

# The Treasury

## Budget 2017 Information Release

### Release Document July 2017

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[38]	to enable the Crown to negotiate without disadvantage or prejudice	9(2)(j)
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[40]	Not in scope	

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) and section 18 of the Official Information Act.



# Cabinet

## Minute of Decision

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### Care and Support Workers Pay Equity Settlement Agreement

**Portfolio**                      **Health**

On 18 April 2017, following reference from the Cabinet Committee on State Sector Reform and Expenditure Control, Cabinet:

#### Background

- 1        **noted** that a pay equity test case was filed in 2012 in the Employment Court on the interpretation of the Equal Pay Act 1972 relating to care and support workers [*TerraNova vs Bartlett/Service and Food Workers Union*];
- 2        **noted** that in June 2015, Cabinet agreed to the following strategy for negotiations in response to the care and support worker case:
  - 2.1      agreed that the government seek to resolve the *TerraNova* case out of the courts, allowing the government to better manage the process and outcomes;
  - 2.2      agreed that negotiations be tightly focussed on addressing pay and associated workforce issues for care and support workers;
  - 2.3      agreed that a Crown Negotiator be appointed to lead the negotiations, assisted by the Ministry of Health;
  - 2.4      noted that the total package of addressing low pay through negotiations was estimated to cost up to approximately \$300 million per annum or \$1.5 billion over five years;

[CAB Min (15) 18/8]
- 3        **noted** that the care and support worker negotiations are limited to care and support workers in aged and disability residential care and home and community support services (including injured clients under ACC) and will impact an estimated 55,000 workers;
- 4        **noted** that in November 2016, Cabinet:
  - 4.1      agreed to the following detailed negotiating parameters:
    - 4.1.1    mental health assistants are the agreed comparator for equal pay purposes;
    - 4.1.2    a matrix of rates from \$17.85 to [38]      pe      re phased in over five years;

- 4.1.3 that the matrix of rates outlined in paragraph 4.1.2 above includes monetised conditions;
  - 4.1.4 that the maximum outyear Crown cost of the settlement will not exceed \$507.25 million per annum (from 2021/22 onwards);
  - 4.1.5 progression is based on qualification attainment, with no reference to service progression;
  - 4.1.6 that all claims for back-pay will be extinguished except for that of Mrs Bartlett;
  - 4.1.7 new wage rates will come in to effect from 1 July 2017;
  - 4.1.8 all 6,000 equal pay related cases filed in the Employment Relations Authority will be extinguished;
  - 4.1.9 that the parties agree that this agreement is a full and final settlement of all pay equity concerns relating to this group of employees;
  - 4.1.10 that the unions provide a commitment that this settlement will not be used as a basis for claims for relativity wage increases for other groups;
- 4.2 noted that the cost to the Crown of a settlement based on the above negotiating parameters is estimated at \$1.88 billion over five years, with an ongoing outyear cost of \$507.25 million;
- 4.3 authorised the Prime Minister, the Minister of Finance, the Minister of State Services, the Minister of Health, and the Minister for ACC to have power to act should the Crown Negotiator require changes to the financial or other negotiating parameters to agree a settlement;

[CAB-16-MIN-0602]

5 **noted** that <sup>[36]</sup>

6 **noted** that the financial parameters have been adjusted by agreement of the Ministers with power to act referred to in paragraph 4.3 above, and that the total cost of settlement is estimated at \$2.048 billion over five years;

### **Proposed Settlement**

7 **noted** that a settlement has been agreed in principle, subject to Cabinet approval and ratification by the unions;

8 **agreed** that the key features of the care and support worker settlement consist of the following:

- 8.1 the parties have agreed that the settlement addresses historic pay inequity in the care and support sector;
- 8.2 the parties agree not to use the agreement as a precedent to argue for increases in other occupational groups;
- 8.3 employers are required to provide necessary systems and support for employees to obtain relevant qualifications;

- 8.4 all retrospective pay equity claims for this workforce are extinguished;
- 8.5 a matrix of hourly wage rates from \$19 to \$27 are set for care and support workers, based on qualifications, with a transition arrangement based on experience for existing care and support workers;
- 8.6 a one off transition arrangement for existing care and support workers which allows progression on qualifications or service;
- 8.7 no prospective claims will be made for the five year duration of the settlement (note that any future claims beyond the five year term of the agreement will be subject to the principles detailed in the intended Equal Pay Amendment Act);
- 8.8 a year five adjustment provision should the Labour Cost Index (LCI) growth exceed 1.7 percent on average over years one to four;
- 8.9 weekend and penal rates described in employment agreements that are calculated as a percentage of base pay will be converted to allowances;
- 8.10 service and qualification allowances described in employment agreements will be extinguished;
- 9 **noted** that Kristine Bartlett has accepted the extinguishing of her claim and a confidential settlement;
- 10 **noted** that the additional Crown costs resulting from the proposed settlement are forecast to be as follows (where costs to ACC represent the cash costs in a particular year):

