-health-system/care-and-support-workers-pay-equity-settlement

Email: Providers can be in contact with this team by emailing payequity_implementation@moh.govt.nz

Phone: Providers can contact the Ministry’s Contact Centre at 0800 281 222 option 3. Questions about the Workforce Translation Tool (WTT) are best directed to the email address so a member of the central Ministry pay equity support team can contact you.

6.3 Regular contact

The process and the contact points will not supersede the usual contract management routes between Funders and Providers. Providers should be approaching the contact points as described above for the implementation of pay equity. However, it is important that contract managers are kept in the loop on these discussions. Regular contract reporting and monitoring will continue as usual. Contract managers have not been privy to the negotiations of the settlement and will be receiving information in similar timing to Providers.
7 Guide to Workforce Translation Tool

7.1 General guidance

All ARC providers will need to complete this Workforce Translation Tool.

If you have other contracts that are not ARC national contracts or bed day rates, we may require more information to pay an advance interim payment. You will be contacted soon from either your DHB contract manager or a member of the central Ministry calculation support team.

We require the Workforce Translation Tool for the following reasons:

- Providers have to work through eligibility and translation in order to make changes in their payroll systems – this tool helps you do that.
- The Ministry needs to provide assurance to Ministers that providers will be in a position to accurately pay eligible employers the correct rates from 1 July.
- To establish the initial baseline for workforce monitoring.

If you have any questions or queries please get in touch via email at payequity_implementation@moh.govt.nz for further information.

To complete the Workforce Translation Tool for your employees, there will be multiple lines per employee if they work in different roles/positions that have different pay rates. Where you need to use multiple lines ensure that the remaining details (e.g. employee status, qualifications etc.) stay the same.

**Only enter data into the yellow cells. All white cells have been locked for editing.**

Completing the first section of the Workforce Translation Tool, called ‘Care and support worker details (master file information)’, will require extracting all the relevant fields that describe the employee from your payroll system as at 1 May 2017.

The tabs in the tool are as follows:

- **Instructions**: The table includes brief instructions for completing the spreadsheet and repeats the table included below.
- **Data collection**: This is the main spreadsheet where all data will be collected.
- **Inputs**: This tab includes the inputs required to run the pay band translations happening on the ‘Data collection’ tab.
- **Comments**: This tab has an empty text box for any comments you may have about your completed Workforce Translation Tool that would aid in reviewing your submission.
Please note: the Workforce Translation Tool is designed to accurately translate existing employees to the new pay bands as at 30 June 2017. You should not use this tool for any pay band movements following 1 July 2017.

The table below outlines specific information for each field. It includes:

- **Number**: This is a reference to the column/row in the Workforce Translation Tool
- **Data field**: The title of the data field in the Workforce Translation Tool
- **Specific response restrictions**: This explains what specific type of response that we require for this field. This may be:
  - Free text – You can enter the information into the cell in the format that you choose
  - Date – Must be in the format of a date (day, month, year)
  - List – You must respond with options from an approved list (this can be selected from the drop down box)
  - Number – You must enter a number
- **Explanation of required response**: This outlines the information that is required and provides additional guidance and clarification. If this is not clear then email payequity_implementation@moh.govt.nz for further clarification.

If you have any questions or queries please get in touch via email at payequity_implementation@moh.govt.nz for further information.
### 7.2 Instructions for completing each data field (WTT)

