



Te Kawa Mataaho

Public Service Commission

15 June 2021

Departmental Secretaries

Tēnā koe

Government Workforce Policy Statement on the Government's expectations for employment relations and Public Service Pay Guidance

I am writing to you to formally convey the Government Workforce Policy Statement (Workforce Policy) on the Government's expectations for employment relations and Public Service Pay Guidance (Pay Guidance) and to confer a revised delegated authority in respect of negotiating collective agreements (Part A of the delegation issued on 4 November 2020). Copies of these documents are attached, including an overview of the changes to your delegation.

The Workforce Policy and Pay Guidance are the same as you received as an embargoed copy on 30 April 2021 except the review date for the Pay Guidance has been brought forward six months to the end of 2022.

As you will be aware, since the release of the Workforce Policy and Pay Guidance there have been discussions between ministers and unions. Copies of correspondence about those discussions are attached for your information.

The fiscal context and the focus on equity in employment relations outcomes continues. The recent Budget outlined the fiscal pressures on the Government arising from COVID-19, and therefore we need to think very carefully about what spending we commit to. Improving the pay of the lowest paid workers in the public sector has to be our primary focus for employment relations during this period.

The following advice is intended to remove doubt about how you are expected to apply the Workforce Policy and Pay Guidance in your agency's context. I would be grateful if you could apply these and the advice in this letter appropriately in the specific context of your own agency and workforces, and lead this personally with your people.

Equity priority

The Government intends to accelerate pay equity and pay parity processes to settlement, positively impacting on gender and ethnic pay imbalances.

As guidance to you, I emphasise Priority 1 (Equitable Employment) of the Workforce Policy and the importance of accelerating reductions in pay gaps faced by Māori, Pacific, Asian and low paid workers.

Addressing pay claims in bargaining

Unions may raise cost of living claims in bargaining. The Pay Guidance supports agencies to engage in good faith on any cost of living claims unions bring to the table and to steer outcomes toward lifting low pay.

If cost of living for higher earners (over \$100,000) is raised in bargaining you should hold pay bands and consider offering alternatives or payments that do not result in ongoing increases to salaries, e.g. one-off payments. If you do propose to increase pay bands at this level there should be a special and distinct rationale such as the pay bands have not been adjusted for a number of years, or there are significant retention issues affecting the agency's delivery of service.

The guidance was always intended to offer flexibility. Many workforces will straddle the salary thresholds of \$60,000 and \$100,000, and they should be considered as a guide to those who are low, middle and high earners.

To advance the goal of making the Public Service an exemplar of modern, progressive employment practice and a great place to work, you are encouraged to explore areas for bargaining that make for a better job, a better place to work, and to support better service delivery. Wellbeing and workload issues should be addressed as a priority.

Salary progression

I am asking Public Service departments that will be in bargaining during the period of the Pay Guidance, to advance the goal of implementing step-based progression where the criteria are transparent, recognise experience and minimise discretion. You should ensure low paid jobs are prioritised in this work.

As the Pay Guidance makes clear, all settled agreements will be honoured, including across the board base rate increases and salary progression in those agreements.

Contextual considerations

You should be aware that the Government has indicated a preference for collective bargaining and I have agreed to work with you and relevant unions on finding ways to encourage and maximise the number of employees covered by collective agreements.

You are reminded that the law provides that following initiation of bargaining prior to expiry, collective agreements continue in force for a further 12 months after expiry. Should settlement not be reached in that time, consistent with the Government's preference for collective bargaining, you should agree to treat the collective agreement as though it is in force for a longer agreed duration while you continue bargaining.

Finally, the advice in this letter should inform your approach as you enter into bargaining. As is our practice, collective bargaining will be in good faith without pre-determined outcomes.

As always, the Workforce and Employment Relations team here at Te Kawa Mataaho is available to provide advice and assistance at employmentrelations@publicservice.govt.nz.

Nāku noa, nā

Peter Hughes (he/him)
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service

Encl.

1. Government Workforce Policy Statement
2. Public Service Pay Guidance
3. Letters to PSA and CTU from Minister Hipkins



Overview of the changes to the delegation of powers to negotiate collective agreements

Purpose

The delegation instrument delegates the Public Service Commissioner's functions and powers to initiate and carry out good faith bargaining for, and to enter into, collective agreements subject to certain conditions.

The delegation has been revised to reflect the recently released Government Workforce Policy Statement on employment relations expectations (Workforce Policy) and the operational guidance from the Commissioner on Public Service Pay.

Effect of revised delegation

The conditions of the revised delegation emphasise giving effect to the Workforce Policy and operational guidance on pay, and the fostering of greater consistency in terms and conditions of employment across the Public Service. The conditions also set out what I expect your bargaining strategy to address.

It is important to note that the new delegation maintains the conditions that you require approval for bargaining strategies and proposals for settlement of collective agreements. The Workforce Policy requires you to have completed your preparations for bargaining by the earliest commencement date for bargaining (normally 60 days prior to expiry of a current collective agreement). The Workforce and Employment Relations Team will work with your team to support you to have approval in place by this time.

In addition to these bargaining matters, on a 'no surprises' basis, I expect early advice of any emerging employment relations issues that may have implications beyond your department. I also expect early engagement and consultation on any matters outside of formal bargaining that have a material effect on pay and conditions of employment. This includes your approach to any annual remuneration review you undertake.

To support greater consistency in terms and conditions of employment across the Public Service, the Workforce and Employment Relations Team can provide your team with insights of what is happening across the system. To ensure these insights are evidence based, the team may make data requests relating to your bargaining and remuneration. I expect you to assist with any such request.

