




Document A

Background Information

Title	Document	Summary
1. Labour and skills overview slides	 Slide pack.pptx	Recent MBIE analysis of the labour market.
2. Initial MBIE briefing on Fair Pay Agreements	 FPA briefing.pdf	MBIE's initial advice on the Fair Pay Agreement policy in November 2017.
3. Cabinet paper to establish the Fair Pay Agreement Working Group	 Cabinet paper - Improving the Employ	Cabinet paper to establish the Working Group. <ul style="list-style-type: none"> • Annex 1 summarises some detailed design questions for a Fair Pay Agreement system. • Annex 2 includes international comparisons of collective bargaining systems.



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI

Overview for Future of Work Ministerial Group

Meeting of 30 April 2018

20 April 2018 draft

Overview of Job and Skills Scene in New Zealand

Outline

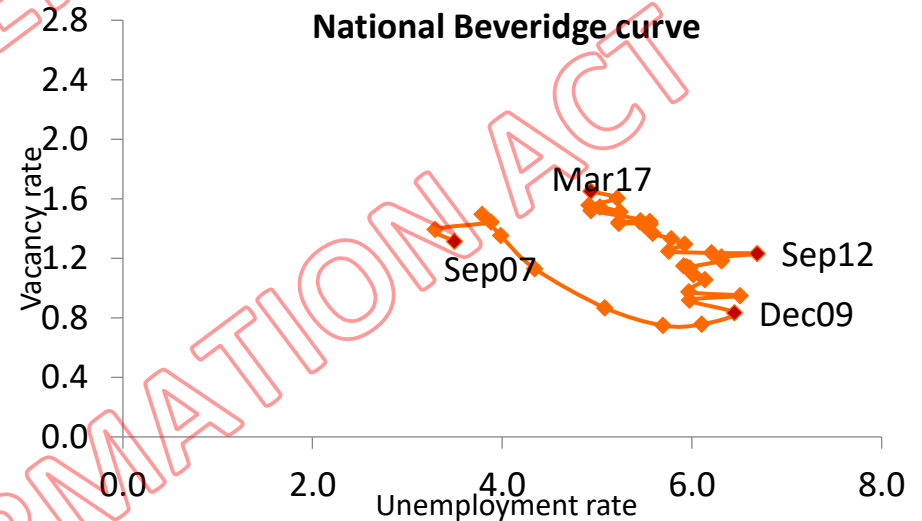
- Summary of evidence and issues
- Immediate context:
 - NZ has a highly dynamic “market” for jobs and skills
 - Labour force participation has improved since the GFC
 - NZ has had poor long-term labour productivity
- Three proposed channels for achieving Future of Work goals:
 - Adaptive firms enabling decent work (part A)
 - Effective skills formation and matching process (part B)
 - Building strong sectors and regions (part C)
- Comments on emerging challenges and opportunities ahead (part D)

Summary of evidence and issues

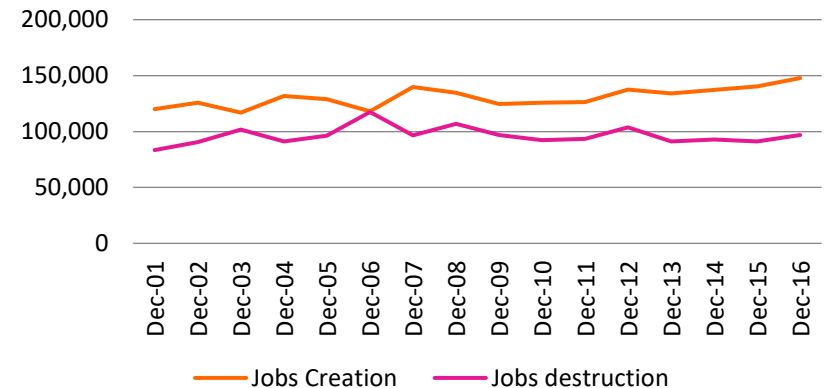
- New Zealand's labour market is very dynamic and has performed better than most developed countries since the Global Financial Crisis, in terms of employment and unemployment rates.
- Our labour market settings have supported high levels of participation on average, although we face a challenge to raise participation for youth, Māori and Pasifika, and in some regions. We need to help people who lose their job or suffer an injury to quickly re-connect with the labour market.
- Wages have increased across the income distribution, and strong minimum wage growth and social supports have helped to keep inequality in check (although our income inequality levels are above the OECD average). There is room to improve, including closing the gender pay gap, and raising incomes for Māori and Pasifika. We face challenges around the precarious nature of work for some people, and exploitative practices of some businesses.
- Our workforce is comparatively highly skilled and qualified.
- We face a challenge in better matching their skills to what firms say they need. This may be a key driver in our continuing poor labour productivity performance. This issue is likely to become more important with the increasing demand for higher skilled workers and new kinds of skill.
- While current forecasts suggest continued employment growth, we will need to adapt to the changing nature of work, as the forces of technology, globalisation, demographics and climate change impact over time. This comes with both challenges and opportunities.
- Changes to employment regulation and the skills system are likely to be particularly important here.

New Zealand has a highly dynamic 'market' for jobs and skills

- The labour market is the broader ecosystem within which people make decisions to: work for pay; employ people; invest in acquiring skills, knowledge and qualifications; or physically relocate.
- A number of economic and social factors (and government policies and actions) impact on labour supply and demand decisions, and how well labour supply and demand get matched.
- The labour market is really a series of markets for different types of labour in different locations. It responds to economic cycles, through the relationship between unemployment and job vacancies (the Beveridge curve). It also responds to one-off shocks (like the Canterbury and Kaikoura earthquakes).
- Of New Zealand's population of around 4.7m, around 3.8m are of working age (15 years and over), and around 2.7m people are participating in the labour market (in work or looking for it).
- There is constant movement of people between jobs, and in and out of the labour market. New Zealanders move overseas and migrants move to New Zealand. Young people enter the labour market, and older workers retire. Some people work variable hours, or in a succession of temporary and/or seasonal jobs.
- There are over half a million businesses in New Zealand, the great majority of which are small. There is a constant churn of businesses, potentially allowing resources flow to more productive uses.
- Nevertheless, individual transitions can be costly for some of the people affected, both initially and over the long run.



Number of jobs created and destroyed



Labour force participation has improved since the GFC

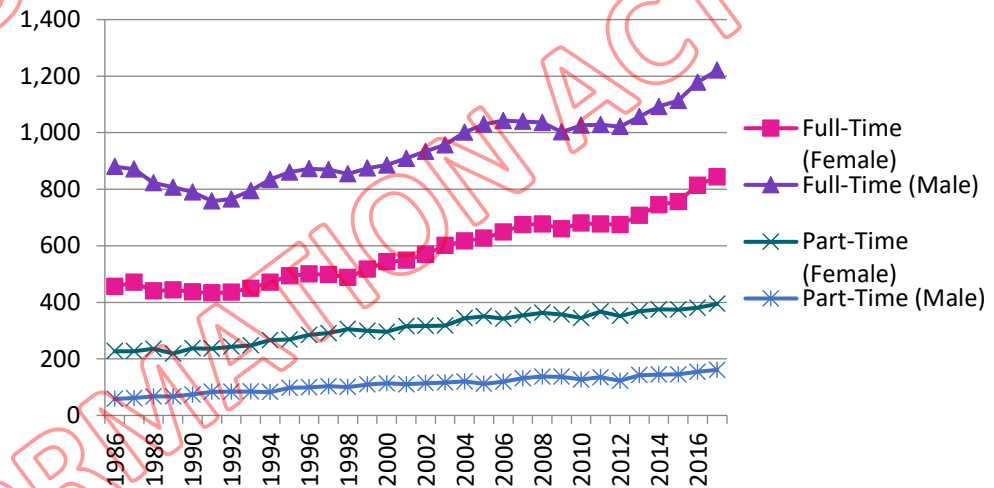
New Zealand's rates of participation and employment are among the highest in the OECD, and our unemployment rate is well below the OECD average. The labour market has been able to provide work for a growing number of people who are looking for work (including migrants).

The unemployment rate increased significantly after the Global Financial Crisis, but is now at 4.5 % the lowest it has been since the December 2008.

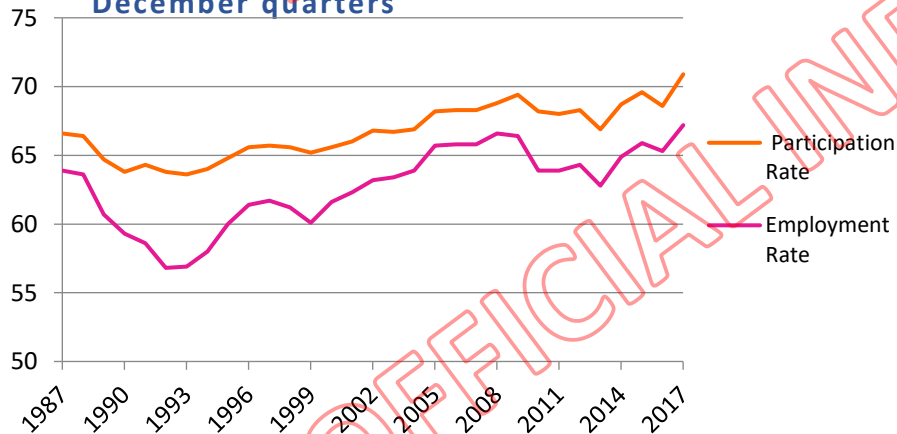
Employment has grown steadily over the long run, both full-time and part-time. There are currently around 2.6m people employed, around 1.1m more than in the 1990s. Self-employment (including contracting) has also grown, but has remained a steady share of total employment.

Average hours worked per person has remained fairly stable over time, but the proportion of people holding multiple jobs has fallen.

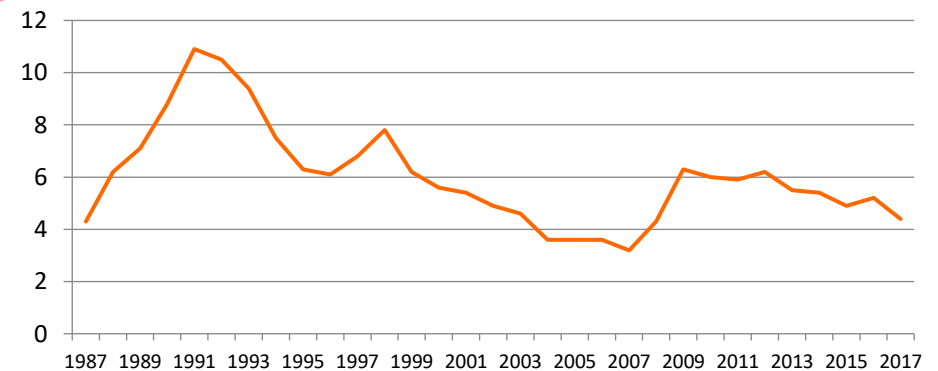
Employment by gender and work status (000s), December quarters



Employment and labour force participation rates (%), December quarters

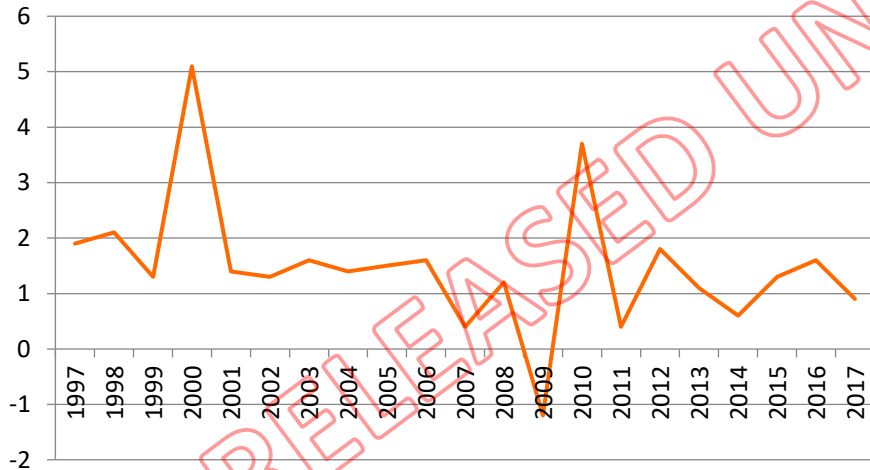


Unemployment rate (%), December quarters



New Zealand has had poor long term productivity performance

Annual labour productivity growth (%)



New Zealand has derived recent economic growth primarily from increasing labour force participation as opposed to increasing labour productivity. Our labour productivity growth has been falling, and it was negative in the most recent 12 months for which figures are available.

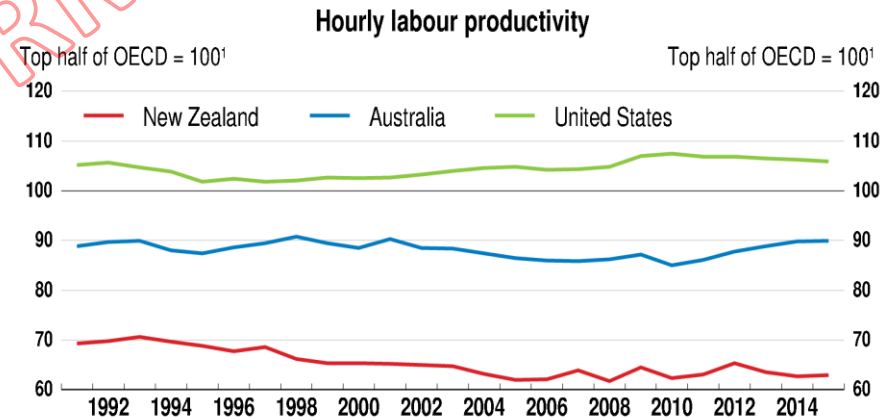
New Zealand's productivity performance has been considerably below the OECD average, and somewhat lower than Australia (which has also done poorly). We have also done worse than most of the small advanced economies that we compare ourselves with – our GDP per hour worked is around 7% higher than Israel, but is between 35% and 110% lower than Denmark, Finland, Ireland and Switzerland.

There has been a lot of analysis of New Zealand's productivity performance. The OECD has suggested that we should be 20% above the OECD average based on our policy settings, rather than significantly below it.

Potential contributing factors to New Zealand's poor productivity performance are:

- our small size and distance from markets
- low levels of capital investment and diffusion of technology, competition, involvement in global value networks
- industry structure (heavy reliance on low productivity sectors)
- proliferation of small firms and dearth of very large ones
- relatively poor quality of management and take-up of productivity enhancing workplace practices

Labour productivity continues to lag



Source: OECD (2017), Productivity database; OECD (2017), Economic Policy Reforms: Going for Growth 2017

A. Adaptive firms enabling decent work

Key messages in this section:

- Businesses have scope to adapt to changing skill demands
- Workers are generally satisfied with the jobs and working life
- Wages have risen, but workers have a lower share of national income
- Temporary workers may need stronger protections
- Measured income equality seems to have been fairly stable recently
- OECD has identified features of employment systems that make collective bargaining more effective
- Room to improve labour market participation and wages for some groups
- Disengagement can have long-term consequences



Businesses have scope to adapt to changing skill demands

New Zealand's labour market is generally considered to be among the most flexible and facilitative for employers.

New Zealand regularly scores highly in international measures of ease of doing business. There has been a focus on ensuring that regulatory systems provide adequate protection to people, without discouraging positive innovation (as opposed to innovation designed to circumvent regulations and standards).

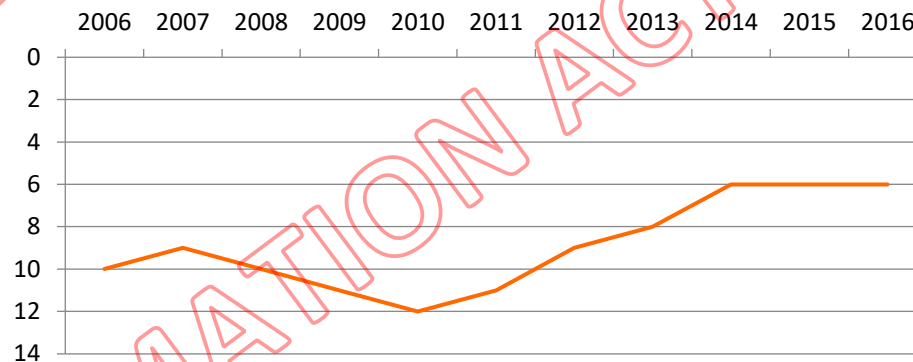
In the latest World Economic Forum Global Competitiveness Report, New Zealand ranks 5th-7th on labour market efficiency, equal with the UK and Canada (behind the US, but well ahead of Australia). Over the past decade, New Zealand has always been ranked in the top dozen countries.

