

Hon Chris Hipkins
Minister for the Public Service

Funding to accelerate the operational delivery of pay equity including a new pay equity centre of excellence in the Public Service

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Cabinet paper – Funding to accelerate the operational delivery of pay equity including a new pay equity centre of excellence in the Public Service

CBC-21-SUB-0068 - Summary

CBB-21-MIN-0068 - Minute

Author: Te Kawa Mataaho Public Service Commission

This is a suite of documents released by the Hon Chris Hipkins, Minister for the Public Service that has informed the Government's proactive release of information policy.

[Sensitive]

Office of the Minister for the Public Service

Office of the Minister for Women

Cabinet Government Administration and Expenditure Review Committee

Funding to accelerate the operational delivery of pay equity including a new pay equity centre of excellence in the Public Service

Proposal

- 1 The paper seeks agreement to an out of cycle contingency of \$3M per annum over this current year and the following two years (expenses incurred for 2022/23 and 2023/24 be charged as a pre-commitment against the Budget 2022 operating allowance) to accelerate the operational delivery of pay equity in the public sector and publicly funded sector. This will include the establishment of a new pay equity centre of excellence in the fiscal year 2021/2022 located in Te Kawa Mataaho the Public Service Commission (the Commission). If additional funding is required a budget bid would be developed.

Executive Summary

- 2 The Government is committed to the efficient and effective delivery of pay equity, addressing low pay and closing gender, Māori, and ethnic pay gaps. The work of the Gender Pay Taskforce (the Taskforce) has effected considerable change to decreasing the Gender Pay Gap across the public sector.
- 3 Demand for pay equity expertise and capacity is increasing as the number and complexity of claims grow and the Government has reaffirmed its commitment publicly to “accelerate” pay equity following the release of the Government Workforce Guidance. While the Taskforce within the Commission provides a level of central expertise, it was not set up or resourced to provide operational support for the daily management of pay equity claims. Across the system we see: inequitable levels of resourcing for claims; differing levels of capability; increased use of contractors; and challenges securing comparators and information across claims.
- 4 Among other initiatives to improve efficiency, it is proposed to establish a pay equity centre of excellence to support faster and more effective operational delivery of pay equity in line with the Equal Pay Act 1972 (the Act). The centre of excellence would include: a pool of interviewers and legal and analytical resource to support progression of claims along with resource for training and education for those engaging in pay equity claims¹. Enhancing operational capacity and capability for claims processes would allow more consistency of support across the system (including the funded and local government sectors), comprehensive risk

¹ The Gender Pay Taskforce would retain its more strategic approach and support for central governance functions as well as there being a clear separation of the governance and assurance role of the Taskforce from the role and functions of the operational centre of excellence.

management, consistency of processes, and increased access to comparators and information. We also envisage initiatives to increase efficiencies and further strengthen the shared learning, governance, and oversight for pay equity claims across the system including the funded and local government sectors².

- 5 There is currently no baseline funding within the Commission or the Ministry for Women to fund this proposal and therefore we seek your approval for the release of \$3M contingency per annum over the current year and the following two years (expenses incurred for 2022/23 and 2023/24 be charged as a pre-commitment against the Budget 2022 operating allowance) to implement the efficiency initiatives outlined in this paper and establish the centre of excellence. We will incrementally establish the centre of excellence over the next year. If additional funding is required the Commission will develop a budget bid for the ongoing support and final implementation.
- 6 The proposal to establish a pay equity centre of excellence relates to the Government's overall stated priorities and workforce priorities, including for the Public Service to "employ people fairly, equitably and in a way that allows them to live good lives and participate in the economy". We would also in the longer term see, for example, the collateral tools from shared learning captured by the centre of excellence supporting the wider economy.

Background

- 7 Demand for pay equity expertise and capacity is increasing as the number and complexity of claims grow and the Government has reaffirmed its commitment publicly to "accelerate" pay equity following the release of the Government Workforce Guidance. There are 22 pay equity claims (including 2 individually raised claims) across the public and funded sectors covering approximately 170,000 employees including large workforces such as teachers, nurses, and clerical and administration workers across the Public Sector^{3 4}. While the Taskforce provides a level of central expertise, it was not set up or resourced to provide operational support for the daily management of pay equity claims, particularly against this increasingly challenging pay equity landscape. Across the system we see:
 - inequitable access to resources and expertise across the system⁵
 - competition for limited expertise
 - challenges raising claims for the most vulnerable, particularly for workforces with low union density

² This paper complements the Commission's Cabinet paper *Pay Equity in the Funded Sector* also due to Cabinet in September 2021.