Please note that the Workforce Policy applies to many agencies of the public sector. Crown Agents are required to give effect to the Workforce Policy and other agencies must have regard to it. The operational guidance on pay restraint applies to Public Service agencies. I have written to board chairs and chief executives of the agencies to which the Workforce Policy applies asking them to take the same approach to pay.



DELEGATION OF CERTAIN FUNCTIONS AND POWERS UNDER THE PUBLIC SERVICE ACT 2020

[CE position title]

[CE Agency name]

Part A

The Public Service Act 2020, section 78, gives the Public Service Commissioner (the Commissioner) the responsibility to negotiate under the Employment Relations Act 2000 all collective agreements that apply to employees of any department or interdepartmental venture of the Public Service.

In accordance with section 80 of the Public Service Act, under clause 6 of schedule 3 of the Public Service Act, the Commissioner's functions and powers under section 78 of the Public Service Act to initiate and carry out good faith bargaining for, and to enter into, collective agreements applicable to employees of the <DEPARTMENT> are hereby delegated to the <ROLE, DEPARTMENT> (and persons acting in any such positions from time to time).

Conditions of this delegation

In accordance with subsection 80(2) this delegation is subject to the following conditions:

- a) You will negotiate in accordance with Government policy and expectations, and within any guidelines and parameters which the Government may set from time to time or any guidance I may issue.

Much of that policy and guidelines is set out in the Government Workforce Policy Statement on the Government's expectations for employment relations in the public sector together with my guidance on the operation of the Workforce Policy in respect of pay restraint.

The Workforce and Employment Relations team may, on my behalf, advise you of additional specific and relevant policy and guidance.

- b) You will consult with Te Kawa Mataaho Public Service Commission (Te Kawa Mataaho) on the preparation of any bargaining strategy.
- c) Your bargaining strategy requires approval from the Manager, Workforce and Employment Relations before you commence bargaining.
- d) I expect any bargaining strategy relating to collective agreements to include the following matters:

1 System goals and priorities

- 1.1 How you are contributing to the goals of the Government Workforce Policy Statement on the Government's expectations for employment relations in the public sector:
- i. Establish the Public Service as an exemplar to other employers in the public sector and beyond.
 - ii. Make the Public Service an exemplar of modern, progressive employment practice and a great place to work.

- iii. Have a productive, unified Public Service workforce grounded in a spirit of service to the community.
 - iv. Ensure these goals are achievable within the Government's fiscal settings.
- 1.2 How your priorities for bargaining align with the priorities of the Government Workforce Policy Statement.
 - 1.3 How your bargaining strategy is consistent with the operational guidance on pay.
 - 1.4 How your approach to bargaining contributes to greater consistency in pay and conditions across the Public Service.
 - 1.5 How you intend to collaborate with other departments in bargaining to advance the goals and priorities of the Government Workforce Policy Statement and manage risks and issues in bargaining.

2 Organisational context

- 2.1 Ensuring a clear line of sight from your business strategy to your workforce and employment relations strategies to your bargaining strategy.
- 2.2 Identification of any specific organisational issues that your bargaining strategy is seeking to address.

3 Objectives

- 3.1 Clear objectives and priorities with a rationale for how the objectives link to system and organisational strategies.
- 3.2 How the strategy contributes to exemplary engagement with unions and supports modern, progressive employment relations practice.

4 Parameters

- 4.1 Clear cost parameters within which bargaining will be conducted and robust costings of any proposed changes to pay and conditions.
- 4.2 How the parameters have taken account of the cost of all adjustments to pay and conditions including progression costs.
- 4.3 How the parameters have added to consistency of terms and conditions of employment within the Public Service.

5 Fiscal context

- 5.1 How your strategy reflects the Government's fiscal context
- 5.2 How you will manage costs within baselines and any indicated operating allowances.

6 Risk management

- 6.1 Clear identification and management of risks. For example, not achieving bargaining objectives, loss of capability, diminishing employee engagement, likelihood and impact of industrial action, protracted bargaining.
- 6.2 Strategic and tactical plans for achieving objectives and managing industrial risks.

- e) Your bargaining strategy requires approval from the Manager, Workforce and Employment Relations before you commence bargaining.
- f) You should make every effort to complete preparations for bargaining including obtaining this approval by the earliest date bargaining can commence, usually 60 days before expiry of a current collective agreement.
- g) You will consult with Te Kawa Mataaho during the course of negotiations and ensure any offer for settlement is approved by the Manager, Workforce and Employment Relations before you approve it being presented to the union.
- h) You will act in good faith in exercising any of these delegated powers.
- i) The <ROLE, DEPARTMENT> may not further delegate the power to enter into a collective agreement or without first obtaining my written approval to that delegation.
- j) Notwithstanding paragraph (h) above, the <ROLE, DEPARTMENT> may (under clause 6 of schedule 3 of the Public Service Act) further delegate to an appropriate employee the power to negotiate a collective agreement on behalf of the <ROLE>. This delegated employee should be present at all formal negotiations and have the authority to agree to a settlement, subject to your final sign off, and any expectations I have set. In order to comply with the good faith obligations under the Employment Relations Act 2000 (and, where relevant, section 32 of that Act), the role and authority of any such employee will need to be made very clear to the union(s).
- k) On a 'no surprises' basis, I expect early advice of any emerging employment relations issues that may have implications beyond your department.
- l) I expect early engagement and consultation on any matters outside of formal bargaining that have a material effect on pay and conditions of employment. This includes your approach to any annual remuneration review you undertake.

This delegation revokes Part A of the Delegation of Certain Functions and Powers Under the Public Service Act 2020 from the Commissioner to the <ROLE> dated 3 November 2020 and comes into effect immediately.

Dated: 15 June 2021

Peter Hughes (he/him)
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service