Care and Support Workers (Pay Equity) Settlement

Payroll Processing Guidelines

Working Document Released 28 June 2017
## Version control

<table>
<thead>
<tr>
<th>Version</th>
<th>Key changes</th>
</tr>
</thead>
<tbody>
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<td>v.0.1 – 28 June 2017</td>
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1 Summary

The purpose of this document is to provide guidelines to payroll managers or those responsible for the payroll implementation of the Care and Support Workers (Pay Equity) Settlement Act 2017. The settlement covers care and support workers employed by Providers funded by the Ministry of Health, District Health Boards or Accident Compensation Corporation to provide care and support services. **Care and support services** are defined in the Act and mean:

(i) services funded under a funding agreement that are performed in a person’s home (including residential care facilities, retirement villages, and rest homes) or workplace for the purpose of—

- A. assisting the person to continue to live in the person’s home or in the community (such as personal care and household management services); or
- B. assisting a person who has a disability to work in the community; or
- C. supporting the person’s rehabilitation from an injury covered by the Accident Compensation Act 2001 and to achieve and sustain the person’s maximum level of participation in everyday life; and

(ii) long-term residential care in a hospital or a rest home that is assessed as required under section 137 of the Social Security Act 1964.

For the avoidance of doubt, the following are covered by the settlement:

- home support workers employed by the following District Health Boards, who are not paid as healthcare assistants, are covered by this settlement: Waikato DHB, Wairarapa DHB, Hutt Valley DHB, Canterbury DHB and West Coast DHB;
- disability support workers employed by Nelson Marlborough DHB, who are not paid as healthcare assistants; and
- care and support workers providing Services (defined in the Settlement Agreement), which may include “Individualised Funding”, as employees are eligible provided the arrangement does not include a natural person receiving funding directly from the Ministry of Health, ACC, or a DHB towards the cost of care and support services for the person or a family member of the person.
- Diversional therapists and / or activity coordinators, subject to passing the eligibility test

This document assumes that the care and support workers are assessed to be eligible (refer Operational Policy Document Section 3) and the objective of this guideline is to assist payroll managers with the payroll implementation and processing of pay equity.

**This guidance is a living document and may be updated as required. The Ministry will keep you fully advised of any revisions.**
2 Payroll processing guidelines

2.1 Pay table setup

It is recommended that where possible within your payroll system that you establish two new payment tables to cover the transition on 1 July 2017 for existing employees and post 1 July 2017 appointments as set out in the tables below.

If your pay system does not have this capability then you may need to structure this through a company level contract field linked to an individual employee effective/anniversary date field.

Before completing the setup of your payment tables you need to ensure the set up within your system will meet the requirements for both annual percentage movement and qualification based progression for care and support workers commencing employment on or after 1 July 2017 (Table One). For existing care and support workers (ie employed prior to 1 July 2017) you will also be required to maintain service dates for the purpose of grand parented service based progression (Table Two).

If you do not have this payroll system expertise in house we would recommend that you contact your software vendor support team for assistance.

Table One: Care and support workers employed Post 1 July 2017
This table sets out hourly rates that will apply to care and support workers commencing employment on or after 1 July 2017. Any incremental progression post appointment is based on the completion of the relevant NZQA qualifications.

<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 &amp; 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>$25.00</td>
<td>$27.00</td>
</tr>
</tbody>
</table>

**“Qualifications” are those recognised by NZQA or assessed by Careerforce as being equivalent**

Table Two: Care and support workers employed prior to 1 July 2017
This table sets out hourly rates that will apply to care and support workers employed prior to 1 July 2017. Any incremental progression post 1 July 2017 is based on either the completion of the relevant NZQA qualifications or accumulating more current continuous service as a care and support worker with the same employer (whichever is the most advantageous).

<table>
<thead>
<tr>
<th>Pay band or Length of Service</th>
<th>Qualification</th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Years 3&amp;4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
</table>

2 Care and Support Workers (Pay Equity) Settlement Payroll Processing Guidelines
### 2.2 Translation to new pay rates 1 July 2017

Existing care and support workers (as at 30 June 2017) will increase their pay rates under this scale on the basis of either service as a care and support worker or qualifications; whichever is the most advantageous to them as set out below.

1. Translation to Level 2 will be on attainment of the Level 2 qualification or after the completion of 3 years current continuous service as a care and support worker with the same employer.
2. Translation to Level 3 will be on the attainment of the Level 3 qualification, or after 8 years current continuous service as a care and support worker with the same employer.
3. Translation to Level 4 will be on the attainment of the Level 4 qualification (referred to as pay band L4b) or after 12 years current continuous service as a care and support worker with the same employer.

### 2.3 Progression to New Pay Rates Post 1 July 2017

NB: This does not apply to care and support workers (employed on or after 1 July 2017): they will progress on the basis of qualifications alone.

Existing care and support workers (as at 30 June 2017) can progress to the next pay band step on achieving the length of continuous service as a care and support worker (with the same employer) for that pay band as shown in payment table two or qualifications; whichever is the most advantageous to them as set out below.