³ Exact numbers are not yet available for all, or in some cases complete, workforces such as teachers.

⁴ This number of employees is those covered by current claims, although it should be noted that the centre of excellence would also provide support for reviews of settlements so the number of employees covered by this enhanced support is larger than the approximately 170,000 covered by current claims.

⁵ Many of the active claims are concentrated in the education sector, including the complex multi-employer and multi-union claim for teachers. In recognition of this, the Ministry for Education was funded in Budget 21 in order to progress these claims. Other sectors (some also with complex multi-employer and multi-union claims) have continued to manage claims from within baseline, including for the Public Sector clerical and administration claim which is funded by chief executives who are party to the claim – circa \$2M pa.

- inconsistency in claims processes/approach
- growing reliance on contractors with varying degrees of knowledge and competency
- challenges with securing comparators (including private sector) and sharing comparator information across claims.

Proposal

- 8 There is currently no baseline funding within the Commission or the Ministry for Women to fund this proposal and therefore the funding being sought in this paper would provide resourcing to streamline and strengthen sustainable support across the system. The Taskforce based in the Commission would retain its strategic role and remain accountable for providing governance support, oversight and delivery of independent advice and assurance on pay equity claims (amongst other functions) and the additional funding would strengthen its capacity to perform these functions. The funding would also allow for the provision of more dedicated operational support for claims processes, education and training across the system and analysis of claims and their settlements.
- 9 The pay equity centre of excellence will create a centralised and flexible pool of operational practitioners (a pool of interviewers and legal and analytical resource to support progression of claims along with resource for training and education for those engaging in pay equity claims), tools and expertise which agencies with claims could access. This will sustainably resource claims and better support the timely and efficient delivery of pay equity across the system.
- 10 The Crown Law Office and agencies who are party to pay equity claims have also identified inequities in the operational support for claims and are supportive of a centralised model. We have socialised the concept of a centralised model with the New Zealand Council of Trade Unions Te Kauae Kaimahi (and affiliates).
- 11 A system wide pay equity centre of excellence will have many benefits, including to:
- demonstrate Government commitment to accelerate pay equity claims
 - provide a system wide structure to manage issues/risks⁶
 - provide more equitable and timely allocation of resources across claims whilst still allowing employers to have overall management and oversight of their claims in a joint process with unions and claimants⁷

⁶ As an example, the large number and range of employers in the education sector creates a significant operational aspect to implementing and administering pay equity claims in the sector. Many of these employers may require specialist support with allocating funding, and the payroll and HR impacts that arise from the change in settings.

⁷ As its proposed claims processes would have more support at an earlier stage in the process this could minimise the time and cost for oversight and assurance by the Taskforce and governance framework.

IN CONFIDENCE

- leverage resources across the system including: legal advice, work assessment interviewers and analysts, education, and training resources (other functions to be built up over the next year)
- provide operational support for existing and new claims and reviews of settlements
- ensure increased consistency in the operational delivery of pay equity including utilising consistent tools and resources and education for parties
- enable more certainty and clarity on cost and timing of claims^{8 9}
- develop a plan for prioritisation of current system resources moving forward and ensure any future budget bid maximises resources across the system
- support the Ministry of Business, Innovation and Employment's implementation of the Act including efforts to establish and maintain a centralised claims data repository.