	\$m – increase (decrease)					Five year total
	2017/18	2018/19	2019/20	2020/21	2021/22 & outyears	
Ministry of Health and DHBs	279.000	348.000	377.000	356.000	472.000	<b>1.832b</b>
ACC	31.000	37.000	39.000	37.000	48.000	<b>0.192b</b>
Implementation costs	24.000	-	-	-	-	<b>0.024b</b>
<b>Total additional costs</b>	<b>334.000</b>	<b>385.000</b>	<b>416.000</b>	<b>393.000</b>	<b>520.000</b>	<b>2.048b</b>

- 11 **agreed** to increase the agreed expenditure for Vote Health and Vote Labour Market from 2017/18 so that the increased costs from the settlement can be met;
- 12 **agreed** to establish a new Non Departmental Output Expense appropriation *Supporting Equitable Pay for Care and Support Workers* in Vote Health;
- 13 **agreed** that the scope of the appropriation be “This appropriation is limited to costs related to workers in the care and support sector, incurred as a result of the Employment (Pay Equity and Equal Pay) Act 2017”;
- 14 **agreed** to establish a new Non Departmental Output Expense appropriation *Supporting Equitable Pay for Care and Support Workers* in Vote Labour Market;
- 15 **agreed** that the scope of the appropriation be “This appropriation is limited to costs related to workers in the care and support sector, incurred as a result of the Employment (Pay Equity and Equal Pay) Act 2017”;

- 16 **approved** the following changes to appropriations to give effect to the decisions in paragraphs 12 and 14 above, with an impact on the operating balance:

	\$m – increase (decrease)					2021/22& outyears
	2016/17	2017/18	2018/19	2019/20	2020/21	
Vote Health Minister of Health Non-Departmental Output Expense Supporting Equitable Pay for Care and Support Workers	-	279.000	348.000	377.000	356.000	472.000
Vote Labour Market Minister for ACC Non-Departmental Output Expense Supporting Equitable Pay for Care and Support	-	44.900	41.000	35.600	35.500	35.400
<b>Total operating</b>	-	<b>323.900</b>	<b>389.000</b>	<b>412.600</b>	<b>391.500</b>	<b>507.400</b>

- 17 **noted** that once full implementation is in place, and the settlement can be fully implemented, District Health Board funding will be devolved, disability support services funding will be transferred to the National Disability Support services appropriation through the baseline update process, and ACC funding will be allocated to the relevant appropriations also through the baseline update process;
- 18 **noted** that funding for ACC (Vote Labour Market) relates to the Non-Earners Account (new claims and the impact on the outstanding claims liability) using a 10-year funding horizon on the Treasury's recommendation, and that if eventual funding policy decisions do not reflect this assumption there will be a wash up at Budget 2018 (reflecting the sum of all the changes in the account over the previous year);
- 19 **agreed** that a contingency of \$24 million be established in 2017/18 for costs relating to the implementation of the settlement, [38]
- 20 **agreed** that funding will not be paid over to District Health Boards until the Minister of Finance and the Minister of Health are satisfied with the arrangements to pass through funding to providers;
- 21 **agreed** that access to the *Supporting Equitable Pay for Care and Support Workers* contingency be subject to the joint agreement of the Minister of Finance and the Minister of Health;
- 22 **noted** that the Ministry of Social Development and the Ministry for Vulnerable Children, Oranga Tamariki have provided an estimate of [38] of the financial impact of the care and support worker settlement on its vocational and disability workforce;
- 23 **noted** that the estimated impact of [38] referred to in paragraph 22 above has not been included in the total costs of the care and support worker settlement financial parameters;

- 24 **directed** the Minister for Social Development to report back to Cabinet with the confirmed financial impact of the care and support worker settlement on the vocational and disability workforce, along with options for how this is managed, by June 2017;
- 25 **approved** the proposed care and support worker settlement agreement, attached to the submission under CAB-17-SUB-0179;
- 26 **authorised** the Minister of Finance and the Minister of Health to approve the final settlement agreement following consideration by the parties;

### **Implementing Legislation**

- 27 **agreed** that the implementing legislation cover the matters in the care and support worker settlement agreement specifically relating to the legislation;
- 28 **invited** the Minister of Health to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decision in paragraph 27.

Michael Webster  
Secretary of the Cabinet

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**Hard-copy distribution:**

Prime Minister  
Minister of Health