



Te Kawa Mataaho
Public Service Commission

Joint Report: Equal Pay Taskforce Progress Report April 2022

Date: 6 April 2022 **Security Level:** IN CONFIDENCE

Report No: 2022/0019

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	Actions Sought	Due Date
Hon Chris Hipkins, Minister for the Public Service		None
Hon Jan Tinetti, Minister for Women		None

Enclosure: Appendix One: Pay Equity Dashboard

Minister's Office Comments

Comments:	
Date returned to Te Kawa Mataaho:	

Executive Summary

Pay Gaps Work Programme

- 1 The Equal Pay Taskforce (The Taskforce), with our stakeholder working group Te Whakapiri,¹
 - has released guidance and delivered our first four workshops to agencies and Crown entities on implementing Kia Toipoto and meeting this year's Equitable Pay milestones. 268 people attended these workshops
 - will release guidance on how small organisations can implement Kia Toipoto and will be holding a workshop for small agencies and entities on 5 April
 - is developing guidance for agencies and Crown Entities creating pay gaps action plans and will release this guidance and hold workshops in May
 - is developing its work programme for the rest of 2022 and will report to you with more detail in our next bi-monthly report. This work will include developing guidance for agencies and entities on setting targets for increased representation of Māori, Pacific, and ethnic leaders, and especially wāhine Māori, Pacific, and ethnic women leaders, in order to meet the Kia Toipoto milestone, Te whai kanohi i ngā taumata katoa - Leadership and representation.
- 2 Te Whakapiri would also like to invite the Minister for Women to meet with it in person to discuss its goals and work programme in more detail. We will work with the Minister's office to find a suitable time for this meeting.

Pay Equity Work Programme

- 3 There are 25 current pay equity claims progressing through the system. The Central Agencies Governance Group meets regularly on a fortnightly basis and also as necessary to ensure the health claims can be resolved as quickly as possible, as they near the final settlement and ratification process.
- 4 There is an emerging issue in the settlement agreements of the health claims around the reviewing and maintaining pay equity clause. 9(2)(f)(iv) confidentiality of advice
[REDACTED]
[REDACTED]
- 5 The Taskforce continues to support the Ministry of Health and DHBs, particularly to progress the Administration and Clerical and Nurses claims to the ratification stage in April 2022. The

¹ Te Whakapiri is made up of the Taskforce, Te Kawa Mataaho Leadership Development, Te Runanga o Ngā Toa Āwhina (the PSA Māori Network), PSA Pacific and Pan-Asian networks, Te Puni Kōkiri, the Ministry for Ethnic Communities and the Ministry for Pacific Peoples, and members of the Rainbow, Disabled and Pan-Asian employee-led networks.

Ministry of Health is drafting a Cabinet paper seeking drawdown of contingency for the 2021/22 fiscal year for both the Administration and Clerical and Nurses claims.

- 6 The Taskforce is working with Social Service Providers Aotearoa (SSPA) and the Public Service Association (PSA) as parties to the Non-Government Organisation (NGO) social worker claim to design a validation process as per the Cabinet mandated Funded Framework. This process will help us understand the potential number of people undertaking the same or substantially similar work within the Funded Sector. This new data will be used to inform cost implication modelling, which will support Ministers to decide whether to extend the benefits of the settlement more broadly across the wider social sector.
- 7 We have received positive responses from chief executives in public and private sector organisations who we approached to ask if we could proactively interview their male dominated workforces for use as comparators in pay equity claims processes. The project is on track, and we anticipate starting interviewing in late April.

Recommended Action

We recommend that you:

Note the progress being made by the Gender Pay Taskforce.

Agree that Te Kawa Mataaho releases this report once it has been considered by you, with matters under active consideration withheld under section 9(2)(f)(iv) of the Official Information Act (OIA), including the Pay Equity Dashboard at Appendix One. Information related to pay equity is withheld under section 9(2)(j) of the OIA, to enable agencies to carry on negotiations without prejudice or disadvantage, and legally privileged information is withheld under section 9(2)(h).