Relation to government priorities

- 12 The proposal to establish a pay equity centre of excellence relates to the Government's overall stated workforce priorities, including for the Public Service to "employ people fairly, equitably and in a way that allows them to live good lives and participate in the economy".
- 13 Ministers have recently made several public commitments to "speed up the progress of pay equity settlements". The Government is committed to addressing low pay for women and for Māori and Pacific peoples¹⁰. To accelerate pay equity settlements and address low pay the Government must provide additional funding/resource in the short to medium term, rather than the long term, to support the system and parties to claims.
- 14 Pay equity settlements will likely lead to significant shifts in wages for many New Zealanders and will benefit the lower paid and help close, Māori, ethnic and gender pay gaps (of course this is dependent on which workforces raise claims). Given the potential economic impact of settlements it is critical that we invest in ensuring the processes and settlements are robust.
- 15 Achieving pay equity will allow women to better support themselves and their whānau and save for their retirements. It will give families more choices around participating in paid work and balancing family roles. Paying employees what they are worth and fully utilising their skills also increases employee engagement and productivity.

⁸ This increased certainty would include through enhanced collection of workforce data and information to assist planning, costing, and forecasting.

⁹ Although, it should be noted that a centralised approach would create efficiencies and as a result the impact of costs of claims may fall earlier than they might without this changed approach.

¹⁰ Note that the mandate and work of the Taskforce has extended recently to include addressing the ethnic pay gap with no additional funding to date.

- 16 The proposal for a centre of excellence to strengthen support of pay equity claims across the system fits neatly and reinforces the role of the Public Service Commissioner in relation to pay equity in the Public Service Act 2020 (sections 81 to 84).

Financial Implications

- 17 Due to the recent exponential increase in claims and the complexity and size of those claims there is an urgent need to establish the centre and commence implementation but there is no allocated budget in this fiscal year. Therefore, we are seeking an out of cycle contingency of \$3M per annum over this current year and the following two years. If additional funding is required a budget bid for further implementation and ongoing support for the centre (and its functions and activities to support pay equity claims across the system) will be developed.

Legislative Implications

- 18 No legislative implications have been identified in this paper.

Impact Analysis

- 19 An impact analysis is not required.

Gender Implications

- 20 Achieving pay equity requires not only the substantive efforts of employees and employers to address and settle pay equity claims, but also support and resourcing for the management of pay equity claims across the system. The recommendations in this paper will facilitate robust and consistent claims processes as well as timely, orderly, and efficient settlement of claims. The settlement of these claims will contribute to addressing gender-based undervaluation in the remuneration of all women directly employed by central government departments or associated agencies and for those women performing work funded by the Government.
- 21 As many female-dominated workforces are in the State employed sector, the recommendations in this paper have the potential to affect a large number of employees, the majority of whom will be women, including women in low paid work where there is a high proportion of wāhine Māori and Pacific women, and other women facing intersecting barriers such as those of other ethnic minorities.

Disability Perspective

- 22 Traditionally, it has not been possible to look at the links between disability and gender-based undervaluation in the remuneration of women in the public sector due to a lack of data. This lack of data is improving with the introduction of the internationally recognised Washington Group Short Set questions into Stats NZ's Household Labour Force Survey (HLFS) Income survey and the 2018 Census.
- 23 Published disability statistics from the HLFS Income survey do not have a strong gender analysis. What has been published from the HLFS Income Survey shows that there is an opportunity to 'dig deeper' into the gender and disability intersectionality for the Public sector using the HLFS Income or 2018 Census in the future.

Human Rights

- 24 The recommendations in this paper are consistent with Article 7 of the International Covenant on Economic Social and Cultural Rights that recognises the right of everyone to the enjoyment of “just and favourable conditions of work”, including specific reference to a “decent living for themselves and their families”.
- 25 The pay equity work programme is also consistent with the:
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) including article 11(1)(d) which covers “...The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work...”; and,
 - International Labour Organization Convention 100, Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, as well as other relevant international labour instruments including Conventions and Recommendations.

Consultation

- 26 The Department of Prime Minister and Cabinet, Treasury, Crown Law Office, Ministry of Business, Innovation and Employment, the Ministry for Women, the Ministries of Education, Health and Social Development and Oranga Tamariki have been consulted on the development of this paper.

Communications

- 27 We will announce the establishment of a centre of excellence for pay equity in the Public Service in a press release when the proposal and contingency funding has been agreed to.
- 28 Additionally, the Chief Executive/and System Lead Pay Equity will communicate with agencies and unions regarding details of the establishment of the centre and implementation timelines.

Proactive Release

- 29 We intend to proactively release this paper once it has been considered by Cabinet, subject to the redaction of bargaining sensitive material.