New Zealand's rankings for individual components of labour market efficiency are:

- Flexibility of wage determination (centralised vs set by each business) – 22nd-28th
- Extent that regulations allow flexible hiring and firing – 33rd-39th
- Redundancy costs in weeks of salary – 1st-3rd

In recent years, there have been changes to regulation in the employment relations and health and safety areas. The 2016 Business Operations Survey reported that 38% and 71% of firms respectively spent significant time and resource on employment and workplace safety regulation. We would expect the time and resource spent on health and safety to decline as a new regulatory regime beds in.

Labour market efficiency - NZ's international ranking



Over half of firms felt employment regulation did not affect their performance, while only 38% felt the same about health and safety regulation. A slightly higher proportion of firms (28% compared to 26%) felt that health and safety regulation enhanced, rather than constrained performance. For many businesses, having sound health and safety practice is not just a cost, but is part of having a set of productivity enhancing workplace practices. However, some businesses focus purely on cost reduction, and employ low productivity or exploitative practices.

New Zealand firms have been enjoying a relatively benign employment relations environment. There have been very few work stoppages (strikes and lockouts) in recent years, and the number of personal grievances resolved through formal processes has fallen. New Zealand ranks 11th-15th in the Global Competitiveness Rankings for level of cooperation in labour-employer relations.

Workers are generally satisfied with their jobs and working life

On most recent surveys of worker satisfaction, over 85% of New Zealand workers indicate they are satisfied or very satisfied with their jobs. The 2017 World Happiness Report ranked New Zealand 22nd out of 160 countries, with around 89% of people satisfied with their job (slightly lower than Australia, but higher than the UK and the US).

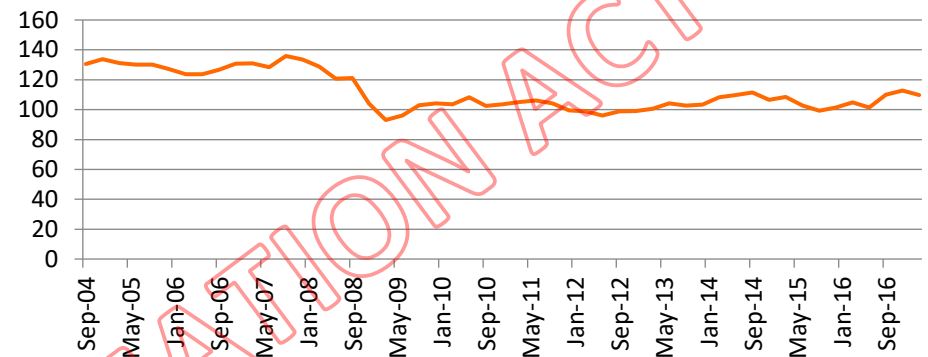
The picture is slightly less positive for work-life balance. The OECD Better Life Index, which incorporates indicators of long work hours and time devoted to leisure and personal care, places New Zealand in the bottom half (but better than the US and Australia).

New Zealanders work relatively long hours. Around a quarter of workers work more than 45 hours a week, and a third of that group report that these long hours have caused difficulties. On the other hand, about one in eight of the extended labour force want more hours of work.

We have little systematic information on the prevalence of family-friendly practices. MBIE's National Survey of Employers found that just over one third of businesses had employees who have negotiated flexible working hours and about one third had employees who had negotiated to work reduced hours or to job share.

New Zealand has not seen the sort of recent growth in non-standard work that other countries have. In theory, such work could be positive or negative for workers. There is growing evidence that such work is negative or precarious for some people, and that some of our policy settings are not fit-for-purpose for the sort of work arrangements people have.

Westpac McDermott Miller Employment Confidence Index



There is some partial information about worker views on non-standard work:

- Around half of all temporary workers want permanent work
- 5% of self-employed would prefer to work for an employer

Worker confidence in their employment and wage prospects has improved gradually since the Global Financial Crisis. The latest Westpac McDermott Miller Employment Confidence Index was 110, up from around 100 in late 2015. Employment confidence remains well below the peak of 136 in September 2007.

New Zealand has no statutory redundancy provisions, so workers who become redundant receive whatever compensation they have negotiated in their employment contract. At this stage, we lack reliable information on how many workers have redundancy notice and compensation provisions in their employment contracts.

Wages have risen but workers have a lower share of national income

In general, productivity increases and wage rises should go hand in hand. When productivity is rising, it is appropriate that workers should be benefiting.

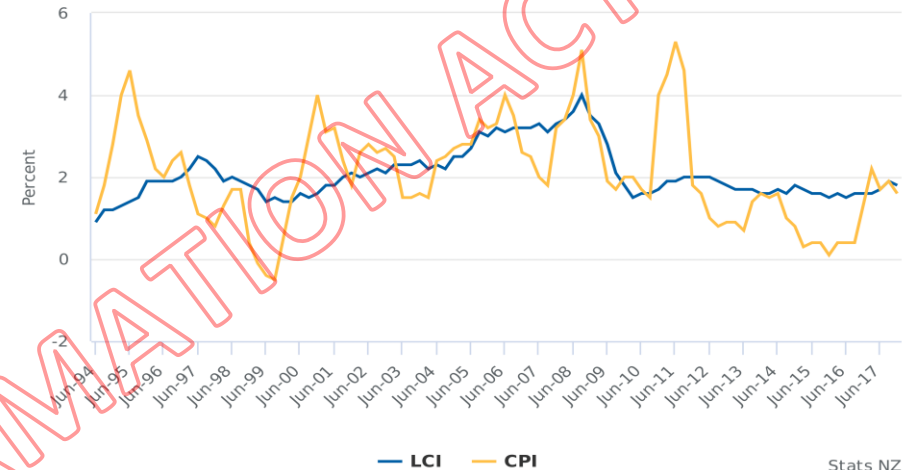
Wages have been rising in recent years, and for most of the past decade wage increases have exceeded inflation (although wages and prices have both been increasingly modestly). Since the base period of the Labour Cost Index (June 2009), wages across all sectors have increased by 15.7%. The strongest increases were actually for lower skilled occupations (18.4% for skill level 5, compared to 14.2% for skill level 1). At an occupational level, wages rose by 19.1% for construction trades, 18.8% for machinery operators, drivers and labourers and 19.8% for community and personal service workers, compared to 13.8% for managers and 14.6% for professionals.

Although wages appear to have been rising, workers as a whole have seen their share of national income fall over the long run. In New Zealand, the labour income share was as high as 55% in the mid-1970s, before falling to under 45% by the early 2000s. It then rose until the GFC, and while it has trended down since around 2009, it appears to have stabilised at around 45%.

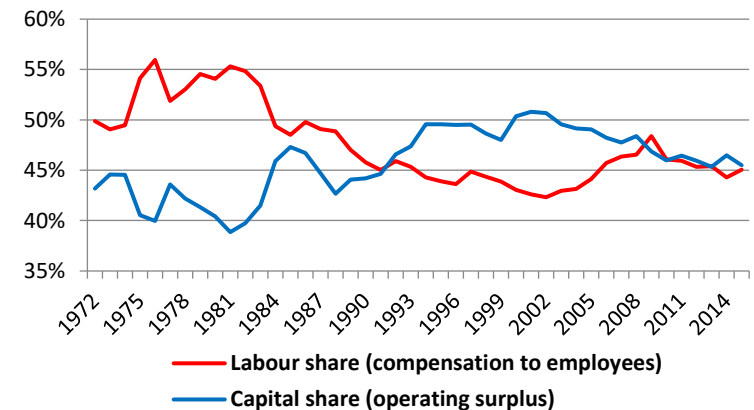
Over the long term, all countries (both developed and emerging) have seen falls in the share of income going to workers. Various explanations have been proposed, including the role of technology, globalisation, financial institutions, and the declining influence of unions. It is likely that all of these factors have had some impact, and there appears to be no consensus on the relative contribution of the different factors.

The falling labour income share in New Zealand's case reflects wages growing slower than returns to capital, rather than wages falling.

Annual percentage change in LCI and CPI



Labour and capital share of national income



Temporary workers may need stronger employment protections

Temporary employees have poorer outcomes from work than permanent full-time employees...

There are approximately 180,000 temporary employees in New Zealand made up of:

- 97,000 casual employees
- 54,000 fixed-term employees
- 21,000 seasonal employees
- 8,000 temporary agency workers

When compared to the permanent, full-time workforce, those in non-standard working arrangements are more likely to be younger, female, Māori or Pacific, and to earn less from the work they do. Primary sector industries such as agriculture, forestry and fishing have the greatest reliance on temporary workers with 1 in 5 primary sector workers being temporary employees (i.e. casual, fixed-term, seasonal or temporary agency workers) compared to less than 1 in 14 of all workers.

Temporary employees are less likely to belong to unions or to be covered by either collective or individual employment agreements. They tend to work fewer and more irregular hours and have shorter notice of their work schedules.

The Labour Inspectorate enforces minimum employment standards and takes action against employers who breach these standards. There are currently 93 employers on the 'stand-down' list who are prevented from being able to recruit migrant workers because of previous breaches.

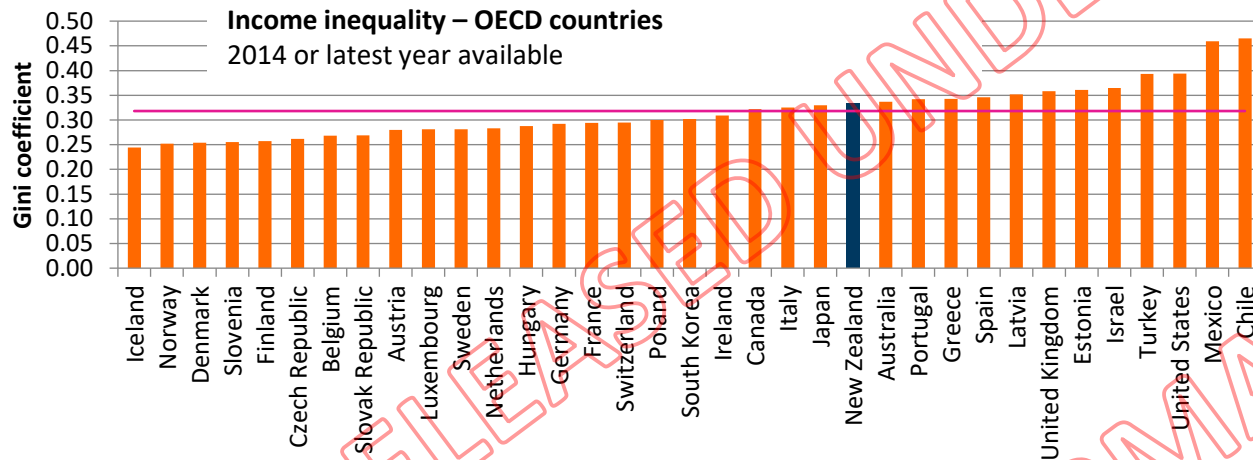
...and changes may be needed to amend or extend employment protections for these groups

New Zealand has an established set of minimum standards for employment such as the minimum wage and annual and sick leave provisions. However, the employment relations and standards system is designed around traditional permanent employment relationships and does not always cater well for the wide variety of modern working arrangements. In particular, there are issues where the minimum standards:

- *do not apply* – there is an issue with 'dependent contractors' where people in employment-like relationships may be classified by employers as contractors so that minimum standards do not apply
- *are not being applied correctly* – there are ongoing issues with the Holidays Act not being implemented correctly
- *do not apply in practice* – casual or temporary workers are theoretically eligible for sickness and bereavement leave but often cannot meet the qualification requirements for these entitlements because of the nature of their work (e.g. a requirement of six months continuous work with the same employer).

The underlying question is whether the system should cover all forms of 'work', rather than just 'employment'. Parts of the system have already shifted in this direction (e.g. Paid Parental Leave applies to all), as have other regulatory systems (e.g. Health & Safety, ACC).

Measured inequality seems be fairly stable recently

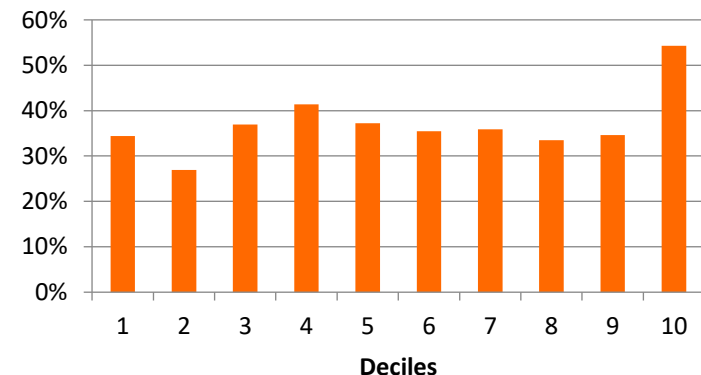


International concern about inequality has been growing. New Zealand has a slightly higher degree of income inequality than the OECD average. Inequality has been fairly stable recently since its rise in the 1980s and 1990s.

A recent analysis by Dr Bill Rosenberg of the CTU found that real wages have increased across the income distribution, but increases were much higher for the highest and lowest deciles. Recent increases to the minimum wage that exceeded inflation and average wage increases have helped to raise incomes at the bottom end. Our income support system helps to even out income increases across households (and many low income individuals are in high income households).

A particular policy concern is were low incomes become entrenched for particular individuals (and their families). Treasury research found that around 16% had little income movement and 6% remained in the bottom decile over a seven year period. Young people, sole parents, Māori and people with no qualifications are most likely to lack income mobility.

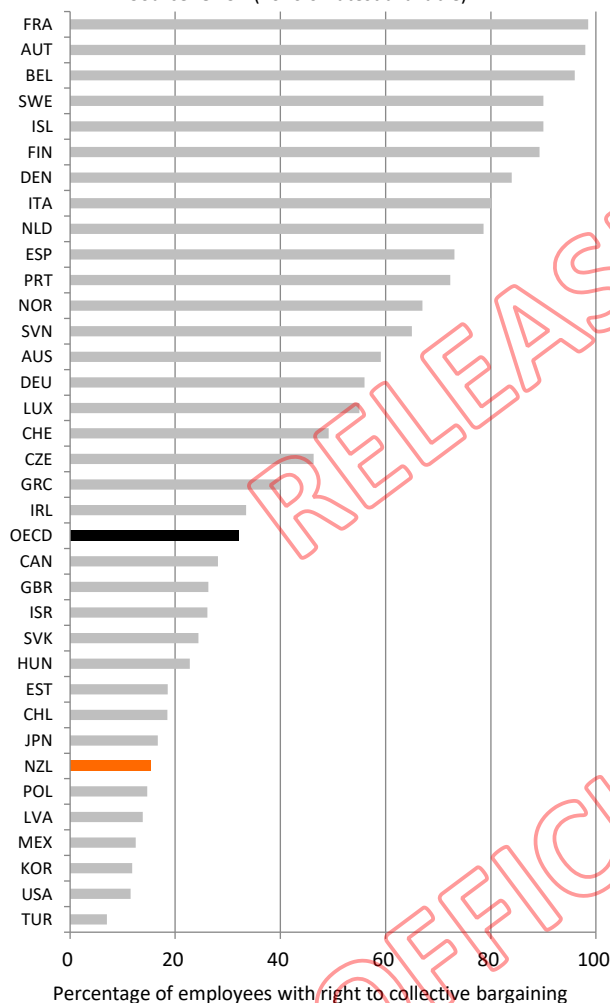
Real increase in mean household disposable (after tax) income 1998-2015



The OECD has identified features of employment systems that make collective bargaining more effective

Collective agreement coverage

Source: OECD (2016 or latest available)



On average across OECD countries, the share of workers covered by a collective agreement has shrunk to 33% in 2015 from 45% in 1985.

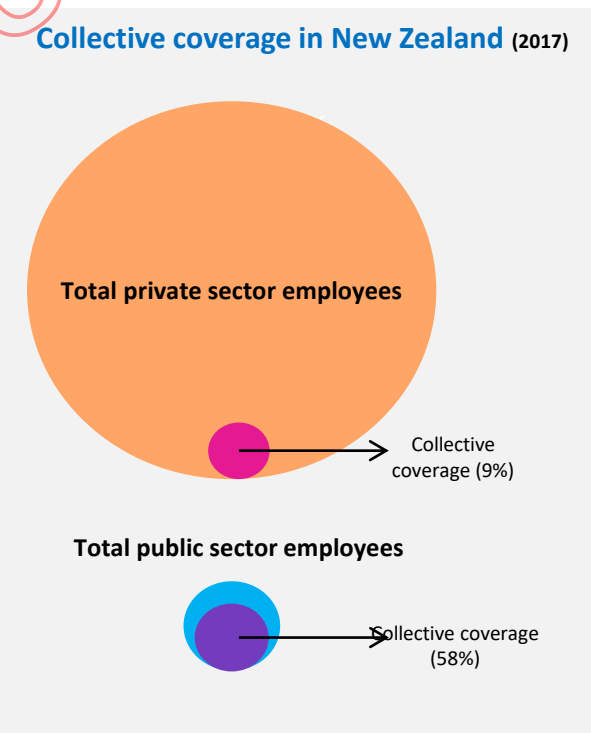
“Amongst industrialised countries, New Zealand experienced the greatest decline in collective bargaining coverage between the late 1970s and the mid-to-late 2000s – a consequence of being the only country to have shifted from one of the industrialised world’s most regulated labour markets to one of its most deregulated.” – *Victoria University Centre for Labour, Employment and Work.*

New Zealand has a system of collective bargaining at the **enterprise level** (and very limited multi-enterprise level). Almost no industry-wide bargaining occurs.