<table>
<thead>
<tr>
<th>No.</th>
<th>Data field</th>
<th>Specific response restrictions</th>
<th>Explanation of required response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Provider Number / Vendor Number</td>
<td>Free text</td>
<td>Enter the provider number. Use the number shown in your Agreements/Contracts.</td>
</tr>
<tr>
<td>2</td>
<td>Provider Name</td>
<td>Free text</td>
<td>Enter the provider name. Use the Legal Entity Name as per Agreement/Contract.</td>
</tr>
<tr>
<td>3</td>
<td>Contact Name</td>
<td>Free text</td>
<td>Enter the name of the person who completed the spreadsheet. The reviewer may contact this person if there are any queries about the data submission.</td>
</tr>
<tr>
<td>4</td>
<td>Contact Email Address</td>
<td>Free text</td>
<td>Enter a valid email address. The reviewer may contact this person if there are any queries about the data submission. We may also use this email for correspondence about payment details.</td>
</tr>
<tr>
<td>5</td>
<td>Contact Phone</td>
<td>Free text</td>
<td>Enter a valid phone number. The reviewer may contact this person if there are any queries about the data submission.</td>
</tr>
<tr>
<td>6</td>
<td>Record ID</td>
<td>Free text</td>
<td>Enter a unique identifier for each line of data to keep track of each unique line. This could simply be numbers 1,2,3 etc.</td>
</tr>
<tr>
<td>7</td>
<td>Staff ID in Payroll System</td>
<td>Free text</td>
<td>Enter the unique identifier used in your payroll system to identify this employee. If you make In-Between Travel claims use the same Staff ID.</td>
</tr>
<tr>
<td>8</td>
<td>Facility name</td>
<td>Free text</td>
<td>Name of facility. If a provider has multiple sites, this specifies the site at which the employee works, e.g. Auckland or Christchurch.</td>
</tr>
<tr>
<td>9</td>
<td>Employment Status</td>
<td>List</td>
<td>Enter either “Permanent Fulltime”, “Permanent Parttime”, “Temporary Fulltime”, “Temporary Parttime” or “Casual.” These responses can be selected from the drop down box. This cell outlines the type of employment that the employee currently holds. If this is not known/defined for your staff, you do not have to collect this information: leave the cell blank.</td>
</tr>
<tr>
<td>10</td>
<td>Position Description (one line title of role)</td>
<td>Free text</td>
<td>Enter a one line description of the type of role held by this employee. If this is not known/defined for your staff, you do not have to collect this information: leave the cell blank.</td>
</tr>
<tr>
<td>11</td>
<td>NZ Qualification Level</td>
<td>List</td>
<td>Enter either 2, 3, 4 corresponding to the NZQA recognised qualification level of the employee. Leave blank or enter 0 for those employees without a qualification or with a qualification that is not a recognised as NZQA level 2, 3 or 4 or equivalent. <strong>Where you are unsure of the equivalence of a qualification held by your employee, please check the list of Q&amp;As on the website or consult directly with NZQA.</strong></td>
</tr>
<tr>
<td>12</td>
<td>Start Date in Care &amp; Support Position</td>
<td>Date</td>
<td>Enter the start date for employment in a care and support position for this worker. Use the date form of dd/mm/yyyy.</td>
</tr>
<tr>
<td>13</td>
<td>Length of Service (years)</td>
<td>No response</td>
<td>This is a calculation cell, do not enter anything in this cell.</td>
</tr>
<tr>
<td>14</td>
<td>Current continuous service as Care &amp; Number</td>
<td>If the start date does not reflect the true length of service (e.g. where an employee was transferred from a previous employer to the current employer as a result of selling or transferring the business), enter the correct length of</td>
<td></td>
</tr>
<tr>
<td>Support Worker with current employer if different from Length of Service (years)</td>
<td>service, in years, in this cell. Only enter a figure in here if the length of service calculated is incorrect. Otherwise leave blank.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Agreed weekly position hours at 1 May 17</td>
<td>Number</td>
<td></td>
</tr>
<tr>
<td>Enter the agreed weekly hours as at 1 May 2017 for this employee. That is, the number of hours agreed in the employment contract for this employee to work in one week. This will be a total value for the employee. If you have an annual, monthly or fortnightly value, first divide by 52, 12 or 26, then enter that figure. A full time employee (1 FTE) is 40 hours per week.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Current Pay Rate at 1 May 17</td>
<td>Number</td>
<td></td>
</tr>
<tr>
<td>Enter the hourly pay rate as at 1 May 2017 for this individual relating to this position outlined in field 10 and 11 above (this would include the recent minimum wage adjustment). If this pay rate is different for each position held by the employee (or different between and within contracts) ensure this is captured on multiple lines. If the employee earns a service and/or qualification allowance per hour worked, include that higher value in this cell. Do not include the allowance in both columns.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Pay band translations**

| 17 | Pay band at 1 July 17 | No response |
| This is a calculation cell, do not enter anything in this cell. |
| 18 | Pay rate at 1 July 17 | No response |
| This is a calculation cell, do not enter anything in this cell. |
The above screenshot outlines the Workforce Translation Tool completed for three example employees. Key points in the table are:

