

Hon Chris Hipkins

Minister for the Public Service

Extending the benefits of the pay equity settlement for social work in the Funded Sector

Date of issue: **24 November 2022**

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Author: Te Kawa Mataaho Public Service Commission

Included in this release is the following document:

- **Cabinet Paper** – Extending the benefits of the pay equity settlement for social work in the Funded Sector

In Confidence

Office of the Minister for Public Service

Office of the Minister for Women

Chair, Cabinet Social Wellbeing Committee

Extending the benefits of the pay equity settlement for social work in the Funded Sector

Proposal

1. This paper seeks your agreement to:

- 1.1. extend the benefits of the pay equity settlement approved by Cabinet on 25 October 2022 for social workers and those who do the same or substantially similar work in 5 Non-Government Organisations¹ (NGOs) to a further 4600 employees undertaking this work across the Funded Sector²
- 1.2. direct Public Service chief executives to begin the work required to vary all current funding contracts which support the employment of social workers and those in social work roles to implement (as a minimum) the new pay equity rate, including relevant terms and conditions
- 1.3. direct Public Service chief executives of Funding Agencies to work with the Te Kawa Mataaho Public Service Commission (the Commission) and their contracted providers to supply contract data by 28 April 2023, for contracts that fund the employment of social workers and those in social work roles
- 1.4. draw down funds from the 2022/23 between budget contingency to fund the Social Workers Registration Board (SWRB) to undertake a one-off project to engage with, scope, and identify public safety considerations for those undertaking work that is substantially similar to social work (as defined in category 3-detailed in Appendix 1).

Relation to Government priorities

2. In September 2021, Cabinet agreed to amend the Framework for Oversight and Support of Pay Equity in the Funded Sector (the Funded Framework). The amendments enabled

¹ The 5 organisations are STAND Tu Maia, Barnardos, Wellington Sexual Abuse HELP Foundation, Christchurch Methodist Mission and Nga Puhī Iwi Social Services.

² The Funded Sector refers to organisations outside of the Public Sector which receive government funding to deliver services on behalf of the Crown.

Cabinet to extend the benefits of a settled claim to the wider Funded Sector if certain criteria are met [CAB MIN 21-0391 refers].

3. The proposal reflects our 2020 Election Manifesto commitments to:
 - 3.1. “make it easier for women to gain pay equity in their organisation or across their industry”
 - 3.2. “work towards a more effective social service sector by improving how government commissions and works with social service providers”.
4. In addition, this proposal supports progress on improving financial sustainability for women as detailed in Te Mahere Whai Mahi Wāhine, Women’s Employment Action Plan (the Plan) launched on 30 June 2022. The Plan identifies support for pay equity in the Public, Funded and Private sectors as a key focus area for taking action.


Executive Summary

5. The pay equity claim for social workers in 5 agencies in the Funded Sector and those undertaking the same or substantially similar work has been settled and Cabinet approved the release of funds for settlement on 25 October 2022.
6. The work assessment process the union and employer parties undertook in this claim in line with the Equal Pay Act 1972 (the Act), identified four categories of work:
 - registered social workers in social work roles (category 1)
 - registered professionals undertaking social work roles (category 2)
 - professionals undertaking work that is the same or substantially similar to social work (category 3)
 - registered social workers or other registered professionals leading social work practice (category 4).
7. The 5 employers and union parties to this claim engaged with the Cabinet mandated Funded Framework. The Funded Framework allows for the benefits of a pay equity settlement in the Funded Sector to be extended if certain criteria are met. The criteria are:
 - a. the work covered by the claim is clearly defined
 - b. the pay equity claim covers 10% of those undertaking the same or substantially similar work (as defined in the claim) across the Funded Sector, or 1,000 employees (whichever is lower)
 - c. the work assessment of the claimant groups must be validated with employees and employers from a minimum of a further 20% of the sector who are not covered by the pay equity claim
 - d. workforce data from the sector is obtained to allow potential costs and scope to be understood.
8. The Commission has advised us that all the criteria have been met and therefore the pay equity settlement for that covers employees in the 5 agencies can be extended to

those undertaking the same or substantially similar work in the funded sector. This will be the first time a pay equity settlement has been extended under the Funded Framework.


9. The Commission has undertaken extensive validation work with providers across the sector to understand whether the work assessment undertaken in the pay equity claim fairly and accurately represents their work. 30% of the sector has been engaged and had an opportunity to vote.
10. Data gathered by officials as part of the validation process estimates that a further 4600 employees are undertaking work that is the same or substantially similar as the work assessed in the pay equity claim.
11. The advantages of extending the settlement across the sector include ensuring workforce stability, improved ability for the sector to recruit and retain employees and a reduction in the volume of potential future pay equity claims that would need to be resourced.
12. Extending the benefits of a settlement eliminates long standing sex-based undervaluation across a workforce and will make a tangible impact on gender and ethnic pay gaps.

13. 9(2)(h) legal privilege




14. Another risk of the extension is the complexity of implementation given the number of Funding Agencies and the range of funding models present. This is challenging work and will require a high degree of coordination and planning. This risk will be mitigated through the Commission taking a central coordination role to oversee implementation and work with Funding Agencies and NGOs to resolve issues as they arise.

15. 9(2)(f)(iv) confidentiality of advice



16. 9(2)(f)(iv) confidentiality of advice



17. We recommend that Cabinet direct Public Service chief executives to begin the relevant work required to vary all relevant current funding contracts to implement the new pay equity rate, including relevant terms and conditions as the minimum rate.
18. Te Whatū Ora and Kainga Ora as Crown entities and Te Aka Whai Ora as an independent statutory entity also fund services covered by this extension. We recommend inviting the Minister of Health and the Minister of Housing to communicate Cabinet expectations that these agencies begin work to identify and vary relevant contracts to extend the benefits of the settlement.
19. The Commission will provide centralised support and coordination for Funding Agencies and providers to support the work required to identify and vary contracts.
20. The Minister for Women and Minister for the Public Service will return to Cabinet to seek funding once detailed costs per Vote are understood. 9(2)(f)(iv) confidentiality of advice

Background

The pay equity settlement for social workers in the Funded sector

21. In October 2018 Oranga Tamariki social workers reached a pay equity settlement. As a result of this settlement, Oranga Tamariki social workers received an average pay correction of 30.6%.
22. Social workers employed by NGOs that deliver social services on behalf of the Crown were not covered by this claim. The settlement for Oranga Tamariki social workers increased differences in the pay received by social workers employed by Oranga Tamariki and those employed by NGOs, making it difficult for NGO employers to attract and retain social work staff.
23. In August 2019, The Public Service Association - Te Pūkenga Here Tikanga Mahi (PSA) raised a pay equity claim in 5 NGOs for social workers and people doing the same or substantially similar work. This claim has now been ratified and Cabinet approved the drawdown of funds for this settlement on 25 October 2022.
24. The assessment process in the claim for the 5 identified 4 categories of work (see Appendix 1 for more detail) undertaken in the NGOs
 - registered social workers (category 1)
 - registered professionals undertaking social work (category 2)
 - professionals undertaking work substantially similar to social work (category 3)
 - registered social workers or other registered professional leading social work practice (category 4).

