

FAQ for Media: DHB Nursing Pay Equity Settlement Poll, 9 May 2022

What is the Pay Equity process?

In this case Pay Equity refers to the process of comparing the pay and conditions of the various nursing roles to similar roles in professions dominated by males to determine whether nursing, which is a predominantly female occupation, faces issues of sex-based discrimination in terms of pay.

Pay Equity is solely about those sex-based differences. Pay Equity is not the same as Pay Parity or Equal Pay (neither of which are relevant here).

Pay Parity refers to nurses in different sectors (e.g. DHB aged care, primary care, Māori and iwi) receiving the same pay rates regardless of where they work.

Equal Pay refers to men and women in a workplace receiving the same pay for doing the same work.

Who is covered by the current Nursing Pay Equity claim?

The Nursing Pay Equity claim includes all those currently employed by a DHB in one of the following roles:

- Health Care Assistant,
- Mental Health Assistant,
- Enrolled Nurse,
- Registered Nurse (including those working in Community, Mental Health and Public Health),
- Designated Senior Nurse
- Nurse Practitioner

Who is not covered by the current Nursing Pay Equity claim?

Roughly 42 percent of nursing staff in Aotearoa New Zealand do not work for a district health board. Nurses, health care assistants and kaimahi hauora working in the following sectors are not covered by the claim: Aged Care, Primary Care (medical centres and emergency clinics), Māori and Iwi providers; and Private Hospitals and Hospices.

Midwives are also not covered under the DHB Nursing Pay Equity claim, but midwives who work in DHBs are covered under the DHB Midwifery Pay Equity claim, which is currently under progress separately.

Who are the parties to the Nursing Pay Equity claim?

The parties to the claim are the two unions (NZNO and PSA), the district health boards and the Crown. However, DHB employees in the roles listed above who do not belong to a union are also covered by the claim and legally entitled to participate in any voting.

Why was the proposed Nursing Pay Equity settlement not presented to NZNO/PSA members and other DHB nursing employees for ratification?

The proposed Nursing Pay Equity settlement was released to employees covered by the claim on 8 April 2022. However, following significant concern with the retrospective payments (back pay) component of the proposed settlement, NZNO and PSA undertook a legal review of the Settlement. The legal review found that this aspect of the proposed Nursing Pay Equity Settlement may be contrary to the Equal Pay Act. Read that legal advice at:

<https://www.nzno.org.nz/Portals/0/Files/Documents/Groups/Health%20Sectors/Pay%20Equity/2022-04-14-NZNO-legal-advice.pdf>

What was the problem with the retrospective payments (backpay) component of the proposed settlement?

While most nurses were satisfied with the new base rates determined by the Pay Equity process, they also understood that they had a contractual arrangement to receive back pay on the basis of those base rates to 31 December 2019. This was agreed as part of the 2020 MECA which was settled last year. 31 December 2019 which was the original date by which Pay Equity was to be settled.

Instead of full individualised back-pay the proposed settlement included a series of lump sum payments totalling of \$10,000 (pro-rata) per individual. Some nurses have calculated the difference between this and what they would have received in the back pay promised as amounting to significant amounts of money.

What was the nature of the poll conducted by NZNO that closed on 9 May 2022?

Because the Ratification ballot did not immediately occur, NZNO and PSA sought direction from members and other affected employees through an online poll as to what the next steps should be.

Around 40,000 nursing staff covered by the DHB Nursing claim were invited to participate in the poll that ran between April 30 and May 9, 2023.

What options were presented in the poll?

Participants were asked to choose their preferred of two options. Simply put:

Option 1 was that the Pay Equity Settlement be immediately taken to the Employment Relations Authority for a determination because it may be contrary to the Equal Pay Act.

Option 2 was that the proposed Pay Equity Settlement be put to covered employees for an online ratification ballot, even though it may be contrary to the Equal Pay Act.

What was the result of the poll?

Participants in the poll chose Option 1 by a very strong and clear majority.

What are the next steps?

NZNO has engaged its lawyers to begin the application process to the ERA and will keep members and other affected employees informed about when the application will be filed and other matters relevant to the filing as the steps unfold.

NZNO has informed the district health board employers that it has commenced the application process to the ERA, and that further talks to narrow differences would be welcome.

The timing of the review will be entirely in the ERA's hands, though NZNO will request urgency.

The ERA may direct all parties back into a mediation or facilitation process as a first step.

What would have happened if Option 2 had been endorsed by members in the poll?

A ratification ballot would have been held and members and other affected employees would have been asked to choose between accepting or declining the proposed Settlement (once further work had been done to finalise it and address outstanding issues). If a majority of those voting chose to accept the new rates, these would be implemented to apply from 8 March 2022. If a majority of those voting chose to decline, the matter would be taken to the ERA for a determination.