

Hon Chris Hipkins
Minister of State Services

Framework for the Oversight and Support of Funded Sector Pay Equity Claims

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Author: Te Kawa Mataaho Public Service Commission

This is a suite of documents released in part by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

The Cabinet Paper has been reviewed and re uploaded on 26 March 2021 with some information previously withheld now being released.

In Confidence

Office of the Minister of Finance

Office of the Minister of State Services

Chair, Cabinet Government Administration and Expenditure Review Committee

FRAMEWORK FOR THE OVERSIGHT AND SUPPORT OF FUNDED SECTOR PAY EQUITY CLAIMS

Proposal

1. This paper seeks agreement to a new framework for the oversight and support of pay equity claims in private sector organisations that receive Government funding to deliver public services (Funded sector).

Executive Summary

2. The Government is committed to pay equity and claims are increasing. In response to the growing need for oversight of claims in the State sector, a framework for the governance and oversight of State sector pay equity claims (the Framework) was approved by Cabinet in December 2019 [CAB Min 19/0050 refers]. Greater oversight of pay equity claims in the State sector has provided Ministers with the ability to ensure that pay equity outcomes are consistent and in line with the amended Equal Pay Act (the Act).
3. 9(2)(h) legal privilege
[REDACTED]
4. This paper seeks agreement to a new framework for the oversight and support for pay equity claims in the Funded sector (Funded Framework). The Funded Framework provides a clear and transparent structure that safeguards Funding agencies and ensures visibility for Ministers. The Funded Framework adapts the Framework adopted for claims in the State sector with the Funding agency acting in the oversight role for pay equity claim/s for which it is the primary funder, with advice and support from the State Services Commission (SSC). The Funded Framework also support employers and claimants in the Funded sector to get advice and support in working their way through a pay equity claim while preserving the rights and responsibilities of their employer/employee relationship.
5. In designing the Funded Framework wider issues regarding the funding and implementation of pay equity claims in the Funded sector were identified. This paper seeks agreement to commission work from the Social Wellbeing Agency in order to fully understand and address these issues.

Background

Government is committed to pay equity and the number of claims is increasing

6. The Court of Appeal ruled, in October 2014, that the Equal Pay Act 1972 provides for pay equity in female-dominated industries subject to systemic sex-based undervaluation. Since this landmark decision, the Government has amended the Act to give effect to the Reconvened/Joint Working Group Pay Equity Principles (the Principles).
7. Achieving pay equity will allow women to better support themselves and their whānau and save for their retirements. It will give families more choice around participating in paid work and balancing family roles. Paying employees what they are worth and fully utilising their skills also increases staff engagement and productivity.
8. Since the development of the Principles the number of pay equity claims has been increasing, including from workforces that are employed by a private sector employer that receives Government funding. With the greater volume and increased complexity of claims comes a need for oversight and support to ensure that quality processes are followed.

Ministers have visibility and assurance of Pay Equity Claims in the State sector

9. In response to the growing need for oversight of claims in the State sector, a framework for the governance and oversight of State sector pay equity claims (the Framework) was approved by Cabinet in December 2019 [CAB Min 19/0050 refers]. The Framework clarifies the role of Ministers and Central Agencies throughout the claim process, provides State sector employers/agencies with greater certainty and provides Ministers with visibility and assurance regarding the quality of the pay equity process. There are six milestone points in the Framework where agencies present their progress and seek assurance regarding the process undertaken thus far and the proposed direction:
 - 9.1. Milestone 1: Whether there has been appropriate application of the 'light touch' arguable assessment.
 - 9.2. Milestone 2: Whether the employer's bargaining strategy is supported by the available evidence and the Terms of Reference (ToR) agreed between parties. The bargaining strategy is the document that sets out how an employer intends to proceed with the claim, the timelines, the chosen gender-neutral work assessment method, how affected employees will be notified and any consolidation/potential consolidation of claims.
 - 9.3. Milestone 3: Whether the claimant work assessment is representative and gender-neutral. The employer's rationale for the potential comparator(s) is supported by sound evidence and analysis.
 - 9.4. Milestone 4: Whether the conclusions drawn on the existence and extent of sex-based undervaluation are supported by thorough comparison of remuneration information and work assessments of the claimant and comparator(s).

