



Release of the Public Service Pay Guidance

Date:	17 March 2023		
To:	Hon Andrew Little, Minister for the Public Service		
Action Sought:	Confirm timing of release of Pay Guidance	Due Date	Wednesday 22 March
Report No:	2023-0077		
Contact:	Charlie Busby, Manager; Workforce, and Employment Relations		
Encl:	Yes	Priority:	Low / Medium / High
Security Level:	IN CONFIDENCE		

Executive Summary

1. The Commissioner has previously provided your office with the proposed pay guidance and advice on the wider context (see 2022-0325; 2023-0038 and the MOGSSER papers to the 22 February 2023 meeting). Following this Te Kawa Mataaho engaged with NZCTU, who we understand consulted with selected affiliates on the guidance.
2. NZCTU have now provided feedback. This feedback has been evaluated and absorbed into the pay guidance, where appropriate. We have also provided NZCTU with a response to its feedback
3. Te Kawa Mataaho has agreed with your office that the Guidance will be released in the week of 27 March 2023. The Commissioner will not be issuing a media statement, but a comprehensive communications briefing is attached to support you if you choose to do so.

Recommended Action

We recommend that you:


- a **note** that the Public Service Commissioner has updated the Public Service Pay Guidance and intends to issue that guidance, under s.95(c) of the Public Service Act 2020, as operational guidance to the Government Workforce Policy Statement on the Government's expectations for employment relations in the public sector
- b **note** that the Public Service Commission has consulted with the NZCTU in with the commitment made by the Minister for the Public Service in his letter of 18th May 2021
- c **agree** to the release of the attached Public Service Pay Guidance on Tuesday 28th March 2023

Agree/Disagree.

- d **agree** that Te Kawa Mataaho release this briefing in full (except from annex one and three) once it has been considered by you and pay guidance has been released

Agree disagree

- e **note** that you have indicated that you may wish to release a statement about the Pay Guidance and/or an update on the Public Service Pay Adjustment and so a communications briefing has been provided with this report to support any reactive or proactive statements



Hon Andrew Little

Minister for the Public Service

Release of the Public Service Pay Guidance

Purpose of Report

4. This report updates the Minister on the Public Service Pay Guidance following engagement with NZCTU and advises on timing of the guidance's publication

Analysis:

5. In line with the commitment made by the Minister for the Public Service in his letter of 18 May 2021, Te Kawa Mataaho shared the draft pay guidance with NZCTU on 8 March 2023. Richard Wagstaff provided feedback on 13 March.
6. The feedback was comprehensive, encompassing comment on policy differences, particular terms used, and proposed amendments to selected points or principles. The collated feedback is attached for your noting in Annex One. NZCTU's feedback has informed three minor changes to the pay guidance. These are:

Section	Previous guidance	Amended guidance
2. Purpose (Last bullet point)	Builds on gains made to date in reducing gender and ethnic pay gaps	Builds on and accelerates gains made to date in reducing gender and ethnic pay gaps
4. Applying pay flexibility (Paragraph one)	We want to ensure that we can attract talented and skilled staff to work in the public service and that we are able to reward <u>hard</u> work fairly	We want to ensure that we can attract talented and skilled staff to work in the public service and that we are able to reward work fairly.
4. Applying pay flexibility (paragraph four)	Where more widespread or structural changes are proposed across large sections of an agency's workforce and/or including higher paid staff, please seek our guidance.	Where more widespread or structural changes <u>to remuneration</u> are proposed across large sections of an agency's workforce and/or including higher paid staff, please seek our guidance.

7. The revised guidance is attached as Annex Two

Next Steps

8. Following finalisation of the Public Service Pay Guidance, the Commissioner will be asked to approve the guidance, and that it is issued under s.95(c) of the Public Service Act 2020 as operational guidance to the Government Workforce Policy Statement on the Government's expectations for employment relations in the public sector (Workforce Policy).
9. Te Kawa Mataaho has agreed with your office that the Guidance will be released in the week of 27 March to ensure that you are in the country for the release. To support that, communications will be made to department and departmental agency chief executives, their heads of human resources, the wider public service and unions to notify them of the release, in line with the following timetable:

Thursday 23 March	Commissioner notifies Public Service Chief Executives in confidence about the new guidance (to allow agencies time to prepare any internal guidance or advice)
Tuesday 28th March 8.30am	Public Service Commission's Website goes live with updated Pay Guidance
Tuesday 28 March 8.45am	All Public Sector Chief Executives are notified that the Pay guidance has been updated through a Public Service Commission HUDO release
Tuesday 28 March 9am	The NZCTU and PSA are informed of release
Tuesday 28 March from 9 am	Any proactive media statement by Minister(s) is released

10. Note that the delay in release to the week of the 27 March raises a small risk of the guidance entering the public domain, inadvertently or otherwise, as the NZCTU has now shared the draft guidance with selected affiliate unions.

