

Memorandum of Understanding

Between

Te Whatu Ora - Health New Zealand

and

New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (PSA) and Association of Professional and Executive Employees (APEX)

1 Background

- 1.1 In 2022, the PSA and District Health Boards (DHBs) signed a Heads of Agreement (HoA) which sat alongside the DHB's offer to settle the 2022 PSA Allied Public Health Scientific and Technical (APHST) Multi-Employer Collective Agreement (MECA). The HoA included a commitment to the development of a Memorandum of Understanding (MoU) outlining how the APHST pay equity claim (the Claim) would progress to settlement.
- 1.2 On 1 July 2022, the 20 DHBs became one employer, Te Whatu Ora – Health New Zealand (Te Whatu Ora). All DHB employees and employment agreements transferred to Te Whatu Ora as the employer. Te Whatu Ora is committed to achieving pay equity for the APHST workforce.
- 1.3 APEX has a pay equity claim for roles within the Allied Scientific and Technical workforce. PSA and APEX have consolidated these claims as required by section 13M of the Equal Pay Act 1972 (the Act). Therefore, the parties to this MoU are PSA, APEX, and Te Whatu Ora (the parties).
- 1.4 This MOU sits alongside the ratified settlement of the PSA Auckland DHBs and Rest of New Zealand DHBs Allied, Public Health, Scientific and Technical Multi-Employer Collective Agreements ("the APHST MECAs") and is legally enforceable by the parties. The MoU supersedes the HoA and any differences (including omissions) are deliberate.

2 Purpose

- 2.1 The purpose of this MoU is to set out the parties agreed approach and commitment to progress the Claim effectively and efficiently to settlement and to record agreements¹ reached between the parties.

3 Context

- 3.1 The DHB offer for settlement of the PSA APHST MECAs was developed following receipt of the recommendations of the Employment Relations Authority (dated 29 April 2022) as part of the facilitation process.
- 3.2 These recommendations included recommendations about how the Pay Equity Claim should be progressed.

¹ Note: the Parties to the MoU will not and cannot agree final terms of settlement which are subject to the final mandated pay Equity settlement agreement.

4 Agreement

4.1 The parties agree to the following points relating to the progress and timeframes for the settlement of the Claim.

4.2 Agreed work plan and Resourcing

The parties are committed to an effective and efficient process and to undertake this work as effectively and efficiently as possible.

The attached project plan outlines the parties agreed work plan. The parties acknowledge that the timelines may change, but the parties will use their best endeavors to settle the claim in line with the attached project plan. Therefore, the parties commit to being responsive to information requests, to attend the necessary meetings, and to ensure the Claim process is given sufficient resources to ensure the timelines below and those in the agreed project plan can be met.

4.3 Key deliverables

The size and complexity of this claim means it is difficult to estimate timelines, however the parties have agreed to use best endeavours for a timely and efficient resolution of the claim. The indicative timeframes for completing the pay equity process are as follows:

- *August 2022 – November 2022 – Profile validation*
 - The unions will ensure the employee reference group feedback process is completed in an efficient and timely manner.
 - Te Whatu Ora will ensure the employer feedback and validation process is completed in an efficient and timely manner.
- *September 2022 – November 2022 - Work assessment*
 - The parties have agreed a bipartite (employer and unions) team will complete the work assessment process.
 - The parties will dedicate resources throughout the work assessment process to ensure a quorum of four panel members are available to complete the work assessments in an efficient and timely manner.
- *November 2022 – December 2022 - Complete remuneration comparisons between claimant and comparators (including terms and conditions)*
 - Te Whatu Ora will collate remuneration and terms and conditions information for joint analysis and consideration by the parties.
- *December 2022 – April 2023 - Preparation for bargaining and negotiation of settlement*
 - The parties will use their best endeavours to reach a settlement no later than 29 April 2023.

4.4 Interim Adjustment

Subject to sex-based undervaluation being established and the final Milestone 4 report being approved by the Central Agency Governance Group (CAGG), there will be an interim adjustment to base salary rates effective 30 November 2022.

The adjustment will be in anticipation of a final pay equity settlement and based on established undervaluation. The quantum of any interim adjustment will be set at a level that would minimise the risk for overcorrection and overpayment.

The parties acknowledge that any interim adjustment is necessarily an indicative estimate and the final pay equity settlement for individual occupations/professions is subject to more

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granular analysis and bargaining. As a consequence, the final pay equity settlement could be more or less than that implied by any interim adjustment.