Agree/disagree.

Agree/disagree.



Hon Chris Hipkins
Minister for the Public Service

Hon Jan Tinetti
Minister for Women

Joint Report: Equal Pay Taskforce Progress Report December 2021 - January 2022

Purpose of Report

- 8 This report provides a high-level overview of progress on the Kia Toipoto and Pay Equity work programmes.

Kia Toipoto - Public Service Pay Gaps Action Plan

Working with Te Whakapiri to support the core Public Service and Crown Entities to implement Kia Toipoto

- 9 The Taskforce and Te Whakapiri:
 - released the new equitable pay guidance “*Ensuring bias is not influencing starting salaries*” and “*Ensuring bias is not influencing salaries for the same or similar roles*”
 - held five workshops for agencies and Crown entities to introduce Kia Toipoto and use this guidance to meet the *Ngā Hua Tōkeke mō te Utu - Equitable Pay* milestones.
 - will hold an additional workshop on 14 April for anyone unable to make the workshops to date.
- 10 Our starting salary guidance includes the following recommendations:
 - limiting managerial discretion by narrowing the range within which starting salaries can be set, or introducing a system of fixed entry points
 - increasing salary transparency by including salary information in job advertisements
 - avoiding requesting current salaries from candidates because this will import pay gaps from existing workplaces
 - removing negotiation from the salary setting process as this introduces gender and cultural bias.
- 11 Our guidance on removing bias from salaries for the same or similar roles includes the following recommendations:
 - ensure no salary anomalies are overlooked by undertaking an individual review of the salaries of all employees, irrespective of the gender or ethnic group/s they identify with
 - include all remuneration, including base pay and additional pay, because gaps tend to be higher in additional pay
 - recognise overlooked and undervalued skills and experience, especially cultural skills and knowledge, experience and gained outside paid work and skills such as teamwork and emotional intelligence.
- 12 All the guidance includes voices of wāhine Māori and diverse public servants who have experienced bias and discrimination in salary setting processes and decisions.
- 13 268 people attended the four workshops held to date, representing approximately 30 agencies and 33 Crown entities, PSA He Pukenga Here Tikanga Mahi and Te Rūnanga o Ngā Toa Āwhina delegates and organisers, and internal stakeholders.

- 14 Workshop participants have expressed a high level of engagement in Kia Toipoto. They have also expressed interest in how to use Te Orowaru in the standard job evaluation contexts. As noted, in paragraph 35 below, the Taskforce will be developing guidance how to use Te Orowaru in this broader context.
- 15 Te Whakapiri has developed practical advice for small organisations (up to about 100 employees) on implementing Kia Toipoto, recognising the tailored approach they need to apply to aspects of Kia Toipoto. We will release the guidance and hold a workshop for small agencies and entities on Tuesday 5 April.
- 16 Te Whakapiri is also developing guidance to help agencies and entities create their 2022 annual Pay Gaps Action Plans, in order to meet the Kia Toipoto *Te Pono - Transparency* milestone. We will release this guidance and hold workshops in May. The deadlines for agencies and entities to publish their 2022/23 action plans are 15 November and 31 December respectively.
- 17 Te Whakapiri is developing the remainder of its work programme for 2022, which will include developing guidance on:
 - setting targets to increase representation of Māori, Pacific, and ethnic leaders, especially wāhine Māori, Pacific women, and ethnic women
 - developing guidance for entities on removing all forms of bias from remuneration and human resources policies and practices
 - identifying targeted initiatives to increase Māori, Pacific, and ethnic diversity in workforces and in leadership.
- 18 From April, Manatū Wāhine will be formally represented on Te Whakapiri, to facilitate even deeper alignment between our work programmes.