Communications

11. You have indicated that you may wish to release a statement about the Pay Guidance and/or an update on the Public Sector Pay Adjustment.
12. A communications briefing has been provided in Annex Three to support any proactive or reactive statement you would like to make. We are available to support this as required. This briefing can be shared with other Ministers who may also be approached for comment.
13. In line with the Public Service Commissioner's normal practice at the release of pay guidance, he will not be issuing a media statement.



ANNEX TWO – DRAFT OF GUIDANCE FOLLOWING NZCTU FEEDBACK.

1. Background

This guidance is issued under s.95(c) of the Public Service Act 2020 as operational guidance on the Workforce Policy and should be read alongside the [Government Workforce Policy Statement \(GWPS\) on expectations for employment relations](#).

It sets out the Commissioner’s expectations in relation to setting pay within Public Service agencies¹.

Agencies that are bargaining on behalf of, and under delegation of the Commissioner, are required to negotiate in accordance with this guidance.

Agencies subject to the Government Workforce Policy Statement are asked to take this guidance into account in their decision making.

This guidance replaces the Public Service Commissioner’s pay guidance of 2021 and all associated advice.

2. Purpose

It is important that the Public Service works within a consistent framework to manage its approach to remuneration. This guidance provides that framework and supports:

- The Government’s fiscal strategy through continuing to show restraint in applying pay adjustments, particularly for higher paid staff while also supporting the Government’s aims of closing unjustifiable pay gaps
- Ongoing increasing consistency of approach to remuneration across the Public Service while also recognising that the specific context of agencies will vary

This guidance also recognises the impact of the Public Sector Pay Adjustment (PSPA), including for those who may be out of scope (for instance if a union chose not to participate). The PSPA aims to provide certainty to public service staff, including in the current high inflation environment and to create a constructive industrial environment. It also seeks a consistent and concurrent approach to employment relations within the public sector.

This guidance assists agencies to adopt a remuneration approach that:

- Recognises that the current environment is one of pressure on wages in all parts of the economy, and where the public service is facing shortages in key areas for staff
- Reflects and reinforces the PSPA offer and supports consistency of outcome for those out of scope
- Recognises the Government’s ambitions to prioritise low-paid roles in any pay settlements
- Builds on and accelerates gains made to date in reducing gender and ethnic pay gaps

3. Key principles

Departmental secretaries and chief executives in the Public Service should ensure that pay adjustments are consistent with the following principles:

1. Pay adjustments required by statute, or to comply with existing contractual obligations in current employment agreements are met;
2. Ensure a minimum pay rate for staff that provides a liveable wage. Further to this, structure pay offers and settlements and any structural changes to pay systems (such as offering steps), to ensure that the remuneration of the lowest paid public servants remains a focus;

¹ Departments, Departmental Agencies, Interdepartmental Executive Boards and Interdepartmental Ventures

3. Pay strategies should help build towards greater consistency in remuneration (and other terms and conditions) for roles where the public service is the primary labour market to avoid internal ratcheting of wages²;
4. Implement Kia Toipoto Closing Gender, Māori, Pacific and Ethnic Pay Gaps Public Service Action Plan 2021-24, embedding gains for women made to date and accelerating reductions in pay gaps faced by Māori, Pacific and ethnic employees;
5. Pay strategies, alongside other interventions, should help the agency to address recruitment and retention issues demonstrably impacting service delivery. That can include frontline staff, direct support to frontline services or subject matter expertise where there is a limited supply of that expertise;
6. Employees whose positions fall within the coverage of a collective agreement, and who are on an individual employment agreement which mirrors the collective agreement (due to not being a union member), should receive equitable outcomes that are consistent with the obligations of good faith bargaining for individual and collective agreements;
7. Agencies are encouraged to apply targeted increases to the various parts of their workforces, informed by a range of evidence sources (one form of evidence may be public/private market indicators). Outside of the PSPA, a pay or bargaining strategy that consists of across-the-board pay increases and/or a linkage (matching) to a single outside market indicator is unlikely to meet this expectation.
8. Where an agency has provided an increase in line with the PSPA to its workforce, this will constitute the maximum level of increase envisaged under this guidance and therefore no further offer should be made across that workforce while the PSPA is in effect in the absence of exceptional circumstances, (see examples of exceptional circumstances outlined below, and/or seek advice from the Te Kawa Mataaho Public Service Commission); and
9. Agencies whose workforce was excluded from the PSPA (which may have occurred if the union did not opt-in to the PSPA process or the collective agreement expires after December 2023) can use the elements of PSPA settlements as an indicator of the maximum increases and benefits envisaged under this guidance. In this situation an agency can reframe the structure of PSPA increases provided the overall cost is within the same fiscal envelope and is consistent with these guidelines. Note that an agency does not have to offer increases consistent with the PSPA proposal and must also ensure any offer is affordable and is in line with wider guidance including relevant parts of this advice and the Government Workforce Policy Statement. Any effective dates of increase(s) must relate to that agency's normal cycle or bargaining outcome (so should not simply replicate the PSPA increase dates).