1. Progression to Level 2 will be on attainment of the Level 2 qualification or after the completion of 3 years current continuous service as a care and support worker with the same employer as at the anniversary date (in relation to the pay equity length of service).
2. Progression to Level 3 will be on the attainment of the Level 3 qualification, or after 8 years current continuous service as a care and support worker with the same employer as at the anniversary date (in relation to the pay equity length of service).
3. Progression to Level 4 (see Note below) will be on the attainment of the Level 4 qualification, or after 12 years current continuous service as a care and support worker with the same employer as at the anniversary date (in relation to the pay equity length of service).

**Note:** Care and Support Workers employed prior to 1 July 2017 who reach 12 years current continuous service with the same employer after 1 July 2017 and who have not achieved a Level 4 Certificate will move on to the “Level 4a” pay band (below) 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 4b step (not Level 4a). Any dispute about the provision of the necessary support will be dealt with through the normal dispute resolution processes.

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Pay Band</th>
<th>1 July 2017 Year 1</th>
<th>1 July 2018 Year 2</th>
<th>1 July 2019 Years 3 &amp; 4</th>
<th>1 July 2021 Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>12+ years' service</td>
<td>L4a</td>
<td>$22.50</td>
<td>$23.50</td>
<td>$24.50</td>
<td>$26.00</td>
</tr>
</tbody>
</table>

### 2.4 Qualifications

Most systems will have the capability to capture employee qualifications and the date achieved. If your pay system has this capability it is recommended that the relevant qualifications table for care and support workers be established as part of this implementation. This will provide you with the ability to accurately report, monitor and audit the data.

The qualification must be a Level 2, 3 or 4 New Zealand certificate in Health and Wellbeing from an NZQA accredited provider or a qualification that has been assessed relevant and equivalent by Careerforce.

Settlement parties have agreed to create incentives to help care and support workers gain formal qualifications. Therefore the contracts between funders and providers will require employers to provide the necessary systems and support to enable workers covered by the settlement to reach the following NZ Qualifications Authority Health and Wellbeing Certificate qualifications within the following time periods:

- 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

If a qualification has not been assessed as relevant and equivalent by Careerforce, translation will be based on length of service with the current employer for existing employees at 30 June 2017.

If, following assessment by Careerforce a qualification is added to the list, eligible workers may move to a higher band on the payscale and be entitled to back pay (to the date the qualification comes into force).

The industry training organisation, Careerforce, is reviewing qualifications recognised by the New Zealand Qualifications Authority for relevance to the work undertaken by care and support workers and equivalent Level on the NZQF. As qualifications are assessed as relevant and equivalent they will be posted on the Careerforce website: https://www.careerforce.org.nz/pay-equity/equivalencies

### Nursing

Registered nurses: If New Zealand trained enrolled or previously registered nurses are working as care and support workers, they should be translated to Level 4 on the new pay scale.

Care and support workers with Nursing degree qualifications from the Philippines, India, South Africa, Australia and United Kingdom translate on the basis of service. Care and Support workers with these qualifications need to complete two culturally focused unit standards (28989 Cultural diversity and 28543 Describe culturally safe Māori operating principles and values) to have equivalency to the level 4 New Zealand Certificate in Health and Wellbeing.
Part Qualifications

Part qualifications or current student the translation is based on length of service as a care and support worker with their current employer as per the Agreement.

2.5 Length of service

Length of service for the purpose of the translation and progression for existing care and support workers employed prior to 1 July 2017 is the calendar length of continuous service as a care and support worker with the current employer.

Casuals

While ‘casual employee’ is not defined in employment legislation, the term is usually used to refer to a situation where the employee has no guaranteed hours of work, no regular pattern of work, and is employed to work on an as and when required basis. In relation to recognition of service for a true casual there is no continuous current service.

If due to the substance of a role, an employer believes that some of their casual employees are in fact permanent part-time employees with continuous service and should translate on the basis of their continuous current service, the employer would need to document the date the employee became a permanent part-time employee and the rationale supported by appropriate documentation (including getting professional employment relations advice). Providers will need to provide supporting evidence of fact, including legitimate expectation of work, absence or presence of predictability and regularity, length of the arrangement, payment of holiday, date on which each employee’s status changed from casual to permanent part-time. Any such evidence would be required as per the record-keeping obligations of the Act and to be available during audit.

Continuous Employment 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
      C. 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)

(b) includes service recognised as continuous under the provisions of Part 6A or Schedule 1B of the Employment Relations Act 2000.
2.6 Service and qualification allowances

The settlement recognises service for existing care and support workers employed prior to 1 July 2017 through the transition process and subsequent progression. For this reason any separate ongoing service allowance is extinguished from 1 July 2017.

Qualification allowances are also extinguished because they have been replaced by the new qualifications-based pay structure from 1 July 2017. This is confirmed in section 11 of the Act which reads as follows:

This section applies to a term or condition of an employment agreement that—
  a) was agreed before the commencement of this Act; and
  b) requires an employer to pay a care and support worker an allowance to recognise the worker’s length of service or level of qualifications

Generally, all other allowances remain the same.

