On 18 April 2017, the Government announced a $2 billion pay equity settlement for 55,000 care and support workers in New Zealand’s aged and disability residential care and home and community support services.

The settlement originated from the TerraNova pay equity claim brought by E tū (previously the Service and Food Workers Union) on behalf of care worker Kristine Bartlett. The claim argued that there was systemic undervaluation of care and support work because it was mainly performed by women.

The Government decided to seek to resolve the case out of the courts through negotiations and to include home care and disability sector workers as well as aged residential care workers in the settlement.

From 1 July 2017, when the settlement was enacted, workers received pay rises of between 15 and 50 percent depending on their qualifications and experience.

Workers on the minimum wage of $15.75 per hour moved to at least $19 per hour – a 21 percent pay rise. For people working 30 hours or more a week, this adds at least $100 to their weekly earnings or an additional $5,000 a year.

As well as increasing the wages of workers the settlement also improves access to training and supports reduced turnover in the sector, resulting in better care for New Zealanders.

**New wage rates for existing workers**

On 1 July 2017 all existing care and support workers moved on to the following scale, either at the step that recognised their qualifications or their service with their employer, whichever was the most advantageous to the employee.

<table>
<thead>
<tr>
<th>Qualification or length of service</th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Year 3/4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>L0 or &lt;3 years’ service</td>
<td>$19.00</td>
<td>$19.80</td>
<td>$20.50</td>
<td>$21.50</td>
</tr>
<tr>
<td>L2 or 3+ years’ service</td>
<td>$20.00</td>
<td>$21.00</td>
<td>$21.50</td>
<td>$23.00</td>
</tr>
<tr>
<td>L3 or 8+ years’ service</td>
<td>$21.00</td>
<td>$22.50</td>
<td>$23.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>L4 or 12+ years’ service</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$25.50</td>
<td>$27.00</td>
</tr>
</tbody>
</table>

The qualification must be, or assessed by Careforce as equivalent to, Level 2, 3 or 4 on the New Zealand Certificate in Health and Wellbeing from an NZQA-accredited provider.

It is the role of Careforce, the Industry Training Organisation, to assess domestic and international qualifications for equivalence to the NZ Certificate in Health and Wellbeing (Levels 2, 3 and 4). As workers’ qualifications are assessed as equivalent the qualification is posted on the Careforce website (www.careforce.org.nz/pay-equity/equivalencies). The qualifications under review include those forwarded by providers and employees.

If you have any questions about qualification equivalency please contact Careforce on 0800 277 486 or email info@careforce.org.nz with ‘Pay Equity Qualification Query’ in the subject line.
All care and support workers (as at 30 June 2017) who reach 12 years current continuous service with their employer after 1 July 2017 and who have not achieved a Level 4 Certificate will move on to the following rates unless there are genuine reasons, based on reasonable grounds, that the employee’s employer did not provide the support necessary for the employee to achieve the Level 4 qualification. In which case the employee will be entitled to move to the Level 4 step above. Any dispute about the provision of the necessary support will be dealt with through the normal dispute resolution processes.

<table>
<thead>
<tr>
<th>After 1 July 2017</th>
<th>On or after 1 July 2018</th>
<th>On or after 1 July 2019</th>
<th>On or after 1 July 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>$22.50</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$26.00</td>
</tr>
</tbody>
</table>

Wage rates for new workers
The minimum rates and progression for care and support workers employed after 1 July 2017 are:

<table>
<thead>
<tr>
<th>Qualification</th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Years 3/4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>L0</td>
<td>$19.00</td>
<td>$19.80</td>
<td>$20.50</td>
<td>$21.50</td>
</tr>
<tr>
<td>L2</td>
<td>$20.00</td>
<td>$21.00</td>
<td>$21.50</td>
<td>$23.00</td>
</tr>
<tr>
<td>L3</td>
<td>$21.00</td>
<td>$22.50</td>
<td>$23.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>L4</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$25.50</td>
<td>$27.00</td>
</tr>
</tbody>
</table>

Training
The pay equity settlement parties agreed to create incentives to help care and support workers gain formal qualifications. The Care and Support Worker (Pay Equity) Settlement Act requires employers to provide support to enable workers covered by the settlement to reach the following levels on the NZ Qualifications Authority Health and Wellbeing Certificate (or its equivalent):
- Level 2 NZ Certificate – within 12 months of employment,
- Level 3 NZ Certificate – within 3 years of employment,
- Level 4 NZ Certificate – within 6 years of employment.