Working with Manatū Wāhine to influence change in the wider economy

- 19 The Taskforce has contributed to the Manatū Wāhine work to develop the Women's Employment Action Plan, both in closing pay gaps and progressing pay equity.
- 20 Together with Manatū Wāhine, the Taskforce is also supporting the development of MBIE's pay transparency work programme. The Taskforce will be sharing the range of transparency initiatives that have been implemented in the Public Service over the last three years and further transparency initiatives that will be implemented under Kia Toipoto.

Mind the Gap Campaign and the Public Service

- 21 Several agencies and Crown entities have asked whether they should join the Mind the Gap register of companies publishing their gender pay gaps. Mind the Gap is clear that it is aimed at businesses in Aotearoa New Zealand, since "the Public Service is already reporting gender gaps and will report ethnic gaps this year." The Taskforce agrees and does not see the need for agencies or entities to join the register. The Taskforce has a constructive relationship with Mind the Gap, and we will continue to inform them of the

great work being done by the Public Service to increase awareness and understanding of organisational pay gaps and their drivers.

Invitation to the Minister for Women to meet with Te Whakapiri

- 22 Te Whakapiri would like to invite the Minister for Women to meet with it in person and would be delighted to discuss its goals and work programme in more detail. If you agree, the Taskforce will work with your office to find a suitable date and time, and to provide further information.

Pay Equity Work Programme

The Central Agencies Governance Group (Governance Group) continues to meet fortnightly

- 23 The Governance Group's role is to provide advice to parties and a level of assurance to Ministers that pay equity claims in the Public sector are progressing in line with the process set out in the Equal Pay Act 1972. Employers come to the Governance Group at 6 key milestones in the pay equity process to outline the methodologies used and progress made on their claims.
- 24 The Governance Group also meets on an as required basis to respond to urgent work, to consider issues that have system-wide implications and or where aspects of the legislation are being tested in Court. The Governance Group is meeting twice this week to discuss the Ministry of Health Cabinet paper seeking drawdown of contingency for 2021/22 and the Milestone 6 papers and draft Settlement Agreements for the Administration and Clerical and Nurses claims.
- 25 The pay equity Dashboard (Appendix One) provides a snapshot of the 25² current claims and includes a high-level estimate of timing of claims through to September 2023

Ministerial Oversight Group on State Sector Employment Relations (MOGSSER)

- 26 The next MOGSSER meeting is 13 April. The Taskforce will provide its regular noting paper that outlines issues and risks to pay equity across the system, particularly highlighting new emerging issues that are being tested for the first time.
- 27 We also expect the Ministry of Health to update on progress made since the 11 March MOGSSER meeting, where they were asked to look at ways to expedite health sector pay equity settlements. At this stage, the union ratification process is expected to be complete at the end of April 2022 for both the Administration Clerical and Nurses claims.
- 28 On 11 April, we will provide Minister Tinetti with an Aide Memoire to support her at MOGSSER and will work with officials from her office leading up to this meeting.

² This includes one private sector claim for Local Government Library Assistants and four Funded sector claims. Private and Funded sector claims do not go to the Central Agencies Governance Group.

Emerging issues – Pay Equity Reviews

- 29 Pay equity claim settlements must include an agreed process for reviewing remuneration to ensure that pay equity is maintained. Reviews must be either aligned with any applicable collective bargaining rounds or at least every 3 years. The Equal Pay Act does not provide any guidance around what happens where parties undertaking a review are unable to reach agreement around whether sex-based differentiation exists, or the pay rate required to maintain pay equity.
- 30 The High Court has recently confirmed that striking for pay equity issues is illegal and the Employment Relations Authority has no express jurisdiction to make a determination on these matters at the review stage. Unions have raised concerns that their ability to negotiate pay in collective bargaining when there is a pay equity component will be compromised. Work is currently being undertaken in this area to inform review clauses in settlement agreements and guidance for future reviews.