2.7 Payments for care and support workers

The employer must pay care and support workers no less than the greater of:

(a) hourly rates set out in tables one and two and
(b) the ordinary hourly rate that was applicable under the terms of employment before commencement of the act

2.8 Payments and allowances excluded

Some payments that may have formed part of your collective employment contracts prior to 1 July 2017 or were part of previous Government initiatives which resulted in payments being based on minimum wage rates; these are specifically excluded from the Care and Support Workers (Pay Equity) Settlement Act.

Where these payments are excluded they may be covered by other legislation such as:

- Home and Community Support Act (Payment for Travel Between Clients) Settlement Act 2016; and/or
- The Minimum Wage Act 1983
- Sleepover Wages (Settlement) Act 2011

Weekend and Night Penal Payments

Should any care and support worker employment agreement have a night or weekend penal rate (as opposed to a weekend or night shift allowance) calculated as a percentage of the base rate, such penal rates for care and support workers covered by this settlement shall be converted into an allowance based on the employment agreement wage scales as at 30 June 2017.

For example, before the commencement of this Act, Alex is a care and support worker whose employment agreement provides a wage of $18 per hour and will be paid an extra 50% of the hourly wage for work performed on a Sunday (an additional $9 per hour).

On and from the commencement of this Act, Alex’s wage is $21 an hour. Alex’s employer must pay Alex an allowance of $9 per hour for work performed on a Sunday. This is the same dollar value as the allowance Alex was entitled to before the commencement of this Act, rather than 50% of Alex’s new hourly wage rate.
Travel Time
The Home and Community Support Act (Payment for Travel Between Clients) Settlement Act 2016 requires travel time to be paid, as a minimum, at the Minimum Wage. This Legislation is not changed by pay equity and as such, there is no additional cost due to pay equity requiring additional funding. Arrangements outside the Act are business decisions that Providers have to make for themselves.

Sleepover
The Sleepover Wages (Settlement) Act 2011 requires sleepover to be paid, as a minimum, at the Minimum Wage. This Legislation is not changed by pay equity and as such, there is no additional cost due to pay equity requiring additional funding. Arrangements outside the Act are business decisions that Providers have to make for themselves.

Other Allowances and Penal Payments
Other allowances may need to be reviewed but will remain unchanged as a result of the settlement.

Fixing Rates for Allowances and Penal Payments for Post 1 July 2017 Employees
Where allowances are not covered within the scope of the Care and Support Workers (Pay Equity) Settlement Act, it becomes a provider business decision and the terms of their collective agreement (if any) as to the amount payable for allowances and penal rates.

Note - When amending any allowances consideration needs to be given to the impact on all payroll calculations and processes

Multiple Positions
As a result of this settlement some of your employees may require to be set up with two contractual pay rates. Employers must pay the in scope services at the appropriate pay band for work that is performed within these services. Out of scope services pay rates are a business decision for the provider.

If these are to be paid at a separate rate, then this should be reflected with dual rates in the payroll system and easily identifiable to meet audit requirements. A number of payroll systems will have the capability to accommodate multi jobbed employees under one employment record.

2.9 Audit reporting
Standard auditing protocols for payroll apply. As a minimum you must ensure that your system has been set up with the ability to capture and accurately report the data below:
1) An employer must keep a record, for each care and support worker employed by the employer, of—
   a) the qualifications, if any, held by the worker; and
   b) the length of time that the worker has been continuously employed as a care and support worker by the employer.

2) An employer must, on the request of a funder with whom the employer has a funding agreement, provide to the funder—
   a) the records kept under subsection (1); and
b) the wages and time record kept by the employer for each care and support worker under section 130 of the Employment Relations Act 2000.

2.10 Annual leave and lieu days for public holidays liability reporting

To establish any increase in your annual leave and lieu days for public holiday liability, it is important to run a report from your payroll system as at 30 June 2017 for each employee covered within the scope of Care and Support Workers (Pay Equity) Settlement Act. This report will need to contain the following data:

a) Employee ID Code
b) Contracted (Agreed) FTE
c) Weekly hours
d) Annual leave balance in weeks (excluding accrued)
e) Lieu Days for Public Holiday in hours
f) Dollar liability of (d) and (e)
g) Accrued annual leave balance
h) Dollar liability of (g)
i) Annual leave hourly rate (last 52 week average)
j) Ordinary hourly rate @ 30 June 2017
k) Translated ordinary hourly rate @ 1 July 2017

2.11 Implementation and payment dates

From 1 July 2017: Providers have a legal obligation to ensure employees receive their increased wages in the first pay day from their employer (ie, weekly or fortnightly, depending on their normal pay run). For clarity new rates will apply to any hours worked after midnight on 30 June 2017.

Most providers will typically have pay cycles ending at midnight Sunday which straddles across the 1 July 2017 implementation date. The majority of pay systems have the capability to apply new rates within the pay cycle.

If your time recording or pay system does not have the capability to split the hours between 30 June 2017 and 1 July 2017 to apply the new pay equity rates within the first pay cycle, then it has been accepted that the new rates will be implemented and applied in the first full pay cycle after 1 July 2017. A back pay covering the first split period from 1 July 2017 may be processed immediately following the payday provided that this has been fully communicated to both staff and Union.