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Pay Equity in the State Sector: Tools and Resources

Glossary | Terms Used in Pay Equity



Te Kawa Mataaho
Public Service Commission



Manatū Wāhine
Ministry for Women

Te Kāwanatanga o Aotearoa
New Zealand Government

Purpose

This glossary defines the meaning of common pay equity terms, including those used in the [Equal Pay Act 1972](#) (the Act) and those associated with the pay equity process in practice.

Structure of tools and resources

This glossary is part of a suite of tools and resources developed by Te Kawa Mataaho Public Service Commission (the Commission). The structure of the tools and resources is set out in the pay equity diagram on page three to help users navigate and find the components they need.

The purpose of the tools and resources is to enable the parties to pay equity claims in the State sector to progress claims consistently with the Act, which is informed by the [Pay Equity Principles](#) and ultimately to achieve pay equity. The tools and resources support the parties throughout the process, from raising a claim to pay equity negotiations/settlement.

The process that is used to put the tools and resources into practice is just as important as the tools themselves. It is the process used between the parties that will determine the robustness, internal integrity, and validity of the outcomes.

These tools and resources do not constitute legal advice. It is recommended that parties seek their own legal advice if required.

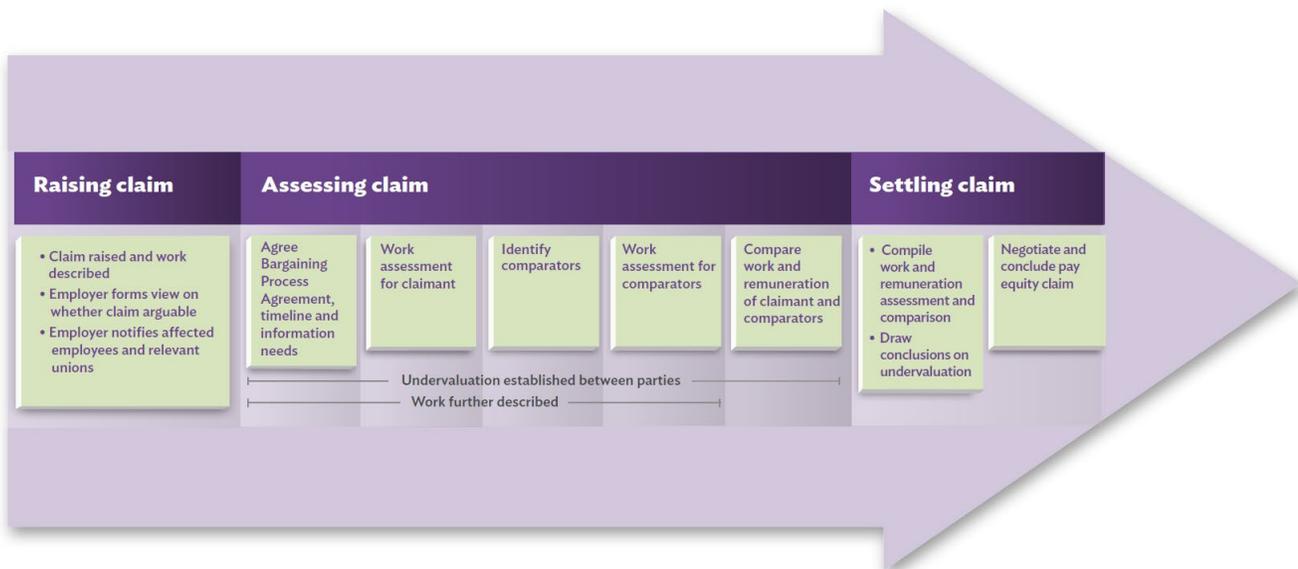
Email pay.equity@publicservice.govt.nz if you would like a Word version of this document.

Pay equity process

The arrow diagram below was developed to demonstrate the steps involved when working through the pay equity process.

The pay equity arrow diagram does not describe a linear process where one step must be completed before another is started.