Interviewing male dominated comparator workforces for use in pay equity claims

- 31 Our project to proactively interview male dominated comparator workforces is progressing well. In February 2022, Gráinne Moss, Chief Executive and System Lead Pay Equity, wrote to Public Service and key private sector organisation chief executives asking them to let us interview their male dominated workforces for use in pay equity claims processes. The response has been positive, particularly from the private sector, and we are working with organisation to facilitate and support this project. We anticipate being in a position in to start interviewing in late April.
- 32 This project is a practical way to leverage resources across the system. It will reduce the time, and therefore the cost, involved in the pay equity process because comparator interviewing is time-consuming. Providing free access to comparator data (via a centralised claims repository) will allow agencies to focus on interviewing their employees' workforce. It will also assist in consistent and high-quality information being obtained from across the economy.
- 33 We expect to interview 30-40 male dominated occupations and provide this information into the data repository in May for use by parties to current and future pay equity claims.

Te Orowaru work assessment tool being used for the comparator interviewing project

- 34 Te Orowaru is the work assessment tool that will be used in the proactive comparator interviewing project. The tool is being used in five current pay equity claims and since its launch in November 2021, has generated a lot of interest, particularly from private sector organisations interested in using it for job evaluations.
- 35 The Taskforce will be developing guidance which will be applicable for the wider economy on how to use Te Orowaru in the job evaluation context. We will also provide organisations with support in the form of staff training and engagement sessions.

Pay equity in the Funded sector

- 36 The Cabinet mandated Framework for Funded sector pay equity claims [CAB MIN 29-0391 refers] is being used by the Non-Government Organisation (NGO) social worker claim. This claim represents five social service providers and is the most advanced claim in the funded sector at present.
- 37 The Taskforce is working with Social Service Providers Aotearoa (SSPA) and the Public Service Association (PSA) as parties to the claim to design a validation process as per the Funded Framework. This process will enable employees and employers in the wider social sector to look at the assessment undertaken in the current NGO claim and decide whether their own work is the same or substantially similar to the work described in the NGO claim.
- 38 The validation process helps us understand the potential number of people who are undertaking the same or substantially similar work within the Funded Sector and gather better data on the cost implications. This information will enable Ministers to make a decision about extending the benefits of the settlement more broadly.
- 39 Planning for the validation process is a complex project. This is because it requires engagement with the many employers and employees in the funded social services sector, where data quality is poor and there is a lot of uncertainty around the nature and number of this contracted workforce.
- 40 In response to the COVID environment the validation process will be undertaken virtually to ensure that sector engagement is held safely.
- 41 The result of the validation process is scheduled to be completed and written up for Cabinet by July or August 2022.

Costing pay equity in the Funded Sector

- 42 We continue to work with Treasury in their modelling work to track the potential fiscal implications of pay equity settlements and when they may fall due. This work is particularly challenging in the Funded Sector, given the paucity of reliable data on FTE, current wage rates and contracting models. The Taskforce has had a number of recent engagements with Treasury to support their preparation of credible estimates of the fiscal cost of funded sector claims, given that the Funded Framework, which was mandated by Cabinet in September 2021, in effect means Government increased its commitment to fund pay equity settlements in the Funded sector.

Teachers' Claim (NZIE/PPTA)

- 43 This complex claim is preparing to move towards the assessing phase. The multi-employer process agreement (MEPA), which sets out how the employers will work together, has been signed by all employers and the Secretary for Education will be signing shortly. This is a significant achievement given the volume of employers and the lack of precedent for a MEPA.

- 44 A steering group has been established for the Early Childhood Education (ECE) employers and members have begun meeting to get to know each other and understand pay equity so they can guide the 524 ECE employers through the claim process. The steering group is electing a Chair and Deputy Chair and nominations for these positions will be endorsed shortly. Two education sessions about the Funded Framework and the pay equity process have been provided by the Taskforce with this steering group to date.
- 45 The Ministry of Education is in the early stage of developing a bargaining strategy and Terms of Reference and is expected to bring these to the Governance Group in the second quarter of 2022 to seek endorsement for Milestone 2.