The OECD found that “[o]verall, collective bargaining coverage is high and stable only in countries where multiemployer agreements (i.e. at sector or national level) are negotiated and where either the share of firms which are members of an employer association is high or where agreements are extended also to workers working in firms which are not members of a signatory employer association.

In countries where collective agreements are signed mainly at firm level, coverage tends to go hand-in-hand with trade union density. Workers in small firms are generally less likely to be covered as these firms often do not have the capacity to negotiate a firm-level agreement, or a union or another form of worker representation is absent at the workplace.”

Collective coverage in New Zealand (2017)



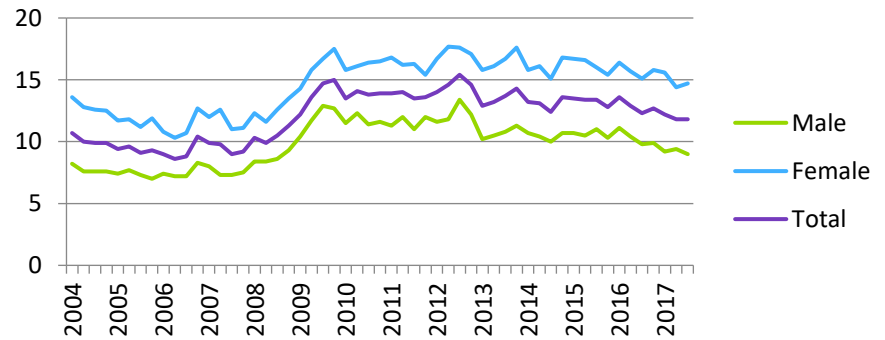
There is considerable scope to improve labour force participation

Unemployment rates (%), September 2017



- Māori, Pasifika and Middle Eastern/Latin American/African have higher unemployment rates and lower employment rates
- Younger people (under 25 years) have much higher unemployment rates. Participation is high among those aged 20-24 years
- Women have a slightly higher unemployment rate, but somewhat lower employment and participation rates than men
- People with disabilities have very much lower participation (25.2%) and employment (22.4%) rates
- Unemployment remains relatively high in some regions – Northland, Bay of Plenty, Gisborne/Hawkes Bay
- Around one in eight of the extended labour force are underutilised (i.e. they are either unemployed or would like to work more hours)

Underutilisation rates (%)



Labour force disengagement can have negative long-term consequences

People who fail to connect to the labour market run the risk of poorer long term outcomes. The transition of young people from education into the labour market is a key point for determining future outcomes.

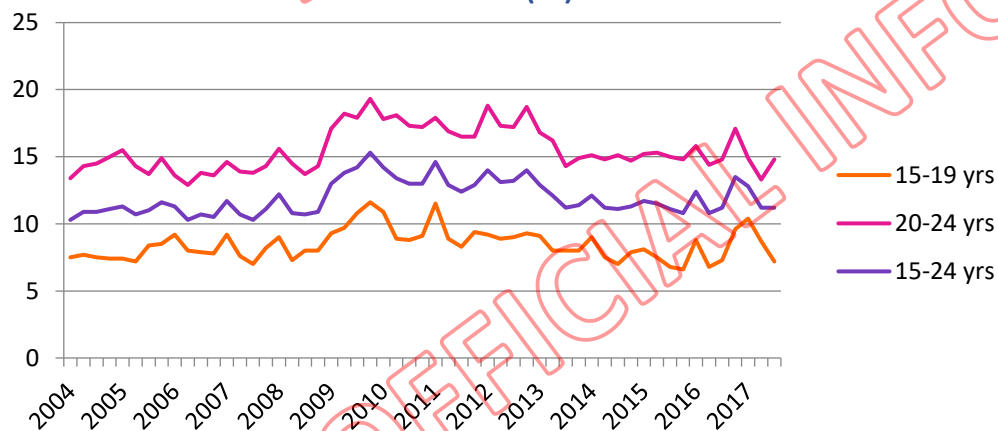
Over 11% of young people (15-24 years) are not in employment, education or training (NEET). This rate is higher for those aged 20-24 years. The youth NEET rate has been trending down, and is now at a similar level to before the GFC.

Recent research identifies an 'attitude gap' between employers and young people in relation to the workplace. Employers have certain expectations of workers, but young people who have not experienced a workplace are often not aware of what is expected.

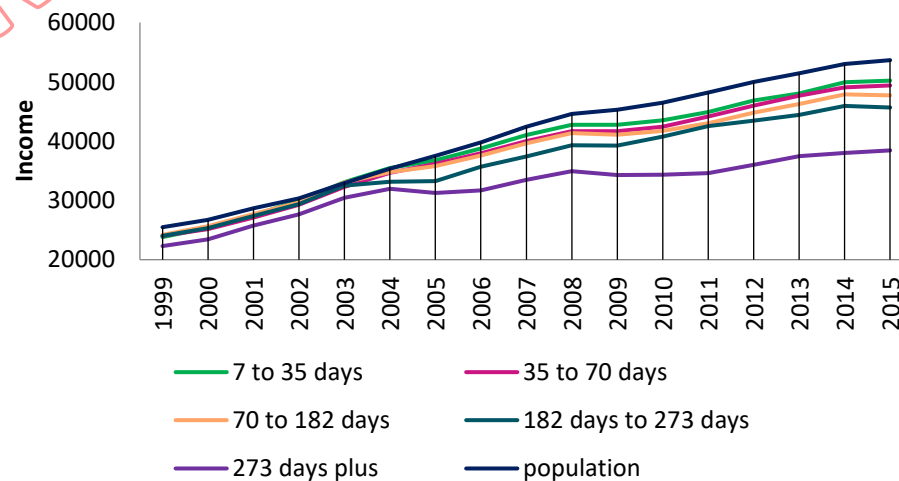
Two recent studies by the OECD and Motu Research and Public Policy find that people who have been displaced from work (e.g. been made redundant) generally re-attach to the labour market, but they have poorer long term outcomes than those who have not lost their jobs. This highlights the importance of the systems we have to re-attach people to the labour market and ensure that their skills remain relevant to employers.

Another at-risk group is people who have suffered an injury. While we have a comprehensive approach to managing income support and rehabilitation for people who have had accidents, recent research using the Integrated Data Infrastructure finds that an absence from work, even for a short period, is associated with lower longer term incomes.

Youth NEET rates (%)



Annual Income by absence from work after an injury



B. Effective Skills Formation and Matching Process

Key messages in this section:

- NZ's workforce is highly qualified on average
- Our skills compare well internationally
- Workers are developing new skills, not always using them at work
- Businesses report difficulty in finding the workers they need
- NZ's thin labour market leads to inefficient matching
- Migration is an increasing part of NZ's labour market

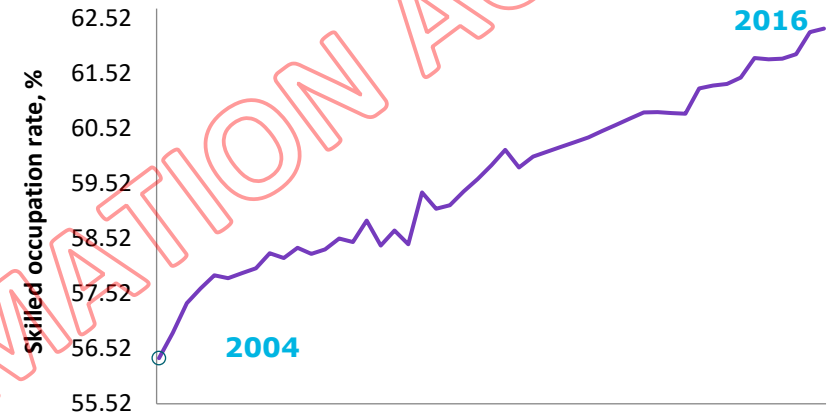
New Zealand workforce is highly qualified and skilled, on average...

New Zealand's relatively poor productivity performance is at odds with the skill and qualification levels of the workforce. The proportion of 18 year olds achieving NCEA Level 2 qualifications and of 25-34 year olds achieving qualifications of NZQF Level 4 and above have been increasing in recent years.

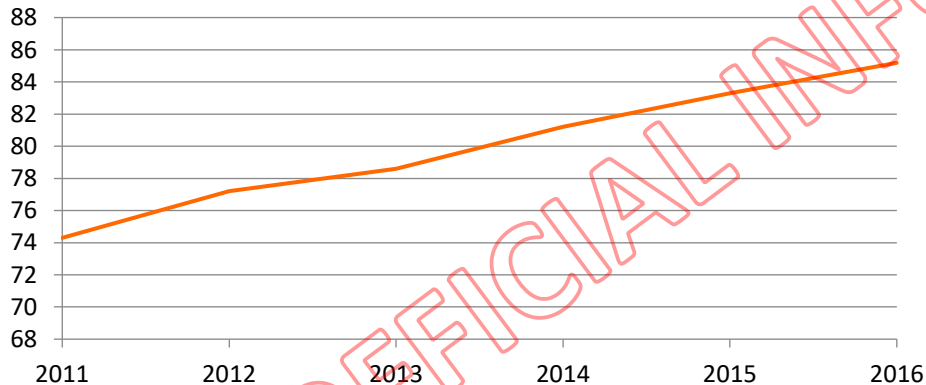
Over 60% of workers are employed in skilled jobs. This proportion has been slowly rising over time, in line with the long term shift of employment from primary and secondary industries into services, including technical occupations. Recent job growth has been stronger for skilled jobs than lower skilled ones, and this trend is expected to continue.

If there is an issues with skills, it appears to be less about the quantity of them and more about how they are used in workplaces (see later slides).

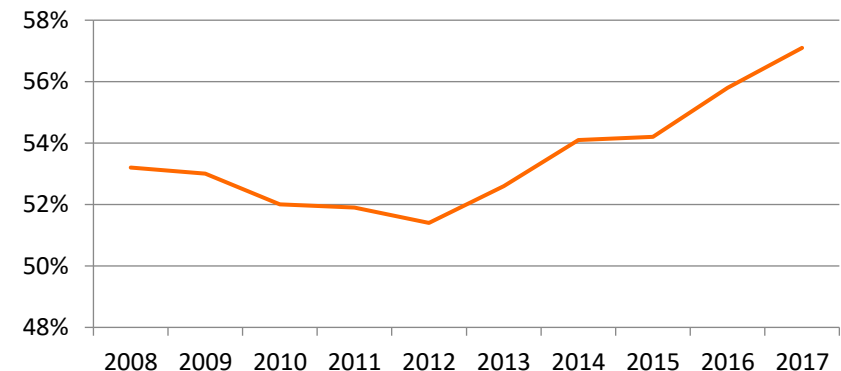
Nearly 63% are in skilled work



NCEA level 2 attainment by 18 year olds (%)



25-34 year olds with NZQF level 4 quals

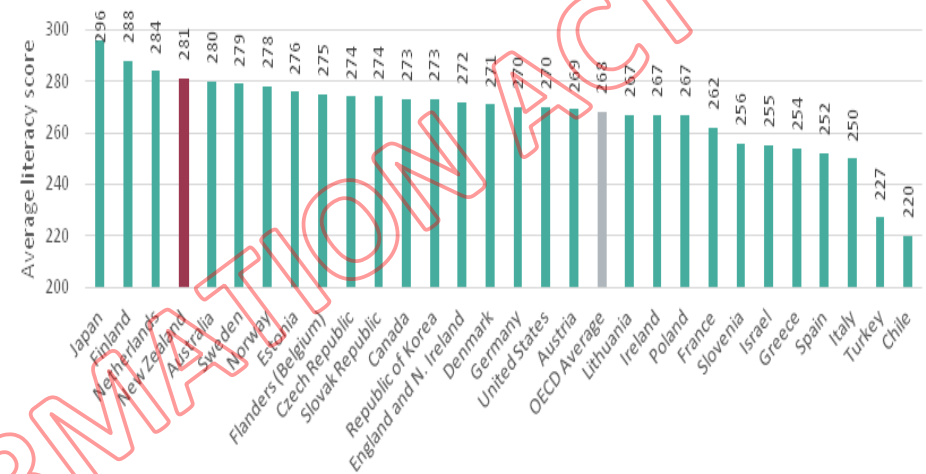


... and the skills of New Zealand workers compare well internationally

The 2016 OECD Survey of Adult Skills looked at literacy, numeracy and problem solving skills in technology rich environments across OECD countries. New Zealand workers were near the top of the OECD for literacy and problem solving skills, and a bit above average for numeracy.

New Zealand's qualification levels also compare favourably with other countries. Around a third of people surveyed had bachelors or higher qualifications, more than the US, the UK, Canada and Australia. New Zealand was second to Canada in the proportion with Level 1-3 certificates or diplomas. Only 14% of people surveyed had no qualification, compared to 24% of Australians surveyed.

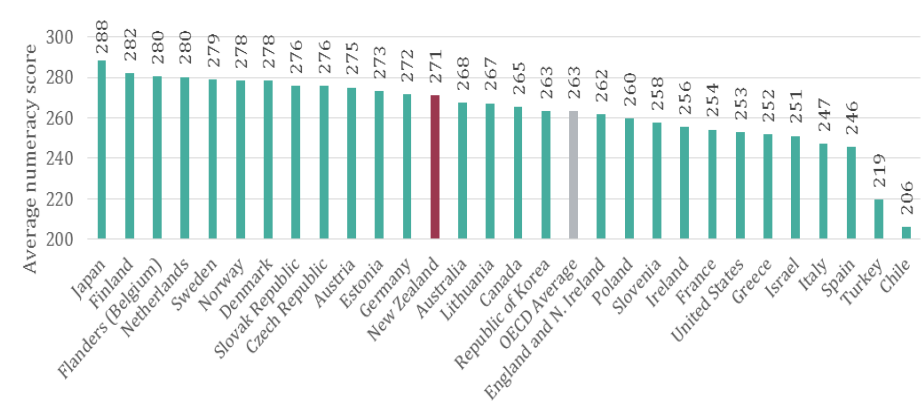
Literacy skills in New Zealand and other OECD countries



Problem solving skills in New Zealand and other OECD countries



Numeracy skills in New Zealand and other OECD countries



Workers are developing new skills, but may not be using them at work

New Zealand workers are relatively highly skilled. Workers want to be able to use their skills in their work, and will need to develop new skills that they can use in their future careers.

As a later graph shows, there is a high degree of qualification and field of study mismatch in New Zealand. This means that many New Zealand workers are not using their skills in the way they might have planned, or in a way that maximises the economic benefit of the investment in education and training.

Among OECD countries, New Zealand has the highest rate of people reporting that they are over-qualified for their current jobs (around a third of workers).

The 2016 OECD Survey of Adult Skills found that New Zealand had the highest rates of worker participation in on-the-job training, seminars and workshops. Rates were lower for private training and open/distance learning, but New Zealand was still above the OECD average.

Participation in formal learning in New Zealand and other OECD countries



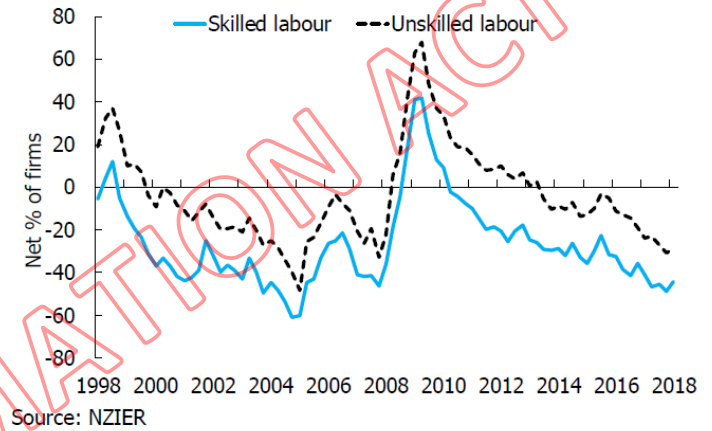
Businesses report difficulty finding the workers and skills they need

A net 49% of businesses responding to NZIER's Quarterly Survey of Business Opinion say that it is hard to get skilled staff. A net 31% of businesses also report difficulty finding unskilled labour.