25. Oranga Tamariki social workers were used as a comparator in this claim, as provided for under the Act. An occupation that performs work that has previously been the subject of a pay equity claim settlement fits the criteria of an appropriate comparator³.
26. The settlement has identified different pay corrections required for the different categories of work to appropriately reflect the level of skills, responsibility effort and experience required. The pay band for leaders of practice is the highest, followed by registered social workers and registered professionals undertaking social work and below them sit those who are not registered social workers but are undertaking work which is substantially similar.
27. The settlement also corrects for disparities in access to professional development, payment of required professional registration and required professional supervision costs. Together these are referred to in this paper as professional support.
28. In considering the Cabinet paper to establish a contingency to support the settlement of the claim in the 5 organisations, Cabinet noted that the Commission would undertake the validation work as outlined in the Funded Framework to enable the benefits of the settlement to be extended and report back to Cabinet [CAB MIN 22 0251.01 refers].
29. This validation work is now complete, and this paper provides Ministers with the results of this process. It also provides Ministers with an insight into the potential cost of extending the benefits of the settlement.

Extending the benefits of the settlement to the wider sector

The benefits of a pay equity settlement can be extended

30. In September 2021, Cabinet agreed to amend the Funded Framework to enable Cabinet to extend the benefits of a settled claim to the wider Funded Sector if certain criteria are met [CAB MIN 21-0391 refers].
31. The criteria which must be met are:
 - a. the work covered by the claim is clearly defined
 - b. the pay equity claim covers 10% of those undertaking the same or substantially similar work (as defined in the claim) across the Funded Sector, or 1,000 employees (whichever is lower)
 - c. the work assessment of the claimant groups must be validated with employees and employers from a minimum of a further 20% of the sector who are not covered by the pay equity claim
 - d. workforce data from the sector is obtained to allow potential costs and scope to be understood.

³Section 13ZE(C) of the Act

The criteria for extending the benefits of a claim have been met

a) The work is clearly defined

32. The work covered by the claim has been clearly defined into four categories of work (see Appendix 1). Detailed analysis sits underneath these categories built from detailed work assessment undertaken by the providers and the union. The Social Workers Registration Board (SWRB) also endorsed the work categories.

b) The 10% threshold has been met

33. The NGO social worker pay equity claim is for 492 employees working in the 5 organisations. Because this claim was raised in 2019, before the Funded Framework was agreed in 2021, it is exempt from meeting the 10% threshold⁴ as long as the Commission engages more than 20% of the sector in the validation process. However, evidence gathered by the Commission indicates that the number of employees covered in the claim sits at approximately 11% of the total workforce in the sector.

c) The work has been validated with the sector

34. The Commission, Social Service Providers Aotearoa (SSPA) and the PSA jointly designed and ran the process to engage with providers from across the sector to validate the work assessment. Oranga Tamariki as lead Funding Agency also provided support.
35. Webinars were the first mechanism to relay the detailed work assessment information to employees and employers. These were recorded and subsequently shared widely throughout the sector by peak bodies, unions, and Funding Agencies.
36. The webinars were followed by two surveys. The first of these provided an opportunity for employers and employees to vote on whether the work described in the work assessment fairly and accurately represented their work. A small number of NGOs self-identified that they did not, which matched the worker response. There were no conflicting views between employer and employees identified.
37. The second survey followed up with employers who had voted “yes” to the first survey and asked for more information, such as current contract numbers and which agencies they received funding from. This survey further screened for employees in each category, ensuring the employees did fit the description.
38. The Commission then followed up with a range of other providers through proactive phone calls to ensure maximum participation was achieved in the validation process.

⁴ Para 69 in the September 2021 amended Framework for Oversight and Support of Pay Equity Claims in the Funded Sector (the Funded Framework)

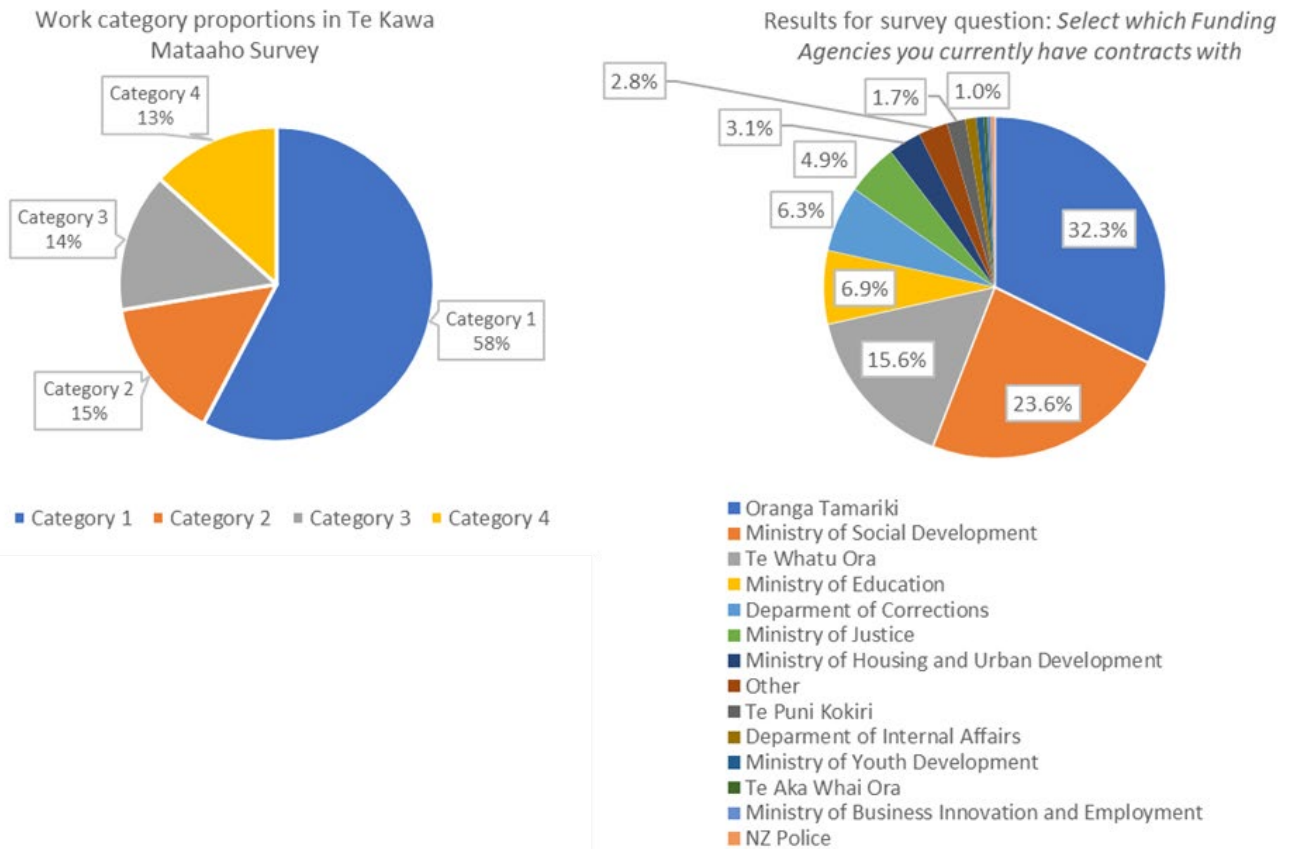
39. The validation process is complete and through all modes of engagement the Commission has connected with 150 providers representing an estimated 30% of the broader sector.
40. The data gathered through the process of validation has improved visibility of the sector. The data provides a critical reference point with which to understand potential costs of an extension and is a central data point in the cost modelling work.