- Employees 1001 and 1003 lengths of service are calculated using the entered start date to 30 June 2017 and have no overwrite from field 18. Employee 1002 has a length of service that isn’t represented by the start and end date in the payroll system and this has therefore been overwritten by writing 10 in field 14 to represent their full 10 years of service. Therefore the WTT has translated them to band L3.
Appendix 1: Agreed Position

Agreed Position of the Parties 12 April 2017

This document reflects the final agreed position of the Government and Union negotiators.

Nature of Settlement

Both parties are agreed that this settlement is an historic step forward for women workers in the elimination of systemic undervaluation of care and support work. As such, it is a significant step in addressing gender based inequality in New Zealand.

The parties agree that the settlement will extinguish all pay equity claims made prior to 1 July 2017 for the employees covered by this settlement.

The settlement addresses historic issues of systemic gender discrimination and by its nature involves a change in wage relativities. Consequently, the parties agree that this settlement will not be used as a precedent for other occupational groups.

Scope of Settlement

The unions generally accept the provisions in the Scope of Settlement from the Crown proposal of 8 March 2017.

For the avoidance of doubt,

(i) home support workers employed by the following District Health Boards, who are not paid as healthcare assistants, are covered by this settlement: Waikato DHB, Wairarapa DHB, Hutt Valley DHB, Canterbury DHB and West Coast DHB; and,

(ii) disability support workers employed by Nelson Marlborough DHB, who are not paid as healthcare assistants, are covered by this settlement.

Consistent with the statement under “Nature of Settlement” above, the parties agree that the inclusion of these workers will not be used as a precedent for other DHB occupational groups.

Vocational Disability Support Workers

The Ministry of Social Development (MSD) and the Ministry for Vulnerable Children Oranga Tamariki (MVCOT) are not a party to this agreement but agree in principle that
vocational disability support workers should be covered by a separate settlement consistent with the terms of this agreement. MSD and MVCOT are committed to engaging with unions and employers to give effect to this intention and to arrive at a settlement within the next two months.

**Support for Training**

The unions and Government absolutely support care and support workers gaining formal qualifications and wish to create the right incentives for employers to allow this to happen.

To this end, the contracts between funders and providers (employers) will require employers to provide the necessary systems and support to enable workers covered by the settlement to reach the following NZ Qualifications Authority Health and Wellbeing Certificate (or their relevant equivalent) qualifications within the following time periods:

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

The Settlement Act will state that if an employer fails or omits to take reasonable and appropriate steps to ensure that an employee is supported and enabled to reach levels of qualification required to achieve the wage levels provided in this Settlement Act, such employee may challenge such failure or omission by way of personal grievance under s103(1)(b) of the Employment Relations Act 2000.

The Government will fund employers for two days per employee per year (via on costs) as its contribution to education and training.

The goal is to have an industry wide workforce which is trained to meet current and future service needs.

**Care and Support Workers, Minimum Pay Rates and the Qualification Path**

The minimum rates and progression for care and support workers employed after 1/7/17 will be the following:

<table>
<thead>
<tr>
<th></th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Years 3/4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>L0</td>
<td>$19.00</td>
<td>$19.80</td>
<td>$20.50</td>
<td>$21.50</td>
</tr>
<tr>
<td>L2*</td>
<td>$20.00</td>
<td>$21.00</td>
<td>$21.50</td>
<td>$23.00</td>
</tr>
<tr>
<td>L3*</td>
<td>$21.00</td>
<td>$22.50</td>
<td>$23.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>L4*</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$25.50</td>
<td>$27.00</td>
</tr>
</tbody>
</table>

**“Qualifications” are those recognised by NZQA**

**Maintaining Currency of Rates**
If the All Industries Labour Cost Index by 30 June 2021 (for the period 1 July 2017 to 30 June 2021) moves on average by more than 1.7% annually then the figures in the above tables applying from 1 July 2021 will be adjusted accordingly.