4. Applying pay flexibility

We want to ensure that we can attract talented and skilled staff to work in the public service and that we are able to reward work fairly. It is also important that public service pay takes into account the impact on taxpayers and the Government's fiscal situation.

As in previous years, agencies may wish to offer increases that sit outside this guidance where there are exceptional circumstances.

When considering making an exceptional adjustment, we encourage agencies to exercise careful judgement, taking into account factors such as the significance of the increase, the quality and relevance

² This will require consideration of system level insights and data, including material and support provided by the Public Service Commission.

of the supporting evidence, and how closely aligned the proposal is to the intent of the guidance and the Government's expectations for employment relations.

Where more widespread or structural changes to remuneration are proposed across large sections of an agency's workforce and/or including higher paid staff, please seek our guidance. We will support evidence-based and targeted increases which exceed the indicative levels above to address identified equity/parity issues that arise within or across a workforce, or to address acute retention or recruitment pressures where the agency is experiencing the loss of critical skills or talent. This may include particular workforces or occupations as well as individuals.

Agencies can also continue to make individual pay adjustments for promotion/higher duties and organisational change reasons, as well as to correct unjustifiable pay gaps. These are not considered exceptional circumstances and therefore an agency does not have to consult with Te Kawa Mataaho.

5. Considerations when preparing strategies for bargaining

If obligations under your current remuneration provisions are not consistent with this guidance, you should identify any changes in your bargaining strategy to address this.

If you are seeking to introduce changes to your remuneration system (whether in bargaining or as a result of joint work with unions) you should ensure these resolve demonstrable organisational issues and consider how to phase any cost impacts to ensure consistency with this guidance.

6. Funding and increases in remuneration costs

In all cases, the expectation remains that agencies will fund any increases from within existing baselines, and those increases will be affordable and sustainable. If you have concerns about this, we recommend speaking to both Te Kawa Mataaho and Treasury as early in the process as possible.

Agencies are reminded that all elements which increase payroll costs must be considered when assessing affordability and sustainability, including:

- Application of built-in progression systems, or introduction of new progression systems, including operation of step progression and changes in scale or size of steps
- Adjustments to remuneration ranges, including increasing band midpoints
- Increases arising from pay restructuring (e.g. associated with changes to pay structures or repositioning staff within the pay range)
- Introduction of new allowances or increases to existing allowances where these are not offset by any reduction in allowances
- Cost associated with changes in non-remuneration benefits (e.g. leave entitlements) or reductions in hours worked
- Lump sum payments, including where a union only benefit is proposed

Agencies may be asked to provide data on the impact of settlements or remuneration round outcomes, which account for the above factors.

Additionally, agencies should ensure that predictable remuneration decisions made outside of the bargaining, or annual remuneration rounds (e.g., promotions of staff to higher paid roles, and providing increases required by legislation), will be affordable alongside bargained outcomes.

7. Process

We ask that you engage as early as possible with your usual Te Kawa Mataaho ER contact on bargaining strategies and remuneration review approaches. Good engagement in the lead up to presenting a strategy or remuneration approach for approval or support will shorten the time to provide a response.

For proposals of a sensitive nature, such as for senior leaders, feel free to contact the Deputy Commissioner Workforce, Employment Relations & Equity or your agency's Assistant Commissioner directly. Agencies are reminded to be mindful of privacy requirements and avoid sending personal information by email.

If you have any questions, such as how you can best communicate your approach to the Te Kawa Mataaho, or would like any further information on workforce policy or Pay Guidance please get in touch with the team at employmentrelations@publicservice.govt.nz.

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