- 9.5. Milestone 5: Whether the employer's revised bargaining strategy will focus on how the employer intends to negotiate for the pay equity settlement, including the bargaining parameters. The revised bargaining strategy is supported by sound evidence and analysis and includes consideration of the extent to which the increased costs associated with implementing the settlement can be met through existing funding.
- 9.6. Milestone 6: Whether the proposed settlement agreement is supported by sound evidence and analysis and reflects agreement between the parties.

The same degree of visibility and assurance for pay equity claims in the Funded sector does not currently exist

10. As the current Framework only applies to the State sector, there is no consistent visibility and assurance for Ministers or Funding agencies regarding pay equity claims in the Funded sector. The intent that the Framework would be adapted for application in the Funded sector was foreshadowed in the Cabinet paper seeking mandate for the State sector Framework.

The Funded sector

Defining the Funded sector

11. The Funded sector refers to any private sector organisation that receives Government funding to deliver public services. Many social, health, community and education services are contracted out and delivered through the Funded sector.

The scope and makeup of the Funded sector

12. From analysis undertaken by the State Services Commission Te Kawa Mataaho (SSC) on Census 2018 data there are approximately 130,000 workers in female dominated occupations in the Funded sector (female domination defined as 60% or greater¹).
13. The average full-time wage across this broad range of occupations is \$46,099.
14. On average 9% of these workers hold more than one job.
15. On average Māori make up 17% of the female dominated Funded sector work forces while Pacific workers make up 7%.

Key features of the Funded sector

16. The Funded sector is made up of thousands of primarily medium to small sized organisations. The majority of these organisations are not for profit organisations, meaning there is no ability to accumulate surpluses for profit, distribution to shareholders, members or staff.

¹ As defined in the amended Equal Pay Act

- 17. Employers in the Funded sector primarily do not have human resource, employment relations or recruitment functions or teams available to them.
- 18. For most organisations in the Funded sector, a significant majority of their income is from Government contracts.
- 19. Funded sector contracts are often based around bulk, contributory or output based funding models. Many organisations therefore rely on independent (non-Government) revenue streams such as fundraising, philanthropy or commercial enterprises to supplement Government funding in order to deliver contracted services.

Pay equity claims in the Funded sector

Funded sector claims are increasing

- 20. The number of pay equity claims in the Funded sector has been steadily increasing. There are currently four claims that have been accepted as arguable, and one claim that is pending formal acceptance (see Appendix 1)².
- 21. The New Zealand Council of Trade Unions Te Kauae Kaimahi (NZCTU) have indicated that they see flow on implications for female dominated occupations in the Funded sector from current or settled claims in the State sector. This includes large workforces such as community nurses, community social workers and administration staff. This is likely to result in increased expectations and multiple claims for workforces in the Funded sector.

State sector involvement in Funded sector claims

- 22. Because of the key funding relationship, and lack of internal expertise, employers in the State Funded sector are looking to State sector agencies who provide their funding revenue (Funding agencies) to be directly involved in their pay equity claim/s.

23. In 9(2)(h) legal privilege [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 24. Oranga Tamariki is also working with Social Service Providers Aotearoa (SSPA), which represents five employers, to provide support and oversight in respect of the Public Service Association Te Pūkenga Here Tikanga Mahi (PSA) claims for social

² There may be others that there is no current visibility of at Government level

worker and non-social worker staff employed by five Non-Government Organisations (NGOs), in accordance with the Act.

- 25. There is currently a level of uncertainty from Funding agencies as to what their role should be when pay equity claims are raised in organisations, they have contractual relationships with. 9(2)(j) prejudice to negotiations
[REDACTED]
- 26. Funding agencies must also be deliberate in how they support a claims process in order to be protected from inadvertently or deliberately assuming the role of the employer party to the claim, or influencing the claim outcome.
- 27. To date, the Crown Law Office and the SSC have been involved in supporting the Funding agencies and providing advice to enable them to navigate this new territory. The SSC has also sought to provide some visibility of claims in the Funded sector to Ministers. This has relied on State agencies seeking SSC advice and willingly sharing information as officials have no direct mandate or framework for the Funded sector.
- 28. Without a framework, pay equity claims in the Funded sector may progress without any oversight or ad hoc oversight. The most notable risks of this are:
 - Pay equity processes being undertaken that are inconsistent with the Act
 - Lack of visibility of claims for Funding agencies, Central Agencies and Ministers
 - Pay equity outcomes being reached that do not fully correct for sex-based undervaluation
 - 9(2)(h) legal privilege
[REDACTED]
- 29. Crown Law has advised that the most effective mitigation to these risks is the creation of a transparent written framework clearly setting out the role of Funding agencies. Other measures will also be necessary as explored in para 42.

