

## Pay Equity Claim

1. This document raises a pay equity claim under the Equal Pay Act 1972.
2. The claim is raised by:  
New Zealand Public Service Association Te Pūkenga Here Tangata Mahi Incorporated (PSA) (registered office - 5th Floor, PSA House, 11 Aurora Terrace, Wellington).  
New Zealand Nurses Organisation (registered office 57 Willis Street Wellington 6011  
E tū Incorporated (registered office 7 McGregor Street Rongotai Wellington)  
National Union of Public Employees (registered office 68 Langdons Road, Papanui, Christchurch, 8011).
3. The employers with whom the claim is raised are listed in **Appendix A**.
4. A notice to each of the employers of the employer's obligations under section 13K of the Act to enter a multi-employer pay equity process agreement with the other employers with whom the claim is raised is attached as **Appendix B**.
5. The work performed by the employees to be covered by the claim is the providing of "support services" as defined in s5 of the Support Workers (Pay Equity) Settlements Act 2017.
6. The information relied upon in support of the elements required for an arguable pay equity claim under s13F of the Act is set out in **Appendix C**.
7. The work performed by the employees covered by the claim is the same or substantially similar in that all perform care and support services and/or mental health and addiction support services as defined in s5 of the Support Workers (Pay Equity) Settlements Act 2017.

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Date on which claim is made: 20<sup>th</sup> November 2023

## Appendix A

ABI Rehabilitation New Zealand Limited  
Able Charitable Trust (Southern Family Support)  
Access Community Health Limited  
Age Care Central Limited  
Ali's Home Healthcare Limited  
Amberwood Care Limited  
Ambury Park Centre Incorporated  
ARIA BAY RETIREMENT VILLAGE LIMITED  
ARIA PARK RETIREMENT VILLAGE LIMITED  
ARVIDA GROUP LIMITED  
ASHWOOD PARK RETIREMENT VILLAGE (2012) LIMITED  
ASPIRE - COMMUNITY SUPPORT  
Ativas Limited  
AVONLEA CHARITABLE TRUST  
Bainfield Park Residential Care Limited  
Barnardos New Zealand Incorporated  
Bethesda Village Limited/Bethesda Care Limited  
Brackenridge services Limited  
Birchleigh Management Limited  
Care on Call Limited  
Christchurch Methodist Central Mission  
CHT Healthcare Trust  
CLARE HOUSE RETIREMENT VILLAGE  
CLAUD SWITZER MEMORIAL TRUST BOARD  
COMMUNITY CARE TRUST  
Comcare Charitable Trust  
Community Connections Supported Living Charitable Trust  
Community Living Trust

ConneXu 2020 Trust  
Corstorphine Baptist Community Trust  
CRC Limited  
CREATIVE ABILITIES AND ASSOCIATES LIMITED  
Custom Care Nursing Limited  
DELTA COMMUNITY SUPPORT TRUST  
DEMENTIA CARE NZ LIMITED  
DISABILITIES RESOURCE CENTRE TRUST  
DIXON HOUSE TRUST BOARD (INC)  
Donaldson Residential Trust  
DRUG INJECTING SERVICES IN CANTERBURY TRUST  
Dutch Village Trust  
Elsdon Enterprises Limited  
EMBER SERVICES LIMITED  
Enrich+ Trust  
Equip  
EVOLUTION HEALTHCARE NZ LIMITED  
FRANKTON PARK LIMITED  
GLENWOOD HOME  
Goodwood Park Health Limited  
GRACEDALE CARE LIMITED  
GREENVALLEY CARE LIMITED  
GUYMARK LIMITED  
Hawksbury Community Living Trust  
HEALTHPOINT LIMITED  
Healthvision (New Zealand) Limited  
Heritage Lifecare (BPA) Limited  
Heritage Lifecare (GHG) Limited  
Heritage Lifecare Limited  
HOHEPA LIMITED  
HOHEPA RESIDENTIAL LIMITED  
HOKIANGA HEALTH ENTERPRISE TRUST  
HOME OF ST BARNABAS TRUST

HOME SUPPORT NORTH CHARITABLE TRUST  
Horizons Day Options Trust  
Howick Baptist Healthcare Limited  
IDEA SERVICES LIMITED  
ISS FACILITY SERVICES LIMITED  
KĀHUI TŪ KAHA LIMITED  
KAURI LAND SKILLS TRUST BOARD  
Knox Home Trust  
LAVENDER BLUE NURSING AND HOME CARE AGENCY LIMITED  
Leslie Groves Society of St John's (Roslyn)  
LIFE RECRUITMENT LIMITED  
LITTLE SISTERS OF THE POOR AGED CARE NEW ZEALAND LIMITED  
MARY DOYLE HEALTHCARE LIMITED  
MARY DOYLE TRUST LIFECARE COMPLEX LIMITED  
MASH Trust  
MCGLYNN HOMES LIMITED  
MCKENZIE HEALTHCARE HOLDINGS LIMITED/MCKENZIE LIFESTYLE VILLAGE  
METLIFECARE LIMITED  
Metlifecare Palmerston North Limited  
Metlifecare Retirement Villages Limited  
Mokihi Hauora  
MOLLY RYAN RETIREMENT VILLAGE (2007) LIMITED  
NAZARETH CARE CHARITABLE TRUST/NAZARETH COMMUNITY OF CARE CHRISTCHURCH  
New Progress Enterprises  
NEW ZEALAND AGED CARE SERVICES LIMITED  
Ngati Kahu Social and Health Services Incorporated  
Ngati Porou Hauora Incorporated  
Ngati Ranginui Home and Community Support Services Company Limited  
Ngati Ranginui Iwi Society Incorporated  
NGATIHINE HEALTH TRUST BOARD  
Nova Trust Board  
Nurse Maude Association  
Oceania Care Company Limited

Odyssey House Trust  
Odyssey House Trust Christchurch  
Oxford Court Limited  
PACT GROUP LIMITED  
Papatoetoe Healthcare Limited  
PHANTOM 2021 LIMITED  
PRESBYTERIAN SUPPORT (NORTHERN)  
PRESBYTERIAN SUPPORT EAST COAST  
PRESBYTERIAN SUPPORT OTAGO INCORPORATED  
PRESBYTERIAN SUPPORT SERVICES (SOUTH CANTERBURY) INCORPORATED  
PRESBYTERIAN SUPPORT SOUTHLAND  
Problem Gambling Foundation of New Zealand  
Pukeko Blue Limited  
Purapura Whetu Trust  
RADIUS RESIDENTIAL CARE LIMITED  
RANFURLY Village Hospita llimitedLIMITED  
RANGIURA TRUST BOARD/QRANGIURA RETIREMENT VILLAGE  
RESCARE LIMITED  
RIVERLEIGH CARE LIMITED  
ROYAL DISTRICT NURSING SERVICE NEW ZEALAND LIMITED  
SELWYN VILLAGE HEALTHCARE LIMITED  
SILC LIMITED  
Solway Vision Limited  
SOUTH WELLINGTON LIFECARE LIMITED  
ST ALLISA REST HOME (2010) LIMITED  
St Andrews Village Trust  
ST JOHN OF GOD HAUORA TRUST  
STAND CHILDREN'S SERVICES TU MAIA WHANAU  
STEPPING STONE TRUST  
SUMMERSET CARE LIMITED  
TAINUI HOME TRUST BOARD  
TAUMARUNUI COMMUNITY KOKIRI TRUST  
TE ANUA NUA TRUST

TE AWHI WHANAU CHARITABLE TRUST  
Te Kakakura Trust  
Te Kaupapa Mahitahi Hauora-Papa o te Raki Trust Board  
TE KOROWAI HAUORA O HAURAKI INCORPORATED  
TE KOTUKU KI TE RANGI CHARITABLE TRUST  
TE ORANGANUI TRUST  
TE PUNA ORA O MATAATUA CHARITABLE TRUST  
TE RUNANGA O KIRIKIROA CHARITABLE TRUST  
TE TAIWHENUA O HERETAUNGA TRUST  
TE TUITUIA TRUST BOARD  
The Agape Homes Trust  
THE CHRIS RUTH CENTRE TRUST  
THE DINGWALL TRUST  
The Florence Nightingale Agency Limited  
THE FONO TRUST  
The Hillview Trust Incorporated  
THE LIFEWISE TRUST  
THE MASONIC VILLAGES TRUST  
THE MOUNT CARGILL TRUST  
THE PAULOWNIA TRUST  
THE RYDER-CHESHIRE FOUNDATION MANAWATU  
THE SALVATION ARMY NEW ZEALAND TRUST  
THE SOUTH WAIKATO ACHIEVEMENT TRUST  
THE ULTIMATE CARE GROUP LIMITED  
THE WOOD RETIREMENT VILLAGE (2007) LIMITED  
Thornton Park Retirement Village Limited  
TOTARA FARM TRUST  
Trinity Home and Hospital Limited  
VAKA TAUTUA LIMITED  
VILLAGE AT THE PARK CARE LIMITED  
VISIONS OF A HELPING HAND CHARITABLE TRUST  
WAIHEKE ISLAND SUPPORTED HOMES TRUST

WESLEY COMMUNITY PROJECT TRUST

WEST AUCKLAND LIVING SKILLS HOMES TRUST BOARD

Whaiora Homecare Services Incorporated

WHAKARONGORAU AOTEAROA NEW ZEALAND TELEHEALTH SERVICES (GP)

LIMITED

WHAKATOHEA HEALTH AND SOCIAL SERVICES CHARITABLE TRUST

WHATEVER IT TAKES TRUST INCORPORATED

WINDSOR LIMITED

YOUTH HORIZONS TRUST | KIA PUAWAI



## **Appendix B**

### **Employer's obligations under section 13K of the Act to enter a multi-employer pay equity process agreement with the other employers with whom the claim is raised.**

Each employer who receives a pay equity claim raised by a union or unions with multiple employers must enter into a single multi-employer pay equity process agreement for the purposes of deciding whether the claim is arguable and for the purposes of the pay equity bargaining process.

The multi-employer pay equity process agreement must set out—

- a) whether there will be 1 or more representatives for the employers and who that representative or those representatives will be; and
- b) how decisions relating to the claim will be made.

If the employers cannot agree on a multi-employer pay equity process agreement, any of them may apply to the Authority for a direction.

## Appendix C

### Equal Pay Act 2020 13F Meaning of Arguable

**The Unions rely on the following information in support of the elements required for an arguable equity claim (EPA section 13f)**

**13F (1) (a) The work is predominantly performed by female employees.**

OECD data confirms that long term care work is female dominated around the world<sup>1</sup>.

The vast majority of care and support workers in New Zealand are women<sup>2</sup>. Ravenswood says the home support and aged care residential workforce is 94% female, disability support is 84% female and mental health and addictions is 76% female.<sup>3</sup>

**13F(1)(b) It is arguable the work is currently undervalued or has been historically undervalued.**

It is arguable that the work of care and support workers is currently and has been historically undervalued based on consideration of the following relevant factors that may be considered under section 13F(3)

**13(f)(3)(a) The origins and history of the work, including the manner in which wages have been set**

The work, no matter in which sub-sector, has come out of women's role in supporting the family's sick and elderly, or those with disabilities in the home. In the early part of the 20<sup>th</sup> century churches and other religious groups started setting up residences, which housed those who had no support in their homes. Other groups, such as the Women's Division of Federated Farmers started providing home support to sick or elderly people living in rural areas. People with disabilities and mental health issues were normally placed in a hospital, sometimes called mental asylums. Following the election of the First Labour Government in 1935 and the passing of the Social Security Act a greater investment was made in public hospitals and more older people were accommodated there. However, the not-for-profit aged care residential sector continued to grow with a 50% government subsidy paid by Government for the capital costs of setting up a facility accompanied by a standing subsidy. For-profit organisations had to provide their own facilities but negotiated a price with the Department of Health for the running of the facilities. None of these organisations or any of the sub-sectors were covered by the National Award System and unless they were working in a public hospital were unionised and simply accepted the wage they received.

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<sup>1</sup> <https://www.oecd.org/gender/data/women-are-well-represented-in-health-and-long-term-care-professions-but-often-in-jobs-with-poor-working-conditions.htm>

<sup>2</sup> <https://thehub.swa.govt.nz/assets/documents/HRC-12-Caring%20Counts%20Tautiaki%20tika.pdf>

<sup>3</sup> NZ Care Workforce Survey 2019 Report, Ravenswood K, Douglas J and Ewertowska T.

There was an attempt in 1968 by the Inspector of Awards in the Arbitration Court to get aged residential care work recognised under the Private Hotel Employees Award or as an alternative the NZ Private Hospital Domestic Workers Award in order for the enforcement of minimum wage rates for the Canterbury-based Cedar Nursing Home. The Cedar Nursing Home accommodated up to about 20 elderly residents, one of whom was paralysed and the others need help to get in and out of baths, seen to bed at night and assisted during the night by an on-call worker if required. The Court decided that this rest home was not a private hotel because the residents were of “a different kind and character” from those normally accommodated in a private hotel and it was not a private hospital because it was not registered under the Hospitals Act 1957 and did not provide medical care. Cedar Nursing Home was also registered under the Old Peoples’ Homes Regulations 1965, which was further evidence, according to the court, that it was not a hospital.

The Court knew though that the issue of where rest homes sat in the award system would not go away and said that if there was to be a change to the Private Hotels Award or the Private Hospitals Award to include rest homes then this should be done by clearly defining this group in the coverage and citing an employer representative of the group affected so that they could be heard or represented at the Conciliation Council proceedings. Five years after this decision the union achieved the first award in the aged care sector with the registration of the Canterbury Rest Homes’ Employees Award dated 3 May 1973. The 1973 award was limited in scope to the Canterbury industrial district. The award was promulgated by the Arbitration Court after the hearing of evidence and argument. The 1973 award contains a memorandum, which is in effect a judgment of the Arbitration Court. It deals with an application by numerous employer parties (essentially the religious and welfare homes) “to be excluded from the provisions of the award”.<sup>4</sup> This was opposed by the union and the other employers. His Honour Judge Blair outlined the argument for the religious and welfare homes in detail, who argued that the relevant workers were mainly “married women” who saw the work “primarily as a contribution to a worthy cause”. The Court received a letter from one of the women employed at Lister House stating she was “completely satisfied” with her current situation.

The Court rejected the arguments raised and emphasised that all workers were entitled to the minimum conditions of the award. The arguments run by the charity employers are very similar to those referred to in this Court’s decision of 22 August 2013. The union subsequently sought and obtained the award (excluding the Canterbury Industrial District) this award absorbed the Canterbury Industrial District Award, forming the first national award.

Apart from a national award achieved by the Early Childhood Workers Union residential aged care workers were the last to achieve an award before they were abolished in 1991. There was no award for home support workers, nor disability support workers nor community mental health and addictions workers.

**13F(3)(b) any social, cultural, or historical factors and 13F (3)(c) characterisation of the work as Women’s work**

Women’s work refers to work traditionally and historically undertaken by women, this tends to focus around the traditional role of the wife and mother, including caring for the home and family. Women’s work extends beyond the home and often refers to professions that extend the work, particularly of caring work, into the paid work force.

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<sup>4</sup> page 2819.

