



## COVERSHEET

<b>Minister</b>	Hon Stuart Nash	<b>Portfolio</b>	Minister for Economic and Regional Development
<b>Minister</b>	Hon Chris Hipkins	<b>Portfolio</b>	Minister for the Public Service
<b>Title of Cabinet paper</b>	Implementing a minimum living wage rate for cleaners, caterers and security guards working under public service contracts	<b>Date to be published</b>	26 November 2021

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
August 2021	Implementing a minimum living wage rate for cleaners, caterers and security guards working under public service contracts	Offices of the Minister for the Public Service and the Minister for Economic and Regional Development
12 August 2021	Cabinet Government Administration and Expenditure Review Committee Minute of Decision GOV-21-MIN-0027	Cabinet Office

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the following reasons:

- Confidential advice to Government

**[IN-CONFIDENCE]**

Office of the Minister for the Public Service

Office of the Minister for Economic and Regional Development

Chair, Cabinet Government Administration and Expenditure Committee

**Implementing a minimum living wage rate for cleaners, caterers and security guards working under Public Service contracts**

**Proposal**

1. This paper seeks Cabinet's agreement to direct chief executives of Public Service departments to implement a minimum wage rate in their departments' contracts for cleaning, catering and security services in line with the Living Wage. This is a step towards our vision to build a fair and equitable economy that all New Zealanders can participate in.

**Executive summary**

2. A key priority for Government is to ensure that New Zealanders are paid and employed fairly and decently, including by addressing low pay for our lowest-paid workers. Achieving this will provide a range of benefits for workers, including improving their quality of life, health and financial resilience.
3. We are making progress towards this vision and the Public Service is modelling the changes we want to see in the wider economy. In 2018 Government introduced a minimum rate of \$20.55 per hour for Public Service employees, in line with the Living Wage rate at the time.<sup>1</sup> [GOV-18-MIN-0020 refers] Since then, the majority of Public Service collective agreements have kept pace with increases to the Living Wage.
4. The next step is to deliver on our commitment to implement a living wage for cleaners, caterers and security guards working under Public Service contracts. These people do valuable work for the Public Service but are not always paid at levels that reflect this. A number of departments have already implemented a living wage in some of these contracts. However, we consider that Government needs to send a clear signal about its intentions in order to provide greater certainty for departments, workers and employers.
5. We propose that as a matter of Government policy, all cleaners, caterers and security guards working under a Public Service contract will receive a wage that fairly reflects the value of their work. To give effect to this policy, we propose that Cabinet direct chief executives of core Public Service

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<sup>1</sup> The Living Wage is independently calculated each year by the New Zealand Family Centre Social Policy Research Unit. The Living Wage as at June 2021 is \$22.10 per hour, and from 1 September 2021 it will be \$22.75 per hour. More information can be found at: <https://www.livingwage.org.nz/>

departments to ensure that their departments' contracts for cleaning, catering and security services stipulate a minimum wage rate for workers that is:

- 5.1. based on the Living Wage at the time the contract is tendered, negotiated or renewed; and
  - 5.2. adjusted annually in line with a formula (to be developed by MBIE) that anticipates increases in the Living Wage since the contract date.
6. We propose to take a staged and managed approach to implementing this policy. From 1 December 2021, Public Service chief executives will be required to start implementing this policy in contracts in scope as they come up for tender, negotiation or renewal. This approach balances the need to benefit these workers quickly while enabling departments to have sufficient time to prepare.
7. We estimate that this proposal will create additional costs to government of approximately \$65.9 million over four years.<sup>2</sup> Our expectation is that departments will seek to meet these costs from within baselines in the first instance. Where departments are unable to meet the costs of existing service levels from within baselines, we expect them to discuss implications for service levels and/or funding with their Minister.
8. To provide assurance that this policy is being implemented:
- 8.1. Te Kawa Mataaho will seek chief executives' confirmation that this policy is being implemented
  - 8.2. the Ministry of Business, Innovation and Employment (MBIE) will seek information from departments to ascertain whether they are making the required changes to their contracts
  - 8.3. as part of their usual contract management practice, departments will seek assurance from suppliers that the targeted workers are being paid at the agreed minimum rate as per the contract
  - 8.4. Te Kawa Mataaho and MBIE will report to the Ministers for the Public Service and for Economic and Regional Development on departments' progress implementing this policy.
9. As Ministers for the Public Service and for Economic and Regional Development, we will consider potential opportunities to improve wages for workers beyond the core Public Service over time. In the longer term, we expect that the development of the Fair Pay Agreements system will provide a more enduring mechanism for improving wages as well as other terms and conditions for these and other vulnerable workers.