The Funded sector framework

- 30. The proposed Funded Framework (see Appendix 2) builds on and adapts the existing Framework for the Governance and Oversight of State Sector Pay Equity Claims. The Framework does not intend to fundamentally alter the way Central Agencies or Funding agencies engage with the Funded sector, but instead builds on existing relationships and ways of engaging. The Funded Framework clearly delineates the roles and responsibilities of Funding agencies and sets out how Central Agencies can provide support and expertise.
- 31. The key changes for the Funded Framework are:
 - *The oversight function:* This change reflects the different roles that State sector agencies have in relation to the Funded sector.

- *The removal of governance:* The State sector Framework is for *governance and oversight* of pay equity claims. The framework for the Funded sector is focused on *oversight and support* in acknowledgment of the different, and less formal nature of the relationships held.

The Funding agency will take on the oversight role

32. The Funding agency will, with advice and support from the SSC, act in the oversight and support role for pay equity claim/s for which it is the primary funder³.
33. The Funded Framework will provide funding agencies, employers and claimants with clear written parameters and a structure for the oversight role ensuring all parties can be assured of the purpose and boundaries of this function.
34. The Funding agency will not act as the employer, approve remuneration corrections, or provide any guarantee of funding outcomes. Their focus will be on the quality of the process being undertaken.
35. At six key milestones the Funding agency will test the pay equity process with the employer(s) to ensure that it is consistent with the Act and based on sound evidence and analysis. However, the Funding agency does not have a right of approval or veto. The Funding agency will inform the SSC if they have any concerns about the pay equity process that they are unable to resolve with the employer.

The SSC will provide technical advice, support and subject matter expertise

36. The SSC will provide education, advice, support and subject matter expertise to any State sector agency who is overseeing a pay equity claim. Through the provision of specialist advice, education, tools and templates, the SSC will ensure that State sector agencies are well equipped to support evidence-based pay equity processes that are consistent with the Act, while ensuring State sector agencies are not acting as, or seen to be, the employer.
37. The SSC will work with Treasury to support the remuneration analysis process if required.
38. The SSC will keep MOGGSER informed throughout the claim process ensuring continual visibility of the progress of claims for Ministers.

The Treasury will provide fiscal oversight

39. The Treasury will liaise directly with the Funding agency to provide advice on remuneration analysis undertaken (if required). Following this, the Treasury will:

- 39.1. 9(2)(f)(iv) confidentiality of advice


³ The primary funder is the agency who provides the majority of the funding to the employer(s) of the claimant workforce/s.

39.2. 9(2)(f)(iv) confidentiality of advice

[REDACTED]

[REDACTED]

The Ministry for Women will provide advice on gender issues

40. The Ministry for Women (the Ministry) will provide advice to the SSC, where required, on gender issues. This will allow the Minister for Women to be kept appropriately informed as a leader of pay equity and as a member of MOGGSER. The SSC will consult with the Ministry where required in providing advice and support to Funding agencies.

Application of the Framework

Engagement by employers with the Funding agency is not compulsory

41. Employers and claimants in the Funded sector will not be required to engage with their Funding agency if they choose not to. Ultimately the liability to pay any established pay equity rate rests with the employer so there is no ability to compel engagement. The Framework will ensure that where engagement does occur between an employer and their Funding agency, the Funding agency can, by adhering to the Framework mitigate the risks discussed in para 28.

The benefits of the Framework

42. Because employers are not legally required to connect with their Funding agency through a pay equity claims process, it is important that parties to a Funded sector claim understand the purpose, benefits and boundaries of the Framework. The SSC will work with Ministry for Business Innovation and Employment, Ministry for Women, relevant peak bodies and social partners such as the NZCTU to ensure that these are well understood. Key benefits for the Funded sector are:

- The ability to receive quality advice and support at key decision points in the pay equity process
- Assurance regarding the soundness of the process being undertaken at each step
- Confidence that Ministers will have visibility of a claim, its progress and implications
- Assurance of the legitimacy of any settlement outcome.