d) Workforce data has been obtained

- 39 The Commission gathered workforce information in 3 ways:
 - 39.1 examining the workforce data and breakdown by category established in the claim for the 5 NGO providers
 - 39.2 Commission survey of employers in the Funded Sector asking about numbers of employees who fit each category of work as described by the claim and their funding contracts with the Crown
 - 39.3 cross referencing survey and claim information with the Social Work Register, which shows all registered and practicing social workers by sector.
- 40 These data points enabled officials to put together evidence-based assumptions about the total size of the workforce in the Funded Sector. This data will be strengthened in the second phase of the work, where detailed data and contract information will be gathered across Funding Agencies and NGOs, should Ministers agree to extend the benefits of the settlement.

Figure 1: Workforce proportions and Funders 2022

Source: Te Kawa Mataaho data collection survey 2022



What will be extended

- 41 The pay equity settlement that has been agreed and ratified by the 5 NGOs has several components. These are summarised in a table below to be clear about what parts of the settlement the extension proposes to roll out and why.
- 42 The settlement components will only be funded to the extent they are required and not already provided by the employer provider. For instance, some providers may already cover their employees’ professional membership fees, supervision costs and professional development. Additionally, some professional costs are not relevant to those without profession registration.

Table 1 settlement components vs extension components

Settlement components	Extension	Rationale
Remuneration and new pay system	Yes	Part of the pay equity correction
Supervision costs	Yes	Part of the pay equity correction
Professional development	Yes	Part of the pay equity correction
Professional membership fees	Yes	Part of the pay equity correction
One-off payment for delay	No	Not part of the correction- for parties to the claim only

Inclusion of progression

- 43 A common feature in pay equity settlements is the introduction of a new pay system. This is primarily because many pay systems in female-dominated occupations were designed without thought to career progression or women as primary income earners. The lack of an adequate pay system can contribute to creating and maintaining sex-based inequality. The settlement for the 5 introduced a new 15 step pay scale to correct for this aspect of sex-based undervaluation. The extension will introduce this pay system as part of the required pay equity correction across the sector. Translation to this new pay system will be directly correlated to years of experience in role (see Appendix 4 for details). Correction funding will be contingent on employer providers migrating their employees to the new pay system”
- 44 Because the settlement and the extension introduce a new pay system, cost modelling for both the settlement and the extension includes operating that pay system, referred to as progression. We expect this will lead to modest wage inflation in the initial years as the system beds in but over time will become cost neutral. It is important to note that this cost modelling does not provide funding for agencies through pay equity processes to cover:
- 44.1 cost of living increases
 - 44.2 market pressure wage increases
 - 44.3 job restructure/resize

Who will the extension cover

- 45 The extension will cover all employees in the Funded Sector who fit the categories of work (see Appendix 1) who are currently funded (not employed) by the Crown. The number of employees and the work they are doing will be subject to detailed analysis in the second stage of the work (see Appendix 3). The extension does not generate

new funding or contracts for any employees whose employment may be paid for by private or philanthropic funding.

Public safety considerations of extension

Small number of unregistered social workers within scope of NGO social worker claim

- 46 Category 3 is the only category where professional registration is not a requirement. However, employees in this category undertake work that has been identified in the work assessment process undertaken in the claim as “substantially similar” to social work, and therefore were identified as covered by the claim in the 5 NGOs as per the Act.
- 47 Officials considered whether the extension process should exclude this category of worker for the purposes of the extension. The two issues examined were the ability to define the work clearly at scale and whether there were public safety issues arising from the inclusion of unregistered workers in a pay correction. Officials were asked to consider whether this could disincentivise or pose a risk to people becoming registered under the Social Work Registration Act 2019 (Registration Act).

Category 3 work was able to be defined effectively

- 48 Officials asked a series of screening questions to employers who indicated they had employees in this category. These were developed in close consultation with Funding Agencies and the parties to the claim. These screening questions were asked of employers if they indicated they had employees in category 3. These questions were:
- 48.1 Do these employees have 80% or more of their day-to-day work that overlaps with your registered social worker/s?
(Must be yes to progress)
- 48.2 Are these employees supervised or overseen by a registered social worker?
(Must be yes to progress)
- 48.3 Do these employees do any of the following as their main task?
(Must be no to progress)
- Budgeting
 - Financial mentoring
 - Youth work
 - Administration
 - Needs assessment.

- 49 The number of employees in scope of the NGO social worker claim in category 3 was found to be 13%. The validation process with accompanying screening questions found a similar percentage of the workforce (14%) in category 3. This indicated that the screening questions were robust in replicating the analysis undertaken in the claim and ensuring that it did not pick up ineligible employees.