The Act states that providers must “take all reasonably practical steps to ensure a care and support worker is able to attain” the NZQA Health and Wellbeing Certificate Level 2, 3 or 4 qualifications.

What is “reasonably practical” depends on the circumstances. We expect there will be a flexible approach suited to the needs of the workers and the clients. It includes facilitating online and on-the-job training, time off for training and examinations, course fees, and the like.
Questions & answers

The questions and answers below cover common questions that providers have asked the Ministry of Health since the pay equity settlement was announced.

Background

1. Who were the negotiating parties?
   Parties to the negotiations were the Ministry of Health, ACC, and District Health Boards, E tū (formerly the Service and Food Workers Union), the Public Service Association (PSA), and the New Zealand Nurses Organisation (NZNO). The Council of Trade Unions (CTU) was also involved.

   While employers were represented in the negotiations by the Aged Care Association, Home and Community Health Association, and New Zealand Disability Support Network, they were not a party to the settlement agreement which is between the Crown and unions.

Funding

2. How is the settlement funded?
   The increased costs for employers of care and support workers are funded in three ways:
   - The Government is providing $2.048 billion over five years by increasing funding of District Health Boards (DHBs) and the Ministry of Health: Disability Support Services (DSS). In turn DHBs and DSS are increasing their payments to providers that employ care and support workers.
   - Aged care residents with assets over the threshold for the government subsidy are paying an increased ‘maximum contribution’ as result of the increase in the rest home price.
   - ACC is funding providers of services to its clients.

3. What work is underway to ensure the care and support sector is sustainable?
   There is significant work underway to transform the care and support sector to ensure its long-term sustainability. This includes the New Zealand Health Strategy, the disability transformation through Enabling Good Lives, the Healthy Ageing Strategy and exploring future models of care that are person-centred, needs-based, equitable, and deliver better outcomes through aged residential care and home and community support services across New Zealand.

4. How are on-costs calculated and what do they include?
   The purpose of on-costs is to cover statutory minimum costs in addition to wages. These include annual leave, statutory holidays, sick days, time and a half for work on public holidays, ACC levies and KiwiSaver. Funding to support training is also included.

   The total on-costs you will be funded for is 21.7 per cent. This includes:
   - 20 days annual leave
   - 11 days statutory holidays
   - 5.5 days (time and a half for time worked on statutory holidays)
   - 5 days sick leave
   - 0.8 percent contribution to training
   - 3 percent KiwiSaver employer contribution
   - 2 percent for ACC levies.
Scope

5. Will this settlement lead to relativity adjustments for other groups?
This settlement addresses historic issues of systemic gender discrimination and by its nature involves a change in wage relativities. The parties to the settlement agreed that it will not be used as a precedent for other occupational groups.

6. What types of work does the settlement not cover?
Settlement parties agreed that the settlement does not include behavioural support services, caregiver support, child development services, environmental support, funded family care, mental health services, and services arranged privately by clients.

Eligibility

7. How do I know if certain workers and/or certain services are eligible?
A multi-step decision process is used to assess the eligibility of any particular worker:
1. First, determine whether the service is covered by the settlement agreement.
2. Second, test whether the worker is within scope of the settlement agreement.
3. Third, determine the service is funded by public monies.

We recommend you look at the eligibility information in the Settlement Agreement available for download from this webpage and section 3 of the Care and Support Workers (Pay Equity) Settlement operational policy documents available for download from this webpage.

The operational policy documents include further guidance on determining if a worker is eligible under the settlement for all or most of their work. The following steps will assist a provider making that determination.