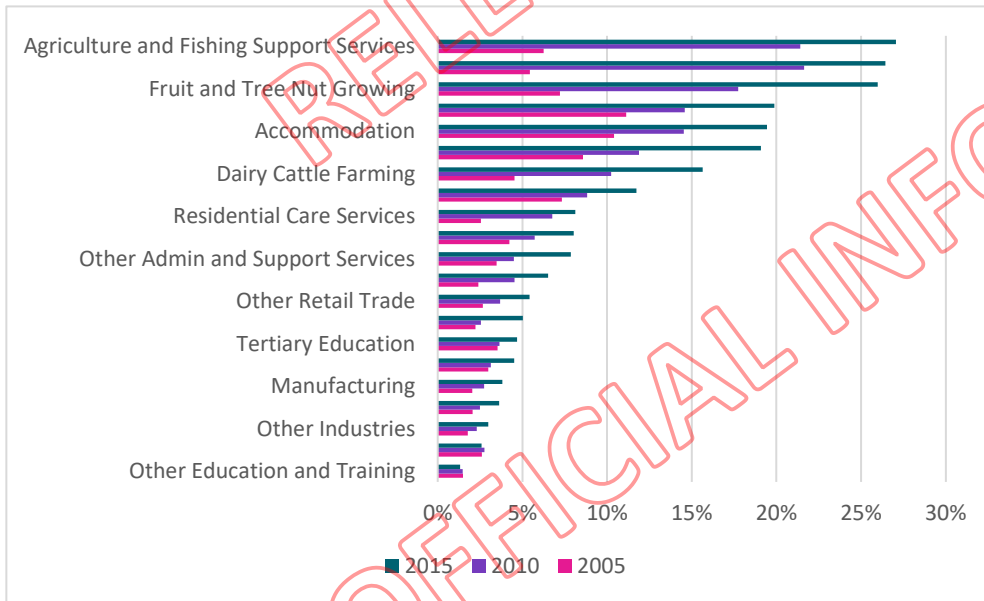
It is to be expected that businesses will find it harder to find the workers they need when the economy is growing and unemployment is relatively low.

A net 9% of businesses expect economic conditions to deteriorate over the coming months with the pessimism broad-based across sectors.

Economy wide: ease of finding labour



Migrant share of employment by industry (%)



Many businesses are meeting their labour and skill needs by employing migrants. Most visas that allow migrants to work do not require an assessment of whether there are New Zealanders available to do the job. Over the past decade, the migrant share of employment has increased significantly in primary industries, accommodation, residential care, and administration and support services.

This has happened at a time when there are still significant numbers of people unemployed (particularly in some of the regions), and there have been modest wage increases. It is plausible that the ready availability of migrant workers takes the pressure off firms to find other ways to address labour and skill shortages, such as employing local workers, investing in training, or changing their business models (e.g. investing in more capital).

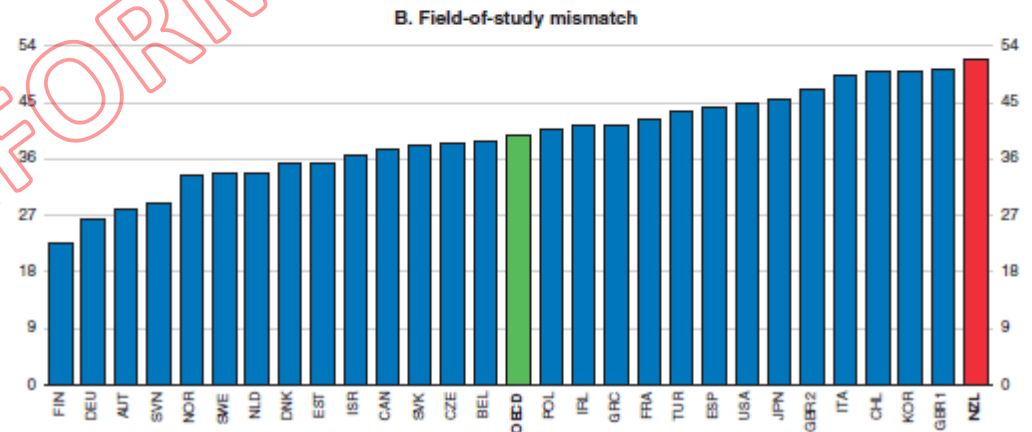
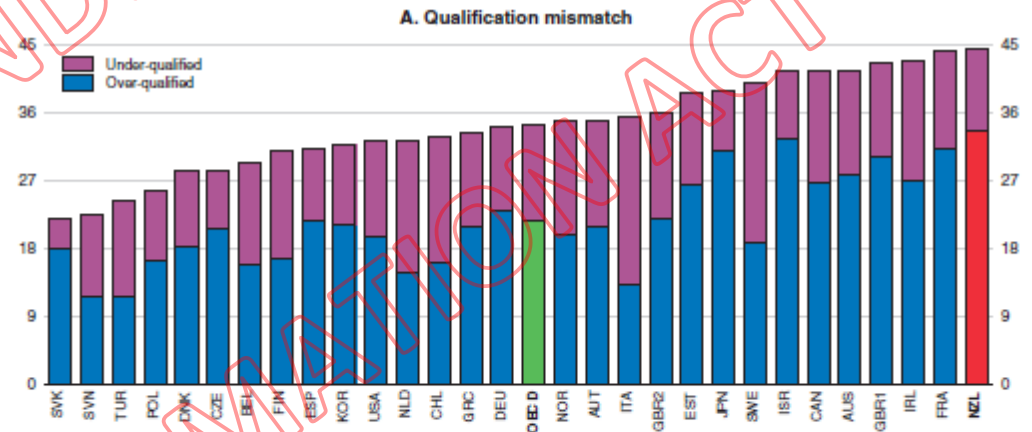
Our thin labour market leads to relatively inefficient matching

New Zealand is a relatively small labour market, making it harder than in larger labour markets to achieve efficient matches of workers to jobs.

As far as we can, we try to overcome this by ensuring that workers and businesses have good information (e.g. job hubs, data on the outlook for different occupations), that obstacles to them moving for work are minimised, and that people are able to use intermediaries to represent their interests (unions, business and sector groups, human resources professionals, recruiters).

New Zealand workers have high levels of skills, but many are mismatched to their jobs. Among OECD countries, New Zealand has the highest rate of people reporting that they are over-qualified for their current jobs (around a third of workers). It is not clear to what extent workers have a problem with this, although the OECD has reported that over-qualified workers earn less than well-matched workers. MBIE is doing further investigation to better understand the wage impacts of other forms of mismatch, including qualification mismatch.

We need a better understanding of how skills are utilised in the labour market to better align peoples' skills to jobs, businesses to people, and lift overall productivity.



Source: OECD(2017), OECD Economic Surveys: New Zealand

Migration is an increasing part of New Zealand's labour market

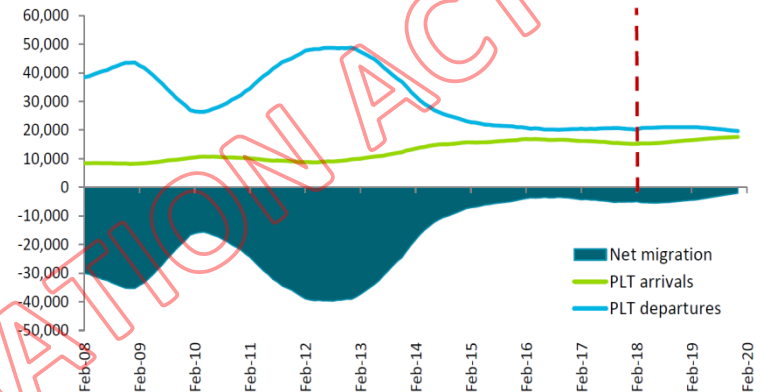
New Zealand has a large per capita diaspora and migrant population. Long-term and permanent net outflows of New Zealanders are largely driven by the economic fortunes of Australia. Flows into New Zealand of foreign nationals have become more diversified over time, as Asia has overtaken traditional sources like the UK and continental Europe. Permanent (resident) inflows of foreign nationals have been stable over time, but there has been a significant increase in the inflows of long-term temporary migrants.

We are fairly selective in the migrants we approve, so they generally achieve good work outcomes in the long term. However, it can take some time to converge to the outcomes of similar local workers, and refugees and Pacific migrants have notably poorer outcomes (lower rates of employment and incomes, higher rates of benefit receipt).

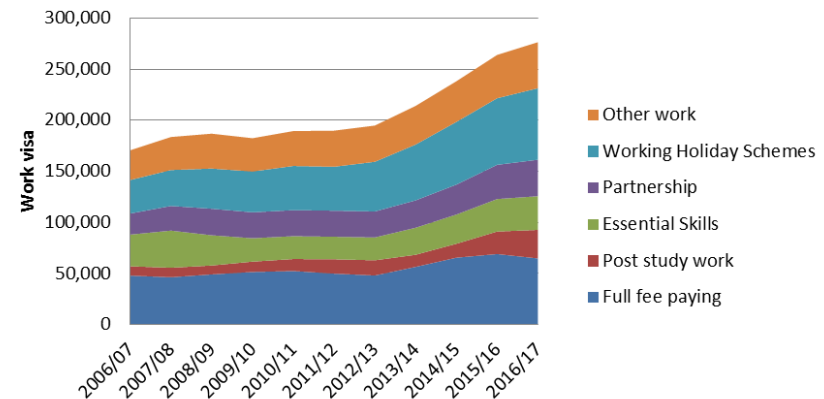
We have significant and growing inflows of temporary migrants. While some of our work visa policies target particular skills, around three quarters of migrants on work visas have “open” work rights (they can work in any job, whether or not local workers are available), and many people on other visa types (particularly international students) also have open work rights (although students can only work a limited number of hours). While there is no clear evidence that these workers displace local workers, they are filling jobs that might otherwise be open to a suitable local worker.

There is some evidence of migrant workers being exploited, particularly by migrant employers of the same ethnic group. Immigration New Zealand and the Labour Inspectorate have been undertaking joint enforcement action to address these concerns, and 93 employers are currently unable to recruit migrant workers because of previous regulatory breaches. MBIE successfully prosecuted a human trafficking case in 2016, resulting in a sentence of nine years imprisonment for a Fijian national.

Annual Net Permanent and Long Term migration (actual and forecast)



Number of people granted work visa by policy



C. Building strong sectors and regions

Key messages in this section:

- Regions have very different labour markets
- As do sectors
- Room to improve Māori and Pasifika outcomes



Regions have very different labour markets...

Our regions have very different labour markets, reflecting the fact that they have different economies and industry structures.

In general, larger urban centres have higher employment and wages, while unemployment is higher and incomes lower in smaller, more distant regions. Taranaki is a bit of an exception, particularly when fortunes are good in the oil and gas sector.

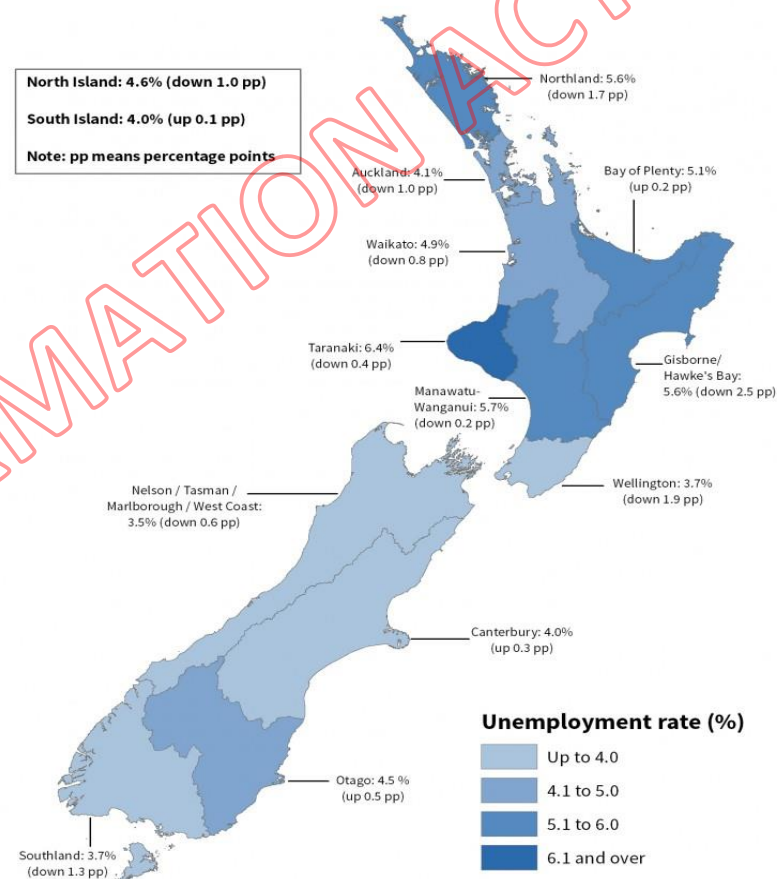
All else being equal, workers should tend to move from weaker to stronger labour markets. In fact, New Zealanders are relatively mobile, compared to other developed countries. Most mobility is between adjacent regions. For many people, there are strong economic and social reasons to remain where they are, even if economic conditions are weak.

Through the Regional Growth Programme, government agencies have been supporting regions to realise their economic potential. Labour and skills are always an important part of this picture.

Cities drive growth by accumulating people and skills and facilitating the transfer of knowledge between businesses. They are also an important part of the value chain for products from the regions.

Auckland is particularly important, as our gateway to the world. It has been relatively under-performing recently. Housing and transport are particularly important enablers for Auckland.

Unemployment rates by regional council area
December 2017 quarter (compared with December 2016 quarter)



...as do sectors

Sectors differ significantly in size, growth, skill mix of workers and wage rates. Close to 60% of employment is in the private service sector, and around a quarter is in government services. Around 10% of employment is in manufacturing and 6% in agriculture.

Government agencies work with sectors in a number of ways to meet their labour and skill needs, while ensuring that they are complying with regulatory requirements and creating job opportunities for local workers. They also seek to help sectors to become more productive and internationally-focused.

The Sector Workforce Engagement Programme works with sectors that are relatively low skilled and have high rates of migrant employment, to increase employment of local workers. The focus sectors are construction, tourism, dairy, road transport, aged care and horticulture and viticulture.

Some sectors are a priority for regulatory agencies as they have higher rates of non-compliance (e.g. with taxation, immigration, employment regulation and standards). This is the case with construction, hospitality, and parts of the primary sector. In terms of health and safety, the risks to be managed are inherently higher in agriculture, forestry and fishing, construction and manufacturing.

Government agencies also look for opportunities to facilitate growth of knowledge intensive, highly productive sectors, such as space, digital technology, film and functional foods.

Annual change in employment by industry, December 2017



Persons employed by industry (000s), December 2017



There is room to improve Māori and Pasifika outcomes...

The Māori and Pacific populations are on average younger and are growing more quickly than other ethnic groups, so their outcomes will increasingly influence the average labour market and economic outcomes of New Zealand.

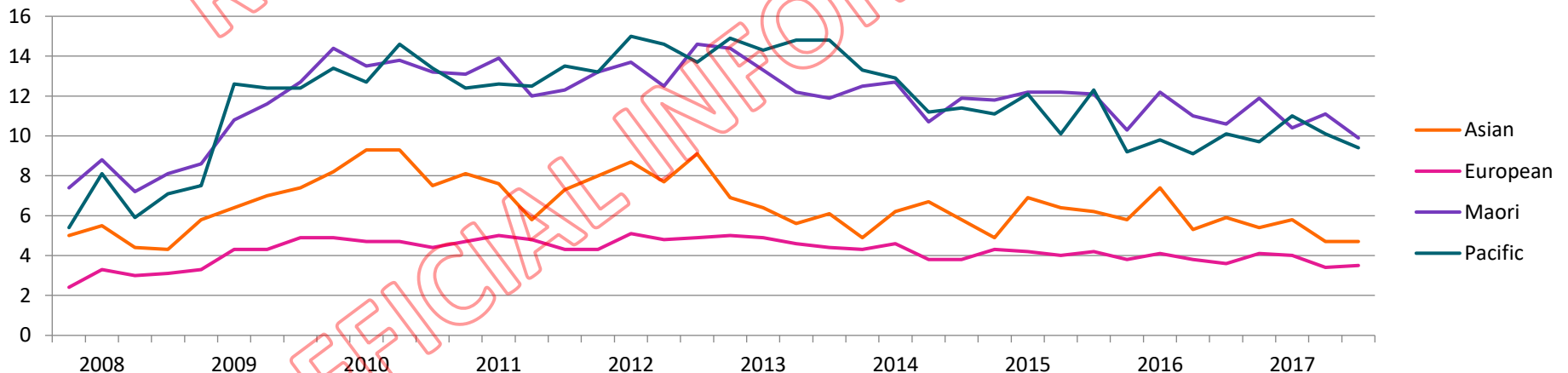
At present, Māori and Pasifika have lower employment rates and incomes, and higher unemployment rates than other ethnic groups. They also have higher youth NEET rates. Māori and Pasifika workers tend to be over-represented in lower skilled occupations and sectors.

Accordingly, there has been a focus on improving education and training outcomes, and getting more Māori and Pasifika into higher

paying sectors. There is also an emphasis on growing Māori and Pacific businesses.