Public safety has been considered

- 50 Cabinet directed the Commission, in consultation with the Social Work Registration Board (SWRB) and the Ministry of Social Development (MSD) to update Ministers on the approach to those not registered as social workers in the extension and the aspects of public safety that may need to be considered [CAB MIN 22-0251.01]
- 51 Work undertaken by the Commission with MSD and SWRB alongside Te Kāhui Kāhu has identified the following:
- 51.1 Extrapolating from our sector survey and the analysis undertaken in the claim, officials estimate that social service providers across the sector currently employ approximately 600 category 3 employees. These employees do not call themselves social workers and are not in breach of the Registration Act. However, they are undertaking “substantially similar work” to registered social workers. These employees often work with the same whānau, and communities that social workers are engaged with.
 - 51.2 The SWRB has advised that this number is similar to the number of social workers the sector is short of as identified in a workforce survey in January 2022. This is relevant as it indicates that these employees may be filling a gap because employers are unable to recruit registered social workers.
 - 51.3 The status quo does not provide a mechanism to properly identify this workforce, fully recognise and understand the work they are undertaking, ensure they are valued and have access to appropriate support and development. This also means that there is no current ability to understand what, if any, regulation or accountability framework to ensure public safety may be needed.
 - 51.4 The extension process offers an opportunity to identify these workers using appropriate and consistent criteria in order to receive the extension. This information can then be collated as the first ever sector-wide census of this workforce.
 - 51.5 The pay bands for registered social workers and unregistered workers in the pay equity settlement are different, meaning the extension will create a clear separation in remuneration between these workforces, something that doesn’t always exist currently (see Appendix 4 for detail). This can support and incentivise professional development and a move towards social work registration.

- 51.6 Once identified accurately, analysis and sector engagement can be commenced to recognise this workforce and understand their needs. This will ensure options for ensuring public safety can be considered and undertaken effectively.
- 52 SWRB, with the support of the MSD, Te Kāhui Kāhu and the Commission have advised that they are well placed to lead a one-off project to engage with and better understand the workforce undertaking work that is the same or substantially similar to social work as defined in category 3. They can consider how support, accountability and public safety can be established and maintained.
- 53 SWRB have advised us that this project will require between budget bid funding of \$980,000. The work required by the SWRB will need to begin immediately in order to recruit staff and ensure planning is underway to ensure public safety considerations are being addressed at the same time as the settlement is extended.
- 54 We recommend that the Minister of Social Development as Minister responsible for SWRB is invited to report to Cabinet on the outcome of this project in early 2024.

Cost of extension

Limitations of data available

- 55 Due to the dynamic nature of funding arrangements in the NGO sector and the lack of a centrally coordinated data collection, there is limited data about the total number of NGO providers currently contracted to deliver social services on behalf of the Crown and the workforces they employ.
- 56 The Commission has improved the data available through strong sector engagement and undertaking its own surveys, however there are still assumptions that need to be made in the absence of a large-scale data collection exercise that reached every provider.
- 57 A new large-scale data collection exercise was not feasible prior to submitting this paper given the significant engagement required by NGOs to submit accurate data without guarantee of value in return or resource to do so. It was also the assessment of officials that to undertake such a large-scale process may raise expectations of the extension occurring prior to Cabinet having made a decision.

Methodology

- 58 To estimate the cost of the extension, the Commission used:
- 58.1 data gathered in the claim. This included information about the number of workers in each category
 - 58.2 the Social Work Register. This register is a database of all social workers who are registered, and can be broken down by the sector they work in

58.3 its own survey of employers that obtained numbers of employees in each category.

59 Officials estimated, using these inputs, that there are approximately 4600 workers in scope of the extension.

60 The Commission has based its estimates on all components of the pay equity settlement being extended to the 4600 employees. These include remuneration rates and costs associated with the provision of professional support. There are two reasons for this:

60.1 Without all aspects of the correction being extended, the benefits that the extension seeks to realise, such as workforce stability and full correction for sex-based undervaluation across a workforce, will not be achieved.

60.2 9(2)(h) legal privilege

Implementation funding required

61 Implementation funding for NGOs is critical to ensuring the delivery of correct pay rates to workers. Providers need to be able to meet the costs of translating their employees to new employment agreements and updating payroll systems. 9(2)(f)(iv) confidentiality of advice

Total costs

50 9(2)(f)(iv) confidentiality of advice

51 An additional one-off between budget contingency of \$980,000 is required to fund the SWRB to undertake a project to map the workforce undertaking work in the Funded Sector that is the same or substantially similar to social work as defined in category 3 and consider how accountability and public safety can be established and maintained. This cost will fall in the 2022/23 financial year.

Meeting the cost of extension and workforce project

- 52 Given the level of funding required it is not possible for providers to meet the cost of the extension from within their contracted funding.
- 53 Additionally, Funding Agencies have indicated that it is highly unlikely that they could meet these costs from within existing baselines and will require additional funding from Government to vary contracts accordingly.
- 54 9(2)(f)(iv) confidentiality of advice
- 55 Once Cabinet agrees to extend the benefits of the claim the Commission will coordinate a programme of work with funders and providers to understand the detailed costs per Vote (see Appendix 3 for details).
- 56 The Treasury will work with each Funding Agency prior to drawing down money to each Vote to determine what costs each agency can meet from within their baselines.
- 57 The SWRB has advised us that they cannot meet the cost of delivering the one-off project work required as part of the extension implementation from within their current baseline funding. The SWRB is primarily funded through social workers' registration fees, as such new initiatives require additional resources.
- 58 We are asking Cabinet to agree to fund the SWRB a total of \$980,000 in 2022/23 from the Between Budget Contingency.