Based on the experiences of parties to date, the process is flexible enough for some steps to be done in parallel or slightly overlapping as appropriate. The main underpinning is for the parties to work together through a process of engagement.



Glossary

The defined meanings in this glossary are intended for use wherever these terms are used in the suite of tools and resources. Where definitions are taken directly from the Equal Pay Act 1972 the relevant section of the Act is referenced.

Term	Definition
Actual pay	An employee's actual pay includes their base pay plus all allowances they are entitled to.
Affected employees	An affected employee is an employee who performs work that is the same as, or substantially similar to, the work performed by another employee of the same employer, if a pay equity claim has been raised with the employer in respect of that work (whether by an employee or by one or more unions). ¹
ANZSCO	The Australian and New Zealand Standard Classification of Occupations (ANZSCO) is a skills-based classification system used to classify all occupations and jobs in the Australian and New Zealand labour markets, based on a combination of skill level and skill specialisation. ANZSCO can provide a useful framework and starting point for identifying appropriate comparators. ²
Arguable	A pay equity claim is arguable if: a) the claim relates to work that is or was predominantly performed by female employees; and b) it is arguable that the work is currently undervalued or has historically been undervalued. ³ The arguable threshold is low and requires a light touch ⁴ assessment of the information provided to indicate possible undervaluation.
Base pay	Base pay is pay that is specific to an employee's employment agreement and circumstances. ⁵
Bargaining strategy	In a pay equity process, there are two distinct places where the State sector employer party is required to undertake a bargaining strategy for presentation to the Central Agency Pay Equity Governance Group, as mandated by Cabinet in December 2019. Milestone two ⁶ requires a bargaining strategy, detailing agreements about how the claim will be managed, for example what tools will be used, the timelines expected and internal operational considerations. Milestone five requires a strategy for how the settlement phase of bargaining will be approached and how the evidence gathered will be used to negotiate a genuine pay equity rate.
Central Agency Pay Equity Governance Group	The Central Agency Pay Equity Governance Group (mandated by Cabinet in December 2019) provides governance and oversight to employers with pay equity claims in the State sector. It consists of representatives from Treasury, Te Kawa Mataaho Public Service Commission (the Commission), and the Department of Prime Minister and Cabinet. Its aims are to support consistent and robust pay equity outcomes, and to provide the Government with a degree of visibility of, and confidence in, the quality of settlements being reached.

¹ Section 13B of the Equal Pay Act 1972.

² www.abs.gov.au/ANZSCO

³ Section 13F(1) of the Equal Pay Act 1972.

⁴ Section 13Q(2) of the Equal Pay Act 1972.

⁵ Section 8 of the Holidays Act 2003 is not a determinant of base pay.

⁶ The milestones described in this glossary refer to the Central Agency Pay Equity Governance Group processes which are based on the Principles and are not directly related to the legislation.

Term	Definition
Claimant	<p>The claimant is the party raising the pay equity claim with the employer, which could be:</p> <ul style="list-style-type: none"> • an individual employee (or their representative); or • a union on behalf of their members; or • multiple unions that jointly raise a pay equity claim on behalf of their members, or that pursue a pay equity claim that is consolidated in accordance with section 13M of the Act. <p>Once a pay equity claim is accepted as arguable, affected employees are automatically covered by union claims once they are notified, in accordance with section 13W of the Act.</p>
Collective bargaining	<p>The purpose of collective bargaining is to establish or renew a collective employment agreement between at least one registered union and at least one employer, with both parties acting in good faith.</p> <p>Bargaining for a collective agreement includes (as interpreted in the Employment Relations Act 2000):</p> <ul style="list-style-type: none"> • all the interactions between the parties to the bargaining that relate to the bargaining; and • negotiations that relate to the bargaining; and • communications or correspondence (between or on behalf of the parties before, during, or after negotiations) that relate to the bargaining. <p>The pay equity process involves an assessment and a bargaining process (that is aligned with, but different to collective bargaining) to address a pay equity issue.</p>
Commission Pay Equity Work Assessment Factor Plan (PEWA Factor Plan)	<p>The PEWA Factor Plan (based on the Equitable Job Evaluation⁷ (EJE) tool) is available for parties to use with the PEWA Questionnaire in order to assess the work of claimant and comparators. There are 12 factors and 5 levels within each factor.</p>
Commission Pay Equity tools and resources	<p>The tools and resources are a suite of integrated resources and guidance designed to support different points of the claims process and have been consulted on with employers and unions. Resources, templates and guidance are available at each stage from raising a claim through to settlement and these are published on the Commission website.</p>
Commission Pay Equity Work Assessment Questionnaire (PEWA Questionnaire)	<p>The PEWA Questionnaire is the work assessment part of the PEWA Factor Plan (based on EJE). It is an interview tool designed to gather the information needed to apply the PEWA Factor Plan to assess the work.</p>