There is an overlap between how we think about Māori and Pasifika, and how we think about regions and sectors. Māori live predominantly in Auckland, Waikato, Bay of Plenty, Wellington and Manawatu-Wanganui, and make up a large proportion of the population in Northland and Tairāwhiti. Two thirds of the Pacific population lives in Auckland, particularly South Auckland.

Unemployment rates by ethnic group (%)



D. Emerging opportunities and challenges

Key messages in this section:

- MBIE forecasts continuing job growth, particularly for skilled workers
- Nature of work is likely to change (with the impact of technology, globalisation, demographics and climate change)
- New Zealand faces big opportunities and challenges in preparing for the Future of Work



MBIE forecasts continuing job growth, particularly for skilled workers

- Job growth will continue (with 152,000 more people employed over the 2017-20 period) and the demand for skilled workers is forecast to increase.
- The construction sector, business services and health and education sectors will be driving the overall employment growth.
- Employment is forecast to grow in all regions with some rural regions to grow at a faster rate. North Island growth is forecast to be highest in the Auckland, Waikato and Wellington regions while there is solid growth across the South Island with the fastest growth rates in Tasman and Marlborough regions.
- Highly skilled labour will continue to be in demand in New Zealand

93,900 more high-skilled occupations by 2020



Construction and utility services (up 32,400), business services (up 23,700) and health and education (up 34,000 jobs) by 2020



The nature of work is likely to change significantly in the medium term

There has been a lot of recent focus in New Zealand and internationally on the potential labour market effects of a set of “global megatrends”

- Technology – particularly digital technology, artificial intelligence, big data analytics, automation
- Globalisation (and a recent surge of anti-globalisation sentiment)
- Demographics – ageing, urbanisation, mobility of younger skilled workers
- Climate change – impact of change itself, and mitigation strategies

Much of the discussion (particularly about technology) has been about the potential threats, such as large scale unemployment. The most recent OECD report estimated that the median worker in New Zealand has 39% probability of being automated - one of the lowest in the OECD. This is partially explained by a relatively high proportion of occupations that specialise in cognitive jobs, reflecting the rise in professional occupations since the early 1990s and managerial occupations since 2010. The workers most at risk of automation are more likely to work shorter hours and get paid lower wages. Younger workers also experience highest risk of automation, which decreases with age.

In an environment of great uncertainty, the best strategy looks to be ensuring that employment regulation and the skills system are well placed to respond to changing forms of working arrangements and skill needs. Technology in particular is likely to exacerbate current challenges around the nature of employment relationships and fit-for-purpose labour market regulation. It may be prudent to identify a set of indicators that provide early warning of reaching a “tipping point”, where larger scale change is imminent (and more substantive policy change might be needed).

Cross-country variation in job automatability

Country	Median	Mean	S.D.
New Zealand	0.39	0.42	0.20
Norway	0.40	0.41	0.18
Finland	0.41	0.43	0.18
United States	0.41	0.43	0.20
Northern Ireland (UK)	0.42	0.43	0.21
England (UK)	0.42	0.43	0.20
Sweden	0.43	0.44	0.19
Netherlands	0.44	0.45	0.19
Denmark	0.44	0.45	0.19
Canada	0.45	0.45	0.21
Ireland	0.45	0.46	0.22
Singapore	0.45	0.46	0.20
Belgium	0.46	0.46	0.20
Israel	0.46	0.47	0.21
Estonia	0.47	0.46	0.19
Korea	0.47	0.46	0.19
Austria	0.49	0.48	0.20
Russian Federation	0.49	0.47	0.19
Czech Republic	0.49	0.48	0.20
France	0.51	0.49	0.20
Italy	0.52	0.49	0.20
Cyprus	0.52	0.51	0.21
Poland	0.52	0.50	0.21
Japan	0.53	0.51	0.18
Slovenia	0.53	0.51	0.21
Spain	0.54	0.51	0.21
Germany	0.54	0.52	0.18
Chile	0.55	0.52	0.20
Turkey	0.55	0.52	0.18
Greece	0.57	0.54	0.19
Lithuania	0.57	0.54	0.19
Slovak Republic	0.62	0.57	0.20
All countries	0.48	0.47	0.20

Please note: the colours in each row draw a heat map, with green corresponding to lowest risk and red to highest risk

New Zealand faces big opportunities and challenges in preparing for the Future of Work

Overall, New Zealand has a well-performing labour market. There are opportunities to do better (particularly for some sub-populations that suffer persistent disadvantage), and we will face some significant challenges in the medium to long term.

The big challenges and opportunities across portfolios that most directly drive labour market outcomes are:

- Ensuring that labour market settings facilitate a growing, more innovative and productive economy, which workers benefit from through rising wages
- Keeping overall labour force participation high, and increasing it for people who want more work, and for those who struggle to stay in the labour market
- Ensuring employment standards are met, including for migrants at risk of exploitation, and addressing employment practices intended to circumvent employment standards
- Reducing inequalities in employment outcomes for different groups, with a key focus on closing the gender pay gap
- Ensuring that workers have the skills they will need, and helping them adapt to future changes in the structure of the economy
- Addressing skill mismatches and skill shortages, by getting the education and training, immigration and welfare systems working together effectively
- Ensuring that the employment and work health and safety regulatory frameworks can adapt to technological and demographic changes, while continuing to keep workers safe and support business innovation and productivity
- Working with sectors, regions and cities to develop agreed and sustainable solutions to labour and skill needs.

Responding to these challenges and opportunities will be vital for achieving positive and sustainable economic and social outcomes for all New Zealanders, and will require co-ordinated action across the full range of portfolios, and in partnership with key stakeholders (e.g. unions, business representatives, local government, iwi/Māori)

Integrated Data Infrastructure disclaimer

The results in the graph on slide 10 (income by length of absence from work after an injury) are not official statistics. They have been created for research purposes from the Integrated Data Infrastructure (IDI), managed by Statistics New Zealand. The analysis based on the graph is that of MBIE, not Statistics NZ. Access to the anonymised data used in this study was provided by Statistics NZ under the security and confidentiality provisions of the Statistics Act 1975. Only people authorised by the Statistics Act 1975 are allowed to see data about a particular person, household, business, or organisation, and the results in this briefing have been confidentialised to protect these groups from identification and to keep their data safe. Careful consideration has been given to the privacy, security, and confidentiality issues associated with using administrative and survey data in the IDI. Further detail can be found in the Privacy impact assessment for the Integrated Data Infrastructure available from www.stats.govt.nz.





BRIEFING

Developing a Fair Pay Agreement system

Date:	28 November 2017	Priority:	Medium
Security classification:	In Confidence	Tracking number:	0747 17-18

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister for Workplace Relations and Safety	<p>Note that we would like to meet with you to discuss your preferred approach for a process to develop the Fair Pay Agreements system.</p> <p>Note that we will prepare a Cabinet paper for your consideration in late January, on your preferred approach for a process to develop the Fair Pay Agreements system.</p>	4 December 2017

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Ruth Isaac	General Manager, Labour and Immigration Policy Branch	04 901 3883	9(2)(a)	✓
Natalie Labuschagne	Principal Advisor, Employment Relations Policy	04 901 1699		

The following departments/agencies have been consulted
The Treasury, the Department of Prime Minister and Cabinet (PAG), the State Services Commission

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Developing a Fair Pay Agreement system

Date:	28 November 2017	Priority:	Medium
Security classification:	In Confidence	Tracking number:	0747 17-18

Purpose

To seek direction from you on an approach to develop and introduce a system of industry-wide collective bargaining that allows unions and employers to create Fair Pay Agreements (FPAs) that set minimum terms and conditions for employees across an industry.

Executive summary

You have proposed to develop and introduce, in conjunction with all relevant stakeholders, a system of industry and sector collective bargaining that allows unions and employers, with the assistance of the Employment Relations Authority, to create Fair Pay Agreements that set minimum conditions, such as wages, allowances, weekend and night rates, hours of work and leave arrangements for workers across an industry based on the employment standards that apply in that industry.

We will support you to implement this initiative by managing the process to develop the system, advising you on options and impacts and developing any required legislation.

We have identified three options for a process to develop the system together with stakeholders:

- a. Conventional public consultation – Government develops a framework, with specific design choices to be consulted on, and seeks written feedback from interested stakeholders.
- b. Tripartite working group – business, union and government representatives co-design the FPA system.
- c. Intensive public co-design – broad public engagement in the design of a FPA system.

We would like to meet with you to discuss your preferred approach to develop the system.


Based on your feedback, we will, by the end of January 2018, draft a Cabinet paper to seek approval from your Cabinet colleagues to that approach.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that we would like to meet with you to discuss your preferred approach for a process to develop a FPA system. *Noted*

- b **Note** that, by the end of January 2018, we will prepare a Cabinet paper to seek approval to your preferred consultation approach. *Noted*



Ruth Isaac
**General Manager, Labour and Immigration
Policy**
Labour, Science and Enterprise, MBIE

27/11/17
...../...../.....

Hon Iain Lees-Galloway
**Minister for Workplace Relations and
Safety**

...../...../.....

RELEASED UNDER THE OFFICIAL INFORMATION ACT

We are ready to support you to develop a FPA legislative system

1. The Government proposes to develop and introduce, in conjunction with all relevant stakeholders, a legislative system of industry and sector collective bargaining that allows unions and employers, with the assistance of the Employment Relations Authority, to create Fair Pay Agreements that set minimum conditions, such as wages, allowances, weekend and night rates, hours of work and leave arrangements for workers across an industry based on the employment standards that apply in that industry.
2. It is our understanding that one of the aims of the FPA system is to prevent poor outcomes for workers from a race to the bottom.
3. We will support you to implement this initiative by managing the process, advising you on options and impacts, and developing any required legislation.
4. This paper sets out:
 - a. Potential causes and consequences associated with a **race to the bottom**.
 - b. Preliminary **detailed design questions** for an industry-wide collective bargaining system.
 - c. Initial options for the **process** to develop the FPA system with all relevant stakeholders.
 - d. **Next steps**, based on feedback from you on your preferred approach to develop the FPA legislative system.

Drivers and negative outcomes associated with a race to the bottom

5. It is our understanding that the proposed FPA system of industry-wide collective bargaining is intended to:
 - a. Prevent poor outcomes for workers from a race to the bottom, where some employers are undercut by others who reduce costs through low wages and conditions of employment, leading to overall poor wages and conditions across an industry or occupation.
 - b. Mitigate bargaining imbalances between workers and employers, where workers are unable to move to other industries or employers that offer higher terms and conditions.
 - c. Create a baseline to lift wages and conditions and create a more productive economy.

Limited competition and bargaining power imbalances are drivers of the race to the bottom

6. The race to the bottom will occur in industries with a sufficient degree of bargaining imbalance between employers and workers. This power imbalance will be exacerbated if there is a single employer or limited competition between employers coupled with limited mobility of workers, such that workers are unable to move jobs to obtain better working conditions. Power imbalances will also be impacted by collective bargaining coverage.

Negative outcomes associated with the race to the bottom

7. From a policy perspective, the race to the bottom is a concern for the following reasons:
 - a. *Impacts on living standards:* The race to the bottom is made worse in low-wage/low-skill occupations where there is a larger pool of workers with limited potential to move to other types of jobs (occupational mobility) with better conditions and therefore limited ability to bargain for better conditions.
 - b. *Distributional impacts:* In addition to poorer outcomes in absolute terms for those workers, who can't move jobs, their wages are also lower relative to other workers in other occupations or industries who are able to more easily switch occupations. This increase in wage dispersion places more pressure on the statutory minimum standards, such as the minimum wage, to compensate.
 - c. *Impact on participation:* By driving wages down, fewer people participate in the labour market and underutilisation¹ may increase. Alternatively, those who are able may increase their hours to compensate for lower incomes.
 - d. *Efficiency concerns:* because a race to the bottom entrenches inefficient business practices, investment in capital and technology may be reduced, both of which could lift labour productivity of workers and, as a result, their wages. This would further exacerbate the downward pressure on wages over time.

Evidence of market power imbalances in certain industries

8. In competitive industries with no major bargaining imbalances between employers and workers in specific occupations, wages and productivity will generally move together.
9. The race to the bottom is most likely to emerge in specific industries or occupations where employers are able to set wages that do not reflect a worker's contribution to productivity. Over time, this divergence between wage growth and productivity growth results in a declining labour income share (LIS) in those specific industries or occupations.²
10. Based on recent MBIE research, the fall in the LIS has been most pronounced in the manufacturing; electricity, gas, water and waste; information, media and telecoms; and agriculture industries.
11. However, the LIS can decline for a number of reasons not associated with exploitative practices (major bargaining imbalances). Reasons include openness to trade, technological changes and sectoral and employment compositions.
12. Identifying the industries or occupations where there is a true race to the bottom is complex and will require in-depth analysis and understanding of candidate industries. The complexity of identifying specific industries or occupations is made easier when the industry is reliant on a single funder (such as government for aged-care workers) or government procurement models (such as in transport).

¹ In addition to the roughly 120,000 people who are unemployed, there are a further 100,000 people working part-time but who would like to work longer hours, and close to 100,000 people who are not currently in the labour force but want work. All told, there are around 327,000 people considered to be underutilised, 11.8 per cent of the extended labour force. Underutilisation has been trending downwards recently, but remains above levels prior to the Global Financial Crisis.

² National income can be split into income received by labour and income received by owners of capital. A falling share of national income received by labour and a rising share received by capital is a common feature of most economies during the past 30-40 years.

Risks to be managed

13. In industries or occupations where a true race to the bottom is identified, FPAs could drive better wages, conditions and productivity. However, where the race to the bottom is not driving poor employment outcomes, FPAs could have unintended consequences such as:
 - a. slower productivity growth if FPAs lock-in existing, potentially inefficient, businesses models;
 - b. higher prices for some goods and services if increased labour costs are not offset by productivity gains; and,
 - c. job losses, particularly in industries exposed to international competition which are unable to pass on higher labour costs to consumers of those goods and services.
14. As such, it will be important to ensure that the design of the FPA legislative system mitigates these risks where possible.
15. The development of the FPA system is also dependent on other inter-related areas of work that the Government has prioritised for its first twelve months to improve workers bargaining position. This will require careful prioritisation and sequencing of work going forward. Please refer to the section on next steps at the end of the paper where we discuss this in more detail.

International models of industry bargaining are country-specific and depend on historical factors

16. Existing models for industry-wide collective agreements include:
 - a. Statutory extension of collective agreements – A common model in Europe is mandatory (via statute) extension of a collective agreement to all workers in an industry once that collective agreement covers a sufficient proportion of the workforce.³ In practice these models often involve broad industry-wide bargaining (because industry participants know the collective agreement will eventually apply to them), but this is not a requirement. In countries like the Netherlands where union density is low (around 20 per cent) but collective coverage is above 80 per cent, issues of representativeness are often debated in the press.

In Sweden, it is not mandated via statute to extend collective agreements to all workers in an industry. Instead, the process has become increasingly decentralised, where a local union and employer may sign an agreement to have the terms and conditions extended to all employees, even non-union employees. This voluntary approach is made easier in countries like Sweden where union membership is high (above 80 per cent).

Importantly, no two European countries have the same system and its shape and effectiveness depends crucially on historical factors which are often unwritten in the legal framework.
 - b. Mandatory industry-wide minimum terms and conditions – The modern awards system in Australia is an example of this kind, where the Fair Work Commission can make or

³ In practice European models often involve collective bargaining that has taken place at three levels: at the national level, between government, main employer associations and confederation of unions (tri-partite); at the industry level, between the individual unions and employers' industry associations; and, at the local level, between the company and the local union. The national level bargaining defines the framework within which industry bargaining occurs on mostly wages and working time. The industry agreements also set the parameters for negotiations at the local level, where more detail is provided in local collective agreements.

vary awards that set minimum terms and conditions for particular occupations and industries.

- c. Voluntary industry-wide negotiations - Multi-employer collective bargaining (MECAs) under New Zealand's current Employment Relations Act could be used to set industry-wide standards terms and conditions of employment. The key difference to mandatory industry-wide bargaining is that the terms and conditions of the multi-employer collective agreement only apply to employers party to the agreement and those employees in the relevant union (unless agreed otherwise).⁴

We have identified some initial design questions for a FPA system

17. The design choices depend crucially on the extent to which the FPA system is intended to complement the existing employment relations framework or to reform it.
18. From previous announcements we understand your initial design parameters for a FPA system are intended to complement the existing framework and some of the design parameters are as follows:
 - a. FPA negotiations beginning once a sufficient percentage of employers or employees within an industry call for one, with approximately 1-3 FPAs per year.
 - b. Assistance from the Employment Relations Authority (ERA) to resolve disputes.
 - c. FPA terms and conditions applying as a minimum to all employees across the relevant occupation or industry.
 - d. FPA bargaining will not lead to widespread strikes.
19. The Appendix sets out some preliminary detailed design options (with examples on a spectrum) for a FPA system, categorised into four main steps in the process:
 - a. initiation
 - b. bargaining
 - c. dispute resolution
 - d. conclusion and application.
20. There are a broad range of design options to work through, including interdependencies between options.