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<sup>2</sup> This estimate is based on modelling of a \$0.55 per annum increase across the four-year period. The estimate does not include contracts that have already implemented a living wage rate. Estimates of a \$0.75 and \$1.00 increase per annum across the four-year period are modelled at \$69.5 million and \$74.1 million respectively.

## **A priority for Government is to ensure that New Zealanders are paid and employed fairly and decently**

10. This Government is committed to ensuring all New Zealanders have fair pay and employment conditions that support a decent standard of living. This includes addressing the difference between the highest and lowest paid workers. This is particularly important as Aotearoa continues to respond to and recover from the COVID-19 pandemic, since low-paid workers can be particularly vulnerable to the financial, social and health impacts of such a crisis.
11. Government is progressing a suite of policy changes that aim to address low pay both within the Public Service and across the wider economy, as the COVID-19 recovery allows. These include:
  - 11.1. continuing to increase the minimum wage, and developing a wider strategic framework to inform minimum wage settings
  - 11.2. extending a living wage to workers employed under Public Service contracts in priority industries, such as cleaning, catering and security guards
  - 11.3. legislating and implementing Fair Pay Agreements to make it easier for workers to receive fair wages and conditions.
12. Addressing low pay means that workers can better support their whānau, improving their quality of life, health and reducing financial stress, and helping to ensure they are less vulnerable to rent and other housing cost increases. This can potentially also benefit employers by reducing employee turnover, increasing productivity and improving worker morale.

## **The Public Service is leading by example and is well on its way towards addressing low pay for its workers**

13. As part of this vision, we expect the Public Service to model the behaviours we want to see. The Public Service has significant influence in other employment sectors – both through ‘leading by example’ and by directly interacting with those sectors (including through contracting with private sector companies).
14. Over the last three years, the Public Service has made significant progress towards addressing low pay for its workers. In 2018, this Government issued the Government Expectations on Employment Relations in the State Sector, which signalled that departments should work to narrow the gap between their highest and lowest earners. The May 2021 Government Workforce Policy Statement reiterated this commitment and indicated our expectation of fair wages and conditions for contracted Public Service workers. The Government Procurement Rules have also signalled expectations since 2018 that government procurement of services will contribute towards improving employment standards for Aotearoa workers, particularly cleaners, security guards and forestry workers.

15. In that time, we have taken steps to bring the pay of Public Service workers in line with the Living Wage. In 2018, we introduced a new minimum rate of \$20.55 per hour for Public Service employees, in line with the Living Wage rate at the time and with the expectation that further wage increases would arise through bargaining [GOV-18-MIN-0020 refers]. Since 2018, the significant majority of Public Service collective agreements have kept pace with increases to the Living Wage.
16. Several departments have taken steps to address low pay for workers employed under Public Service contracts with third parties. For example, in 2020 the Ministry of Social Development increased funding to allow a rate equivalent to the current Living Wage to be implemented in contracts for security guard workers.

**The next step is to deliver on our commitment to extend the Living Wage to cleaners, caterers and security guards working under Public Service contracts**

17. This government believes that people who work in the Public Service should be able to enjoy decent employment conditions that reflect the value of their work, regardless of how they are employed. However, we know there are still some people who do valuable work for the Public Service but are not paid at a level that reflects this. Cleaners, caterers and security guards who are employed under Public Service contracts for these services are particularly vulnerable and are among the lowest paid workers in government. This is why we have committed to extend the Living Wage to these workers.
18. MBIE is the government's Procurement Functional Lead. MBIE estimates that core Public Service department contracts for cleaning, catering and security services total around \$60 million per annum.<sup>3</sup> Contracted suppliers for these services are generally not required by government departments to provide information about how many people are employed under these contracts, or the rates at which they are paid. Based on historical pay conditions and our understanding of the current market, it is likely that the majority of these workers are paid below the current Living Wage rate of \$22.10 per hour.
19. Addressing low pay for those who deliver these services can make a positive difference in the lives of some of our most vulnerable workers. It will also further establish the Public Service as an exemplar to the wider economy.