⁷ EJE was developed by the then Department of Labour and has been used in recent pay equity claims. The Te Kawa Mataaho (Commission) Factor Plan tool is based on EJE.

Term	Definition
Comparators	<p>Comparable work is work that has been identified as suitable to assess against the work of the claimant.</p> <p>Appropriate comparators may include any of the following⁸:</p> <ul style="list-style-type: none"> • work performed by male comparators that is the same as, or substantially similar to, the work to which the claim relates • work performed by male comparators that is different to the work to which the claim relates, if the comparators' work involves one or more of the following: <ul style="list-style-type: none"> • skills and experience, responsibilities, working conditions and degrees of effort that are the same as, or substantially similar to, those involved in the work to which the claim relates • work performed by any other comparators that the parties or the Authority or court considers useful and relevant, including comparators who perform work that has previously been the subject of a pay equity claim settlement.⁹
Comparator protocol	<p>A comparator protocol is an agreement between the parties to the claim and any potential comparators identified. A template is in the Claimant and Comparators Process Guide. The purpose of the protocol is to identify information/data requested, how the information will be gathered, shared, used and stored, and any potential privacy issues.</p>
Consolidation of claims	<p>There are three scenarios for consolidation of claims under the Act¹⁰:</p> <ol style="list-style-type: none"> 1. consolidation of claim raised with additional or new employer with existing union-raised claim: when one or more unions have raised a pay equity claim with one or more employers who have decided that the claim is arguable (an existing claim) 2. union-raised claims raised with multiple employers: employers must enter into a pay equity process agreement when one union has raised, or two or more unions have jointly raised a claim with two or more employers 3. multiple union claims raised with single employer: unions must consolidate. The joining of one or more union claims within a single employer so that they are progressed together. Consolidation may occur at any time up until the first claim is settled

⁸ There is no hierarchy intended in the Act for this list of potential comparators.

⁹ Section 13ZE of the Equal Pay Act 1972.

¹⁰ Sections 13K to 13P of the Equal Pay Act 1972.