Care and support workers take on the role that has long been considered that of women, caring for the vulnerable, connecting people with the community, allowing people to live with dignity, and physically or emotionally supporting those most in need of ongoing help.

**13F(3)(d) That the nature of the work requires an employee to use skills or qualities that have been both generally associated with women and regarded as not requiring monetary compensation**

In order to fulfil the core purpose of the care and support workers' role use skills and responsibilities that have generally been associated with women, these skills and responsibilities have historically been undervalued and regarded as natural to women and so not deserving of monetary compensation. These skills include but are not limited to:

It is widely accepted by both funders and employers that care and support work requires the following skills (the majority of which are generally associated with caring, with empathy, and with women):

- Organisational skills.
- Social skills
- Emotional skills.
- Physical ability including dexterity and stamina.
- Caring skills.
- Communication skills.
- Skills required to deal with the issues of illness and death.
- The skills necessary to deal with agencies, professionals, and medical providers.
- Cultural skills.
- Sensitivity.
- Commitment.
- Compassion.
- Skills required to deal with the complex psychological, psychosocial, medical, personal, family, and other circumstances that affect residents/clients.
- Comforting skills.
- The skills required to deal with grief.

- The skills required to support those residents who feel loneliness, isolation and despair.

It is also widely accepted by both funders and employers that care and support work imposes the following responsibilities (the majority of which are generally associated with caring, with empathy, and with women):

- Responsibility for the well-being of vulnerable human beings.
- Responsibility for the support of such persons including medical and emotional care.
- Responsibility for safety of the residents.
- Compliance with regulations and the requirements of residents/consumer rights.

**13F(3)(e) Any sex based systemic undervaluation of the work as a result of any of the following factors**

- **A dominant source of funding across the relevant market, industry, sector or occupation**  
These workers are almost totally funded by the Crown, predominantly through Vote Health but also from other entities of the state.
- **A lack of effective bargaining in the relevant market, industry, sector or occupation**  
There is a lack of real effective bargaining in this sector because the monopsony funder sets the minimum terms in the Support Workers Pay Equity Settlements Act 2017 and the Crown funding ensures that it is impossible to bargaining anything much beyond this.

It must be noted that as care work, the industrial landscape is complex. Care and support workers are dedicated to and invested in the wellbeing of the people they work with.

Traditional actions such as industrial action in any form are weighed by workers against the impact on vulnerable people. Even in the face of personal hardship, care workers will often prioritise care over their individual benefit.

- **Occupational segregation or segmentation in respect of the work**
- The work of care and support workers is predominantly performed by women workers, almost totally in the aged care and home support areas with rates above 70% in disability support and mental health/addictions.
- **The failure by the parties to properly access or consider the remuneration that should have been paid to properly account for the nature of the work, the levels of responsibility associated with the work, the conditions under which the work is performed, and the degree of effort required to perform the work**

The work requires complex skills and significant responsibility, but it also involves conditions which are often onerous and/or demanding and/or difficult in the following respects:

- The work is difficult and exhausting.

- The hours are often unsociable involving nights and/or weekends.
- There is exposure to infection.
- Heavy work is often required.
- The nature of the work causes physical degradation over time.
- The work is emotionally demanding and draining.
- The work is stressful.
- The work requires dealing with challenging behaviours including sexual behaviours and/or aggression.
- The providing of personal cares is difficult work.

Care and support work requires significant degrees of effort, including:

- The work involves extensive, intensive and often continuous physical, mental and emotional effort.
- The work requires high levels of often continuous focus and concentration.
- There work requires constant and continuous attention to achieve high standards of care for residents/clients.
- The work is complex, demanding and physically exhausting.

Due to their total dependence on state agencies for funding, the focus of the employer has ultimately been on limiting cost, not appropriate recognition of the nature of the work, conditions, responsibilities or degrees of effort described above, nor on a proper assessment of the remuneration that should be paid to recognise the value of the work undertaken by care and support workers.