

# The Treasury

## Budget 2017 Information Release

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**Joint Report:** Updated Joint Agency Paper - Care and Support Worker negotiations

<b>Date:</b>	1 September 2016	<b>Report No:</b>	SSC: 2016/94 TSY: T2016/1671 MOH: 2016/1390-1
<b>Contact:</b>	Lewis Holden Ben McBride Stephen Barclay	<b>Telephone:</b>	[39] _____ [39] _____ [39] _____

	Action Sought	Deadline
Minister of Finance (Hon Bill English)	Discuss any questions you have with officials	Ahead of the Ministerial meeting to discuss the Government's approach to the Care and Support worker negotiations
Associate Minister of Finance (Hon Steven Joyce)		
Minister of State Services (Hon Paula Bennett)		
Minister of Health (Hon Dr Jonathan Coleman)		
Minister for Workplace Relations and Safety (Hon Michael Woodhouse)		

**Enclosure:** No

Lewis Holden, Deputy Commissioner  
State Services Commission

Ben McBride, Manager Health  
Treasury

Stephen Barclay, Chief People and Transformation Officer  
Ministry of Health

## Joint Report: Updated Joint Agency Paper - Care and Support Worker negotiations

### Purpose of Report

- 1 This note updates the agreed advice in the note of 22 August 2016 on:
  - The costings and proposed next steps in the Care and Support worker negotiations;
  - The impact of the Care and Support worker negotiations on the fiscal strategy; and

[38]

### Background

- 2 The Crown agreed to enter into Care and Support worker negotiations about 12 months ago. At the time, it was hoped that a settlement could be reached that focused on low pay, with a fiscal cost of around \$300 million per annum (full-out year cost). This has not been possible.
- 3 The unions want a pay equity settlement. Their original claim was based on using Corrections officers as the comparator (\$26.00 per hour). However, we think they will agree to use Mental Health Assistants (a male dominated workforce) as the benchmark for a negotiated settlement. [36]

Mental Health Assistants generally earn between \$17.00 and \$21.89 per hour, depending on length of service. They also enjoy various additional entitlements (extra leave, night and weekend penal rates, etc.).

### Costs

- 4 Using Mental Health Assistants as the comparator will mean that the full out-year cost of a negotiated settlement is substantially higher than \$300 million per annum. Table 1 provides an indicative estimate of the gross increase in wage costs to give Ministers a sense of the possible order of magnitude.
- 5 Table 1 also shows the proportion of costs likely to be borne privately by people in aged-residential care with assets above the threshold (~\$220k). This would increase the cost of residential care by about a quarter in the region of \$12,500 a year for someone who does not qualify for a full subsidy.
- 6 Table 1 does not represent a definitive costing. Officials agree that, given the information currently available, it provides a reasonable estimate of the maximum likely cost of a settlement if Mental Health Assistants are used as the comparator. [38]

- 8 These numbers do not include costs to ACC. These were previously estimated at \$55m but will now almost certainly increase. The costs will flow through to future bids for the non-earners' account and levy calculations.
- 9 The numbers involved are very large. We do not think that analysis to date provides a basis for asking Ministers to approve an aggregate five-year negotiating mandate now

### **Staged approach**

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- 10 We recommend a staged approach that enables the Care and Support worker negotiations to continue whilst further work is done to firm up the actual costs of implementing a settlement.
  - 11 We also think that the negotiating mandate approved by Ministers should provide some clarity about specific parameters. For example:
    - How a settlement is phased in and thus when costs are incurred. (Note that this has implications for Budget 17).
    - The maximum on-going annual cost. (Note that this has implications for the medium term fiscal strategy).
    - Whether there should be any scope for terms and conditions that may have a precedent setting effect in the State sector or private sector.
  - 11.1 Firstly the Crown needs to respond to the offer made by unions. The two options are:
    - a) Reject the offer and indicate that negotiations are over. Litigation would then resume. [36]
- OR
- b) Reject the offer but indicate that the Crown is interested in pursuing a settlement that uses Mental Health Assistants as the comparator.

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The Crown negotiator needs Ministers' approval to propose the use of Mental Health Assistants as the comparator because it is not affordable under the current negotiating mandate. This decision needs to be made now in order for negotiations to continue. Ministers do not need to approve a new fiscal envelope at this stage, but should be cognisant of the overall impacts summarised in Table 1.

11.2 On reaching agreement with unions to continue negotiations using Mental Health Assistants as the comparator, the focus will move to firming up the actual costs of the settlement, including clarity on the implementation through price increases for providers and funding increases to District Health Boards.

- A funding negotiating team will meet with providers and District Health Boards, allowing us to gauge their reaction and providing a better sense of how a settlement would be implemented in practice without any recourse to the Crown post implementation.
- We expect these discussions to include the scope for providers to absorb part of the cost themselves, through changes to service models.
- Based on these discussions, revised costings will be developed outlining the implications for provider pricing and District Health Board funding, including the impact on the threshold for the Aged Residential Care subsidy and increase in private costs.

11.3 Following this, and before negotiations resume, the Ministry of Health will revise the negotiating parameters, in consultation with Central Agencies, prior to recommending the negotiating parameters to Ministers for approval.

- The revised negotiating parameters will be supported by the revised costings for the settlement of the Care and Support worker negotiations and provider funding
- We anticipate this process taking several months given the diversity of providers

11.4 Negotiations will then resume with the Crown Negotiator working to the revised negotiating parameters approved by Ministers.