Term	Definition
Current or historical undervaluation of work	<p>In deciding whether it is arguable that work is currently undervalued or has historically been undervalued, consideration may be given to any relevant factor, including the following:¹¹</p> <ol style="list-style-type: none"> a) the origins and history of the work, including the manner in which wages have been set b) any social, cultural, or historical factors c) characterisation of the work as women’s work d) that the nature of the work requires an employee to use skills or qualities that have been <ol style="list-style-type: none"> i. generally associated with women; and ii. regarded as not requiring monetary compensation e) any sex-based systemic undervaluation of the work as a result of the following factors: <ol style="list-style-type: none"> i. a dominant source of funding across the relevant market, industry, sector, or occupation ii. a lack of effective bargaining in the relevant market, industry, sector, or occupation iii. occupational segregation or occupational segmentation in respect of the work iv. the failure by the parties to properly assess or consider the remuneration that should have been paid to properly account for the nature of the work, the levels of responsibility associated with the work, the conditions under which the work is performed, and the degree of effort required to perform the work v. any other feature of the relevant market, industry, sector, or occupation.
Discretionary pay	A type of variable pay that employees receive at the discretion of their employer, such as bonuses.
Dominant source of funding	Central Agency or organisation that provides majority of funding for provision of services.
Employee	<p>An employee means any person employed by an employer to do any work for hire or reward under a contract of service. The definition of employee includes a homemaker or a person intending to work, but excludes a volunteer who does not expect to be paid for work to be performed as a volunteer and receives no reward for work performed as a volunteer, and excludes certain persons engaged in film production work.¹²</p> <p>Employees may be permanent, fixed-term, part-time, full-time and casual.</p>
Employer	Any person (or organisation) employing any employee/s (and includes a person engaging or employing a homemaker). ¹³
Equal pay	Equal pay means a rate of remuneration for work in which there is no element of differentiation between male employees and female employees based on the sex of the employees. ¹⁴
Equitable Job Evaluation (EJE) Factor plan	<p>The EJE Factor Plan is the scoring component of the gender-neutral job evaluation system which measures job size based on 12 factors, grouped into 3 weighted families (skills 45%, responsibilities 45% and demands 10%).</p> <p>A core input into the factor scoring process is the interviews conducted utilising the EJE questionnaire, but other inputs can include a range of other sources such as health and safety data and academic research.</p>
Equitable Job Evaluation (EJE) Questionnaire	The EJE Questionnaire is a detailed questionnaire which is designed to elicit comprehensive information from employee about their work. Primarily used as an interview tool the questionnaire is designed to complement the EJE factor score.

¹¹ Section 13F of the Equal Pay Act 1972.

¹² The term employee in this context has the same meaning as in section 6 of the Employment Relations Act 2000.

¹³ The term employer in this context has the same meaning as in section 5 of the Employment Relations Act 2000.

¹⁴ The term equal pay in this context has the same meaning as in section 2 of the Equal Pay Act 1972.

Term	Definition
Factor	A common method to analyse work is by unpacking it into its constituent parts, which are often referred to as factors. The factors describe elements of what the work entails including skills used, responsibilities undertaken and conditions and demands placed on someone who is carrying out the work. Factor-based analysis of work represents a structured approach to work assessment. It can be a useful tool to support understanding the level of skills, responsibility and effort present in very different work.
Failure to assess the value of work	The assessment of the work required by section 13ZD has not been objective and free from assumptions based on gender.
Funding Agency	The term Funding Agency is used in the Funded Framework to refer to any State sector agency providing funding to external providers for the delivery of public services.
Funded Framework	The Funded Framework is a Cabinet ¹⁵ mandated structure which supports employers in the Funded sector to get advice and support in working their way through a pay equity claim while preserving the integrity of their employer/employee relationship.
Funded Sector	Refers to private sector (non-Government) organisations that receive Government funding to deliver public services.
Gender bias	The favouring of one gender over another, often unconsciously.
Gender neutrality	A system, process or approach that does not preference any gender and actively removes gender bias.
Good faith	Good faith means that the parties to an employment relationship deal with each other in good faith and must not directly or indirectly do anything to mislead or deceive each other (or that is likely to mislead or deceive). It requires parties to be active and constructive in establishing and maintaining a productive relationship in which they are responsive and communicative. ¹⁶

¹⁵ Framework for the Oversight and Support of Funder Sector Pay Equity Claims CAB-20-MIN-0366

¹⁶ The term good faith in this context has the same meaning as in section 4 of the Employment Relations Act 2000 and 13C of the Equal Pay Act 1972.