Funded Framework risks and mitigations

43. Pay equity claims are currently progressing in the Funded sector and 9(2)(g)(i) free and frank

[REDACTED]

Pay equity capability within Funding agencies

- 43.1. There are legitimate concerns from Funding agencies regarding their ability to provide informed oversight for pay equity claims. Pay equity is a specialist subject area and most agencies will have no in-house expertise in this area. It is important that quality oversight is available for claims and that agencies are not placed in the position of having to pay for contractors to undertake this work.
- 43.2. To mitigate this risk, the SSC will make available a programme of education and support to all Funding agencies. Education will build system capability in the field of pay equity, reduce dependence on external contractors in line with Government expectations and ensure quality oversight of pay equity claims is provided.

Agency resourcing to oversee pay equity claims

- 43.3. Funding agencies, in particular those with significant numbers of providers in the Funded sector, have expressed concern regarding the time and resource required to oversee claims. The Framework aims to mitigate this risk by providing the six key milestone check in points. This provides clear parameters for when claims require oversight and support. Funding agencies should not undertake any part of the claim work, analysis or investigation themselves.
- 43.4. As part of their role within the Framework, the SSC will also provide Funding agencies with guidance, advice, and support to ensure oversight duties remain contained. If Funding agencies still find the demand of oversight resource intensive, they will be able to make a budget bid for resource to support this work through normal budget processes.

Perceptions of Funding agencies' neutrality

- 43.5. Some employers and claimants may feel that the Funding agency is unable to provide neutral oversight and support for the claim process. The Framework will mitigate this through the provision of clear boundaries and structure including defining what the oversight role is and what it is not.
- 43.6. Further important mitigation of this perception can be managed by agencies by ensuring that those who manage funding relationships, employment relations or internal pay equity claims are not the same people who provide oversight of funded claims. The use of employment relations staff could provide an unwanted perception of there being an employment relationship present. Staff who deal with pay equity claims for the directly employed may not be best placed to oversee a claim in the Funded sector, particularly if they are raised by the same union, as the roles are different and it may be difficult for parties to separate them. It would also be useful for those overseeing a Funded sector claim to not be the same people, or the same team, who are also making funding decisions and managing contracts.

Expectation that oversight equates to funding

- 43.7. 9(2)(g)(i) free and frank [REDACTED]
[REDACTED]
[REDACTED] The Framework will mitigate this risk by ensuring that the role of oversight is clearly articulated to be solely to provide assurance and support on the integrity of the pay equity process. The Funding agency will not be able to approve (or reject) a remuneration correction and does not at any point assume any fiscal liability for the settlement outcome.
- 43.8. As part of the SSC support under the Funded Framework, Funding agencies will be supplied with a Memorandum of Understanding (MoU) template for Funding agencies to utilise with any employer on any claim they are overseeing. This will provide clear details of the parameters of the oversight role and detail the rights and responsibilities of each party.
- 43.9. The Funding agency may have a role with regards to funding decisions in terms of providing assurance to Cabinet if required on the robustness of the process undertaken.

Pay equity settlement risks and mitigations

Post settlement reduction of service

- 44. Increased wages associated with a pay equity correction could result in a decision by employers or funders to reduce the service level in order to manage costs. 9(2)(f)(iv) confidentiality of advice [REDACTED]
[REDACTED]
[REDACTED] Research from the Auckland University of Technology on the 2017 Care and Support Settlement has evidenced that this can be a real consequence of a pay equity claim, particularly where varied funding models exist. 9(2)(f)(iv) confidentiality of advice [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Post settlement loss of contract

- 45. As the Funded sector is made up of thousands of small and medium size organisations, there is a risk that if one organisation settles a pay equity claim, their Funding agency could choose to procure another provider to deliver the same services who had not settled a pay equity claim. This could cause significant disadvantage to workers and providers who had fulfilled their pay equity obligations. 9(2)(f)(iv) confidentiality of advice [REDACTED]
[REDACTED]