- Central Agencies will be regularly briefed and Ministers will be consulted should there be any indication during bargaining that the revised negotiating parameters may be surpassed and/or may need to be revised.

12 Annex 1 shows the proposed timeline provided by the Ministry of Health for reaching a negotiated settlement in the Care and Support worker negotiations and outlines the steps following settlement.

13 This proposed timeline is challenging and if need be there is scope to push the timeline out in order to ensure costings are robust and the parameters are clear before approval of revised negotiating parameters is sought from Ministers.

## Impact on the fiscal strategy

- 14 We are not able to provide definitive advice about how a settlement would affect the fiscal strategy because we do not yet have a clear picture of what it would cost or how wage increases would be phased in over time. The costings are merely indicative at this stage. It is also still very early in the Budget process, so we can only offer a preliminary view about other calls for new funding.
- 15 Nevertheless, it is clear that a negotiated settlement will make it very difficult to manage within the Budget 17 operating allowance. The allowance is set at \$1.5 billion per annum. The Treasury's early assessment is that other pressures that need funding from this allowance already exceed \$1.4 billion per annum.
- 16 A negotiated settlement would most likely take effect from the start of the next fiscal year (2017/18). The average annual cost of the settlement across four full years should therefore count against the Budget 17 allowance. Exactly what that figure is depends on the terms of a settlement and whether the cost can be phased in over time. In a worst case scenario [38] the average annual cost would be [38], taking us well outside the allowance. If the cost of a settlement cannot be managed within the allowance, then it will reduce the surplus and increase net debt.
- 17 If costs can be phased in over time, this will reduce to some extent the direct impact on Budget 17 – although it will still be very difficult to manage within the allowance. However, the full on-going annual cost would still affect the surplus and net debt over the medium-term. This is one reason why it is important that any mandate given to the negotiators is clear about the parameters of a settlement, including the on-going annual cost, rather than merely specifying an aggregate five-year figure.
- 18 Table 2 illustrates a simple scenario in which other cost pressures and discretionary initiatives are assumed to fully absorb the allowance. The cost of a settlement is assumed to be based on [38]. In this scenario, net debt would be roughly [38] billion higher by 2020 compared to the Budget 2016 track: around [38] of GDP in 2020, compared to the Budget 2016 track of 20.8%.

**Table 2. Terranova: OBEGAL impact if managed outside operating allowance (\$m)**

	2017/18	2018/19	2019/20	2020/21	2021/22
OBEGAL (B16 forecast)	2,455	4,972	6,681	7,138*	8,313*
Care and Support (fiscal cost)	[38]				
Adjusted OBEGAL					

\* Projections per the fiscal strategy model

[38]

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[38]

## **Consultation**

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- 24 The Ministry of Business, Innovation and Employment have been consulted in the development of this paper and the Department of Prime Minister and Cabinet is aware of this paper.

## Annex 1

### Timeframes for reaching a negotiated settlement- two step option

Action	Timeframe
Ministers meet to discuss options	Week of 5 September-
Ministers provide the Crown negotiator with a mandate to talk to settlement parties now	Week of 5 September
<b>Step 1</b>	
Crown negotiator meets with Settlement parties	Week of 13 September
Negotiation team meets with funders and providers to understand how the settlement will work in practice	Week of 13 September
Officials undertake analysis of: <ul style="list-style-type: none"> <li>• Phasing and impact of conditions</li> <li>• Potential impact of the funder, provider, workforce dynamic on the settlement</li> <li>• Size of funding envelope</li> </ul> This information is used to develop a revised negotiation mandate	Week of 13 September- Week of 3 October
Officials liaise and consult Central Agencies prior to recommending expanded fiscal parameters to Ministers	Week of 3 October
Officials meet with Ministers of Finance, State Services and Health to agree the expanded fiscal parameters	Week of 3 October
Ministers approval sought for fiscal parameters and communicate parameters to the Crown negotiator	Week of 10 October
<b>Step 2</b>	
Crown negotiator meets with Unions to negotiate settlement	Week of 17 October
Officials liaise and consult Central Agencies prior to reporting back to Ministers on the outcome of negotiations	Week of 17 October – Week of 14 November
Crown negotiator reports back to Ministers of the outcome of the negotiations	Week of 14 November
Cabinet paper lodged	Week of 21 November
Cabinet committee	Week of 28 November
Cabinet decision	Week of 5 December

#### Steps following Cabinet decision

The terms of settlement will be incorporated in a Settlement Agreement that is signed by all of the parties-the Ministry on behalf of the Crown, the funders, the providers and the unions.

The Settlement Agreement will also include the mechanisms for the funding to flow through the existing contracts between funders and providers and ultimately to the workforce. The existing collective and individual employment agreements would remain in force and be amended to reflect the settlement. They would not be supplanted by a centralised pay mechanism.

Once a settlement is agreed by all parties legislation will be required to:

- extinguish back dating
- enforce the five year moratorium
- extinguish current and future claims
- set the overall rates to be paid to providers
- set the basis for payments to workers

Similar legislation has been developed for the Sleepovers settlement and, most recently, the In-Between Travel Settlement [*Home and Community Support (Payment for Travel Between Clients) Settlement Act 2016*].



[38]