**We propose that Cabinet directs Public Service departments to implement a minimum wage rate for workers under the contracts for these services**

20. While some departments are already taking steps to address low pay for these workers, we consider that Government needs to send a decisive signal to clearly communicate our expectations to the Public Service and to contracted suppliers and workers. This will provide greater certainty for all parties and shows our commitment to making change in line with Government's priorities.

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<sup>3</sup> This estimate is based on survey data collected by MBIE from government departments in 2021.

21. The Ministerial Oversight Group for State Sector Employment Relations has considered options to achieve this. We propose that as a matter of Government policy, all cleaners, caterers and security guards working under a Public Service contract will receive a wage rate that fairly reflects the value of their work.
22. To give effect to this policy, we propose that Cabinet direct chief executives of core Public Service departments to ensure that their departments' contracts for cleaning, catering and security services stipulate a minimum wage rate for workers that is adjusted annually to anticipate annual changes to the Living Wage.<sup>4</sup> We consider that this is practical to deliver and provides for a targeted approach.
23. The table below sets out the proposed content of this Cabinet direction:

<b>Table 1. Content of Cabinet direction on reflecting a living wage in targeted contracts</b>	
	<b>The Cabinet direction will:</b>
<b>Government Agencies in scope</b>	<ul style="list-style-type: none"> <li>apply to the 32 core Public Service departments listed in Schedule 2 of the Public Service Act 2020, including the four departmental agencies<sup>5</sup></li> </ul>
<b>Targeted contract areas</b>	<ul style="list-style-type: none"> <li>target cleaners, caterers and security guards working under Public Service contracts to deliver services, typically onsite. This includes workers contracted by suppliers or sub-contractors</li> </ul>
<b>Value of the minimum wage rate</b>	<ul style="list-style-type: none"> <li>require that workers under these contracts are paid at or above:               <ul style="list-style-type: none"> <li>the Living Wage from the time the contract is tendered, negotiated or renewed;</li> <li>with an annual adjustment according to a formula (to be developed by MBIE) that anticipates increases to the Living Wage since the contract date</li> </ul> </li> </ul>
<b>Commencement and staging</b>	<ul style="list-style-type: none"> <li>be implemented by departments progressively as contracts are tendered, negotiated or renewed, from 1 December 2021.</li> </ul>

### **This will be implemented in a staged and managed way**

24. While we want this policy to be delivered promptly to maximise benefits for workers, we know that departments and suppliers will also need sufficient time to prepare for implementation.
25. To strike the right balance, we propose that from 1 December 2021, chief executives of Public Service departments be required to start implementing this policy in the contracts in scope as they come up for tender, negotiation or renewal. This helps to mitigate the risk of a reduction in hours or staff numbers arising from the change in costs.

<sup>4</sup> This does not include any other payments or penalty rates. The change would be made to the base salary rate for the employees.

<sup>5</sup> It will not apply to non-Public Service departments (Parliamentary Counsel Office, the New Zealand Defence Force, and the New Zealand Police) or Crown entities, including DHBs and schools.

- 26.** It also enables:
- 26.1. MBIE to develop a formula to generate annual adjustments to the minimum wage rate which anticipates changes to the Living Wage
  - 26.2. guidance to be developed and applied by departments over time as needed
  - 26.3. departments to prepare for cost impacts and develop a plan for how these will be met
  - 26.4. some lead-in time for suppliers to develop appropriate methodology (for example if system changes are required)
  - 26.5. the minimum rate to be brought into contracts practically in the course of normal business.
- 27.** Where contracts expire before this policy comes into force, departments will be encouraged to amend those contracts and implement a minimum rate equivalent to the Living Wage at that time. Where contracts are 'evergreen' (ie they renew automatically on or after the expiry date), departments will be encouraged to implement the minimum rate within the first two financial years of implementation.
- 28.** We propose that Cabinet direct MBIE, as the Procurement Functional Lead, to develop guidance to support Public Service departments with implementation. Departments will continue to apply usual procurement planning practices in the negotiation of these contracts.

