

## **AGREEMENT REGARDING THE PROCESS TO SETTLE THE TEACHER AIDE PAY EQUITY CLAIM**

**2 December 2019**

### **Background**

Over the past twenty four months the New Zealand Educational Institute Te Riu Roa (NZEI Te Riu Roa), the Ministry of Education (Ministry), and New Zealand School Trustees Association (NZSTA) have investigated the teacher aide pay equity claim using a process which complies with the Principles for Pay Equity reached by the Reconvened Joint Working Group and the Terms of Reference on Addressing Identified Pay Equity Claims in the State Sector (agreed by the State Services Commission (SSC) and the New Zealand Council of Trade Unions (CTU)).

The process has been extensive and the parties have jointly expended considerable effort to identify the work that teacher aides do, find suitable comparators from male dominated workforces and identify their work, assess the work of both using a jointly developed equitable work assessment tool and thereby the degree by which teacher aides' work has been undervalued due to their gender.

Both NZEI Te Riu Roa and the Ministry share a commitment to the settlement of the Teacher Aide Pay Equity Claim, and want to overcome the barriers to doing so as quickly and effectively as possible using a problem-solving approach to the issues.

NZEI Te Riu Roa and the Ministry acknowledge that while each party brings their own context to the negotiations, there is a shared intent to reach resolution using constructive and efficient efforts and a commitment to the principles of good faith.

There is agreement that, for many issues, it will take some time to fully identify and implement agreed solutions. However, these negotiations are an opportunity to take steps towards resolving them. It is recognised that to gain the confidence and support of teacher aides, any steps agreed will require a strong element of transparency, which may be achieved either in the context of pay equity bargaining or via other agreed processes (e.g. the Accord).

### **Historical Context**

The teacher aide occupation was introduced to schools in the mid-twentieth century. Its initial purpose was to assist teachers in basic classroom tasks and, with school inspector approval, to assist with basic teaching tasks.

The teacher aide workforce has always been female dominated. There is a historical record of this going back to the 1960s. This is arguably affected by labour market segmentation, with consequent ease of recruitment and no difficulties with retention.

In the 1970s, teacher aides became responsible for some of the support provided to an increasing number of children with special educational needs attending mainstream school, which made the work more complex for those teacher aides.

Caring for children was historically seen as a typically female activity, not requiring much in the way of acknowledgment, training, or remuneration. This included the belief that caring for children came naturally to women. Women worked as teacher aides, with married women with children of their own seen as particularly suited to the role.

There is evidence that aspects of teacher aides' skills and knowledge which they applied to work was less visible, and so not recognised and equitably remunerated.

### **The outcome of the joint pay equity assessment process**

The parties have agreed that teacher aides are undervalued and a fair pay equity rate should be set.

The process also uncovered systemic issues that also need to be addressed to resolve the long standing inequities associated with this workforce.

### **Good faith bargaining**

The parties will make every effort to ensure that their actions during bargaining are consistent with the good faith principles of the Employment Relations Act 2000 (Act) and the Code of Good Faith in Collective Bargaining, and are fully focused on outcomes for teacher aides in line with the Pay Equity Principles.

If a party believes good faith has not been upheld at any point, they will advise the other party as soon as possible. This will give the other party the opportunity to explain and if necessary remedy the perceived breach of good faith.

The parties recognise the importance of preserving integrity of the Principles pending legislation and agree to manage communications while working through the bargaining for this claim, and specifically:

- During negotiation of a pay equity claim each party's communications will comply with the principles of good faith and the provision of the Act. Each party will recognise the right of the other to communicate with members or employees via the normal channels of communication.
- At the end of each pay equity bargaining meeting, the parties will agree key messages for any internal and external communications.
- Approaches from the media regarding a pay equity claim may require either party to respond within short timeframes. In this situation the parties will use best endeavours to maintain a 'no surprises' approach.

## Parameters for Bargaining

As NZEI Te Riu Roa and the Ministry work to address the long standing inequities for the teacher aide workforce using the Joint Working Group Pay Equity Principles framework they will consider all the matters raised in the joint pay equity assessment process, either in the pay equity bargaining process, or through policy settings and mechanisms such as the Accord as set out below.