Recommendations

The Minister for the Public Service and Minister for Women recommend that the Committee:

- 1 **note** that the Government is committed to addressing low pay for women and for wāhine Māori, Pacific and women from smaller ethnic groups and that Ministers have recently made several public commitments to “speed up the progress of pay equity settlements”;

I N C O N F I D E N C E

- 2 **note** that the number, size, and complexity of pay equity claims is growing and outstripping available capability and capacity to provide governance, oversight, and operational support to claims processes;
- 3 **note** that current pay equity claims management in the Public Service is characterised by inequitable access to resources/expertise, competition for that resources/expertise, inconsistency between claims processes, and challenges securing comparators and sharing comparator information across claims.
- 4 **agree** that the establishment of a pay equity centre of excellence will provide operational support (a flexible pool of interviewers, legal advice, and analysis capability) for employers with claims, evidence of the Government’s commitment to accelerate claims, gain more certainty and clarity on cost and timing of settlements, and address constraints in capability, capacity, and consistency of claims processes across the system.
- 5 **note** that the Crown Law Office, Treasury, the Ministries of Business, Innovation and Employment and for Women and agencies who are party to pay equity claims support the establishment of the pay equity centre of excellence;
- 6 **approve** the following changes to appropriations to give effect to the policy decision in recommendation 4 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Public Service Minister for the Public Service	\$m – increase/(decrease)			
	2021/22	2022/23	2023/24	2024/25 & Outyears
Departmental Output Expense: Leadership of the Public Management System (funded by revenue Crown)	3.000	3.000	3.000	-

- 7 **agree** that the proposed change to appropriations for 2021/22 above be included in the Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 8 **agree** that the expenses incurred under recommendation 6 above for 2021/22 be charged against the between-Budget contingency established as part of Budget 2021;
- 9 **agree** that the expenses incurred under recommendation 6 above for 2022/23 and 2023/24 be charged as a pre-commitment against the Budget 2022 operating allowance;
- 10 **note** that if additional funding is required, Te Kawa Mataaho the Public Service Commission will develop a Budget bid for funding the ongoing support and final implementation of the pay equity centre of excellence.

Authorised for lodgement

I N C O N F I D E N C E

Hon Chris Hipkins

Minister for the Public Service

Hon Jan Tinetti

Minister for Women

S E N S I T I V E



Cabinet Business Committee

Summary

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Establishing a Pay Equity Centre of Excellence

Portfolios	Public Service / Women
Purpose	This paper seeks agreement to establish a pay equity centre of excellence within Te Kawa Mataaho the Public Service Commission (PSC).
Previous Decisions	In April 2021, Cabinet agreed to the government workforce policy statement for the public sector, and noted that the Public Service Commissioner will issue operational guidance for the wider public sector on matters such as addressing gender and ethnic pay inequities [CAB-21-MIN-0103].
Proposal	<p>Demand for pay equity expertise is increasing as the number and complexity of claims grow. While the Gender Pay Taskforce within the PSC provides a level of central expertise, it is not resourced to provide operational support for the daily management of pay equity claims.</p> <p>Agreement is sought to establish a pay equity centre of excellence to support faster and more effective operational delivery of pay equity. The centre of excellence would enhance operational capacity and capability, allow more consistency of support across the system, comprehensive risk management, and increased access to comparators and information.</p>
Impact Analysis	Not applicable.
Financial Implications	Agreement is sought to \$3 million per annum for 2021/22 to 2023/24 to establish the centre of excellence. If additional funding is required, the PSC will develop a budget bid. Baseline funding is not available.
Legislative Implications	None from this paper.
Timing Matters	Due to the number and complexity of pay equity claims, there is a need to establish the centre of excellence as soon as possible.
Communications	Responsible Ministers intend to issue a press release. Officials will communicate establishment and implementation timelines with agencies and unions.

Consultation Paper prepared by PSC and MfW. Crown Law, MoE, the Treasury, MoH, DPMC (Prime Minister), MBIE (Workplace Relations and Safety), Oranga Tamariki, and MSD were consulted.

The responsible Ministers indicate that the Minister of Finance was consulted.