**MBIE and Te Kawa Mataaho will monitor and report to joint Ministers on departments' implementation of this policy**

- 29.** Government must be able to have assurance that this policy is being implemented. This should be carried out at a level that is consistent with usual contracting practices and does not place an undue administrative burden on departments or suppliers.
- 30.** We therefore propose that:
- 30.1. Te Kawa Mataaho will seek chief executives' confirmation that this policy is being implemented
  - 30.2. MBIE will seek information from departments to ascertain whether they are making the required changes to their contracts
  - 30.3. as part of their usual contract management practice, departments will seek assurance from suppliers that the targeted workers are being paid at the agreed minimum rate as per the contract
  - 30.4. Te Kawa Mataaho and MBIE will report to the Ministers for the Public Service and for Economic and Regional Development on departments' progress implementing this policy.

31. To support monitoring of implementation, we seek Cabinet’s agreement to direct core Public Service departments to provide information to MBIE about implementation of this policy on a regular basis.

**Over time, joint Ministers will consider potential opportunities to improve wages for other groups of government workers**

32. Low pay is not limited to cleaners, caterers and security guards or to the core Public Service. We know that some other workers employed under Public Service contracts, as well as other government workers, also face low pay. As the COVID-19 recovery allows, we will work with officials to assess the success of this approach and consider whether it could be extended to focus on other contract areas or agencies outside the core Public Service. Any extension of this policy would be subject to agreement by Cabinet.
33. Government is also developing a new Fair Pay Agreements system, which will introduce a new mechanism for collective bargaining to set binding minimum wages and employment terms across an occupation or sector. The Fair Pay Agreements system is expected to be enacted in 2022. In the future, this could provide a more enduring mechanism for addressing low pay for certain groups of workers.

**Impact analysis**

34. This proposal will improve wages for the lowest-paid cleaners, caterers and security guards working under Public Service contracts. This is likely to contribute to improving living standards for these workers and their whānau and can potentially have some benefits for their employers. There are also likely to be benefits to the local economy, as low-wage workers and households tend to spend a higher proportion of wage gains on immediate needs and tend to spend a higher proportion within their local region.<sup>6</sup>
35. These benefits will be offset to some extent by potential negative impacts such as increased labour costs, upward inflation pressure, and reductions in service levels flowing through to reduced employment. The benefits for workers may also be partially mitigated by consequential decreases in benefit entitlements and increases in tax payments.
36. There are some possible risks that could arise from this proposal. Overall, we consider these can be mitigated or are balanced by the benefits of this proposal:
  - 36.1. Increasing wages for these workers could potentially lead to employers choosing to hire fewer people or reducing hours of work. While this could create risks for employees, we consider this is mitigated through the fact that government will largely be meeting the additional costs associated with this proposal, and implementation will be staggered over time.

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<sup>6</sup> Reynolds, D., Pearson, R., and Voortkamp, J., (1999), The impact of the Detroit living wage ordinance. Centre for Urban Studies and Labour Studies Centre, College of Urban, Labour and Metropolitan Affairs, Wayne State University.



- 36.2. There is a related risk that creating a wage increase for the lowest-paid workers in a business could compress pay bands and could put pressure on that business to increase the wages of other employees. For some private suppliers, failing to maintain internal pay relativities in this way could potentially negatively impact on their commercial operating model.
- 36.3. Implementing a minimum rate to be paid to targeted workers could potentially prevent small businesses from accessing government contract opportunities. Large suppliers that already have government contracts may be better placed to take on the increased cost of higher wages. Again, we consider this is largely mitigated through the staggered approach to implementation.
- 36.4. This proposal may create some risk of creating two separate markets between Public Service contracts for cleaning, catering and security services, paid at a higher rate, and contracts for these services outside the Public Service. We consider this is partially mitigated through the fact that some suppliers will hold contracts with both Public Service and non-Public Service buyers.
- 36.5. This proposal is likely to have flow-on impacts broader than the core Public Service. Contracted suppliers that hold contracts with other organisations, such as District Health Boards or private sector organisations, may face market pressure to increase wages for their staff across contracts they hold.