**Weekend and Night Penal Rates**

Should any care and support worker employment agreement have a night or weekend penal rate (as opposed to a weekend or night shift allowance) calculated as a percentage of the base rate such penal rates for care and support workers covered by this settlement shall be converted into an allowance based on the employment agreement wage scales as at 30 June 2017.

If there is any dispute as to the transition of these penal rates into allowances any party to an employment agreement (as set out above) may seeking a final and binding decision on this matter by a Labour Inspector.

**Extinguishing of Allowances**

The unions accept that this settlement will from 1 July 2017 extinguish any separate ongoing service allowance or qualifications allowance for care and support workers within the scope of this Agreement that is contained in any employment agreement.

**Transition for Existing Care and Support Workers**

The Government and the unions recognise 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.

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

<table>
<thead>
<tr>
<th></th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Year 3/4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>L0 or &lt;3 years service</td>
<td>$19.00</td>
<td>$19.80</td>
<td>$20.50</td>
<td>$21.50</td>
</tr>
<tr>
<td>L2* or 3+ years service</td>
<td>$20.00</td>
<td>$21.00</td>
<td>$21.50</td>
<td>$23.00</td>
</tr>
<tr>
<td>L3* or 8+ years service</td>
<td>$21.00</td>
<td>$22.50</td>
<td>$23.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>L4* or 12+ years service</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$25.50</td>
<td>$27.00</td>
</tr>
</tbody>
</table>

*"Qualifications" are those recognised by NZQA

**Pay Rate Progression for Existing Care and Support Workers**
All existing care and support workers on 1 July 2017 will increase their pay rates under this scale on the basis of either service or qualifications, whichever is the most advantageous to them as set out below:

- Progression to Level 2 will be on attainment of the Level 2 qualification or after the completion of 3 years current continuous service with their employer as of 1 July 2017
- Progression to Level 3 will be on the attainment of the Level 3 qualification, or after 8 years current continuous service with their employer as of 1 July 2017.
- Progression to Level 4 will be on the attainment of the Level 4 qualification.

All existing care and support workers who reach 12 years current continuous service with their employer after 1 July 2017 and who have not achieved a Level 4 Certificate will move on to the following rates unless there are genuine reasons based on reasonable grounds that the employee’s employer did not provide the support necessary for the employee to achieve the Level 4 qualification, in which case the employee will be entitled to move to the Level 4 step above. Any dispute about the provision of the necessary support will be dealt with through the normal dispute resolution processes.

<table>
<thead>
<tr>
<th>After 1 July 2017</th>
<th>On or after 1 July 2018</th>
<th>On or after 1 July 2019</th>
<th>On or after 1 July 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>$22.50</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$26.00</td>
</tr>
</tbody>
</table>

“Current continuous service” includes service recognised as continuous for the purposes of transferring workers.

**Other Matters**

**Kristine Bartlett Settlement**

There is a separate agreement.

**Ratification Process**

The union proposal for the ratification meetings (see attached document) for care and support workers within the scope of this settlement is also agreed by Government on the grounds that it is consistent with earlier precedents involving legislation and provides a mandate for subsequent legislation that removes back-pay, phases in new rates and extinguishes claims. The parties recognise that the ability of all employees (union members and non-union members) to have the opportunity to vote in the ratification process for this agreement is fundamental to this settlement. The MOH will support the implementation of the ratification process and in good faith encourage all employers to comply with this process.

The Government will fund employers at the rate of $25.00 per care and support worker who are verified by the union and the employer as having attended a ratification meeting.

**Consequent Legislation**
The settlement will be legislated in a way that is consistent with the signed settlement document.