Consultation process for developing a FPA system

21. Your manifesto proposes introducing any legislation for the FPA system to Parliament within the first twelve months in Government.
22. There are a range of options for conducting this consultation process to identify and address workability issues and build stakeholder buy-in and understanding. Three broad options are set out below:

⁴ Currently, employers can opt-out of multi-employer collective bargaining once bargaining has been initiated, but this ability will be removed under the 100-Day Commitments in Workplace Relations through an Employment Relations Amendment Bill.

- a. Conventional public consultation – Government develops a framework, with specific design choices to be consulted on, and seeks written feedback from interested stakeholders.
 - b. Tripartite working group – business, union and government representatives co-design the FPA system.
 - c. Intensive public co-design – broad public engagement in the design of a FPA system.
23. The extent of stakeholder interest will depend on the high-level parameters of the proposed system. For example, if the system could potentially apply to any industry or occupation, consultation will draw strong interest from a broad range of labour market participants including all unions, individual employees and employers, industry associations, occupation representative groups and other interest groups.
24. Under all of the options above, the earliest the first FPA would come into effect is 2020, based on the following high-level timeframes:
- a. Nov 2017 – Nov 2018: Development of and consultation on policy design.
 - b. 2019: Parliamentary process to pass FPA legislation, commencement of FPA system.
 - c. 2020: First FPA bargaining, but the duration of bargaining and when any agreement takes effect will depend on the design of the FPA system.
25. If the timeframes above do not meet your expectations, we will investigate options to expedite the process. However, this high-level timeframe is already ambitious.

Option 1: Conventional public consultation

26. This approach would involve the Government developing the framework, with specific design choices to be consulted on, seeking written feedback from stakeholders. It could be supplemented with direct engagement with targeted stakeholders.
27. This approach provides the Government with significant control over the design of the FPA system, but stakeholder engagement is relatively passive and may not generate genuine buy-in or understanding. The twelve month timeframe also limits additional, iterative consultation rounds to refine the models and consult on emerging issues.
28. An alternative approach is to undertake targeted consultation only (ie no public consultation) to speed up the process. This may be sufficient if the proposed FPA system is intended to be narrow in scope (eg 1-3 FPAs in narrowly defined industries with clear evidence of a race to the bottom).

Option 1 timeline: Conventional consultation	
Dec-Jan 2017 (2 months)	Develop framework, parameters and design options for the FPA system.
Feb 2017 (1 month)	Cabinet agreement to release discussion document.
Feb-May 2018 (4 months)	Release discussion document for public feedback. Targeted stakeholder engagement.
May-Jun 2018 (1 month)	Analysing options and further targeted consultation.
Jul 2018 (1 month)	Cabinet agreement to preferred FPA system.
Aug-Nov 2018 (3 months)	Drafting legislation.
Nov 2018 (1 month)	Cabinet agreement to introduce FPA legislation to Parliament.

Option 2: Tripartite working group

29. This approach would involve business, union and government representatives collaborating to co-design the FPA legislative system. The Government could set high-level objectives and parameters through terms of reference for the group. A recent example of such a working group is the *Joint Working Group on Pay Equity Principles*.
30. A successful working group process requires willingness from all parties to find a solution. It could help employers and employees better understand and share their views and identify mutually acceptable solutions. It could also generate strong buy-in to any resulting agreed outcome. However, a consensus approach could mean that difficult trade-offs and matters of detail are left unresolved, although this risk could be mitigated through the invitation of technical experts to provide recommendations to the working group on such difficult issues.
31. The Ministry may be able to fund the fees for a facilitator/chairperson, and any research or legal advice the Ministry agrees to undertake or commission, from within existing baselines.

Option 2 timeline: Tripartite working group	
Dec-Jan 2017 (2 months)	Develop terms of reference (objectives and parameters) and identify representatives.
Feb 2017 (1 month)	Cabinet agreement to working group process.
Feb-Jun 2018 (5 months)	Tripartite working group process and recommendations to Government.
Jul 2018 (1 month)	Cabinet decisions on working group proposals.
Aug-Nov 2018 (3 months)	Drafting legislation.
Nov 2018 (1 month)	Cabinet agreement to introduce FPA legislation to Parliament.

Option 3: Extensive Public Consultation

32. This approach would aim to seek broad public input into the design of a FPA system. It would involve engagement seminars involving a broad range of stakeholders.
33. Such an approach can be successful at identifying public sentiment and concerns about issues and high-level objectives for addressing issues. It is also more likely to result in high public understanding of the broad FPA policy. However, it may not be suited to detailed technical matters.
34. Given that the engagement would involve stakeholders not necessarily all well-informed on the specifics of the topic, there is a significant risk that the roadshows and public engagement take much longer than anticipated, making meeting the timelines more difficult. Specifically, the initial development of the plan and parameters by end January 2017 is already an ambitious timeframe.
35. The Ministry would not be able to fund the fees for an extensive public consultation from within existing baselines. Based on similar consultation processes conducted by the Ministry, twelve events hosted in different locations across the country are estimated to cost around \$200,000.

Option 3 timeline: Extensive public consultation	
Dec-Jan 2017 (2 months)	Develop plan and parameters for public co-design process.
Feb 2017 (1 month)	Cabinet agreement to public consultation process.
Feb-May 2018 (4 months)	Roadshows and public engagement.
May-Jun 2018 (1 month)	Analysing feedback and developing proposal.
Jul 2018 (1 month)	Cabinet decisions on proposals.
Aug-Nov 2018 (3 months)	Drafting legislation.
Nov 2018 (1 month)	Cabinet agreement to introduce FPA legislation to Parliament.

Additional issues for consideration

36. The twelve month timeframe for developing and introducing legislation for a FPA system makes it challenging to:
 - a. **Consult on an exposure draft of legislation.** This provides an additional check on the workability of the legislation and enables the select committee considering the legislation to focus on more significant design matters. Consultation on an exposure draft is anticipated to add around six months to the timeframes (three months for public consultation, two months for analysis and re-drafting, one month for Cabinet decisions).
 - b. **Dry-run the FPA negotiation process in an industry.** This would involve a voluntary, non-legislative, government-facilitated negotiation between major employers and unions in an industry to identify industry issues and options to change practices and set common baseline terms and conditions to address industry issues. For example, this could further leverage the Sector Workforce and Engagement Programme (SWEP) in the construction and road transportation industries.

It may also be possible to leverage off of the Film Industry Working Group (FIWG) [refer briefing 1113 17-18]. We expect the FIWG will meet monthly over a period of approximately six months. Depending on the timing of the first FIWG meeting and subsequent progress, we anticipate recommendations by June 2018.

Next steps and related work

Next Steps on FPAs

37. We would like to meet with you to discuss how you would prefer to progress this initiative, including any design parameters for the FPA system.
38. Based on this feedback from you, we will, by the end of January, provide you with a Cabinet paper to seek approval to your preferred approach.

Related work that may inform the development of the FPA system

39. The development of an FPA system may be informed by the following work already in progress:
 - The establishment of a Film Industry Working Group (FIWG) of businesses and worker representatives in the sector to develop a durable framework to restore collective bargaining rights for film workers in a way that is fit for purpose for the industry.
 - The development of joint advice by Transport (lead) and MBIE officials on the effect of the Public Transport Operating Model (contracting model) on labour costs, wages and conditions in the public transport market.
40. We will update you with any developments on this work and connections to the FPA work.

Next Steps and prioritisation of work on other twelve month commitments

41. The development of the FPA system is also dependent on other inter-related areas of work that Government has prioritised for its first twelve months:
 - The introduction of statutory support and legal rights for “dependent contractors”.
 - The extension of the right to organise and bargain collectively to all contractors who primarily sell their labour.
 - The expansion and enhancement of skill development and industry training programs to support the growth of high performance workplaces, higher wages and a *Just Transition* for workers who need new skills to adapt to the changing nature of work.
 - The investigation of measures that improve job security for people in precarious forms of employment (for example, labour hire, casual, seasonal, contracted or sub-contracted workers).
 - A review of bargaining fee arrangements to ensure they are fair to workers, the union, and employers for the extension of collective bargaining outcomes to non-unionised workers.
 - A review of multi-employer and multi-union collective bargaining arrangements to encourage their use and to support the development of Fair Pay Agreements.
42. This twelve month work programme reflects a number of overlapping issues, namely:

- The neutrality of the regulatory framework in relation to contractors (who primarily sell their labour) and employees and application of the employee-contractor boundary in common-law tests.
 - Ensuring that the regulatory system remains fit-for-purpose in the face of technology and ageing trends ('future of work'). That is, recognising the complex and varied nature of working arrangements while ensuring that worker protections are not undermined.
 - The role that employment settings play in terms of the incentives on firms to train their workers (particularly in the face of technology and ageing trends), innovate or raise productivity.
 - The varied role that unions play in the workplace, including to support industry training and high performance workplaces.
43. The inter-related nature of this work requires us to carefully prioritise and sequence our work for the next twelve months. We will brief you before Christmas to seek your agreement to our proposed plan of work.

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APPENDIX

1. Initiation phase

1a. Choice of industry subject to FPA negotiations?

A sufficient percentage of employers or employees in **any** industry call for negotiations (similar to European model)

Combination of employers/employees calling for negotiations and criteria

Only specific industries based on key criteria (eg low pay, poor conditions) (similar to Australia but could be significantly fewer industries)

- Requires a definition of industry or occupation for example, using classifications such as ANZSCO or ANZSIC at a sufficient level of disaggregation.
- The FPA system will need to provide some guidance about which employers (if any, for example small employers) may voluntarily opt-out (before bargaining begins).
- Additional criteria could help ensure FPAs are targeted at industries most at risk of problems that drive a race to the bottom. Criteria such as low pay and poor conditions may be necessary but not sufficient. For example, some declining industries or sectors may have lower outcomes which are driven by changing technology and market structures, not a race to the bottom.
- The level of coordination required for a sufficient percentage of employees to call for a FPA may make it difficult for occupations with low union density. Alternatively, if the threshold is set too low, there are risks that the FPA may not be in the interests of most workers.
- These options are not mutually exclusive and a combination of both may help target FPAs at the intended issues.
- The use of criteria to mitigate the risks associated with FPAs adds additional design complexity in terms of which agency would be given the responsibility to determine and apply the criteria (refer 1b below).

1b. Who decides that FPA bargaining has been initiated?

The parties, with enforcement through employment dispute mechanisms e.g. Europe.

Administrative decision from a Minister or government department

- It may be helpful to set a clear signpost to inform the industry that FPA bargaining has been initiated. This will enable interested parties to be notified and participate in the negotiations.
- This could be linked to a process for determining that FPA bargaining has met the necessary criteria (1a above).

2. Bargaining phase

2a. Who are the participants in bargaining?

All employers, unions and employees that wish to be involved (including individuals) e.g. industry level

Unions and key employer representatives e.g. MECAs in New Zealand

One employer representative, one union and one government representative e.g. national level

- The FPA system may need to provide some guidance about who may participate in bargaining to help manage the costs of bargaining and the diversity of interests across employers and employees.
- It may be challenging to ensure wide representation from non-unionised employees and industries without representative employer associations.
- Identifying, or narrowing the scope of participants will be easier, the more narrowly defined the industry is (refer 1a above).

2b. What is the mechanism for supporting an efficient bargaining process?

Existing collective bargaining rules but no additional mechanisms (eg good faith) or facilitation

Additional bargaining rules and procedures with government facilitation

Set bargaining process managed by a government agency

- Depending on the number of participants involved, it may be useful for additional guidance or oversight of the bargaining process to ensure that the bargaining supports the objectives of any FPA system (to prevent a race to the bottom) and to promote transparency in the interests of all parties that may be affected by the FPA.
- There may also need to be further guidance or rules around joining unions or associations party to the negotiations and managing any intra-employer or intra-employee decision making processes (eg ratification).
- Any system should be designed to support an efficient bargaining process, in terms of both duration and judicial involvement.

2c. What is the scope of terms and conditions for FPAs?

Any terms, conditions and business practices (eg training requirements, floor space, flexible hours, gender equity) (Sweden)

Employment-related terms and conditions typically included in collective agreements (Australia)

Set to target key issues in the sector (eg rostering practices only, wages only)

- Setting boundaries on the potential scope of FPA terms and conditions may help deter parties from using FPAs to create unreasonable barriers to entry for other employees or employers for anti-competitive purposes.
- Scope boundaries may also help target the key issues in the sector, but it may also simply shift the problem of poor terms and conditions (eg low wages) into other aspects of the employment agreement (eg fewer holidays).

3. Dispute resolution

3a What dispute resolution process can the ERA follow?

Existing processes, including current thresholds for mediation, facilitation and determinations

Lower/higher thresholds for facilitation and determinations than current thresholds

- The unique nature of FPAs may require additional assistance for resolving disputes (for example, intra-employer or intra-union disputes).
- There may also be a role for the Employment Relations Authority to determine terms and conditions of a FPA if the parties are unable to reach agreement.

3b. Is industrial action permitted?

Existing rules apply regarding strikes and lock-outs

Further limitations on industrial action

Strikes and lock-outs not permitted in FPA bargaining

- We understand FPAs are not intended to lead to industrial action; however there are a range of options in this space.

4. Conclusion and extension

4a. What is the legal mechanism for giving effect to a Fair Pay Agreement?

Parties agree to an enforceable contract (no additional oversight from government) like Sweden

Administrative decision (eg Minister, Chief Executive of MBIE) (like the Fair Work Commission in Australia)

Legislation required to give effect to each FPA

- A formal process for giving effect to FPAs would help ensure covered employees (and their employers) are aware of the FPA and have an opportunity to comment before it is enforced.
- Legislation may be too costly and inflexible.

4b. How are FPAs enforced?

Self-enforcement as a contractual obligation

Risk-based approach to compliance from Labour Inspectorate supplemented by promotional activities

Labour Inspectorate enforces FPA terms and conditions similar to minimum employment standards

(eg Fair Work Ombudsman enforces Australian modern awards)

- The role of the Labour Inspectorate would have to be considered in relation to other enforcement priorities in industries without FPAs, which could have additional resourcing implications.

Document B

DRAFT WORK PROGRAMME

The objective of the Fair Pay Working Group is to make independent recommendations to the Government on the scope and design of a legislative system of industry or occupation-wide bargaining.

KEY WORKSTREAMS

The work programme is divided into three main workstreams:

1. Diagnosis
2. Design
3. Productivity

1. Diagnosis workstream	
Key question: What are the problems and opportunities in the New Zealand labour market that could be addressed by a Fair Pay Agreement system?	
Topics	Questions
Description of current labour market outcomes for firms and workers	<ul style="list-style-type: none"> • What undesirable outcomes are we seeing in the labour market? (eg low wages, declining conditions, high precariousness, low productivity growth). • What parts of the labour market are experiencing the undesirable outcomes above (eg industries, regions, occupations)? • What are the potential causes (eg lost bargaining power, low labour market competition)? • To what extent are the underlying issues about distribution and fairness or productivity growth?
Impact of existing employment regulation and practices	<ul style="list-style-type: none"> • Are there aspects of the way employment is regulated that contribute to / not address the issues identified above? • How do labour markets respond to increases in minimum wages? What does this tell us about how labour markets work and the impact of Fair Pay Agreements? • Do existing collective bargaining rules have gaps or create incentives with unintended consequences?
Future of work	<ul style="list-style-type: none"> • How will the global megatrends impact on the operation of the labour market? (aging population, technology change, climate change, globalisation).
2. Design workstream	
Key question: How should a sector-level collective bargaining system be designed to best address the problems and opportunities above?	
Topics	Questions
Foundational questions	<ul style="list-style-type: none"> • What are the policy objectives of the Fair Pay Agreement system? • What are the criteria for assessing options for the Fair Pay Agreement system? • Should the Fair Pay Agreement system apply to employees or all workers? • Should the Fair Pay Agreement system apply to industries or

	occupations, or both?
Initiating bargaining	<ul style="list-style-type: none"> • What are the criteria for initiating Fair Pay Agreement bargaining? • How should bargaining participants be identified and selected? • How are the boundaries between industries and occupations determined?
Bargaining	<ul style="list-style-type: none"> • What is the scope of matters that may be included in an agreement?
Concluding bargaining and dispute resolution	<ul style="list-style-type: none"> • What are the rules or third party intervention to resolve disputes, including whether the third party's role is facilitative, determinative or both? • What mechanism will give effect to an agreement, including any ratification process for employers and workers within the coverage of an agreement? • How should the terms of an agreement be enforced? • What is the duration and process for renewing or varying an agreement? • Are there circumstances in which an employer should be able to seek an exemption from a relevant agreement and the process for doing so?
3. Productivity workstream	
<i>Key question: What else can be done to address the problems identified to increase productivity and prepare for the future of work?</i>	
Productivity enhancements	<ul style="list-style-type: none"> • What complementary policies would support productivity grow to lift profits and wages in New Zealand?

POSSIBLE MEETING AGENDA SCHEDULE

A draft schedule of meetings is below. There is time for approximately ten meetings.

We propose a meeting on each of the workstreams early on so additional work can be commissioned and underway for the Group to consider within the overall timeframe.

Meeting 1	Confirm work programme. Commission MBIE work.
Meeting 2	Diagnosis workstream: Consider initial MBIE work. Commission external work as required.
Meeting 3	Design workstream: Begin working through questions. Informed by international examples. Commission additional work required.
Meeting 4	Productivity workstream: Begin considering complementary policies to lift productivity. Commission additional work.
Meeting 5	Diagnosis workstream: Conclude diagnosis workstream.
Meeting 6	Design workstream: Continue working through questions.
Meeting 7	Design workstream: Continue working through questions.
Meeting 8	Productivity workstream: Begin considering complementary policies to lift productivity. Commission additional work.
Meeting 9	Penultimate meeting. Consider draft report.
Meeting 10	Final meeting. Confirm final report



FAIR PAY AGREEMENT WORKING GROUP Fee and expense information

You may claim a fee for your work on the Fair Pay Agreement Working Group.

This document sets out:

- 1. What the fee covers**
- 2. Expenses that may be claimed**
- 3. How to claim fees and expenses.**

The rules for fees and other related matters are set out in Cabinet guidance available at <https://www.dpmc.govt.nz/publications/co-12-6-fees-framework-members-appointed-bodies-which-crown-has-interest>. The Cabinet guidance supersedes anything in this document.

1. What the fee covers

The daily fee is:

- **\$1062** for the chair
- **\$800** for members

The fee includes any income tax payable. GST, if applicable, is paid on top of the daily fee.

A working day is about **8 hours**, and the daily fee is calculated on this basis.

- Work for longer than 8 hours in one day does not attract an extra payment.
- **Hourly pro-rata rates** should be calculated by dividing the daily rate by 8 and multiplying by the number of hours worked.
- **The fee applies to all work**, including that performed outside of meetings (e.g. preparation, representing the working group at other forums, or administrative work) that is required for the working group to carry out its role. All work that is required to be performed for the body by the member should be paid at the approved daily rate.
- Work other than preparation for meetings/sittings must be approved and minuted by the body before it is undertaken. Individual members should not be in a position where they could be considered to be setting their own work programmes without the endorsement of the body.
- **Members are not paid for time spent in travel** to and from meetings or on body business, except in instances where a daily fee is paid and the member has to travel for more than a total of three hours in the course of a normal business day.
- In extreme circumstances where considerable time is involved in travel, this can be recognised by the chair, with the agreement of the servicing/accountable organisation

2. Expenses that may be claimed

Members travelling to and from meetings, or on the business of the working group (where the members are required to be away from their normal places of residence) are entitled to reimbursement of out of pocket travelling, meal and accommodation expenses actually and



reasonably incurred. The expectation is that standards of travel, accommodation, meals and other expenses are modest and appropriate to reflect public sector norms.

Flights and accommodation will be booked and paid for by the Ministry consistent with the MBIE travel policy.

Personal vehicle travel expenses can be claimed based on \$0.73 per km, consistent with IRD's mileage rate for self-employed people and reimbursing employees.

3. How to claim fees and expenses

One-off set-up requirements

To set-up the accounting system, please send the following to MBIE:

- **evidence of bank account name and number** (eg deposit slip, screenshot of relevant internet banking including account name and number – we do not require balance or transaction information).
- **a completed IR330C form** (only if you are not GST registered and the fees are being paid into a personal bank account). The fees fall under scheduled activities. We've prefilled in the correct tax rate and the activity number on the form. If you are not subject to withholding tax, please provide a copy of your exemption certificate issued by IRD.

Monthly fee and expense claims

We will organise fee and expense payment monthly.

- If you are not GST registered, please email MBIE the a completed fee and expense claim form which sets out the hours worked attending meetings and preparation and lists expenses claimed (please attach copies of receipts to validate claimed expenses)
- If you are GST registered, please email MBIE a tax invoice which includes fees and claimed expenses (please attach copies of receipts to validate claimed expenses). GST should only be applied to fees. Any claimed expenses should be zero rated for GST.

We'll contact you at the end of each month to request these documents and help with anything.



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI

Current labour market outcomes for firms and workers

Fair Pay Agreements Panel meeting, 18 July 2018

In confidence: this is not government policy.

A decorative graphic at the bottom of the page consisting of three overlapping geometric shapes: a blue trapezoid on the left, a green trapezoid in the middle, and a teal trapezoid on the right.

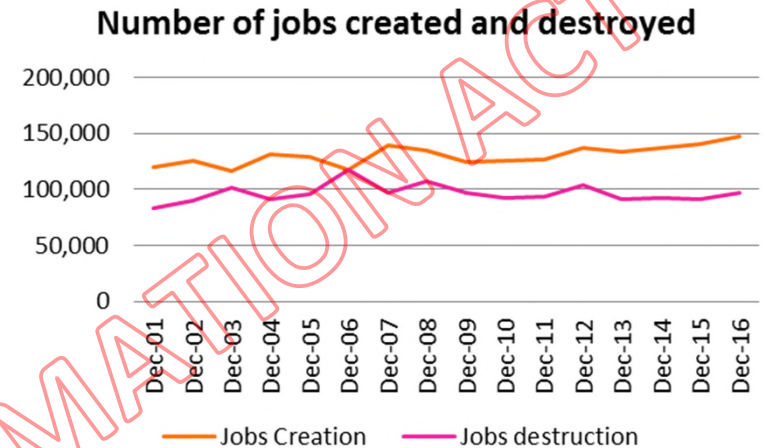
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Labour market outcomes at an aggregate level



New Zealand has a highly dynamic labour market

- The term “labour market” refers to the broad ecosystem within which people make decisions to: work for pay; employ people; invest in acquiring skills, knowledge and qualifications; or physically relocate.
- A number of economic and social factors (and government policies and actions) impact on labour supply and demand decisions, and how well labour supply and demand get matched.
- The labour market is really a series of markets for different types of labour in different locations. It responds to economic cycles. It also responds to one-off shocks (like the Canterbury and Kaikōura earthquakes).
- Of New Zealand’s population of around 4.7m, around 3.8m are of working age (15 years and over), and around 2.7m people are participating in the labour market (in work or looking for it).
- There is constant movement of people between jobs, and in and out of the labour market. New Zealanders move overseas and migrants move to New Zealand. Young people enter the labour market, and older workers retire. Some people work variable hours, or in a succession of temporary and/or seasonal jobs.

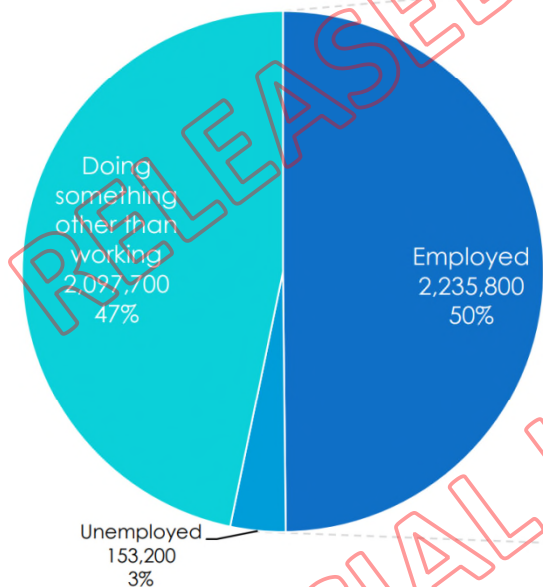


- There are over half a million businesses in New Zealand, the great majority of which are small. There is a constant churn of businesses, potentially allowing resources flow to more productive uses.
- Nevertheless, individual transitions can be costly for some of the people affected, both initially and over the long run.

Around half of the people in NZ are working, of whom half work in large firms

Employment status of New Zealand resident population

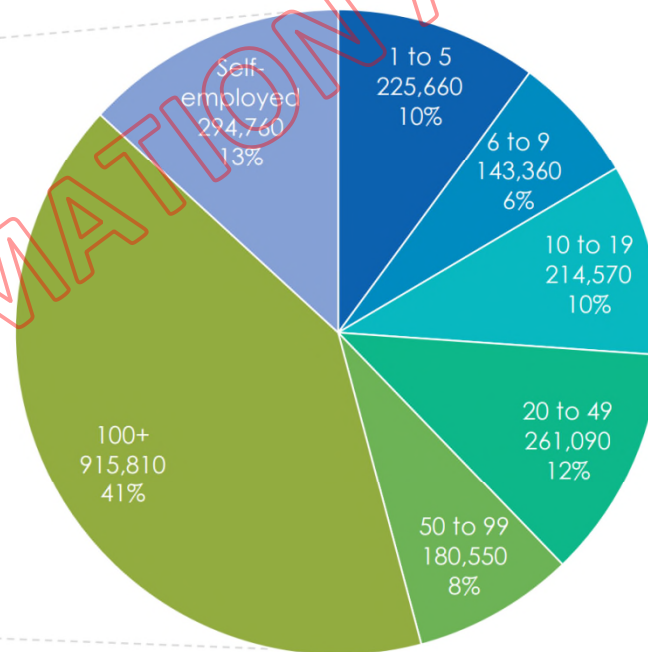
% of NZ residents; 2013



Total = 4,486,700 New Zealand residents

Employment by firm size

% employees and self-employed; 2013



Total = 2,227,000 people employed or self-employed

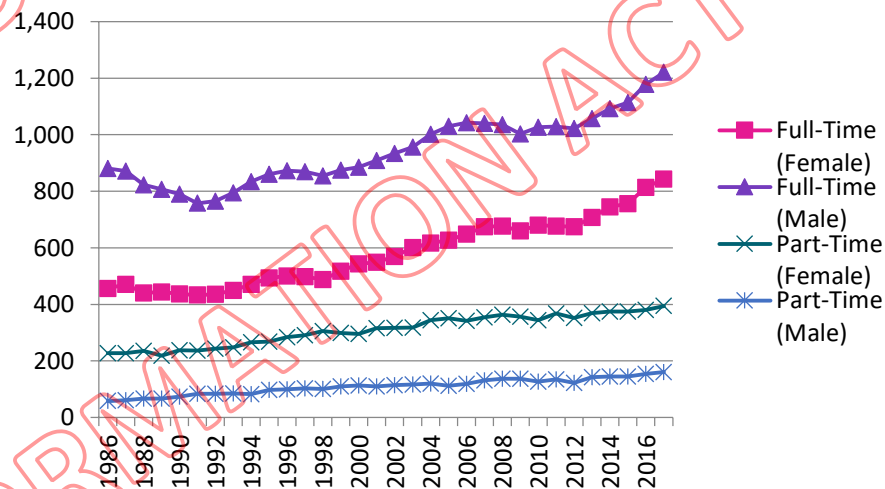


Labour force participation has improved since the GFC

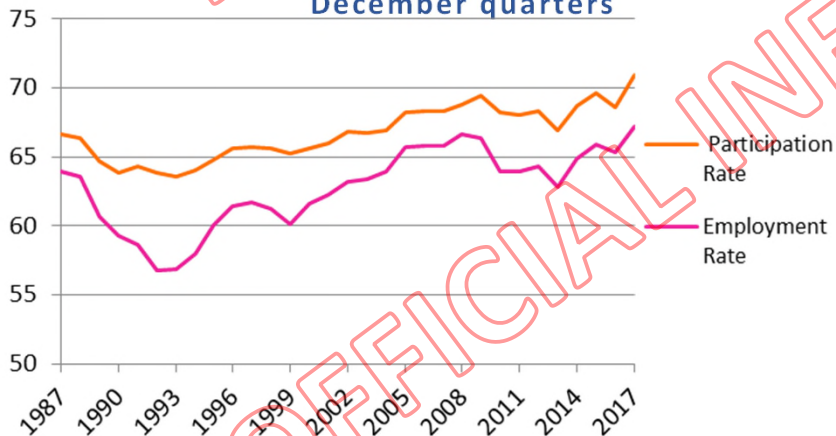
We have some of the highest rates of employment and participation in the OECD. Our unemployment rate is well below the OECD average.

Employment has grown steadily over the long run, both full-time and part-time. There are currently around 2.6 million people employed, around 1.1 million more than in the 1990s.

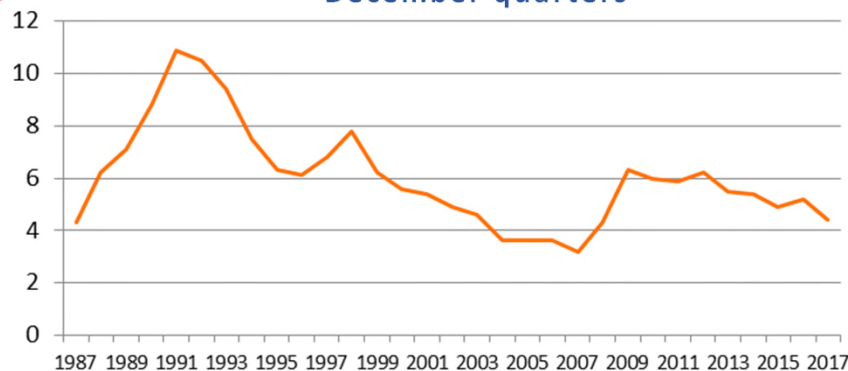
Employment by gender and work status (000s), December quarters



Employment and labour force participation rates (%), December quarters

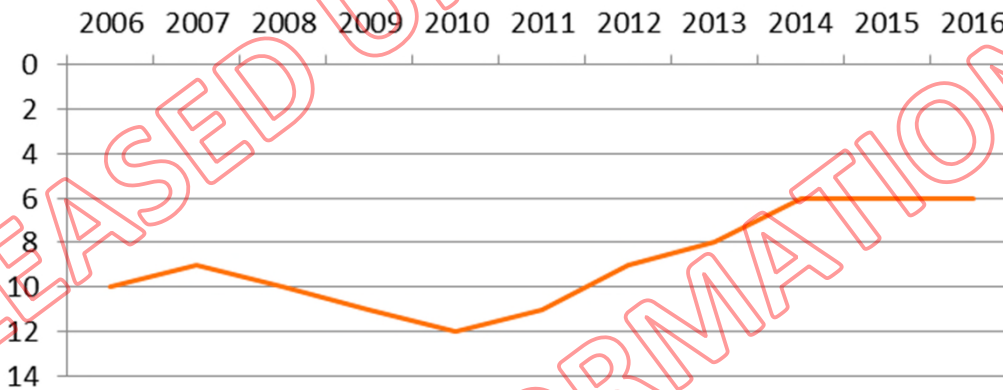


Unemployment rate (%), December quarters



Businesses have scope to adapt to changing skill demands

Labour market efficiency - NZ's international ranking



In the latest World Economic Forum Global Competitiveness Report, New Zealand ranks fifth to seventh on labour market efficiency.

- This is equal with the UK and Canada, behind the US, but well ahead of Australia.
- Over the past decade, New Zealand has always been ranked in the top dozen countries.

New Zealand's rankings for individual components of labour market efficiency are:

- Flexibility of wage determination (centralised vs set by each business): 22nd to 28th
- Extent that regulations allow flexible hiring and firing: 33rd to 39th
- Redundancy costs in weeks of salary: 1st to 3rd

Workers are generally satisfied with their working life

On most recent surveys of worker satisfaction, **over 85% of New Zealand workers indicate they are satisfied or very satisfied** with their jobs.

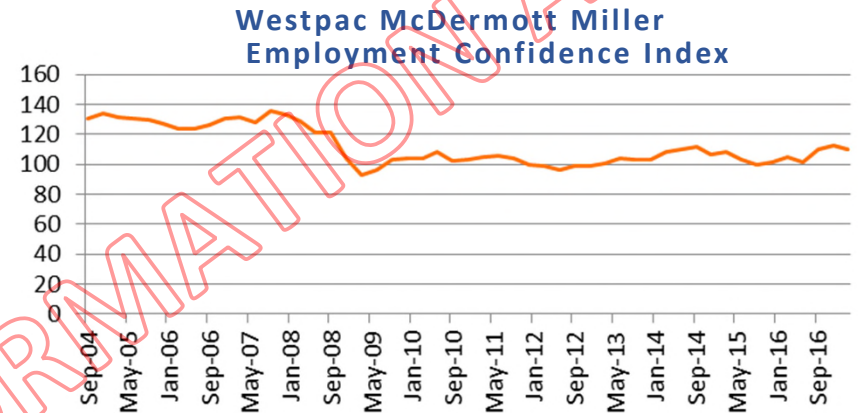
The picture is slightly less positive for work-life balance.

- The OECD Better Life Index, which incorporates indicators of long work hours and time devoted to leisure and personal care, places New Zealand in the bottom half (but better than the US and Australia).

