

# Guide to delivering pay equity funding for social work through contract variation

## Context

In August 2019, The Public Service Association - Te Pūkenga Here Tikanga Mahi (PSA) raised a pay equity claim in five NGOs for social workers and people doing the same or substantially similar work (the **original claim**). The work assessment for this claim identified four categories of work. These categories are:

- Category 1: registered social workers
- Category 2: registered professionals employed in a social work role
- Category 3: professionals undertaking work substantially similar to social work
- Category 4: registered social workers or other registered professionals leading social work practice

Sex-based undervaluation was identified for the claimant group and the parties agreed a new pay scale to settle the claim and appropriately reflect the level of skills, responsibility effort and experience required for the four different categories of employee (the **original settlement agreement**).

The settlement also identified sex-based disparity in professional support costs and these inequitable terms and conditions of employment were corrected. The claim was settled and ratified by affected employees.

In November 2022 Cabinet agreed to extend the benefits of the pay equity settlement to all social workers and those undertaking substantially similar work in community and iwi organisations (the **pay equity extension**). This means that components of the original settlement agreement that correct sex-based undervaluation are made available to social workers and those undertaking substantially similar work in community and iwi organisations. The components are:

- Introduction of a new step-based pay system, providing annual progression through steps
- Pay correction - translating employee salaries to the appropriate place on the new pay spine (based on years of experience)
- Access to a suite of professional support funding

In February 2023 the Pay Equity Taskforce ran a data collection process to identify workers employed in community and iwi organisations undertaking social work whose roles fit within the 4 categories of work identified in the original claim. The data collection process also identified the government contracts for services, outputs, and outcomes that these workers are employed to service.

In June 2023 Cabinet agreed to appropriate funding of \$435.583 million over four years to 15 government Funding Agencies to affect the new social work pay equity extension (the **Funding**). Cabinet also directed Public Service chief executives to vary or update all current funding contracts as identified in the data collection process which support the employment of social workers and those in social work roles to implement the new pay equity rate, including relevant terms and conditions, as a minimum from 1 July 2023.

For more information on pay equity and the pay equity extension process please see here: [Extension of pay equity settlement - Te Kawa Mataaho Public Service Commission \(ssc.govt.nz\)](#)

## Purpose

This guidance provides agencies with practical information to help meet the requirements of the Cabinet directive [SWC-23-MIN-0063 refers] to vary or update all current funding contracts as identified in the data collection process (designated contracts/funding agreements) to implement the new pay equity rate, including relevant terms and conditions, as a minimum for all workers undertaking social work in the community and iwi sectors from 1 July 2023.

## Designated contracts/funding agreements

In early 2023, The Pay Equity Taskforce at Te Kawa Mataaho led a data collection process (the data collection). The data collection was open from 14 February 2023 to 3 April 2023 and identified contracts and funding agreements that are serviced by social workers or workers undertaking social work eligible for coverage under the pay equity extension.

Contract numbers and/or other identifiers have been provided to agencies along with data regarding the number of full time equivalent (FTE) roles servicing these contracts/agreements that are in scope of the pay equity extension and the level of funding uplift required per contract to deliver the benefits of the pay equity extension to eligible workers.

This guidance should be read in conjunction with the template contract clauses that have been developed to support the implementation of the Cabinet directive by way of contract variation.

## Future contract rates for social work services

Cabinet also agreed [SWC-23-MIN-0063 refers] that Funding Agencies who commission services that employ social workers or other registered professionals undertaking social work (employees in category 1 and 2) will review the funding they provide to ensure providers can maintain pay equity rates for social work in the community and iwi sectors, and that this review should occur:

- a) at the point of renewing/renegotiating contracts;
- b) when commissioning new contracts; or
- c) at least every three years for longer-term existing contracts.

In addition, Cabinet agreed that Funding Agencies who commission services that employ un-registered professionals (category 3 employees) undertaking social work in the community and iwi sectors, review the funding they provide to ensure providers can maintain pay equity rates until November 2024.

## Purpose of this guidance

The following guidance has been developed, in conjunction with template contract clauses, to support the initial implementation of the Cabinet directive for designated contracts. However, the template contract clauses may also be used for new contracts/funding agreements that may be serviced by social workers or workers undertaking social work roles.

## Pay equity rates for social work

Under the Equal Pay Act 1972, parties to the original claim are required to review the settlement at least every three years, to ensure that sex-based undervaluation has not reoccurred.

This means that Oranga Tamariki will support the employers named in the original claim and the union representing the claimant group to undertake research to ensure the rates established in the original settlement are still equitable. If this review uncovers an uplift in rates is required to address sex-based undervaluation that has reoccurred, this information will be published on the [Extension of pay equity settlement - Te Kawa Mataaho Public Service Commission \(ssc.govt.nz\)](#) website.

## Template Contract clauses

Please find the template contract clauses [here](#).

We provide below an explanation of the template contract clauses we've developed to assist agencies with implementing the pay equity extension for designated contracts and to support a consistent approach across agencies.

The template contract clauses set out:

- An explanation of the components of additional funding and their purpose.
- The appropriate application of the additional funding to:

- translate worker salaries from their current position to the appropriate new pay equity rate on the new pay spine;
- maintain step-based pay progression for workers; and
- deliver the professional support allowance.
- A provision to ensure that funding flows down through all subcontracting arrangements where appropriate.
- A mechanism for agencies to obtain assurance on an annual basis from a provider that the new pay equity rates are being paid and workers are receiving step-based salary increases no less than annually.
- A right for agencies to undertake an audit to ensure compliance with the funding requirements.

