



[IN-CONFIDENCE]

Addition to State Sector Act Reform Public Discussion document

Date: 27 June 2018
For: Hon Chris Hipkins , Minister of State Services
Report No: SSC2018/687

Addition to State Sector Act Reform Public Discussion document

Minister	Hon Chris Hipkins, Minister of State Services
Proposal	<p>We have developed a proposal to clarify the role of the Commissioner in pay equity negotiations, for inclusion in the State Sector Act Reform Public Discussion Document you received on 19 June 2018. We recommend that you support the proposal.</p>
Key issues	<p>This proposal aligns with your intent to break down silos and build a modern, agile and adaptive New Zealand Public Service and wider State Sector.</p> <p>There are no direct funding or resource implications. If supported, the discussion document will be updated to reflect the new proposal before it is released (proposed wording is attached).</p> <p>There is a risk that the proposal will be viewed as seeking to limit the scale or scope of potential settlements of pay equity claims across the public service.</p>
Our advice	<p>We recommend that you:</p> <ol style="list-style-type: none">1) Agree that a pay equity section is included in the people chapter of the State Sector Act Reform Public Discussion Document, and that it proposes giving the Commissioner the same role in respect of pay equity negotiations as they have in relation to collective agreement negotiations. <p style="text-align: right;">Yes / No</p>
Proactive Release	<p>We recommend</p> <ul style="list-style-type: none">• that you release this aide-memoire in full following the public announcement of the reform of the State Sector Act 1988 <i>Agree/disagree</i>• that the enclosure is withheld as it, or a similar version, will be released as part of the public consultation discussion document <i>Agree/disagree</i>

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Responsible Manager: Al Morrison, Deputy Commissioner (CE on Assignment)

Proposal to clarify the role of the Commissioner in pay equity negotiations

- 1 We have developed a proposal to clarify the role of the State Services Commissioner (the Commissioner) in pay equity negotiations, by specifying in the proposed Aotearoa New Zealand Public Service Act that the Commissioner's role in relation to pay equity negotiations is equivalent to their existing collective bargaining responsibility.
- 2 We are seeking your agreement to include this proposal in the people chapter of the State Sector Act Reform Public Discussion Document (the Discussion Document). We have drafted a new section on pay equity for the chapter, which you can find in Enclosure 1.

Background

- 3 Upcoming amendments to the Equal Pay Act 1972 will embed the Reconvened Joint Working Group pay equity principles, and locate the resolution of pay equity claims in the employment relations framework. The amended Equal Pay Act is likely to be passed in 2019, ahead of the passage of the proposed Aotearoa New Zealand Public Service Act.
- 4 The State Sector Act 1988 currently makes the Commissioner responsible for negotiating collective agreements in the Public Service and Education Service, and enables the Commissioner to delegate this responsibility to chief executives. The Commissioner's letter of delegation requires each Public Service chief executive to have approval from the Commissioner for a bargaining strategy and before making an offer for settlement.
- 5 In contrast to the Public Service and Education Service, non-Public Service departments and Tertiary Education Institutions are only required to consult with the Commissioner, while District Health Boards are required to consult with the Director-General of Health.
- 6 Through these provisions, the State Sector Act enables the Commissioner to have oversight of the fiscal implications of collective bargaining and the likely flow-on impacts and precedent across the sector. It also enables the Commissioner to give assurance to Ministers that bargaining outcomes are consistent with their priorities.
- 7 In the same way, we consider that the Commissioner needs to be able to assure Ministers that the integrity of pay equity principles are being upheld across the State sector. The Commissioner will also need oversight of the likely precedents and flow-on impacts that pay equity settlements may have across the State sector and economy more broadly.

Proposal

- 8 We propose that the Aotearoa New Zealand Public Service Act gives the Commissioner the same role in respect of pay equity negotiations as they have in relation to collective agreement negotiations. This approach is appropriate given the pay equity negotiating process is akin to collective bargaining.

Risk

- 9 There is a risk that this proposal will be viewed as seeking to limit the scale or scope of potential settlements of pay equity claims across the public service.

Enclosure 1: proposed new wording for the people chapter of the State Sector Act Reform Public Discussion Document

Pay Equity

Upcoming amendments to the Equal Pay Act 1972 (the Act) will embed the Reconvened Joint Working Group (RJWG) pay equity principles, and locate the resolution of pay equity claims in the employment relations framework. The amended Act is likely to be passed in 2019, ahead of the passage of any changes to the State Sector Act.

The State Sector Act currently makes the State Services Commissioner responsible for negotiating collective agreements in the Public Service and Education Service, and enables the Commissioner to delegate this responsibility to chief executives. The Commissioner's letter of delegation requires each Public Service chief executive to have approval from the SSC for a bargaining strategy and before making an offer for settlement. Non-public service departments and Tertiary Education Institutions must consult with SSC, and District Health Boards are required to consult with the Director-General of Health.

This enables the Commissioner to give assurance to Ministers that bargaining outcomes are consistent with their priorities.

In the same way the Commissioner will need to be able to assure Ministers that the integrity of pay equity principles are upheld across the State sector. The Commissioner will also need oversight of the likely precedents and flow-on impacts that settlements may have across the State sector and economy.

We propose that the Act gives the Commissioner the same role in respect of pay equity negotiations as the Commissioner has in relation to collective agreement negotiations. This approach is appropriate given the pay equity negotiating process is akin in nature to collective bargaining.

Proposals for strengthening workforce provisions to enable an agile, adaptive, capable and unified New Zealand Public Service

- The Commissioner, in consultation with chief executives and relevant functional and professional leads, has the ability to negotiate, directly or through delegation common terms and conditions for functions or professions across existing New Zealand Public Service departments.
- The Commissioner has the same role in respect of pay equity negotiations as the Commissioner has in relation to collective agreement negotiations.

Questions

- 1 Do you agree that the legislation should enable the establishment of common terms and conditions for functions and professions across the Public Service? Why, or why not?
- 2 Do you agree that the Commissioner have the proposed level of oversight over pay equity negotiations?
- 3 What could be the costs or risks in greater cross-Public Service coordination on workforce issues?