Administration workers in schools (NZEI) and Kaiārahi i te reo (NZEI)

- 46 On 4 March 2022, NZEI Te Riu Roa filed in the Employment Relation Authority (ERA) seeking a determination on three key matters for the two claims, including fixing remuneration, a review mechanism to ensure pay equity is maintained and on the recovery of remuneration for past work. On 22 March 2022, the Secretary for Education filed their Statement in Reply.
- 47 The ERA date for the hearing is set for 18-20 May. We are aware that the outcome of the proceedings will be precedent setting for pay equity across the system.

Other claims in the education sector (NZEI)

- 48 The remaining claims in the education sector are progressing well and parties continue to have a good working relationship. The claims for Education Advisors, Service Managers, Psychologists, Therapists, Science Technicians, Librarians and Library Assistants, are at either Milestone 2 (initial bargaining strategy) or 3 (work assessment check in) and all these claims are expected to come to the Governance Group between April and June 2022.

DHB claims for Administration and Clerical and Nurses and Midwives (MERAS/NZNO/PSA)

- 49 The Taskforce continues to work intensely with the Ministry of Health (the Ministry) and TAS on the three DHB pay equity claims, which are all nearing settlement, albeit with some delays.
- 50 In late December 2021 parties agreed to “in principle agreements” for both the Administration and Clerical and the Nurses claims. The employer is drafting settlement agreements in consultation with unions in preparation for ratification processes. Draft Milestone 6 papers and Settlement Agreements were discussed by both the Health Employment Relations Governance Group and the Central Agencies Governance Group on 1 April 2022. Governance Group assurance is still required on the final versions of the Milestone 6 papers and Settlement Agreements.
- 51 Cabinet approved a variation to the mandate for Administration and Clerical claim on 16 March 2022. This was to allow for an increase in contingency for the agreed lump sum payment to recognise the delay in settlement.

- 52 Further cost assurance work has been undertaken for the Administration and Clerical claim and indications are that baseline FTE has increased impacting on costings.
- 53 The Ministry of Health is consulting on a draft Cabinet paper that seeks approval for further contingency for the Administration and Clerical claim and also drawdown of contingency for both the Administration and Clerical and Nurses claims for the 2021/22 fiscal year. The 9(2)(f)(iv) confidentiality of advice [REDACTED]
- 54 Both the Administration and Clerical and Nurses claims are planning to commence communication with affected/settlement employees on the draft Settlement Agreements and progress to ratification processes from 8 April 2022 (it is anticipated that ratification processes will be completed in late April 2022).
- 55 Settlement negotiations commenced for the Midwives claim on 26 January 2022. The parties last convened for bargaining on 17 March 2022 when the DHBs tabled a revised offer of settlement with the unions (NZNO and MERAS). Unions intend presenting their counteroffer at the next scheduled bargaining session of 7 April 2022.
- 56 In addition, the need to complete a work assessment for the newly introduced role of Maternity Care Assistant under coverage of the claim was agreed by all parties. MERAS committed to undertaking work to gather a sample group of Maternity Care Assistants to undergo the work assessment.

DHB Librarians and Interpreters claim (PSA)

- 57 In March 2022, the parties to the Administration and Clerical claim agreed to remove these workforces (approximately 200 employees) from the claim. These workforces will be covered by a new claim. The parties will build on the assessment work already undertaken for the claimant groups as part of the Administration and Clerical claim and commence a new comparator selection and assessment process. It's hoped this claim will progress quite quickly to settlement by mid-2022.

DHB Allied Technical Claim (PSA/APEX)

- 58 This large complex claim covers more than 130 occupations and requires a more innovative approach to assessing the claimant workforce because traditional methodologies would simply take too long. Parties agreed to trial a shortened online survey using the Te Orowaru questionnaire to gather claimant work information. This was successfully tested on the Pharmacy workforce.
- 59 Survey information is supplemented by targeted interviews, position descriptions and career frameworks and together provides enough detail to develop core role profiles, which can then be validated by managers. The methodology will be used for medium and large occupational groups within the claim.

