

Variation to In-Between Travel Settlement Agreement

Background

1. The In-Between Travel Settlement Agreement ("the Agreement") was agreed and signed in September 2014 and consists of two parts. Part A sets out the parameters for paying for travel time between clients and mileage. These components have subsequently been enshrined in the *Home and Community Support (Payment for Travel Between Clients) Settlement Act 2016*. Part B outlines the establishment of a Director-General's Reference Group to report on and provide recommendations for the future of the Home and Community Support Services (HCSS) sector, including overseeing the transition to a regularised workforce within 24 months of signing the settlement agreement.
2. The Part B Review was to be completed by July 2015, but there was no specific timeframe for the introduction of changes as a result of the review. However, the Settlement Agreement outlined a commitment by the Settlement parties to the transition to a regularised workforce within 2 years of the signing of the Agreement. The commitment was agreed in the context of the overall Agreement which included a comprehensive review of the HCSS sector (Part B of the Agreement) and the understanding that parties would not be financially disadvantaged taking into account the fiscal and environmental constraints and implications. A working party consisting of Settlement party representatives has been established to initially achieve a short term goal of stabilising the Home and Community Support Service (HCSS) sector and to oversee the transition to Regularisation of the workforce as described in the Agreement.
3. This Variation reflects a change in the date for implementation of regularisation and as such should be read as a supplement to the In-Between Travel Settlement Agreement signed in September 2014.

Regularisation

4. The Agreement states at clause 7.6 that a regularised home and community based support workforce is one which has:
 - the majority of workers employed on guaranteed hours
 - training to enable Level 3 New Zealand Certificate qualifications within two years of commencing work consistent with the service needs of the population
 - wages paid on the basis of the required levels of training of the worker
 - a case-mix/caseload mechanism to ensure the fair and safe allocation of clients to home care workers at a safe staffing level.
5. The Settlement Parties agree to extend the timeframe for the proposed transition to a regularised workforce. The transition will occur in stages:

(a) Stage 1:

- i. comprehensive pilots (involving a proof of concept/virtual process) to be run in Taranaki and Auckland regions with the purpose of identifying the relevant components and costs arising for the implementation of the proposed workforce transition (i.e. guaranteed hours including management of cancellations, training, qualifications and safe staffing); and

introduction of guaranteed hours for support workers, excluding genuine casuals (i.e. engaged as and when required, not rostered regularly and are not obligated to be available for work) and those on short term contracts (i.e. where client support has been allocated for 6 weeks or less and doesn't get extended) by 1 April 2017; (NB: the definition of guaranteed hours as referred to in stage 1, 2 and 3 of the variation agreement and the Work Programme principles and for the purpose of establishing a worker's guaranteed hours by 1 April 2017 is defined as the greater of either:

a) 80% of a worker's average hours over the 3 months immediately preceding the 1 December 2016 or

b) the regular client hours as agreed with the individual worker. For the purposes of (b) Regular clients are those who are assessed for support on an ongoing (open ended) basis or a period of 6 weeks or more.

Note: The original intent and commitment was made by all parties to ensure a transition to a regularised workforce will continue beyond the initial establishment phase so that all the recommendations of the DG Reference Group Report in regard to regularisation are fully implemented.

- ii. to meet the training requirement to enable Level 3 New Zealand Certificate qualifications within two years of commencing work consistent with the service needs of the population and the payment of wages on the basis of the required levels of training of the worker, each employer agrees to assess the required number of employees required with Level 3 qualifications to enable the employer to meet the service needs of clients as outlined in contracts and service agreements and informed by the recommendations from the IBT regularisation work group 2 report and the IBT requirement for efficient rostering. This assessment will also include the number of employees that currently have Level 3 New Zealand Certificate qualifications. This information will be shared with the settlement parties and used to inform the Budget 2017 bid.
- iii. Each employer will work towards achieving the required level of workers with Level 3 qualifications (as identified under (ii) above) from 1 April 2017.
- iv. Fuller arrangements may be possible following agreed costing work for the 2017 Budget bid. This may also be influenced by funder service agreement requirements and any related contract variations.
- v. To assist with understanding the various components of regularisation (including the requirements of the employment standards introduced in the Employment Relations Act 2000), the employers and unions agree to run joint workshops on a regional basis, or with individual providers, for unions, HCHA and providers to notify /educate and consult with workers and providers about the move to a regularised workforce and the proposed implementation prior to 1 April 2017. The costs of running these workshops, including payment for employee time, will be funded by the Ministry of Health.
- vi. The Ministry will provide a one-off payment, apportioned to providers on the basis of \$75.00 per qualifying employee, for the purposes of costs associated with the workshops in [5 (a) (v)] above. For audit purposes the parties will agree on the nature of the costs to be covered by the payment, and shall include paid time for a worker to attend a workshop. The parties will also submit a budget for estimated costs of the pilots outlined in 5 (a) (i) above which will be funded through a central fund on receipt of actual invoices for cost incurred.
- vii. Gather information to assist with the implementation roll out.
- viii. The HCHA, providers and union representatives will work together to develop common resources such as recommended templates for employee notification, systems to record and monitor progress and trialling rostering practices.
- ix. Employers and unions will provide regular feedback and reports to the working group to inform the long term objectives.