Benefits of extension to the social worker workforce in the Funded Sector

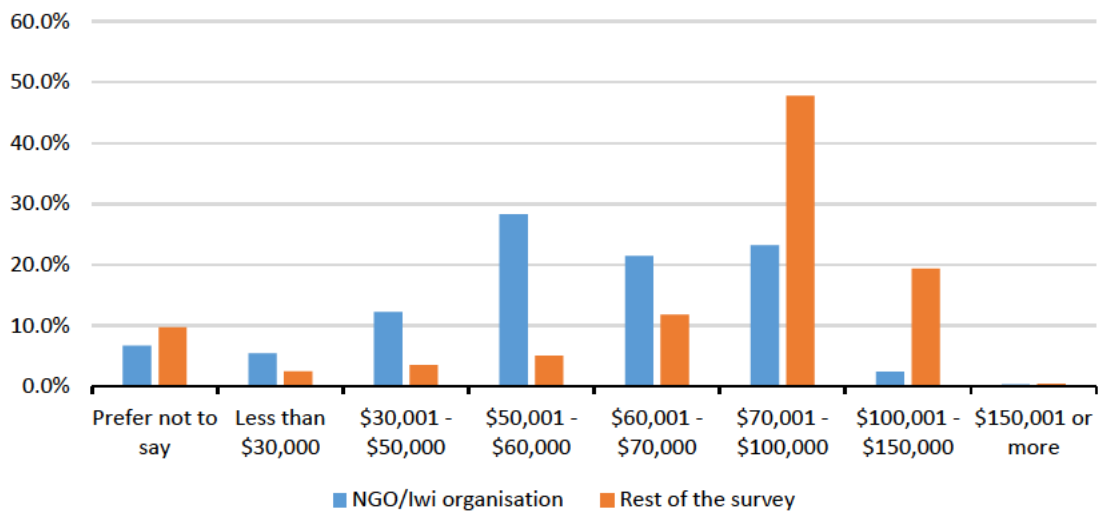
- 59 There are benefits to the workforce and the wider labour market of extending the pay equity settlement rate and relevant terms and conditions.
- 60 Extending the new pay equity rate, including the relevant terms and conditions, in the sector will ensure pay will be free from sex-based undervaluation. It provides an opportunity to address long-standing undervaluation in the sector.
- 61 The Funded Sector contains a high proportion of Māori, Pacific and low paid employees and extending the benefit of the settled claim across the sector would make a significant impact on both gender and ethnic pay gaps.
- 62 The extension of the pay equity settlement aligns with the recently launched social sector commissioning action plan which is the road map for government and contracted social services to work together better to support our communities, and includes ensuring that social services are better recognised for the contribution they make to supporting community, family and individual wellbeing.

63 The extension of the pay equity rate will have a positive effect on attraction and retention of social workers in the current tight labour environment. We know that the workforce is aging. The 2022 SWRB Annual Workforce Report, which surveys all registered social workers to understand demographic data indicates that:

- 63.1 the largest group of social workers is aged 51-60 years
- 63.2 13.3% of the workforce has indicated they are planning to leave this workforce or reduce their hours in the next 5 years
- 63.3 the primary reason for intent to leave the workforce in the NGO sector is remuneration.

Table 2 NGO/lwi social worker salary comparison

NGO/lwi organisation social worker salaries compared to non-NGO social workers



64 The extension will ensure the workforce across the sector is stable and able to pay equitably for those undertaking the same or substantially similar work. It would avoid sizeable disparities in what organisations are able to offer, which will make it easier to retain staff and reduce disruption to valuable essential services.

65 The extension will make a positive impact on the way claims are raised, managed, and implemented in the Funded Sector. There are hundreds of providers across the sector and employees in these organisations most certainly will raise claims if the benefits are not extended. This proliferation of claims, estimated to be at 50 to cover all those in the sector undertaking social work (based on some claims consolidating) would be costly in terms of time and resource required. This could quickly overwhelm funding agencies' capacity to provide oversight.

66 Ministers will have a better oversight and assurance of when settlements are likely to fall in the Funded Sector if claims are raised in a way that is manageable. Additionally, there will be a consistency of outcome with an extension which would not exist if

multiple separate claims were to be undertaken. Separate claims at different times may produce different outcomes, leading to instability and uncertainty for providers and employees.

Risks associated with extending the settlement rate in the Funded sector

Table 3 Risks and mitigations of extending the benefits

Risk	Mitigation
9(2)(h) legal privilege	9(2)(h) legal privilege
Complexity of implementation	Robust engagement with all Funding Agencies, key stakeholders such as the Social Sector Commissioning team, peaks bodies and MBIE procurement has already begun and there is a strong commitment to success
Funding agencies lack resource to undertake the work to vary contracts in a timely manner	The Commission has resource ready to stand up to support this work centrally and take as much of the burden off agencies as practicable.
Increased funding to providers is not passed on the employees due to no legal requirement under the Equal Pay Act.	Additional funding will be contingent on provider employers migrating employees to a new pay system.

Risks associated with choosing not to extend the settlement benefit in the sector

- 67 Not extending the settlement benefit would result in multiple new claims across the Funded Sector from people seeking the pay equity rate established by the settled NGO social worker claim, because they are doing work that is the same or substantially similar. The increase in the number of claims raised increases the cost of managing claim processes and delays the delivery of pay equity to the Funded Sector.
- 68 There is likely to be varied capacity and capability to progress claims. At best, this means that some claims will be progressed more quickly. This is likely to cause

ongoing instability as some providers can pay much better than others. At worst, it risks inconsistent outcomes being reached through different claims processes as each new claim would progress through a bargained settlement process, which is ultimately agreed to between parties.

- 69 Funding pay equity for only a part of a workforce will cause instability across that workforce and be inequitable for employees. A provider whose workforce has pay equity will be advantaged in attracting and retaining staff, pulling staff away from providers who are not funded to provide the higher pay equity rate.

Implementation

Implementation mechanism

- 70 If Cabinet agrees to extend the benefits of the settlement, we recommend giving effect to this by directing Public Service chief executives to begin the work required to vary all relevant funding contracts⁵. This would enable contracting and procurement managers and leaders to proactively undertake this work consistently and with appropriate authority.
- 71 Other options to give effect to the extension were considered. Enabling legislation, such as that utilised to give effect to the care and support worker settlement in 2017 is not considered viable given the precedent setting effect it would have and the lack of flexibility this could impose on future contracting decisions. Fair Pay Agreement legislation is not yet finalised and as such cannot be assessed as a potential lever.
- 72 The Crown entities Te Whatū Ora, Kainga Ora and Te Aka Whai Ora fund providers who employ workers covered by this extension. We recommend the Minister of Health as the Minister responsible for Te Whatū Ora and Te Aka Whai Ora and the Minister of Housing as Minister for Kainga Ora be invited to communicate Cabinet expectations about procurement of social services in the Funded sector that support the employment of social workers and those in social work roles.

Implementation support

- 73 There will be work required by Funding Agencies and providers to gather information needed to implement this settlement in a robust, fair and sustainable way. There will need to be greater visibility of the cost models that sit behind current contracts. This work aligns with the principles of the social sector commissioning work programme and will support the goals of more effective social services sector.

⁵ Relevant funding contracts includes those that 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 the new minimum.

- 74 To support this work and ensure a consistent and coordinated approach to implementation across agencies, it was recommended by Funding Agencies at a sector wide workshop in August 2022 that the Commission provide a central facilitation function, providing centralised data collection, communication and support for Funding Agencies and the NGO sector. The Commission will ensure core privacy requirements are upheld throughout this process.
- 75 To authorise this engagement to occur across all Funding Agencies we recommend that Cabinet direct all Public Service chief executives to work with the Commission and their Funded sector providers to supply contract information by 28 April 2023, on all contracts that fund the employment of social workers and those in social work roles.