4.5 Conclusion of Pay Equity Settlement

The parties will use their best endeavours to reach a settlement no later than 29 April 2023.

The parties commit to recognising the date on which undervaluation is first established as the effective date of the whole claim. This point will be reached on completion of Milestone 4 of the Framework for the Governance and Oversight of Pay Equity Claims in the State Sector. Milestone 4 is the point where the evidence gathered in the assessments to date are collated and initial conclusions are reached on the extent of sex-based undervaluation for the 5 roles listed in the next paragraph.

The parties will first assess the following roles to establish if undervaluation exists: Social Workers, Occupational Therapists, Physiotherapist, Pharmacists and Medical Laboratory Scientists. These roles represent some of the largest groups within APHST. The parties commit to completing the assessment for these 5 roles no later than 31 October 2022.

4.6 Recognition of Delay/past work

The parties note that the PSA's pay equity claim was raised and process to address the claim commenced mid-2018. To recognise the time taken in progressing and concluding the Pay Equity Claim, where undervaluation is established and as part of the final Pay Equity Claim settlement, the parties will bargain and agree a one-time lump sum payment to employees covered by the Pay Equity Claim. The lump sum payment will take into account the comparability to similar payments agreed in other clinical health sector pay equity settlements.

To be eligible for the lump sum payment, sex-based undervaluation must be established for the employee's occupation/professional group. Any lump sum payment will be pro-rated by FTE and service and will be proportionate to the quantum of the total pay equity adjustment.

5 Dispute Resolution Process

- 5.1 The parties will make every reasonable endeavour to conclude a pay equity settlement prior to filing any legal proceedings.
- 5.2 If a disagreement on an aspect of the Claim or bargaining over the Claim cannot be resolved by the parties, the parties will enter mediation. Either party may request a mediator at any time. The mediator will either be from the Employment Relations Service of the Ministry of Business, Innovation and Employment or a mediator agreed by the parties.
- 5.3 If mediation is unsuccessful and, one or more of the parties may seek the assistance of the Employment Relations Authority for facilitation to assist in resolving the difficulties in accordance with sections 13ZQ, 13ZR and 13ZX of the Act.
- 5.4 The parties note that they ultimately reserve the right to revert to the legal process under existing law.

6 Mandate

- 6.1 Prior to settling the Claim, the unions must establish a process for all employees covered by the Claim to vote on whether to approve or decline a proposed pay equity claim settlement in accordance with section 13ZF of the Act.

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- 6.2 To the extent that they refer to matters that will form part of any final settlement of the Claim, the agreements recorded above in section 4 (excluding the interim adjustment in clause 4.4) are conditional insofar as they are subject to a final pay equity claim settlement agreement being agreed by the parties and accepted by a majority of proposed settlement employees as described in section 13ZF; or a determination of the Authority or the Court as described in section 13ZH(1)(b)(ii).

7 Ratification of the pay equity settlement

- 7.1 The unions have the authority to enter into a settlement agreement once a vote has been taken in accordance with the mandate process referred to above, if a simple majority of those who voted as part of that process, voted in favour of approving the proposed pay equity claim settlement.
- 7.2 Te Whatu Ora has the authority to enter into a settlement agreement, subject to approval by the Chief Executive and following completion of the pay equity milestone process overseen by the CAGG and consultation with the Ministry of Health.
- 7.3 The parties agree and acknowledge that matters relating to the Pay Equity Claim will apply to all employees covered by the claim, whether or not they are union members, including any interim adjustment to base rates.

8 Variation

- 8.1 The Memorandum of Understanding can be varied by a written agreement signed by all parties to the Memorandum of Understanding.

9 Term

- 9.1 The Memorandum of Understanding ceases to have effect when the Pay Equity Claim is settled.

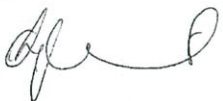
10 Signatories

Signed:

Rosemary Clements

On behalf of

Te Whatu Ora – Health New Zealand



Date: 18/11/2022

Signed:

Kerry Davies

On behalf of

New Zealand Public Service Association – Te Pūkenga Here Tikanga Mahi



Date: 18 / 11 /2022

Signed:

Deborah Powell

On behalf of

Association of Professional and Executive Employees



Date: 21/11/22

Appendix One – High-level project timeline