The Minister for the Public Service and the Minister for Women recommend that the Committee:

- 1 note that the government is committed to addressing low pay for women and for wāhine Māori, Pacific women, and women from smaller ethnic groups, and that Ministers have recently made several public commitments to “speed up the progress of pay equity settlements”;
- 2 note that the number, size, and complexity of pay equity claims is growing and outstripping available capability and capacity to provide governance, oversight, and operational support to claims processes;
- 3 note that current pay equity claims management in the Public Service is characterised by inequitable access to resources/expertise, competition for that resources/expertise, inconsistency between claims processes, and challenges securing comparators and sharing comparator information across claims;
- 4 agree that the establishment of a pay equity centre of excellence will provide operational support (a flexible pool of interviewers, legal advice, and analysis capability) for employers with claims; evidence of the government’s commitment to accelerate claims, gain more certainty and clarity on cost and timing of settlements; and address constraints in capability, capacity, and consistency of claims processes across the system;
- 5 note that the Crown Law Office, Treasury, Ministry of Business, Innovation and Employment, Ministry for Women, and agencies who are party to pay equity claims, support the establishment of the pay equity centre of excellence;
- 6 approve the following changes to appropriations to give effect to the policy decision in paragraph 4 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Public Service	\$m – increase/(decrease)			
	2021/22	2022/23	2023/24	2024/25 & Outyears
Minister for the Public Service				
Departmental Output Expense:	3.000	3.000	3.000	-
Leadership of the Public Management System (funded by revenue Crown)				

- 7 agree that the change to appropriations for 2021/22, 2022/23 and 2023/24 above be included in the Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 8 agree that the expenses incurred under paragraph 6 above be charged against the between-Budget contingency as established;
- 9 note that if additional funding is required, Te Kawa Mataaho the Public Service Commission will develop a budget bid for funding for the ongoing support and final implementation of the pay equity centre of excellence.

Jenny Vickers
Committee Secretary

Hard-copy distribution:
Cabinet Business Committee
Minister for Women



Cabinet Business Committee

Minute of Decision

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Establishing a Pay Equity Centre of Excellence

Portfolio **Public Service / Women**

On 16 August 2021, the Cabinet Business Committee:

- 1 **noted** that the government is committed to addressing low pay for women and for wāhine Māori, Pacific women, and women from smaller ethnic groups, and that Ministers have recently made several public commitments to “speed up the progress of pay equity settlements”;
- 2 **noted** that the number, size, and complexity of pay equity claims is growing and outstripping available capability and capacity to provide governance, oversight, and operational support to claims processes;
- 3 **noted** that current pay equity claims management in the Public Service is characterised by inequitable access to resources/expertise, competition for that resources/expertise, inconsistency between claims processes, and challenges securing comparators and sharing comparator information across claims;
- 4 **agreed** to establish a pay equity centre of excellence that will provide operational support (a flexible pool of interviewers, legal advice, and analysis capability) for employers with claims; evidence of the government’s commitment to accelerate claims, gain more certainty and clarity on cost and timing of settlements; and address constraints in capability, capacity, and consistency of claims processes across the system;
- 5 **noted** that the Crown Law Office, Treasury, Ministry of Business, Innovation and Employment, Ministry for Women, and agencies who are party to pay equity claims, support the establishment of the pay equity centre of excellence;
- 6 **approved** the following changes to appropriations to give effect to the policy decision in paragraph 4 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Public Service	\$m – increase/(decrease)			
	2021/22	2022/23	2023/24	2024/25 & Outyears
Minister for the Public Service				
Departmental Output Expense: Leadership of the Public Management System (funded by revenue Crown)	3.000	3.000	3.000	-

- 7 **agreed** that the change to appropriations for 2021/22 above be included in the Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 8 **agreed** that the expenses incurred under paragraph 6 above for 2021/22 be charged against the between-Budget contingency established as part of Budget 2021;
- 9 **agreed** that the expenses incurred under paragraph 6 above for 2022/23 and 2023/24 be charged as a pre-commitment against the Budget 2022 operating allowance;
- 10 **noted** that if additional funding is required, Te Kawa Mataaho the Public Service Commission will develop a Budget bid for funding the ongoing support and final implementation of the pay equity centre of excellence.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Kris Faafoi
Hon James Shaw

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet