



Finance, Procurement and Supply Chain Programme

**Submission to Health Benefits Limited Te Ara Maia
by the Public Service Association: Te Pūkenga Here
Tikanga Mahi**



For a better working life

New Zealand Public Service Association
Te Pūkenga Here Tikanga Mahi

Finance, Procurement and Supply Chain Programme

Submission to Health Benefits Limited Te Ara Maia by the Public Service Association Te Pūkenga Here Tikanga Mahi

31 October 2013

Introduction

1. The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 58,000 members. We are a democratic organisation representing members in the public service, the wider state sector (the district health boards, crown research institutes and other crown entities, state owned enterprises), local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.
2. PSA members, and in particular our clerical and administrative members, are among those most affected by the proposal. This submission comments on the proposal at the whole of programme level and PSA organisers will be engaging directly with DHBs locally. Our comment focuses largely on employment issues and in particular the change management and transfer processes proposed.
3. We are aware that the New Zealand Council of Trade Unions Te Kauae Kaimahi (the CTU) has submitted strongly and comprehensively on this proposal and we support their submission, each of the recommendations they have made and their requests for further information. This PSA submission sits alongside and should be read in tandem with the CTU submission.

Employment issues – the change management and transfer process

4. There are a number of matters relating to the change management and transfer process that the PSA would expect to be addressed.
 - i. The employment relationships in the framework outlined in the proposal are complex. The PSA shares the CTU's concern that it is not yet clear who all employers will be under the new structure. This information is of fundamental importance for those affected. In our view it is both inappropriate and undesirable for staff to be notified that they are affected by the change before it is confirmed who their new employer will be. It is the PSA's strong view that any new employer must be subject to good employer obligations.
 - ii. We also have concerns about the timing of the issue of notice to staff that they are affected by the change. Creating uncertainty and insecurity over the holiday period, when many will not be able to speak directly to their managers, is unnecessary. *The PSA requests that the application of "EPP checkpoints" is rescheduled until at least the end of January 2014 and until after it is confirmed who each of the employers will be in the new structure.*

- iii. The PSA has a strong expectation that minimising job losses will be a priority for DHBs and that attrition and redeployment will be used to manage this.
 - iv. Costs for those who relocate should be adequately covered and we support the CTU's recommendation that further analysis be undertaken on developing a relocation package that will help retain the skills of people in jobs. *It is the PSA's view that the extent of the relocation support package should be agreed by the relevant employer and unions.*
 - v. In the PSA's considerable experience of change management processes, up to date and accurate job descriptions are central to the success of both the job matching and salary setting process. Dispute is likely to arise where individuals believe that a good job match has not been made because their existing job description was out of date or a new role has not been clearly described. Those affected by the change process should be provided with copies of their current job description and of any new roles. *The PSA notes that the CTU has requested a discussion of the undertaken for developing new job descriptions within HBL and we would also like to be involved in this discussion.*
 - vi. Our submission on the Indicative Case for Change noted our concern about whether the assumptions about the costs and likely benefits of this initiative will stand up over time. It is important that the reporting go savings is transparent and reflects actual savings. It is also important that any such savings are invested back in frontline health delivery rather than being lost from the health system.
5. The PSA appreciates HBL's positive approach to union involvement to date and we look forward to a constructive response to the issues raised in this submission.

For further information about this submission contact

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Summary of recommendations

The PSA supports each of the recommendations made in the submission of the New Zealand Council of Trade Unions Te Kauai Kaimahi. In addition, the PSA makes the following recommendations:

Bill ref.	Submission para. ref.	Recommendation
General	17	The PSA calls for the Government to delay progress of this Bill and any further changes in the rules around collective bargaining until it has put in place adequately funded and robust arrangements to enable the gathering and analysis of information regarding collective bargaining.
General	10	That the committee note that OECD measures of workforce flexibility already place New Zealand among the four most flexible countries.
General	11	That the committee note that economic analysis from the International Labour Organisation shows that high flexibility (and low protection) is not a determinant of higher GDP or employment rate.
General	21	The PSA calls on the Government to increase the effectiveness of New Zealand's employment relations framework and its contribution to the economy by increasing its investment in practical and tailored support services for employers and unions around collective bargaining and in particular through Mediation Services and facilitation.
General	26	That the committee note that the ILO has stated that New Zealand legislation must not merely allow collective bargaining but rather should promote and encourage collective bargaining.
cl.12	42	That the Authority should have to consider whether the applicant party has complied with the duty of good faith in the Act before declaring that bargaining is over and if they have not, the Authority should have to make a declaration that the bargaining is over.
cl.12	43	That the tests for facilitation should be reduced and that facilitation should have at least been attempted before any declaration is given by the Authority that bargaining is concluded.
General	57	That the committee note that the Ministry of Business, Innovation and Employment's recently released annual report on work stoppages reports only 10 work stoppages in 2012 – 2013.
cl.20	96, 98	That, to support the Government's aims to truly extend access to flexible working, additional amendments are proposed to address these issues including requiring an employer to take into account whether refusing a request for flexible work will disadvantage an employee taking into account their personal characteristics, introducing an ability to challenge the grounds for an employer's refusal in the Authority and Court, and introducing a stronger right to take paid or unpaid leave around school holidays, and stronger rights for people to gradually reduce hours to enable older workers to stay on.
cl.20	97	We urge the New Zealand government to require State services agencies to be exemplars in providing access to flexible working arrangements.

Summary of New Zealand's international commitments regarding collective bargaining

New Zealand has ratified several international treaties mandating work rights for its citizens.

- The International Covenant on Civil and Political Rights¹ protects the right to freedom of association, which expressly includes the right to form and join trade unions for the protection of workers' interests.²
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)³ protects the rights to work,⁴ and to just and favourable conditions of work.⁵ This treaty also requires the New Zealand government to ensure the right of workers to form trade unions, join the union of his or her choice, to promote and protect its economic and social interests. Moreover, it protects the right to strike.⁶
- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)⁷ protects the equal right of women to work, and to decent conditions of work.⁸ The Concluding Observations of the Committee on the Elimination of all forms of Discrimination Against Women, which monitors New Zealand's compliance with this treaty, has expressed its concern about the gendered impact of the reform of collective bargaining, recommending that New Zealand ensure that it does not negatively affect women's employment and trade union rights.⁹
- The Convention on the Rights of Persons with Disabilities (CRPD)¹⁰ protects the equal right of disabled people to work, and expressly includes the ability to exercise labour and trade union rights on an equal basis with others.¹¹
- The International Labour Organisation Convention 98 on the Right to Organise and Collective Bargaining (ILO C98)¹² regulates interaction between workers, employers and their organisations. It protects workers against acts of anti union discrimination, against acts of interference, and requires New Zealand to establish measures allowing the right to organize, including machinery for voluntary negotiation between employers or employers' organizations and workers' organisations.

¹ New Zealand ratified the ICCPR on 28 December 1978.

² Article 22, ICCPR.

³ New Zealand ratified the ICESCR on 28 December 1978.

⁴ Article 6, ICESCR.

⁵ Article 7, ICESCR.

⁶ Article 8, ICESCR.

⁷ New Zealand ratified CEDAW on 10 January 1985.

⁸ Article 11 of CEDAW.

⁹ Committee on the Elimination of Discrimination against women, 6 August 2012, *Concluding observations of the Committee on the Elimination of Discrimination against Women – New Zealand*, CEDAW/C/NZL/CO/7, paragraph 33(e).

¹⁰ New Zealand ratified CRPD on 25 September 2008.

¹¹ Article 27(1)(c) of the CRPD.

¹² New Zealand ratified ILO C 98 on 9 June 2003.