Three stages of Implementation

- 76 Stage one will require information gathering and analysis with Funded Sector employers and Funding Agencies to gather further data about:
- the providers who have contracts that support the employment of social workers and those in social work roles as described in the categories
 - the number of employees covered in each category of work
 - current remuneration and relevant terms and conditions
 - current contracting arrangements.
- 77 Data gathered through this stage will be used to calculate the actual exact quantum of funding required to extend the benefits of the settled claim. This information will form the basis of a second Cabinet paper seeking Cabinet agreement to the required funding for the appropriate Votes.
- 78 Information gathered will also provide Government up-to-date information about the social work workforce, the size and makeup of the NGO social services sector and service delivery contracting practice across Funding Agencies. This information will support further work led by the Social Sector Commissioning board to improve the way Government commissions social services.
- 79 It is anticipated that stage one will be complete by 31 May 2023, 9(2)(f)(iv) confidentiality of advice
[REDACTED]
- 80 Stage two will be the delivery of Funding passed from Funding agencies to identified Funded Sector employers via variations to service delivery contracts. The Commission will work closely with Funding Agencies and sector partners to support a consistent approach to implementing contract variations using standardised wording and clauses wherever possible.
- 81 Stage three is where the employers will be required to offer a variation of employment agreements for all employees in scope. 9(2)(f)(iv) confidentiality of advice
[REDACTED]

9(2)(f)(iv) [redacted] The Commission will work with Funding Agencies, Te Kāhui Kāhu, confidentiality of [redacted] and sector partners to develop a user-friendly reporting framework that provides Funding Agencies the ability to monitor Funded Sector employer progress in delivering the pay correction to employees.

Consultation

- 82 Organisations that have been consulted include the Oranga Tamariki, Ministry of Social Development, Te Whatū Ora, Te Aka Whai Ora, Ministry of Education, The Department of Corrections, Ministry of Justice, Ministry of Housing and Urban Development, Te Puni Kōkiri, Department of Internal Affairs, Ministry of Youth Development, Māori Health Authority, Office of Disability Issues, Ministry of Business, Innovation and Employment , The New Zealand Police, The Treasury, Ministry for Women, Crown Law, Whaikaha, Te Kāhui Kāhu, and the Social Workers Registration Board.
- 83 Organisations that have been informed include the Department of the Prime Minister and Cabinet.

Financial Implications

- 84 9(2)(f)(iv) confidentiality of advice [redacted]
- 85 [redacted]
- 86 [redacted]

- 87 The cost of the SWRB project on workforce mapping and public safety of the category 9(2)(f)(iv) confidentiality of advice [redacted]

9(2)(f)(iv) confidentiality of advice [redacted]

Legislative Implications

- 88 No new legislation is proposed in this paper.

Impact Analysis

89 A regulatory impact analysis is not required for this paper.

Human Rights

90 The proposals in this paper are consistent with the Equal Pay Act 1972, the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990 as they address the gender discrimination women experience in relation to the pay they receive in social work roles in the Funded Sector.

91 The pay equity work programme is also consistent with the:

91.1 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) including article 11(1)(d) which covers "...The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work..."

91.2 International Labour Organization Convention 100, Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, as well as other relevant international labour instruments including Conventions and Recommendations.

Gender Implications

92 The Government's commitment to improving access to pay equity in the Funded Sector requires substantive and effective gender responsive governance. Oversight and support of pay equity claims in the Funded Sector facilitates a robust claims process that supports the timely and equitable settlement of claims.

93 It is important that increased efficacy and integrity of settlements cover the Funded Sector as this sector is both low paid and female-dominated with a high proportion of Māori and Pacific women employees. The extension of the NGO settlement in the Funded Sector will significantly contribute to addressing gender-based undervaluation in the remuneration of all women performing work funded by the Government.

Disability Perspective

94 Disabled women, in particular, are more likely to experience inequity in employment. For example, in June 2021, 1 in 5 disabled women (22%) were "underutilised" as a group, including unemployed and underemployed, and seeking more hours of work (Household Labour Force Survey, June 2021).

95 Disabled people are proportionally more likely to be amongst those receiving services from social workers and professionals carrying out social work type tasks. The services delivered by social workers and allied professionals to disabled people, tāngata whaikaha Māori, their families and whānau are expansive and encompass direct practice, group work, community development, policy practice, and advocacy.

Publicity

- 96 The outcome of this paper will be shared with Funding Agencies so they can run a process to match contract numbers and information to provide the final accurate costing information.

Proactive Release

- 97 We intend to proactively release this paper once it has been considered by Cabinet, with matters under active consideration withheld under section 9(2)(f)(iv) of the Official Information Act (OIA), information enabling agencies to carry on negotiations without prejudice or disadvantage withheld under section 9(2)(j) of the OIA, and legally privileged information withheld under section 9(2)(h) of the OIA.

Recommendations

- 98 The Minister of the Public Service and the Minister for Women recommend that the Committee:
1. **note** that the Funded Framework [GOV-21-MIN-0032] allows you to extend the benefit of the settled Non-Government Organisation social worker pay equity claim to employees in the Funded Sector doing the same or substantially similar work if criteria are met
 2. **agree** that all criteria have been met in order for Cabinet to consider extending the benefits.
 3. **note** that the Funded sector contains a high proportion of Māori, Pacific and low paid employees.
 4. **note** that the benefits of extending the benefits of the pay equity settlement include ensuring workforce stability, improved ability to recruit and retain employees and a reduction in the volume of pay equity claims that would need to be resourced.
 5. **agree** to extend the benefits of the settled Non-Government Organisation social worker pay equity claim, to those employees in the Funded sector doing the same or substantially similar work
 6. **note** that the work required to implement the extension will be considerable and 9(2)(f)(iv) confidentiality of advice
 7. **direct** Public Service chief executives to begin the work required to vary all current funding contracts 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
 8. **direct** Public Service chief executives of Funding Agencies to work with the Commission and their contracted providers to supply contract data by 28 April 2023, for contracts that fund the employment of social workers and those in social work roles