Term	Definition
Insecure work (precarity of work)	<p>Insecure work is any job that denies employees the stability they need for a good life and reduces their ability to control their own work situation, with damaging consequences for them, their families and their communities. It is work where the variable and changing nature of a job suits the employer but not the employee. It is work where the burden of adjustment falls on the employee, and the inequality of power in the employment or contractual relationship disadvantages the person doing the work.</p> <p>Insecure work is most often found in casual, seasonal, contracting and fixed term types of work including labour hire. There is no hard or fixed line between secure and insecure work. But a number of things make work more insecure, and where a job has many of those features, or one of them to a great degree, it is more likely to be insecure.</p> <p>Insecure work is characterised by the following:</p> <ul style="list-style-type: none"> • uncertainty over how long the job lasts if the job can be terminated with little or no notice, or there is no contract for ongoing work, or there is a high risk of job loss • limited employee control or say over hours of work, tasks, safe work practices, and work arrangements • low pay and/or fluctuating pay • no or limited access to benefits such as sick leave and domestic leave • no or limited opportunities to gain skills • lack of rights, such as protection against discrimination and unfair dismissal, and a lack of union representation. <p>Insecure work is not about employees who, on the whole, genuinely choose to work variable hours or on contracts, and who:</p> <ul style="list-style-type: none"> • earn a reasonably high income on a regular basis • have transferable skills that will allow them to deal relatively easily with redundancy • have a reasonable expectation of ongoing permanent work • have a significant say and control over any variations in their hours of work.
Interest-based bargaining	<p>Interest-based bargaining is an approach to bargaining where parties accept they have a shared interest or desired outcome and want to work together to achieve it to all parties' satisfaction. Rather than an adversarial winner takes all approach parties work together to problem solve and find creative solutions.</p> <p>As the parties have a shared interest and responsibility to achieve a pay equity outcome, interest-based bargaining is a common approach to inform pay equity bargaining.</p>
Job evaluation	<p>A systematic analytical process to work out the size of a job relative to others, typically using factors such as:</p> <ul style="list-style-type: none"> • skills and knowledge • responsibility • demands and effort • working conditions.¹⁷
Matters to be assessed	<p>Parties to a pay equity claim must determine whether the employee's work is undervalued by assessing the following for both claimant and comparators:</p> <ul style="list-style-type: none"> • the nature of the work • terms and conditions of employment (other than remuneration) • remuneration paid to persons performing the work to which claim relates and comparable work • any other matter prescribed by regulations made under section 19 for the purpose of section 13ZD of the Act.

¹⁷ www.employment.govt.nz/hours-and-wages/pay/pay-equity/equitable-job-evaluation

Term	Definition
NZS8007:2006 Gender-inclusive Job Evaluation Standard	The Gender-inclusive Job Evaluation Standard (NZS 8007:2006) is a voluntary standard developed by Standards New Zealand through a Standards Development Committee of job evaluation providers, equity advisors, the Human Resources Institute of New Zealand, employer groups, and unions from the public and private sectors. How the Standard is met needs to be demonstrated for each job evaluation project or process, since the Standard deals with both scheme design and how job evaluation is carried out. ¹⁸
Pay equity	Pay equity is about women and men receiving the same pay for doing jobs that are different, but of equal value (that is, jobs that require similar degrees of skills, responsibility and effort).
Pay equity bargaining	The pay equity bargaining process involves a joint assessment process to address a pay equity issue. After a pay equity claim is raised and either the employer or the Authority determines that the claim is arguable, parties will be obliged to enter the bargaining process, involving the assessment of work, remuneration and terms and conditions, and negotiating a settlement which addresses pay equity if a pay equity issue is identified. ¹⁹
Pay Equity Bargaining Process Agreement (sometimes called a Terms of Reference)	Section 13C requires parties to use their best endeavours to enter into an arrangement, as soon as possible after the start of pay equity bargaining, that sets out a process for conducting the bargaining in an effective and efficient manner. It is recommended that parties enter into a Pay Equity Bargaining Process Agreement at the outset of the claims process which sets out: <ul style="list-style-type: none"> • the principles for how the parties will work together in the claims management process • the gender-neutral tool to be used • how the parties will resolve potential conflict • communication with stakeholders • whether there will be 1 or more representatives for the employers and who they will be • how joint decisions relating to the claim will be made, and so on.²⁰
Pay equity claim	A pay equity claim effectively means an employee asserts that an employer, or group of employers, has breached section 2AAC(b) of the Equal Pay Act 1972. Any employee (or their representative) or a union (on behalf of employees covered by the claim), may raise a pay equity claim if they consider that the claim is arguable, in that the: <ul style="list-style-type: none"> • claim relates to work predominantly performed by female employees, and • work is historically or was currently undervalued.
Pay equity milestones	As part of the framework for oversight of pay equity claims in the State sector, 6 key milestones in the pay equity claims process have been developed and endorsed by Cabinet. ²¹ At each milestone employer parties bring their work/evidence to the Central Agency Pay Equity Governance Group who provide feedback and assurance about the alignment of the work with the Principles and the Equal Pay Act 1972 and any support necessary to the pay equity process.
Pay Equity Principles	The 16 Pay Equity Principles were developed and agreed by the Joint Working Group (JWG) in 2016, and the Reconvened Joint Working Group in 2018, and cover the whole pay equity process from raising a pay equity claim to achieving a pay equity settlement. The Equal Pay Act 1972 is informed by the Pay Equity Principles.