### **Financial implications**

37. Officials have estimated, on the basis of data collected from departments, that this proposal will create additional costs to government of approximately \$65.9 million over four years.
38. We expect that departments should meet additional costs from this proposal from within baselines where possible. Government has signalled its intentions to address low pay in the Public Service since 2018, including through the Government Expectations on Employment Relations in the State Sector.

39. **Confidential advice to Government**

### **Publicity and proactive release**

40. Te Kawa Mataaho and MBIE have developed a joint communications plan which will support the implementation of the policy. The plan outlines how the Cabinet direction will be communicated to stakeholders such as departments, employers, workers and unions, and where departments will be able to access guidance. Information about the initiative will feature on the New Zealand Government Procurement website.

41. We propose to proactively release this paper within 30 working days after final decisions by Cabinet.

### Human rights implications

42. This proposal will help to ensure the Public Service continues to meet its human rights obligations towards workers. Māori and Pacific peoples, particularly women, are likely to be over-represented in these roles and to be among the most vulnerable to low pay. Setting a wage floor for these workers will help to further address any rights inequities experienced by these groups.

### Consultation

43. This paper was consulted on with Crown Law Office, Department of Conservation, Department of Corrections, Department of Internal Affairs, Department of the Prime Minister and Cabinet, Education Review Office, Government Communications Security Bureau, Inland Revenue Department, Land Information New Zealand, Ministry for Culture and Heritage, Ministry for Pacific Peoples, Ministry for Primary Industries, Ministry for the Environment, Ministry for Women, Ministry of Business, Innovation, and Employment, Ministry of Defence, Ministry of Education, Ministry of Foreign Affairs and Trade, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry of Māori Development—Te Puni Kōkiri, Ministry of Social Development, Ministry of Transport, New Zealand Customs Service, New Zealand Security Intelligence Service, Oranga Tamariki—Ministry for Children, Public Service Commission, Serious Fraud Office, Statistics New Zealand, Te Kāhui Whakamana Rua Tekau mā Iwa—Pike River Recovery Agency and The Treasury.
44. Departments supported these proposals overall. Some departments reported that they have already implemented (or are already in the process of implementing) a living wage into some of the contracts in scope.

### Recommendations

The Ministers for the Public Service and for Economic and Regional Development recommend that the Committee:

1. **note** that a key priority for Government is to ensure that New Zealanders are paid and employed fairly and decently, including through addressing low pay for government workers
2. **agree** that, as a matter of Government policy, all cleaners, caterers and security guards working under a Public Service contract will receive a wage rate that fairly reflects the value of their work
3. **direct** (to give effect to the policy in Recommendation 2) chief executives of Public Service departments to ensure that their departments' contracts for cleaning, catering and security guard services require workers under the contract to be paid at least a wage rate based on the Living Wage applicable

at the contract date and adjusted annually, according to a government-set formula that anticipates annual increases to the Living Wage

4. **note** that the Ministry of Business, Innovation and Employment will develop the formula referred to in recommendation 3
5. **agree** that from 1 December 2021, chief executives of Public Service departments are required to commence implementing this policy in contracts in scope as they come up for tender, negotiation or renewal
6. **note** that the Ministry of Business, Innovation and Employment will prepare detailed guidance by 1 November 2021 to support departments to implement this policy
7. **note** that the estimated financial impact of \$65.9 million over four years to implement this policy is subject to the outcomes of individual contract negotiations
8. **note** that Public Service departments are expected to meet the additional costs from this policy from within baselines in the first instance

## 9. Confidential advice to Government

10. **direct** the Ministry of Business, Innovation and Employment, as the Procurement Functional Lead, to develop guidance to support Public Service departments with implementation, including a formula or tool that generates the increments to the Living Wage to be applied annually by departments
11. **direct** Public Service departments to provide the Ministry of Business, Innovation and Employment with information on implementation of this policy on a regular basis to support monitoring
12. **note** that the Ministers for the Public Service and for Economic and Regional Development will work with officials to consider further opportunities to address low pay beyond the core Public Service, including through the mechanism of Fair Pay Agreements
13. **agree** that this paper will be proactively released within 30 days after final decisions by Cabinet.

Authorised for lodgement

Hon Chris Hipkins  
Minister for the Public Service

Hon Stuart Nash  
Minister for Economic and Regional Development