(b) Stage 2

- i. Work on the other components of regularisation (i.e. agreeing on and identifying costs relating to guaranteed hours, employment standards legislative implications, and training and payments for qualifications (see agreed work programme principles); and

identifying additional funding and contractual changes to be made in relation to the existing funding framework (see agreed work programme principles regarding case mix mechanism) will continue from August 2016 with the purpose of informing the 2017 Budget bid and resulting changes to be introduced from 1 July 2017. It is intended that the wider Part B review, analysis and recommendations will continue to be progressed in a timely fashion to inform future service delivery models. The Settlement Parties agree that their representatives will continue to work together collaboratively to support the wider analysis required to progress the other Part B review recommendations in order to address identified issues across the HCSS sector.

- ii. Information from this work will take into account related work already underway in the sector including development of service delivery models. Agreed costing work may have implications for or inform a 2017 Budget bid.

(c) Stage 3 Implementation Rollout

- i. The implementation/rollout of guaranteed hours will commence across the sector utilising the information gained from the pilots. The roll out will be completed by 1 April 2017 to ensure full implementation of guaranteed hours for a regularised workforce has occurred by 1 April 2017.
 - ii. It is anticipated the roll out of the guaranteed hours and training components of the regularisation will commence in February 2017.
 - iii. Providers and unions will agree a rollout schedule which takes account of the particular circumstances of each provider.
 - iv. The providers, funders and unions agree they will work collaboratively through all the processes that involve changes to service contracts, employment models and models of care.
6. This variation will be signed in conjunction with the agreed Work Programme Principles that outline plans to progress all components of regularisation within agreed timeframes. It is accepted the work programme principles may change as the work progresses and as such is living document.

7. No disadvantage

- i. The parties note that the implementation of guaranteed hours will occur on 1 April 2017, three months prior to the end of the 2016/17 financial year.
- ii. The parties agree that no party should be financially disadvantaged in the period 1 April 2017 to 1 July 2017 as a result of the implementation of regularisation. Although it was intended that the initial costs of regularisation would occur within existing HCSS funding and additional funding would be determined through a new budget bid it is acknowledged that a full budget bid has not yet been made.
- iii. If a party or any member of the party's representative group believes that they will be financially disadvantaged over the period 1 April 2017 to 1 July 2017, because of the implementation of regularisation, they will raise it in writing with the IBT settlement parties together with the supporting evidence.
- iv. The parties will meet within 2 weeks of the issue of financial disadvantage being raised and address the issue in good faith.
- v. Any resolution of proven and agreed disadvantage that requires additional funds will be capped and will be payable by the Ministry of Health up to the agreed cap. If funds are required beyond the cap discussions will need to occur within the process determined in clause 7 (vi and vii below).

- vi. If agreement cannot be reached on whether or not financial disadvantage will occur, or on the extent of disadvantage, or on the appropriate remedy to mitigate it within 30 days of the matter being raised, then the parties will appoint an independent person to review the matter and make recommendations on the appropriate course of action including the remedy, if any.
- vii. The parties will not unreasonably refuse to agree to the recommendations of the independent person.

Post 1 July 2017

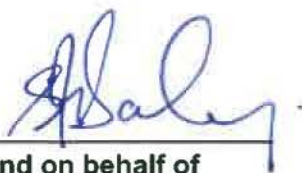
- i. For the period post 1 July 2017 the variation is signed on the full understanding that the full costs of full regularisation as defined in this Variation will be incorporated in the budget bid for 2017/18.
- ii. The intention is that no party shall be disadvantaged.
- iii. If a party or any member of the party's representative group believes that they will be financially disadvantaged from 1 July 2017, because of the implementation of regularisation, they will raise it in writing with the IBT settlement parties together with the supporting evidence.
- iv. The parties will meet within 2 weeks of the issue of financial disadvantage being raised and address the issue in good faith.
- v. If agreement cannot be reached on whether or not financial disadvantage will occur, or on the extent of disadvantage, or on the appropriate remedy to mitigate it within 30 days of the matter being raised, then the parties will appoint an independent person to review the matter and make recommendations on the appropriate course of action including the remedy, if any.
- vi. The parties will not unreasonably refuse to agree to the recommendations of the independent person.

Term

- 8. This Variation will come into effect immediately following the authorised signatures from each Settlement Party and will remain in force until the Settlement Parties agree otherwise.

Ratification

- 9. Each provider party, along with the HCHA, will be responsible for encouraging and seeking ratification of this Variation in accordance with the process set out in the settlement agreement. The provider parties' signatures are contingent on ratification by other providers as described in the settlement agreement.



For and on behalf of
Ministry of Health
Date:



For and on behalf of
20 DHBs

Date: 25/10/16



For and on behalf of E Tu

Date: 25/10/16



For and on behalf of
Access Home Health Ltd

Date: 7/11/16



For and on behalf of
NZCTU

Date: 25/10/16



For and on behalf of PSA

Date: 25/10/16



For and on behalf of
Healthcare of New Zealand Ltd

Date: 8/11/2016