¹⁸ www.employment.govt.nz/gender-inclusive-job-evaluation-standard.pdf

¹⁹ The relationship between pay equity claims and collective bargaining is set out in sections 13ZN of the Act

²⁰ This is sometimes called a Bargaining Process Agreement or a Terms of Reference for the management of the claim. Sections 13C and 13K provide that the Agreement is used in multi-employer party claims, however, it is recommended as best practice for State sector claims processes.

²¹ www.publicservice.govt.nz/Cabinet-Paper-Framework-for-the-Governance-and-Oversight-of-State-Sector-Pay-Equity-Claims

Term	Definition
Pay equity process	<p>The process flow of the three phases (raising, assessing and settling claim) that are relevant to each stage (the Act is informed by the Principles):</p> <ul style="list-style-type: none"> • raising a claim • work assessment of the claimant • identify comparators • work assessment of the comparators • compare work and remuneration of the claimant/comparators • compile undervaluation, work and remuneration comparison, conclusions • negotiations/settlement to address any pay equity issue. <p>The pay equity process is not a linear process where one step must be completed before another is started. The process is flexible enough so that some steps can be carried out in parallel or slightly overlapping as appropriate.</p>
Pay parity	<p>Pay parity is the same pay for the same job across different employers/workplaces (can also be within the same organisation).</p>
Public Sector	<p>Public Sector is a broad term that encompasses the whole system, including departments, departmental agencies, non-Public Service departments, Crown agents, Crown entities, and Tertiary Education Institutions.</p>
Public Service	<p>In the Public Service Act 2020, the Public Service means public service agencies, which are:</p> <ul style="list-style-type: none"> • Departments • Departmental agencies • Interdepartmental executive boards • Interdepartmental ventures.^{22 23}
Remuneration	<p>The Equal Pay Act 1972 defines remuneration as –</p> <p>Remuneration, in relation to any employee, means the salary or wages actually and legally payable to that employee, and includes –</p> <ol style="list-style-type: none"> a) time and piece wages and overtime and bonus and other special payments b) allowances, fees, commission, and every other emolument, whether in 1 sum or several sums, and whether paid in money or not.²⁴
Same or substantially similar work (or comparable work)	<p>Work performed that is different in nature but involves the same or substantially similar level of skills and experience, responsibilities, working conditions, or degrees of effort.</p>
Social, cultural or historical phenomena	<p>Events, ideas, philosophies, behaviours and constructs that have shaped/determined/contributed to attitudes, assumptions, systems and actions concerning men and women in work and society.</p>

²² Section 10 and Schedule 2 of the Public Service Act 2020.

²³ www.publicservice.govt.nz/state-sector-organisations

²⁴ The term remuneration in the pay equity context has the same meaning as in section 2(1) of the Equal Pay Act 1972.