9. **note** that the Crown entities; Te Whatū Ora, Kainga Ora and Te Aka Whai Ora also have contracts that fund social services in the Funded sector that support the employment of social workers and those in social work roles
10. **invite** the Minister of Health as the Minister responsible for Te Whatū Ora and Te Aka Whai Ora to communicate Cabinet expectations about procurement of social services in the Funded sector that support the employment of social workers and those in social work roles
11. **invite** the Minister of Housing as the Minister responsible for Kainga Ora to communicate Cabinet expectations about procurement of social services in the Funded sector that support the employment of social workers and those in social work roles
12. **note** that there are a small number of unregistered professionals currently undertaking work that is the same or substantially similar to social work covered by this extension
13. **note** that the Commission has worked with the Social Work Registration Board, the Ministry of Social Development and Te Kahui Kahu to consider any risks to public safety of including these workers in the extension
14. **agree** to draw down a total of \$0.98 million from the 2022/23 Between Budget Contingency to be appropriated to Vote Social Development-non-departmental appropriation Social Workers Registration Board (M63) (A25) as follows:

SWRB One-off project from 2022/23 Between Budget Contingency	\$m – increase/(decrease)					5-year total
	2022/23	2023/24	2024/25	2025/26	2026/27 & Outyears	
	0.98	0.00	0.00	0.00	0.00	0.98

15. **invite** the Minister of Social Development as the Minister responsible for the Social Work Registration board to report back to Cabinet on the progress of this work in early 2024
16. **note** that Funding Agencies have indicated it is likely they will be unable to absorb all or some of the increased costs of funding the extension of benefits from within their respective baselines
17. 9(2)(f)(iv) confidentiality of advice

18. 9(2)(f)(iv) confidentiality of advice
[Redacted]

18.1. 9(2)(f)(iv) confidentiality of advice
18.2.
18.3.
[Redacted]

19. **invite** the Minister for the Public Service and the Minister for Women to return to Cabinet to seek funding to implement the extension when detailed costs per Vote are known.

20. 9(2)(f)(iv) confidentiality of advice
[Redacted]

21. 9(2)(f)(iv) confidentiality of advice
[Redacted]

22. 9(2)(f)(iv) confidentiality of advice
[Redacted]


Authorised for lodgement
Hon Chris Hipkins
Minister for Public Service

Hon Minister Tinetti
Minister for Women

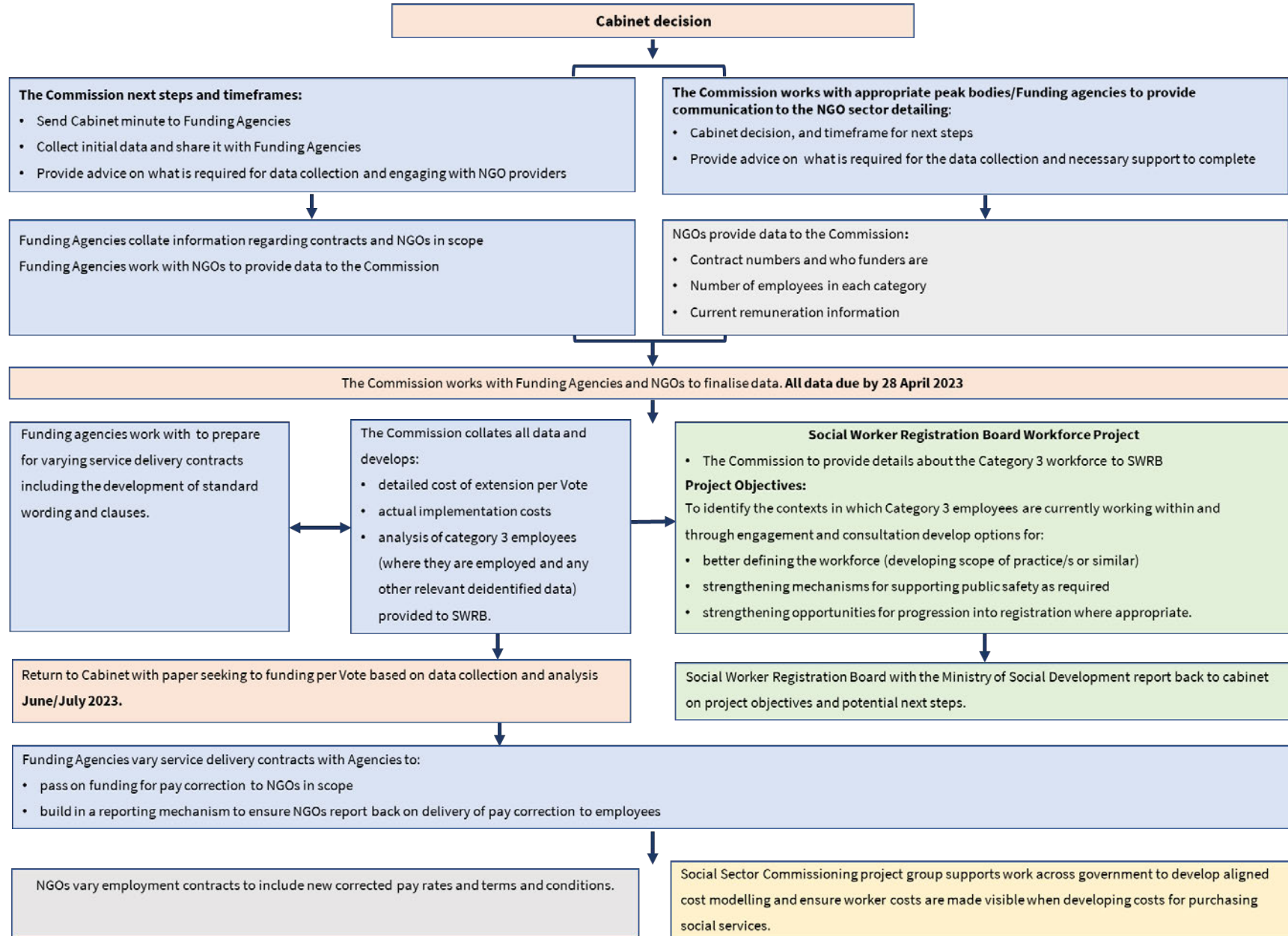
Appendix 1: Categories of work identified in the claim and validated with the sector