Wider issues for pay equity claims in the Funded sector

State sector agencies may fund hundreds of organisations

46. State sector agencies often fund large numbers of providers to deliver public services. Different providers have a presence in different regions or communities and/or different target populations. Many of these providers may be staffed by the same or similar workforces.
47. While an obligation exists for an employer to advise any of their own staff who may be considered a similar workforce of the pay equity claim (affected employee), this obligation does not extend *between* employers. Employers may in fact not even be aware of which other services receive funding from the same Funding agency for the same or similar workforces in order to notify them should they did wish to do so.
48. This could create issues for a Funding agency where some of their providers have an active pay equity claim for a particular workforce, while their other providers, which employ similar workforces, do not. Funding agencies could be placed in a position of having to oversee a multitude of different claims at very different stages for the same work. If one of these claims settles while others are still in train, or have not yet been raised, it could create pressure on the Funding agency, instability for providers and resentment between workers paid quite differently for similar work.
49. There are provisions within the Act that provide for claims to be raised by unions across multiple employers if they have union members performing the same or similar work in each of those employers. Employers are able to opt out of a multi-employer claim up until the point of settlement. It will be possible to consolidate claims across multiple employers after the point of raising, where the work is the same or substantially similar, the claims are arguable, and where union members are present who perform the same or substantially similar work as described in the claims, and if all parties agree. As part of their role in the Funded Framework, SSC would support Funding agencies with advice and guidance around the efficient and effective oversight of claims including potential options the parties may have available for consolidation of claims or ways to expedite processes.

Implementation of pay equity can be resource intensive and complex for the Funded sector

50. Implementation of pay equity settlements have posed some complexities for organisations who operate on Government funding. In the Care and Support Worker settlement (noting that this claim pre-dated the Principles and the Act) and the Teacher Aide Pay Equity Claim (TAPEC) complex implementation issues had to be traversed to ensure that new wage rates were passed on to all workers in scope of the settlement. In the Care and Support Worker settlement this was done through the passing of enabling legislation, whereas TAPEC is navigating this by issuing guidance to Boards of Trustees and investing in model employment agreements.

Current funding models present a challenge to pay equity settlements

51. Funding models such as bulk funding, partial or contributory funding and funding based on 'outputs' all present unique challenges to the funding and implementation of a pay equity settlement. 9(2)(f)(iv) confidentiality of advice

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 52. While the funding and implementation of settlements is not a question that the proposed Funded Framework can address, pay equity claims are raising a series of important questions about the delivery and funding of public services which are contracted out. The SSC has discussed this issue with the Social Wellbeing Agency (SWA) and recommend that Ministers commission more detailed information and advice from SWA on the issue of funding and implementation of pay equity settlements in the Funded sector. Better information on funding models within the sector and the potential impacts of a pay equity settlement will support Cabinet to make decisions about funding that are consistent, proactive and avoid unintended consequences.

Consultation

- 53. Oranga Tamariki; Ministry for Social Development; Ministry of Education; The Treasury; Department of Corrections; Ministry of Justice; Ministry for Women; Ministry of Health; Ministry of Business, Innovation and Employment; Te Puni Kōkiri; Department of Internal Affairs; the Social Wellbeing Agency and the Crown Law Office have been consulted on the development of this paper.

Financial Implications

- 54. There are no financial implications as a direct result of this paper. However, the Funded Framework will increase the Ministerial awareness of 9(2)(f)(iv) confidentiality of [redacted] pay equity in the Funded sector, particularly through the increased oversight on the quality of decisions made through the process and the pace at which claims are progressing.

- 55. 9(2)(f)(iv) confidentiality of advice [redacted]

Legislative Implications

- 56. No legislative implications have been identified in this paper.

Impact Analysis

- 57. An impact analysis is not required.

Human Rights

- 58. The Framework outlined in this paper is consistent with Article 7 of the International Covenant on Economic Social and Cultural Rights that recognises the right of everyone to the enjoyment of “just and favourable conditions of work”, including specific reference to a “decent living for themselves and their families”.
- 59. The pay equity work programme is also consistent with:

- 59.1. the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) including article 11(1)(d) which covers "...The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work...", and
- 59.2. the International Labour Organization Convention 100, Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, as well as other relevant international labour instruments including Conventions and Recommendations.