## [Templates | New Zealand Government Procurement](#)

### How to use the template contract clauses

The template contract clauses have been designed to be incorporated in existing agreements/contracts by way of contract variation. Their addition does not alter other terms and conditions of service/output/outcome delivery set out in the existing agreements/contracts but provide an additional payment for the purpose of delivering pay equity for social workers and employees undertaking social work.

Please note the template contract clauses are drafted in the context of the New Zealand Government Procurement's social services Outcome Agreement (Bilateral) and therefore reference that agreement throughout. If an agency uses a different form of agreement or contract, it is recommended that any reference to Outcome Agreement is replaced with a suitable alternative defined term.

The template contract clauses may be used to vary an agency's designated contract/funding agreement and give effect to Cabinet's decisions [SWC-23-MIN-0063 refers].

However an agency chooses to vary or update its designated contracts/funding agreements to give effect to Cabinet's decisions [SWC-23-MIN-0063 refers], those contracts/funding agreements must include the following elements:

- a) Additional funding terms must be effective on 1 July 2023, ensuring that, funding to workers will reflect (where applicable) an additional sum of monies calculated from 1 July 2023 to the point at which the first payment for salary correction is made.

This means that no matter when the new contract clauses are incorporated or when the contract variation is signed, the new funding is effective from 1 July 2023 and states that this funding should also be passed through to workers as effective from this date.

This provides workers with assurance that although funding may reach employers at different times and it may also take time for funding to be applied to updating employment agreements, they will not be financially disadvantaged when compared to other workers for receive payment more quickly.

- b) Defines the additional funding, appropriate application of that funding and ensures:
  - i. workers identified in the data collection that service the contract/agreement and are eligible for the pay equity extension receive the pay correction and additional professional support allowances; and
  - ii. the identified workers progress through salary steps set out in the pay spine no less than annually.
- c) Includes the obligation for Providers to supply annual written confirmation that they have applied the additional funding to paying salaries at the new rates and progressing workers through the pay steps.
- d) Includes the right to audit for compliance with the appropriate application of the funding.

### The Template Contract Clauses

Here is a high-level overview of each of the template Social Work Pay Equity Extension Funding contract clauses:

- **Clause [X].1 (Definitions):** sets out the relevant definitions used throughout the new Social Work Pay Equity Extension Funding provisions.
- **Clause [X].2 (Use of Funding):** sets out the central obligation of the Provider to ensure all relevant employees undertaking social work are paid at a rate no less than the social work pay equity extension rate applicable at the time, are being progressed through the annual pay steps as defined in the pay spine and have access to relevant professional support.

Breach of this provision is expressly identified as being a material breach of the contract/agreement, so that the agency has the option to terminate the contract/agreement for non-compliance by the Provider.

- **Clause [X].3 (Full Time Equivalent Professional Support Allowance):** defines the professional support component of the additional funding. Different allowances are applicable to different social work categories. A table is included to help Providers understand how the professional component of the additional funding needs to be applied.
- **Clause [X].4 (Professional Support Allowance):** sets out the amount of funding for professional support included in the total additional funding to be paid by the agency. Professional support funding is applied on an FTE basis according to the social work category of each worker.  
This provision also helps Providers understand what amount of funding from within the total additional funding needs to be applied to each Specified Role.
- **Clause [X].5 (Annual Additional Payment):** defines the total annual additional payment amount (the new funding) and details the components of that funding each year for the contract term.
- **Clause [X].6 (Payment schedule):** is a place holder for agencies to insert a payment schedule for the annual additional payment. Each agency may choose payment intervals/a payment schedule that best aligns with its existing contract/agreement payment schedule or as may be negotiated with a Provider.
- **Clause [X].7 (Subcontractors):** sets terms relating to a Provider's payment of a portion of the funding to its subcontracted entities.

In some instances, the data collection identified workers in scope of the extension whose roles are funded through subcontracting arrangements. Where possible, the data collection process gathered information about the Provider who held the head agreement with a government funding agency. In these situations, the total additional funding for the subcontractor is included in the funding for the head contract holder and information about the subcontractor and the workers in scope of the extension has been passed on to agencies.

This information should in turn be supplied to the head contract holder so they are able to pass through the appropriate amount of funding to the subcontractor/s to give effect to the pay equity extension for their workers.

This clause has been drafted to ensure any funding that includes funding for subcontractors is appropriately passed through. It also covers situations where subcontracted entities were not specifically identified in the data collection process and may have been rolled into a head contract holder's data.

- **Clause [X].8 (Annual review):** sets out the Provider's obligation to undertake an annual remuneration review to ensure workers covered by the extension are being progressed through the step-based pay system.
- **Clause [X].9 (Annual Additional Payment confirmation):** sets out the Provider's obligation to supply annual written confirmation of compliance with all of the provisions of the new Social Work Pay Equity

Extension Funding clause to the agency. An agency can ask the Provider to supply sufficient evidence in support of such written confirmation also.

- **Clause [X].10 (Funding audit):** sets out the right for an agency (or its auditors) to audit the Provider's compliance with the requirements of the Social Work Pay Equity Extension Funding clause.

The right to audit for compliance regarding the additional pay equity funding is a required assurance mechanism to ensure additional pay equity funding is being appropriately applied. Agencies may choose not to include an additional audit clause if the framework terms and conditions in the base contract provides sufficient assurance that the agency has the right to audit for compliance with the new the Social Work Pay Equity Extension Funding clause.

- **Clause [X].11 (Recovery, reduction or suspension of Annual Additional Payment amounts):** sets out the right for agencies to recover, reduce or suspend the funding and the situations in which this right may be enforced.