### **1. Remuneration – achieving a pay equity rate**

*The definition of remuneration in the Equal Pay Act 1972 is “...salary or wages ...and includes —*

- (a) time and piece wages and overtime and bonus and other special payments:*
- (b) allowances, fees, commission, and every other emolument, whether in 1 sum or several sums, and whether paid in money or not”*

The parties agree that this definition in the Equal Pay Act 1972 and the Joint Working Group Pay Equity Principles inform our approach to bargaining with regard to remuneration. This allows for consideration of all elements of remuneration, not just pay, of both the teacher aides and the comparators, on a same or similar basis to eliminate the identified sex-based undervaluation of the teacher aide work. On that basis, the parties agree to bargain, including but not limited to, pay rates, and the dirty work and first aid allowances.

Extensive work has been done on a grading system, including grade indicators drawn from the joint investigation of teacher aide work. The parties agree that implementation will need to include agreement on a new grading system for teacher aide work, as well as guidance for Boards on the correct placement of teacher aides across the range of teacher aide responsibilities and associated rates of pay.

The parties envision that an appeals process for grading will be agreed which ensures both teacher aides and employers are sure the correct remuneration is being paid for the work each teacher aide undertakes.

The parties agree that there are also wider workforce matters, some historic in nature, identified in the joint assessment process which need to be tackled in a formal way.

The parties will bargain towards mechanisms which reduce the vulnerability of teacher aides in a manner consistent with the longer-term commitments NZEI Te Riu Roa and the Ministry have made through the Accord, such as establishing a minimum number of hours a teacher aide is employed for, as a means of mitigating the effect of variable hours and pro-active measures to boost compliance with legal obligations relating to fixed-term employment.

## **2. Funding – ensuring the pay equity rate is applied**

The parties are firmly committed to ensuring pay equity funding reaches teacher aides. To achieve this the parties will discuss in bargaining the choices for the delivery of funding to Boards of Trustees, to provide confidence that payments made to Boards will be used to deliver the agreed increases to pay.

The parties agree to, in the course of bargaining, identify limitations that may impact on the delivery of pay equity rates to teacher aides and/or lead to reduction in hours of work where there is no genuine reason for the reduction, and seek to find options to address these, either through the pay equity bargaining or an alternative process.

Beyond the implementation phase the parties recognise that wider work will be required to improve in-school practice regarding the employment of teacher aides, this will be managed under the Accord, as well as through support for Boards of Trustees and school leaders.

The parties will agree the timing and high level process for how the settlement will be reviewed.

## **3. Long-term Commitment**

NZEI Te Riu Roa, the Post Primary Teachers' Association (PPTA), and the Ministry have committed to an Accord which takes an interest based joint approach to resolve a range of agreed issues. These include the roles para-professionals (including teacher aides) may hold, their career pathways and how they are funded (eg staffing entitlement or operations grant). The Ministry is also developing a comprehensive workforce strategy for all education roles, with the involvement of the NZEI Te Riu Roa.

The parties agree that the Accord is the preferred governance mechanism for addressing the following issues:

- Changes to the funding model for teacher aides such as to introduce a staffing entitlement model, which the parties consider will address issues such as uncertainty of work (i.e. both the drivers of insecurity such as the nature of the employment being linked to the attendance of students; and the symptoms such as variation of hours and/or number of weeks of employment and the prevalent use of fixed term agreements)
- Career pathways, paid professional learning development (PLD), qualification acquisition and recognition, training opportunities and career progression for teacher aides.
- The parties will agree a scope of work, for work relating to changes to the funding model (with specific focus on impacts for security of work) and the introduction of career pathways, PLD and qualifications as part of the terms of settlement.

## **Dispute resolution**

If the parties cannot agree on an aspect of the pay equity bargaining they will seek the support of SSC/CTU processes to mediate the matter in the first instance.

If the parties agree that more formal mediation is required they will seek to either use an agreed independent mediator or the Mediation Service of the Ministry for Business Employment and Innovation's (MBIE) Employment Relations Service.

The parties note that the NZEI Te Riu Roa ultimately reserve its right to revert to the legal process under existing law.

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