

## Care and Support Workers Pay Equity Claim Stakeholder Update December 2023

The pay equity claim for care and support workers has reached a difficult position, with a significant delay caused by Te Whatu Ora deciding to review previously endorsed steps. Nonetheless, the employers, supported by the peak bodies, have continued to make progress in readiness for bargaining for a settlement agreement. A strong Briefing Paper has been sent from the combined employers and peak bodies to a set of key ministers. More details below.

### Methodology Review

In October 2023, Te Whatu Ora CEO Margie Apa announced she had commissioned a “secondary review of methodology” to look into aspects of the work assessment, reported in Milestone 3, and how the undervaluation range had been arrived at, reported in Milestone 4. Notably, both Milestone reports had previously been endorsed by the Oversight Group of which Te Whatu Ora was a member. The employers and peak bodies together challenged the need for this review and the mandate to revisit previous decisions. The unions made similar points in their response.

Nonetheless, Te Whatu Ora decided to proceed with the review and two independent reviewers have been engaged. After careful consideration, the employers agreed to be available to the reviewers to answer questions and ensure they had a clear view of the context and decision making.

A draft report is expected in mid-December, with an opportunity for review and feedback, and the final report is due mid-February 2024. Needless to say, this review has created significant delays and may yet impact significantly on the government’s view of the outcome of this claim.

### Briefing to Incoming Ministers

The peak bodies and employers worked together to develop a clear picture of the current status of this pay equity claim and, most importantly, a set of requests:

- Prioritise this issue and unlock negotiations
- Provide assurance about funding for a settlement and its extension to the whole sector
- Engage with employers directly
- Implement a sector solution from 1 January 2024
- Provide interim funding if the claim is not quickly settled.

The briefing paper was sent to Ministers Dr Shane Reti (Health), Nicola Willis (Finance, Social Investment, Public Service), Matt Doocey (ACC, Mental Health), Penny Simmonds (Disability issues), Nicola Grigg (Women). Meetings have been sought with all. Dr Reti is the lead Minister for this claim and Nicola Willis also holds a key role as the ‘owner’ of the pay equity system in her Public Service portfolio.

### Preparation for bargaining

The bargaining teams have continued to meet, to work through issues that will need to be included in a settlement agreement. The employer bargaining team has representatives from each sector. Good progress is being made, though some issues remain under discussion. Both the employers and unions want to be in a position to move to settlement bargaining as soon as they are able.

Before the employers can enter formal bargaining negotiations, they will require endorsement of their bargaining strategy by the Oversight Group and confirmation that sufficient additional funding will be available to enable a settlement to be implemented.

All parties are stressing the need for the settlement to be extended to the sector as a whole, preferably at the same time. The preference is for this to be enacted through legislation. Ideally, the current legislation would be

amended and extended, but with its expiry on 31 December 2023 fast approaching, this may not be possible. The sector solution is central to the success of this pay equity claim and remains at the forefront of engagement with Ministers and officials.

## Legislation on support worker pay to expire this month

As you will all be aware, the Support Workers (Pay Equity) Settlements Act 2017 is repealed from 1 January 2024, with the exception of the statutory bar to new claims for any claims pre-July 2022. That means the current minimum wage rate and qualification requirements will no longer be in effect, and everyone will need to rely on what is in their employment agreements as the primary mechanism for determining support worker remuneration terms and conditions. So, where your employment agreements refer to the wage rate table in this legislation, those rates will still apply. It is of course hoped that there will be a new sector solution implemented next year in relation to this workforce which will replace this framework.

## Second pay equity claim raised

As many of you will be aware, the unions have raised a second pay equity claim for care and support workers in a further 167 providers. The peak bodies are working to support their members and other providers to respond to this development.

It is not clear yet how the two claims will relate to each other, if at all; what impact the second claim might have on a sector solution arising from the original claim; and whether further delays will occur as a result of this additional claim. Further information will be shared with our sector as it becomes available.

## Front Line Managers and Co-ordinators claim

The unions raised a claim for front-line managers and supervisors in September 2022. This claim has reached milestone 1 (employers have agreed the claim is “arguable”, ie it warrants investigation). Progress has been slow as resources have been focused on other claims, and the government has been unwilling to engage to date. We continue to push for progress of this claim, as it reflects the relativity risks all employers in the sectors are facing and recognises there are many workers in our services who are yet to be paid their true worth.