Category 1	Category 2	Category 3	Category 4
<p>Registered social workers or social workers eligible to be registered by the social workers registration board who are undertaking social work or work substantially similar to social work.</p>	<p>Registered professionals or professionals eligible for registration under:</p> <ul style="list-style-type: none"> • Health Practitioners Competence Assurance Act • Teaching Council* • DAPAANZ • NZ Association of Counsellors <p>who are undertaking social work or work substantially similar to social work</p> <p>*Qualified teachers undertaking social work may not currently be eligible for registration but are covered here</p>	<p>Professionals with substantial experience or community/iwi-based connections in roles where professional registration is not a requirement.</p> <p>These professionals draw on practice frameworks including social work, community or te ao Māori frameworks to undertake work that is substantially similar to social work.</p>	<p>Registered or registrable social workers or other registered professionals leading and enhancing the professional practice of a team undertaking social work.</p>
<ul style="list-style-type: none"> ✓ Draws on social work theoretical frameworks and knowledge ✓ Works within Social Work Code of Ethics and Standards of Practice ✓ Receives regular professional supervision ✓ Undertakes continuing professional development hours as required per year ✓ Knowledge of Te Tiriti, tikanga Māori and te ao Māori ✓ Knowledge of diverse cultures, religions, and communities 	<ul style="list-style-type: none"> ✓ Draws on their specific professional theoretical framework and knowledge base in order to practice in a social work role ✓ Often works in multi/inter disciplinary team ✓ Works within their relevant code of ethics and standards of practice ✓ Undertakes supervision as required ✓ Undertakes continuing professional development as required ✓ Knowledge of Te Tiriti, tikanga Māori and te ao Māori ✓ Knowledge of diverse cultures, religions, and communities 	<ul style="list-style-type: none"> ✓ Draws on te ao Māori and/or social work theoretical frameworks and methods alongside other practice frameworks to support working in a role substantially similar to social work ✓ Works with a high level of supervision or sign off requirements for any clinical decision making ✓ Strongly connected to and accountable to the community ✓ Role may require body of knowledge for specific context- e.g. homelessness 	<ul style="list-style-type: none"> ✓ Draws on social work knowledge, frameworks and methods to influence and develop best practice ✓ Provides coaching, mentoring, supervision, and advisory functions to social workers in a team ✓ Provides education, oversight, and assistance with complex cases ✓ May have designated caseload as part of role ✓ Undertakes continuing professional development as required ✓ Knowledge of Te Tiriti, tikanga Māori and te ao Māori ✓ Knowledge of diverse cultures, religions, and communities
<p><i>Examples of work excluded from claim:</i> Youth work, community development as primary focus, leadership roles which are managerial only (i.e. not primarily leading practice), registered social workers or other professionals whose main role is not social work-i.e. who may be primarily undertaking management work, research, coordination, advisory functions.</p>			

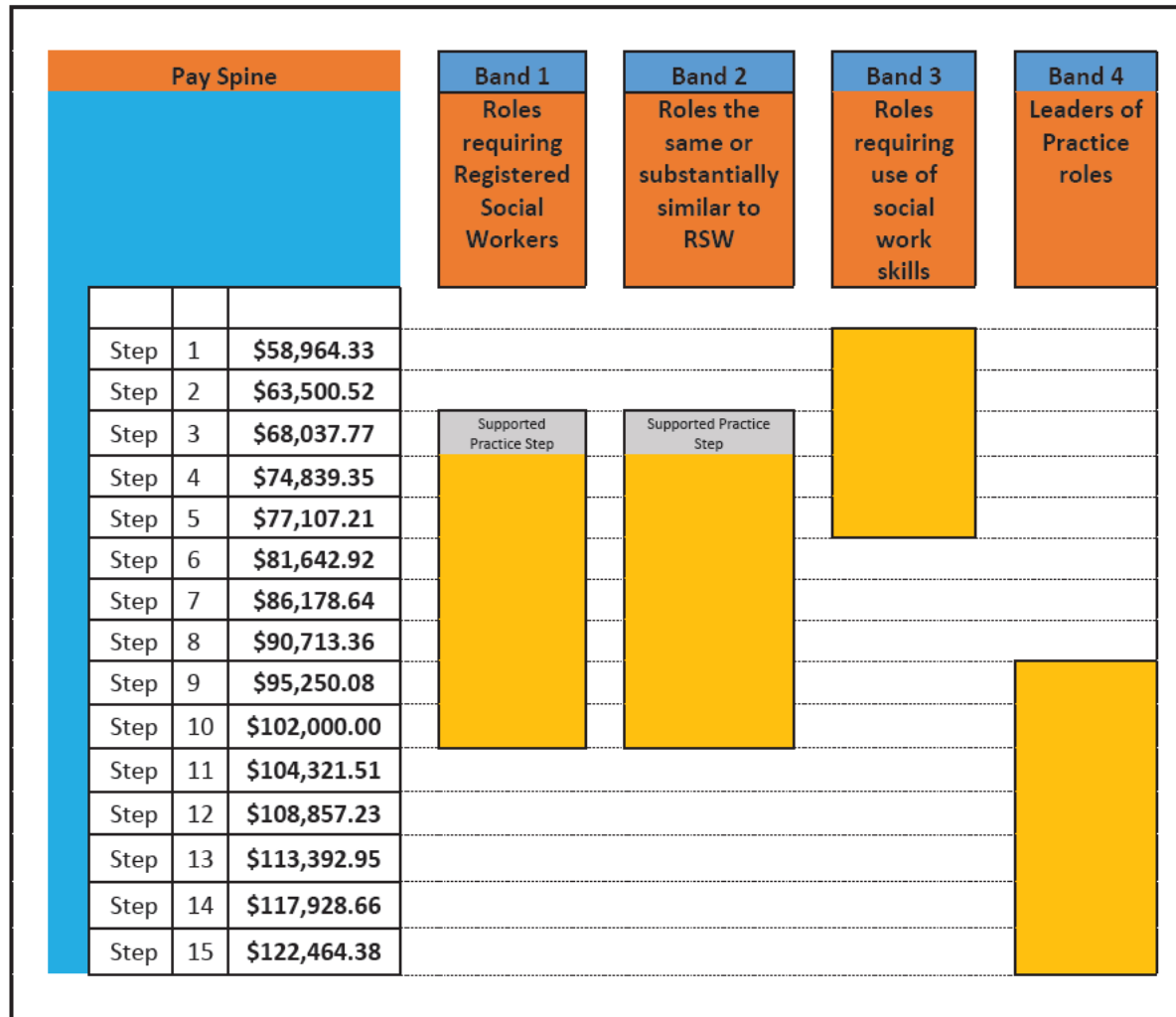
9(2)(f)(iv) confidentiality of advice



Appendix 3: Next Steps



Appendix 4: New pay range for the four categories of work



Translation onto the new pay spine will be based on years of experience. This means that a:

- professional using social work skills with 3 years' experience will go to \$68,037
- social worker with 3 years of experience will go onto \$77,107.21
- practice leader with 3 years of experience leading practice will go to \$104,321