Gender Implications

60. Achieving pay equity requires not only the substantive efforts of employees and employers to address and settle pay equity claims, but also effective gender-responsive governance. Increased oversight and support of pay equity claims will facilitate robust claims processes as well as timely, orderly and efficient settlement of claims. It is important that increased efficacy and integrity of settlements covers the Funded sector as this sector is both low paid and female dominated. The settlement of these claims will contribute to addressing gender-based undervaluation in the remuneration of all women performing work funded by the Government.

Disability Perspective

61. Traditionally, it has not been possible to look at the links between disability and gender-based undervaluation in the remuneration of women due to a lack of data. This lack of data is improving with the introduction of the internationally recognised Washington Group Short Set questions into Stats NZ's Household Labour Force Survey (HLFS) Income survey and the 2018 Census. Unfortunately, statistics from the 2018 Census and published disability statistics from the HLFS Income survey do not have a strong gender analysis.

Publicity

62. Once Cabinet has made decisions, the Framework and associated guidance will be communicated to all chief executives. The NZCTU will be informed of the Framework. The Funding agencies will notify any appropriate peak bodies of the Framework.

Proactive Release

63. We intend to proactively release this paper once it has been considered by Cabinet, subject to the redaction of references to legal advice, bargaining or financially sensitive material.

Recommendations

64. The Minister of Finance and Minister of State Services recommend that the Committee:
- 64.1. agree that a framework for the oversight and support of pay equity claims in the Funded sector establishes an oversight role for the primary Funding Agency or agencies which will provide:

- 65.1.1 advice to employers at six significant 'milestones' in each pay equity claim process testing the process that the employer has followed and whether it is in line with the Act and that any outcomes are based on sound evidence and analysis
 - 65.1.2 Ministers (and Cabinet, if additional funding is sought) with assurance about the process the employer has followed
 - 65.1.3 a mandate for the State Services Commission to provide technical advice and subject matter expertise to State sector agencies providing oversight
 - 65.1.4 a mandate for Treasury to provide fiscal oversight and advice.
- 64.2. agree that the State Service Commission will provide education to Funding agencies providing oversight and support to a pay equity claim.
 - 64.3. note that there are some issues regarding the management, funding and implementation of pay equity settlements in the Funded sector.
 - 64.4. agree to commission the Social Wellbeing Agency to identify the challenges of current funding models across the Funded sector and identify potential sustainable solutions for funding and implementing potential pay equity settlements in the Funded sector.
 - 64.5. note that the Minister of Finance and Minister of State Services intend to proactively release this paper once it has been considered by Cabinet, subject to the redaction of legal advice, bargaining or financially sensitive material.