Term	Definition
Spotlight Skills Recognition Tool	<p>The <u>Spotlight Skills Recognition Tool</u> (developed in New Zealand and in use since 2006) helps focus on the skills that job holders can build on in carrying out individual and group activities. The tool provides a better understanding of the skills used in service work that can be overlooked or taken for granted, especially skills used in interacting and relating, coordinating and shaping awareness.</p> <p>Types of skills which are often overlooked are the skills of combining activities in work streams and those involved in the sensitive, responsive, and integrated delivery of appropriate services to people (hard-to-define, hidden and/or undervalued skills).</p> <p>Spotlight has been specifically developed to be used by managers in writing job descriptions, recruitment and selection, and performance management and development.²⁵</p>
Summary profile	<p>A summary profile is a work assessment synopsis and analysis of all interview data and other evidence gathered for a particular occupation. It can feed into the factor scoring process if one is undertaken.</p>
Systemic sex-based undervaluation in female-dominated occupations	<p>The undervaluation of women’s work is often referred to as the systemic sex-based undervaluation of female-dominated occupations. Systemic sex-based undervaluation is a symptom of cultural norms, gender stereotypes, and historical discriminatory labour practices which have become embedded in our society and decision-making practices.</p>
Terms and conditions of employment	<p>The parties to a pay equity claim assess, among other matters, terms and conditions of employment of the people who perform the work to which the claim relates as well as of people who perform comparable work. Terms and conditions of employment are the particulars of an employee’s work arrangements.</p> <p>Whether or not a term or condition of employment has historically contributed to the undervaluation of a claimant’s work will differ from occupation to occupation and should be considered between the parties during the assessment phase.</p> <p>A pay equity claim settlement could include terms and conditions of employment but an employer may not reduce any terms and conditions of employment of an employee who has raised a claim or who is covered by a union-raised claim for the purposes of settling the claim.²⁶</p>
Unconscious bias	<p>Unconscious bias occurs when individuals process information using shortcuts and stereotypes that distort, generalise, ignore or emphasise information, and is sometimes described as ‘fast thinking’.</p>
Work assessment	<p>A work assessment is a process to understand a job in depth. The first step is to define what is being measured and ensure that overlooked, hidden or undervalued skills, responsibilities and demands are uncovered and included in the assessment. Any assessment of work should be free of assumptions based on gender.</p> <p>Interviewing employees is a key component of assessing the work but multiple sources of information, such as health and safety data, applicable registration or licensing information, and academic research can be drawn on to ensure that all the skills, responsibilities and demands of an occupation are understood.</p>
Working conditions	<p>Working Conditions is Factor 12 of the PEWA Factor Plan tool.</p> <p>This factor assesses exposure to recognised disagreeable, unpleasant or uncomfortable conditions or hazards arising from the work environment.</p> <p>Essentially, the factor measures those physical aspects of the work that the jobholder cannot control yet are integral to the work being done. Factors 9 and 10 measure the emotional and sensory demands of work.</p>

²⁵ www.employment.govt.nz/hours-and-wages/pay/pay-equity/spotlight-skills-recognition-tool

²⁶ Section 13ZH(2) and section 13ZH(3)(b)(vii) of the Equal Pay Act 1972.

Term	Definition
Working days	<p>For the purposes of the specified timeframes in the Equal Pay Act 1972 the definition of working day in the Interpretation Act 1999 (Part 5, section 29) applies.</p> <p>Working day means a day of the week other than –</p> <ul style="list-style-type: none"> a. a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, and Labour Day; and b. a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and c. if 1 January falls on a Friday, the following Monday; and d. if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and e. if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday. <p>Section 35(2) of the Interpretation Act 1999 – Time, is also relevant when counting the working days after a claim has been raised –</p> <p>(2) A period of time described as beginning from or after a specified day, act or event does not include that day or the day of the act or event.</p>
Work predominantly performed by women	<p>Work that is predominantly performed by women if it is work that is currently, or that was historically, performed by a workforce of which approximately 60% or more members are female.²⁷</p>

²⁷ Section 13F(2) of the Equal Pay Act 1972.