- If a worker’s job title/job description is a care and support worker, they are eligible
  In the majority of cases the classification of the worker will be obvious from the job title/job description. Workers are eligible if they have job titles/job descriptions that identify them as care and support workers. It is presumed that their title or description identifies that they provide care and support services.

- If a worker’s job title/job description is not a care and support worker, they are eligible if they spend more than 50 percent of their time providing care and support services
  It is accepted that job titles/job descriptions differ across the sector, so the presumption that a worker’s job title/job description identifies that they provide care and support services may not determine eligibility if a worker’s job title/job description is not a care and support worker. In those cases, a provider must decide if the worker provides care and support services for more than half of their work. If they do, the worker is eligible even if they undertake other work that is incidental to their care and support duties.

- If an employee’s job title/job description is not a care and support worker, and they do not provide care and support services for more than half of their work, they are not eligible
  Workers are not eligible if they have job titles/job descriptions that are specifically excluded by the settlement agreement, even if those workers undertake some care and support services that are incidental to their core work. While it is difficult to provide an exhaustive list of such job titles/job descriptions, the settlement agreement (footnotes 47 and 48) identifies the following workers whose primary purpose of their work is not providing care and support services - any health practitioner registered under and in accordance with the Health Practitioners Competence Assurance Act 2003, supervisors, cleaners, cooks, and office workers.
• **Some workers may be eligible for only part of the care and support services they provide**
  If a worker is eligible, they may be entitled to the minimum hourly wages for all or part of the care and support services they provide. A provider has to decide if some of the services are excluded from entitlement. There are clearly distinguishable excluded services and other services which are not clearly distinguishable and are considered to be incidental care and support services. Please see the operational policy document for more information.

8. **Are diversional therapists and/or activity co-ordinators covered?**
Diversional therapists and/or activity co-ordinators are eligible under the Care and Support Workers (Pay Equity) Settlement Act.

We understand that different organisations use different terminology, including activity co-ordinators, activity officers, diversional therapists, and possibly other titles.

These workers are eligible, providing they also meet the following multi step process:
1. First, determine whether the service is covered by the settlement agreement; and
2. Second, test whether the worker is within scope of the settlement agreement.
3. Third, determine the service is funded by public monies.

9. **Are physiotherapy assistants and other professional qualification assistants included?**
No, workers specialising in providing clinical care such as physiotherapy services (e.g. physio assistants providing physiotherapy services) are not eligible under the settlement because they are doing different work to care and support workers.

However, irrespective of title, and where workers are not registered health professionals, if the primary role of the worker is care and support, and they are not specialising in providing clinical care such as physiotherapy services, then they are eligible, subject to the three-step eligibility test.

10. **Are casual employees eligible?**
A ‘casual employee’ isn’t specifically defined in employment legislation, but the term is used to refer to a situation where the employee has no guaranteed hours of work, no regular pattern of work, and no ongoing expectation of employment.

Casual employees are included in the pay equity settlement for the purpose of the new pay rates if they meet the multi-step eligibility criteria below:
1. Determine whether the service is covered by the settlement agreement;
2. Test whether the worker is within scope of the settlement agreement;
3. Determine that the service is funded by public monies.

A casual employee does not by definition have continuous service with an employer. Guidance on what is casual employment can be found on the Ministry of Business Innovation and Employment website.

11. **Is Individualised Funding included?**
Yes, care and support workers providing support under Individualised Funding or Enhanced Individualised Funding as employees (as care and support workers in qualifying services as defined in the settlement agreement) are eligible. Click here for more information on pay equity and Individualised Funding.

12. **Do workers still receive the extra pay if they are not a union member?**
Employees in the aged and disability residential care and home and community support sectors receive the new wage rates regardless of whether or not they belong to a union.
Implementation

13. **What about an employee’s other conditions of employment?**
   Generally, all other conditions of employment remain the same. However, service and qualification allowances have been extinguished because they have been replaced by the new qualifications-based pay structure. Weekend and penal rates in employment agreements remain but those that are calculated as a percentage of base pay have been converted to allowances.