- 60 On 17 March TAS provided the Central Agencies Governance Group meeting with a progress update on this work. It was agreed that the simplified online version of Te Orowaru provides good supplementary data that will help build a better understanding of the work of the claimant workforces. TAS will roll this work out to other occupational groups in April.
- 61 The next steps for this claim will be a further report back to the Governance Group in mid-2022, which will include an update on potential comparators. TAS has signalled that comparator for this claim could include settled nursing roles and male comparator data from the centralised data repository.

Public Sector Admin Clerical Claims (Claim 1 and Claim 2)

- 62 These claims are progressing well, and the Joint Claim Team is looking to draw on the experience and work of admin clerical claims in the health and education sectors, which are expected to settle this year. The revised approach includes drawing on completed work such as using DHB and education claimant roles as potential comparators. This would mean these claims may be completed 6-12 months earlier than originally thought. These claims will come to the Governance Group for Milestone 3 in the second quarter of this year.

Department of Corrections claims for probation officers and senior practitioners'(PSA/NUPE) and psychologists (PSA)

- 63 Parties are progressing these claims slower than anticipated due to complications arising from the current Covid environment, however they expect to go to the Governance Group in late April for Milestone 2 (Initial Bargaining Strategy and Terms of Reference). These two claims are progressing in parallel at this stage.
- 64 Parties intend to use Te Orowaru as the work assessment tool and have signalled interested in accessing the male dominated comparator information in the data repository, which should be accessible by the time these claims reach that part of the pay equity process.

Pay Equity Advice and Assurance Team now fully staffed

- 65 Over the past two weeks four new staff members have joined the Taskforce to work on the pay equity work programme. This means we can now move forward more quickly on key pieces of work which have been on hold due to resourcing constraints.

Upcoming consultation and engagement

Date	Details	Location
5 April 2022	Kia Toipoto - Small Agencies and Crown Entities Workshops	Virtual
6 April 2022	Gráinne Moss and Peter Mersi presenting to Champions of Change on Pay gaps	Virtual

13 April 2022	Pay Equity interview training workshop for comparator project	Virtual
14 April	Pay Equity 101 education for agency leads	Virtual
14 April	Kia Toipoto – Workshop	Virtual

Appendix One - Pay Equity Dashboard	Raise	Plan	Assess	Settle						
	● Collective Agreement Expires				Apr-Jun 2022	Jul-Sep 2022	Oct-Dec 2022	Jan-Mar 2023	Apr-Jun 2023	Jul-Sep 2023
Sector- Workforce										
Education										
Administration Staff in Schools (APEC) (5,663 FTE)										
Kaiarahi i te Reo (KPEC) (48 FTE)										
Kōhanga Reo Kaiako (Unknown)										
Librarians (960 employees)										
Psychologists (130 employees)										
Science Technicians (307 employees)										
Therapists (670 employees)										
Service Managers (85 employees)										
Education Advisors (180 employees)										
Teachers (approx. 100,000 certified teachers, including ECE)						●				
Funded										
Kindergarten Support Staff (superseded by new claim raised 6.11.21)										
NGO Non-Social Worker Staff (160 FTE)										
NGO Social Workers (400 FTE)										
Te Whakaruruhau Ltd (36 employees)										
Health										
DHB Admin and Clerical Workers (7,810 FTE March 2022, excludes 1,003 FTE Covid related positions)										
DHB Nurses (24,348 FTE)										
DHB Allied and Technical Workers (10,140 FTE)										
DHB Librarians and Interpreters (200 FTE)										
DHB Midwives (1,084 FTE Dec 2021 Cab Paper 1,378 FTE)										
HR Specialist - Lakes DHB (individual claim)										
Private Sector										
Local Government Library Assistants (unknown)										
Public Sector										
Public Sector Admin and Clerical Workers (11,412 employees)										
Specialist Customer Support Workers (4,649 employees)										
Public Service										
Corrections Probation Officers (1, 398 FTE)										
Corrections Psychologists (187 FTE)										