



**PSA and E tū  
submission  
to the  
Health Select Committee  
on  
Support Workers (Pay Equity)  
Settlements Amendment Bill**

**15 July 2019**

## **Introduction**

E tū and the New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) are the two unions who represent workers in the disability support and mental health community support sectors. Both unions also represent workers in the home support sector. E tū, along with the NZ Nurses Organisation, represents workers in residential aged care.

The above unions were all parties to the Care and Support Workers Pay Equity Settlement, which was legislated by way of the Care and Support Workers Pay Equity Settlement Act 2017.

The PSA and E tū were parties to the subsequent settlement for vocational disability support workers and more recently to a settlement for mental health and addictions support workers.

These settlements were concluded after nearly 30 years of inquiries and reports on the low wage levels in these sectors, which are predominantly staffed by women.

The PSA and E tū are pleased with the settlement negotiation processes and the respective way they were carried out and we both support the outcomes, which include a big step in addressing historic gender-based discrimination in these sectors.

The PSA and E tū support the mental health and addictions settlement and the settlement for vocational disability support workers being incorporated into the legislation by amending the Care and Support Workers Pay Equity Settlement Act 2017.

This achieves a long-sought after aim of the unions and the workforce to set up a system of recognised industry training and qualifications for over 65,000 workers within a pay equity context that employers are legislatively required to support.

## **Comments on the Bill**

E tū and the PSA support this Bill but have two concerns that we wish the Select Committee to address.

### *Footnote 50 of the Mental Health and Addictions Settlement*

The first relates to the intention of the parties to translate the Mental Health and Addiction Support Workers (Pay Equity) Settlement Agreement 2018 into legislation. This intention is specifically referred to in the "Purpose" clause of the signed settlement agreement.

The Bill, as it is currently written, does not include individual persons who receive Crown funding to engage a worker. These Individualised/personalised funding arrangements are currently gaining more traction not just in the mental health and addictions sector, but also in disability support and possibly (in the future) in home support.

Individualised/personalised funding is where a person qualifying for services or their family member receives funding from a Crown-funder and then engages a support worker/s to carry out the services required. The person receiving the funding can both be an employer of the support worker and a recipient of the services.

To ensure pay equity for workers working under these new models of funding, the parties to the Mental Health and Addiction Support Workers (Pay Equity) Settlement Agreement 2018 agreed at footnote 50 that the definition of “Crown Funded Employer” would include individualised/personalised funding.

The footnote is not an incidental addition. The parties to the settlement agreement also agreed in clause 28 that:

*“Footnotes are part of the settlement agreement and are intended to assist in the explanation of a specific matter in the text.”*

This footnote has not been given effect in this Bill. If this is not remedied then larger and larger numbers of support workers will slip outside this legislation and the right to pay equity.

The unions propose that the definition of “employer” in section 5 be amended to specifically include persons who receive Crown funding to engage a support worker for themselves or a family member.

This would require (b) under this definition to be rewritten as it specifically excludes individualised/personalised funding arrangements in its wider purpose of excluding family carers from these provisions.

#### *ACC Coverage*

A problem has arisen with the very narrow definition in both the 2017 Act, the Mental Health and Addictions Settlement Agreement 2018 and this Bill in relation to the narrow definition of ACC funding agreements to named services, in particular:

- Home and Community Support Services
- Individual Residential Support Services
- Residential Support Services

Last year we queried with ACC the non-payment of the pay equity rates to a support worker whose employer said he was not covered by the 2017 Act. The employer argued that the support worker was employed under a “Supported Living” funding agreement and even though he was carrying out the services defined in the Act, the name of the service meant that he was excluded from the entitlement to pay equity rates.

ACC responded to the unions by saying that even though supported living was not mentioned in the Act definition they had decided to fund at the pay equity rate anyway. They also said that Supported Living, and a number of disability support services offered by ACC, were soon to be replaced by a new combined service called "Living My Life".

The unions appreciate ACC's commonsense approach to rectifying these problems of coverage as they occur. However, it is very problematic writing into legislation a coverage that only applies to specific named funding contracts, when those names regularly change at the whim of the funder.

The PSA and E tū consider a more general approach to funding agreements, as applies to the other Crown funders, should also apply to ACC funding arrangements. We propose relying on the definition of "services" in the Act to form the parameters as to what is covered to ensure workers performing this work do not miss out on pay equity simply because of the name of the funding agreement.

The PSA and E tū would like to appear before the Select Committee.



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