Authorised for lodgement

Hon Grant Robertson

Minister of Finance

Hon Chris Hipkins

Minister of State Service

Appendix 1: Funded workforce claims as at June 2020

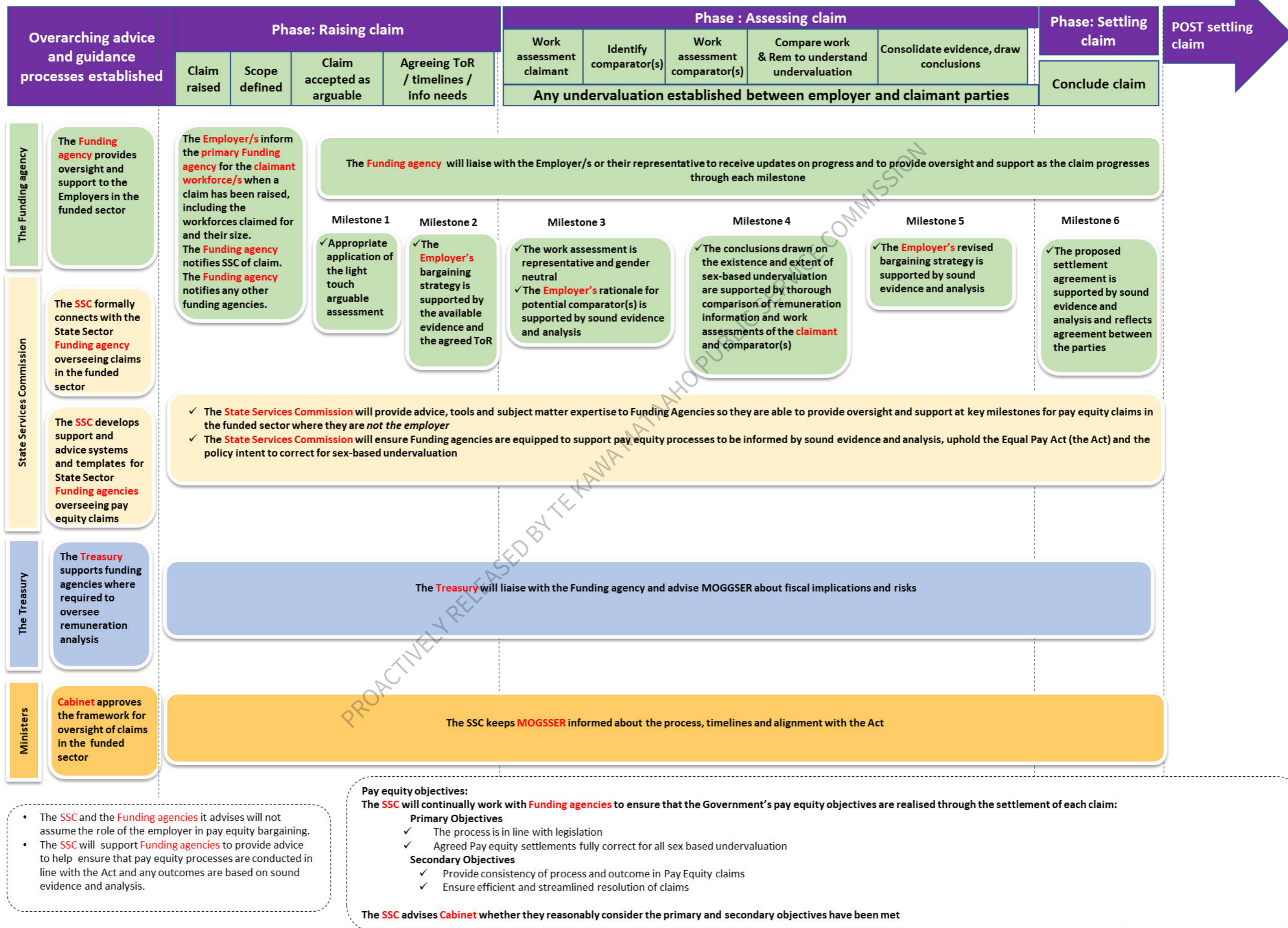
9(2)(j) prejudice to negotiations



PROACTIVELY RELEASED BY TE KAWA MATAAHO PUBLIC SERVICE COMMISSION

Appendix 2

Framework for the Oversight and Support of Pay Equity Claims in the Funded Sector





Cabinet Government Administration and Expenditure Review Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Framework for the Oversight and Support of Funded Sector Pay Equity Claims

Portfolios **Finance / State Services**

On 30 July 2020, the Cabinet Government Administration and Expenditure Review Committee (GOV):

- 1 **noted** that in December 2019, GOV approved a draft framework for the governance and oversight of pay equity claims in the State sector and authorised the Minister of Finance and Minister of State Services to finalise the framework [GOV-19-MIN-0050];
- 2 **agreed** that a framework for the oversight and support of pay equity claims in private sector organisations that receive government funding to deliver public services (the Funded sector) establishes an oversight role for the primary Funding Agency or agencies which will provide:
 - 2.1 advice to employers at six significant ‘milestones’ in each pay equity claim process, testing the process that the employer has followed and whether it is in line with the Act and that any outcomes are based on sound evidence and analysis;
 - 2.2 Ministers (and Cabinet, if additional funding is sought) with assurance about the process the employer has followed;
 - 2.3 a mandate for the State Services Commission to provide technical advice and subject matter expertise to State sector agencies providing oversight;
 - 2.4 a mandate for Treasury to provide fiscal oversight and advice;
- 3 **agreed** that the State Service Commission provide education to Funding agencies providing oversight and support to a pay equity claim;
- 4 **noted** that there are some issues regarding the management, funding and implementation of pay equity settlements in the Funded sector;