14. **Weekend and night penal rates for employees who commence on or after 1 July 2017**
   The Care and Support Workers (Pay Equity) Settlement Act provides that weekend and night penal rates that were expressed as a percentage prior to the commencement of the Act must be converted to a flat rate dollar value, e.g. if the base hourly rate was $18 and the penal rate was an additional 50 percent, then the penal rate after 1 July 2017 is $9.

   For employees who commenced after 1 July 2017, providers need to make a business decision about weekend and night penal rates. Factors to consider may include, any business imperatives, fairness and equity considerations and any relevant contractual and statutory obligations. Potential options include paying a dollar value penal rate based on the base hourly rate that would have applied to that employee prior to 1 July 2017, or some other option that meets all statutory and contractual obligations.

15. **Are sleepover rates impacted by the pay equity settlement?**
   There have been a number of government initiatives in recent years that have resulted in payments based on minimum wage rates, in circumstances where there had previously been no payments.

   These include funded family care, sleep-over payments and in-between travel payments. All of these initiatives have been confirmed and protected by legislation. Consideration was given to whether these payments should be included in the scope of the pay equity negotiations and the decision was made not to change the legislated arrangements.

   The legislation and funding arrangements for payment of sleepovers, in-between travel and funded family care have not been changed by the pay equity settlement and payment must continue at a minimum of the minimum wage.

16. **What if a situation arises where a supervisor or manager is paid less than their staff?**
   The Care and Support Workers (Pay Equity) Settlement covers care and support workers. Supervisors are outside of the scope of this settlement. The pay rates supervisors and managers receive are a business decision for the provider.

17. **Some of my employees perform services that are in scope some of the time, and services that are out scope some of the time. How do I determine their accurate pay rate?**
   Employees can receive more than one pay rate. Employers must pay the in-scope services at the appropriate pay band when work is performed on these services. Out of scope services pay rates are a business decision for the provider. If these are at a separate rate, then this should be reflected by dual rates in the worker's employment contract.

18. **How is continuous service defined?**
   Continuous employment, in relation to a care and support worker,—
   (a) includes any period during which the worker is
   (i) on paid holidays or leave under the Holidays Act 2003; or
   (ii) on parental leave under the Parental Leave and Employment Protection Act 1987; or
(iii) on volunteers leave (within the meaning of that term in section 2(1) of the Volunteers Employment Protection Act 1973); or
(iv) receiving weekly compensation under the Accident Compensation Act 2001 as well as, or instead of, payment from the employer; or
(v) on unpaid sick leave or unpaid bereavement leave; or
(vi) on unpaid leave for any other reason for a period of no more than 1 week; or
(vii) continuously employed by a previous employer if—
   (A) the worker transferred from the previous employer to the current employer; and
   (B) the transfer was a result of restructuring (within the meaning of that term in section 69B of the Employment Relations Act 2000); but
   (b) unless otherwise agreed between the worker and the worker’s employer, does not include unpaid leave that is not referred to in paragraph (a)(v) or (vi)

Qualifications

19. What if some of my employees hold qualifications other than the NZQA levels 2, 3 or 4 New Zealand Certificate in Health and Wellbeing?
A list of qualifications that have been assessed as equivalent to the levels 2, 3 or 4 of the New Zealand Certificate in Health and Wellbeing is available on the Careerforce website.

The qualifications under review include those forwarded by providers. If you have any questions about the assessment process please contact Careerforce by calling 0800 277 486 or emailing info@careerforce.org.nz with ‘Pay Equity Qualification Query’ in the subject line.

More information for employees

If employees have questions about their qualifications, they should contact Careerforce by calling 0800 277 486 or emailing info@careerforce.org.nz with ‘Pay Equity Qualification Query’ in the subject line.

Support for providers
If you have any questions relating to the settlement, please contact your funder.

If you have a question about qualifications please contact Careerforce (0800 277 486 or email info@careerforce.org.nz).

For more information visit www.health.govt.nz