- 5 **agreed** to commission the Social Wellbeing Agency to identify the challenges of current funding models across the Funded sector and identify potential sustainable solutions for funding and implementing potential pay equity settlements in the Funded sector.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Andrew Little
Hon Stuart Nash
Hon Kris Faafoi
Hon Ron Mark
Hon Tracey Martin
Hon Peeni Henare
Hon James Shaw

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for GOV

PROACTIVELY RELEASED BY TE KAWA MATAAHO PUBLIC SERVICE COMMISSION



Cabinet Government Administration and Expenditure Review Committee

Summary

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Framework for the Oversight and Support of Funded Sector Pay Equity Claims

Portfolio	Finance / State Services
Purpose	This paper seeks agreement to a framework for the oversight and support of pay equity claims in private sector organisations that receive government funding to deliver public services (the Funded sector).
Previous Consideration	In December 2019, GOV approved a draft framework for the governance and oversight of pay equity claims in the State sector and authorised the Minister of Finance and Minister of State Services to finalise the framework [GOV-19-MIN-0050].
Summary	<p>There are a number of risks for State sector agencies who provide funding to the Funding sector, as agencies do not have sufficient oversight when pay equity claims are made. Current Funded Sector workforce claims are set out in Appendix 1.</p> <p>The Framework, attached as Appendix 2, will provide a clear and transparent structure that safeguards Funding agencies and ensures Ministerial visibility, and support employers and claimants to get advice and support to work through a pay equity claim.</p>
Regulatory Impact Analysis	Not required.
Baseline Implications	None from this paper.
Legislative Implications	None from this paper.
Timing Issues	None.
Announcement	The Framework will be communicated to all Chief Executives, and the NZCTU will be informed of the Framework.
Proactive Release	This paper will be proactively released, subject to the redaction of references to legal advice, and any bargaining or financially sensitive material.

Consultation Paper prepared by Treasury and SSC. Crown Law, Corrections, MoH, DIA, TPK, MSD, MBIE (Employment), MfW, OT, and Social Wellbeing Agency were consulted.

The Ministers indicate that the Minister for Workplace Relations and Safety, New Zealand First and the Green Party were consulted.

The Minister of Finance and Minister of State Services recommend that the Committee:

- 1 note that in December 2019, GOV approved a draft framework for the governance and oversight of pay equity claims in the State sector and authorised the Minister of Finance and Minister of State Services to finalise the framework [GOV-19-MIN-0050];
- 2 agree that a framework for the oversight and support of pay equity claims in private sector organisations that receive government funding to deliver public services (the Funded sector) establishes an oversight role for the primary Funding Agency or agencies which will provide:
 - 2.1 advice to employers at six significant ‘milestones’ in each pay equity claim process, testing the process that the employer has followed and whether it is in line with the Act and that any outcomes are based on sound evidence and analysis;
 - 2.2 Ministers (and Cabinet, if additional funding is sought) with assurance about the process the employer has followed;
 - 2.3 a mandate for the State Services Commission to provide technical advice and subject matter expertise to State sector agencies providing oversight;
 - 2.4 a mandate for Treasury to provide fiscal oversight and advice;
- 3 agree that the State Service Commission will provide education to Funding agencies providing oversight and support to a pay equity claim;
- 4 note that there are some issues regarding the management, funding and implementation of pay equity settlements in the Funded sector;
- 5 agree to commission the Social Wellbeing Agency to identify the challenges of current funding models across the Funded sector and identify potential sustainable solutions for funding and implementing potential pay equity settlements in the Funded sector.

Rachel Clarke
Committee Secretary

Hard-copy distribution:

Cabinet Government Administration and Expenditure Review Committee
Minister for Workplace Relations and Safety
Minister for Social Development
Minister of Employment



Cabinet

Minute of Decision

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Report of the Cabinet Government Administration and Expenditure Review Committee: Period Ended 31 July 2020

On 3 August 2020, Cabinet made the following decisions on the work of the Cabinet Government Administration and Expenditure Review Committee for the period ended 31 July 2020:

GOV-20-MIN-0033	Framework for the Oversight and Support of Funded Sector Pay Equity Claims Portfolios: Finance / State Services	CONFIRMED
[REDACTED]	Out of Scope [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Michael Webster
Secretary of the Cabinet