New Zealand workers work relatively long hours.

- Around a quarter of workers work more than 45 hours a week, and a third of that group report that these long hours have caused difficulties.
- On the other hand, about one in eight of the extended labour force want more hours of work.

New Zealand has **no statutory redundancy provisions**, so workers who become redundant receive whatever compensation they have negotiated in their employment contract.



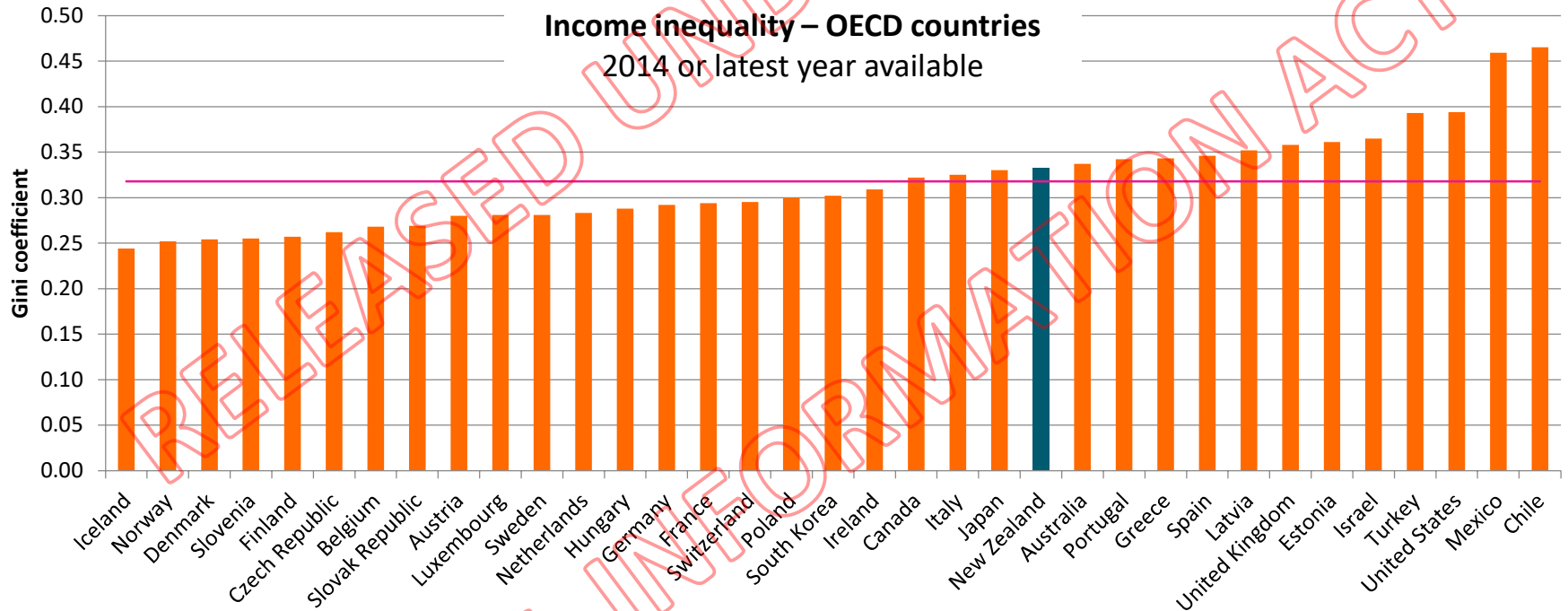
Worker confidence in their employment and wage prospects has improved gradually since the Global Financial Crisis. The latest Westpac McDermott Miller Employment Confidence Index was 110, up from around 100 in late 2015. Employment confidence remains well below the peak of 136 in September 2007.

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What undesirable outcomes are we seeing in the labour market?



Income inequality in NZ is slightly above the OECD average

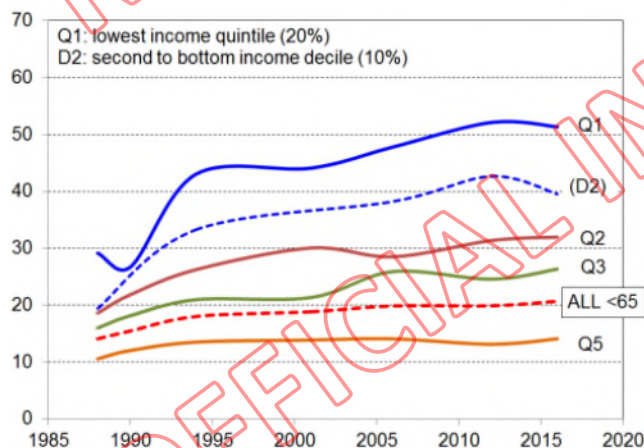


- Inequality in New Zealand is similar to that in Australia and Italy.
- Most OECD countries saw an increase in inequality between the mid-1980s and the late-2000s.
- However, New Zealand had one of the largest increases over this period, beaten only by Sweden.

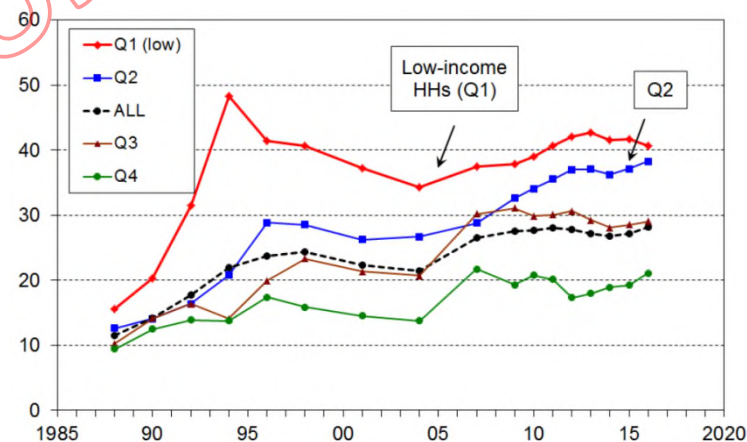
Incomes after housing costs are more unequal than incomes before housing costs

- The gap between incomes before and after housing costs has widened particularly since the mid-1980s, suggesting that the increase in household costs has impacted lower income households more than higher income households.
- What the second graph doesn't show is that within the group of low-income (Quintile 1) households spending more than 30% of their income on housing, there are many spending considerably more than 30%. For example, around one in four (24%) Quintile 1 households spend more than half of their income on housing.

Housing costs as proportion of income



Proportion of households with housing costs greater than 30% of income



We know the demographics of minimum wage earners

People earning between \$15.75 and \$16.50 per hour as of November 2017

Demographic	% of minimum wage earners	% of total wage earners
Aged 16 – 24	48.4%	17.1%
Women	60.6%	49.2%
European/Pākehā	50.5%	64.4%
Māori	17.1%	13.0%
Pasifika	9.7%	6.1%
Working part-time	51.4%	18.7%
Working while studying	19.9%	12.0%
Total number of people	164,100	1,965,312

We know which sectors minimum wage earners work in

Sector	MW workers as % of total	No. of MW workers	% of total working hours	% of total earnings
Agriculture	7	5,400	7.2	4.9
Mining	<i>Suppressed as less than 1,000</i>			
Manufacturing	6	12,800	5.3	3
Utilities	1.8	400	1	0.4
Construction	3.7	5,600	3.4	1.9
Wholesale	4.8	4,700	4	1.9
Retail	18.1	34,700	14.5	10.2
Hospitality	35.2	42,000	28.1	23.2
Transport & storage	3.9	3,300	3.6	2.1
Information & telecomms	5.3	1,900	3.3	1.4

Sector	MW workers as % of total	No. of MW workers	% of total working hours	% of total earnings
Finance	<i>Suppressed as less than 1,000</i>			
Real estate	5.3	1,900	4.2	2.2
Professional services	2.4	3,800	1.8	0.8
Admin services	16.1	9,000	13.1	8.1
Public administration	2.1	2,700	1.8	0.8
Education	3.1	6,200	2.3	1.3
Health	8.5	17,800	6.4	3.4
Arts and recreation	13.9	4,600	9.1	4.9
Other services	6.6	4,500	5.7	3.8
Total	8.3	164,100	6.2	3.3

We know what low pay correlates with

- “Low pay” is hard to define:
 - OECD: 2/3 of the median wage (\$15.22 as of 2015).
 - Alternative: 120% of adult minimum wage (\$17.70 as of 2015).
- Based on the definition used we see different trends associated with low-paid work:

Proportion of people employed

	2006	2009	2012	2015
OECD definition (median wage)	12.3% (197,500)	10.1% (167,500)	8.8% (147,300)	11.1% (206,300)
120% min wage definition	17.9% (287,600)	24.0% (396,600)	23.9% (401,200)	24.9% (463,000)
Total employed sample	1,605,700	1,658,400	1,673,900	1,858,600

- The following are correlated with low pay:
 - Being a woman, working part-time, either being between 20 – 29 years old or over 65 years old, having a low level of educational attainment, and being non-European.
- Jobs that dominate the low paid landscape: labourers, community and personal service workers, sales.
- People earning low pay also have a weak attachment to the labour market (relative to people earning at least the median wage).

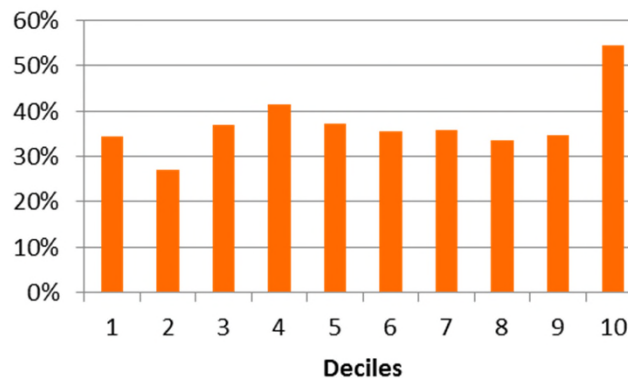
Wage growth is slower for people on lower wages

- From 1998 to 2015, real hourly wages for workers in deciles 2 to 6 (ie 50% of workers) rose much more slowly than those in higher deciles.
- The exception is decile 1, which is heavily influenced by minimum wage.
- Generally, the higher the wage, the faster it increased during this period.
- This has “hollowed out” the wage scale and increased income inequality among majority of employees.
- Our income support system helps to even out income increases across households (and many low income earners are in high income households).

Real increase in average hourly wage in each decile for employees 1998-2015

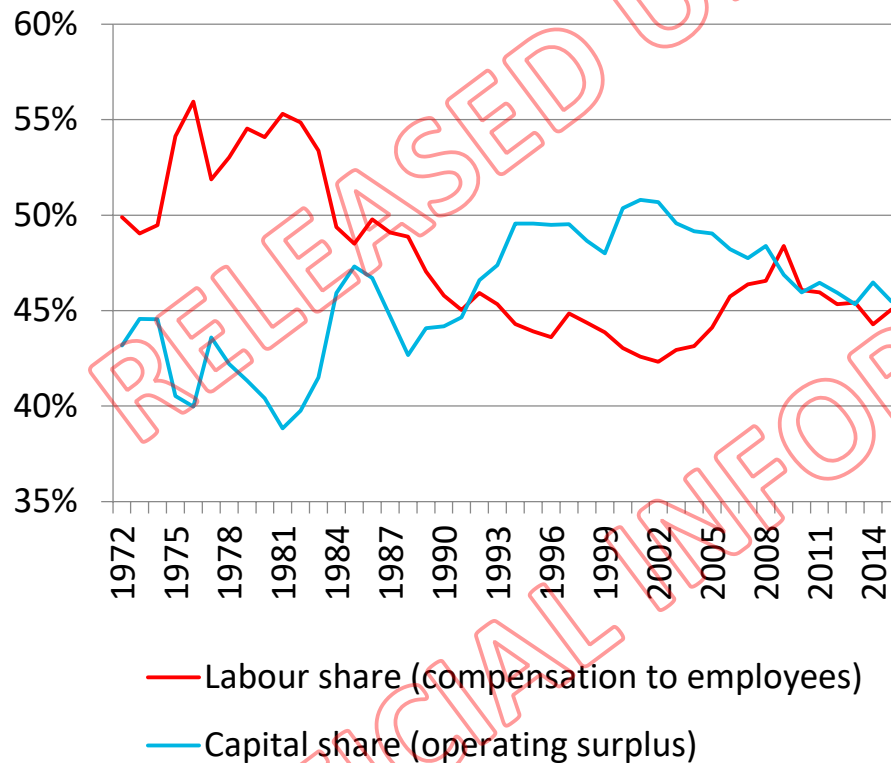


Real increase in mean household disposable (after tax) income 1998-2015



Despite rising wages workers have a lower share of income

Labour and capital share of national income



- There has been a large fall in the labour income share through the 1980s. This reflects wages growing slower than returns to capital, rather than wages falling.
- There was some recovery in the 2000s, though the labour income share is still well below levels seen in the 1970s.
- This trend has been observed with labour income shares in other countries, both developed and emerging.



Temporary workers may need stronger employment protections

There are approximately **180,000** temporary employees in New Zealand made up of:

- 97,000 casual employees
- 54,000 fixed-term employees
- 21,000 seasonal employees
- 8,000 temporary agency workers

When compared to the permanent, full-time workforce, those in non-standard working arrangements are more likely to be **younger, female, Māori or Pasifika, and to earn less** from the work they do.

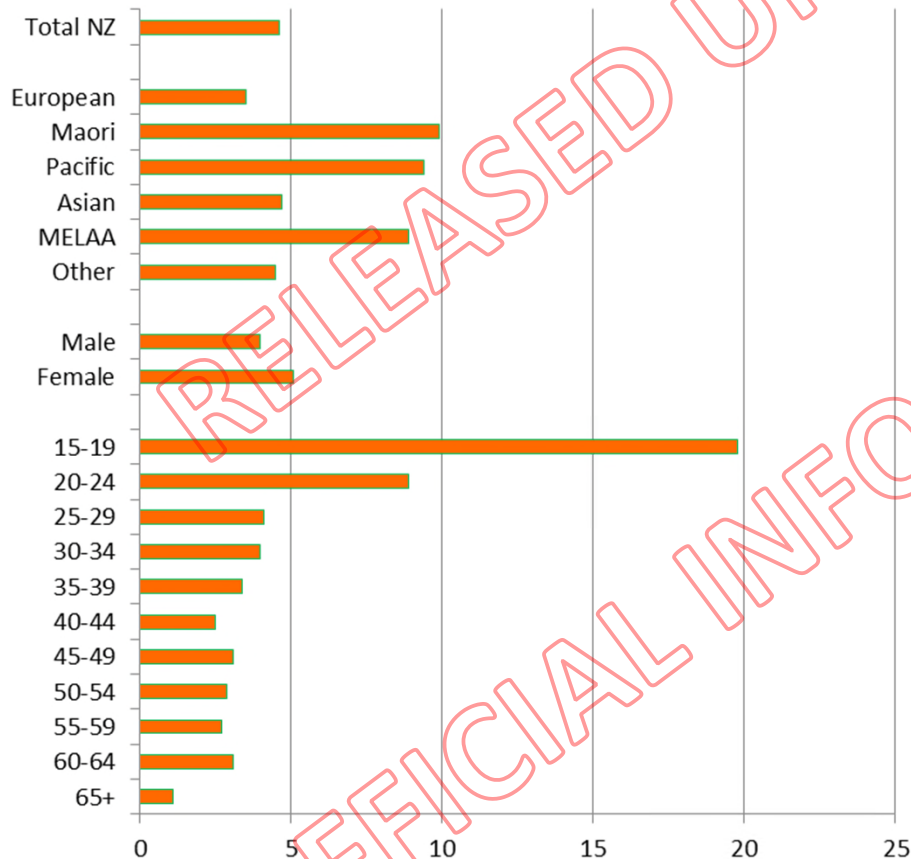
Primary sector industries such as **agriculture, forestry and fishing** have the greatest reliance on temporary workers with 1 in 5 primary sector workers being temporary employees (i.e. casual, fixed-term, seasonal or temporary agency workers) compared to less than 1 in 14 of all workers.

Temporary employees are less likely to belong to unions or to be covered by either collective or individual employment agreements. They tend to work fewer and more irregular hours and have shorter notice of their work schedules.



There is considerable scope to improve labour force participation

Unemployment rates (%), September 2017



- Māori, Pasifika and Middle Eastern/Latin American/African peoples have higher unemployment rates and lower employment rates.
- Younger people (under 25 years) have much higher unemployment rates. Participation is high among those aged 20-24 years.
- Women have a slightly higher unemployment rate, and somewhat lower employment and participation rates than men.
- People with disabilities have very much lower participation (25.2%) and employment (22.4%) rates.
- Unemployment remains relatively high in some regions: Northland, Bay of Plenty, Gisborne/Hawke's Bay.
- Around one in eight of the extended labour force are underutilised (i.e. they are either unemployed or would like to work more hours)

Labour force disengagement can lead to poor long-run outcomes

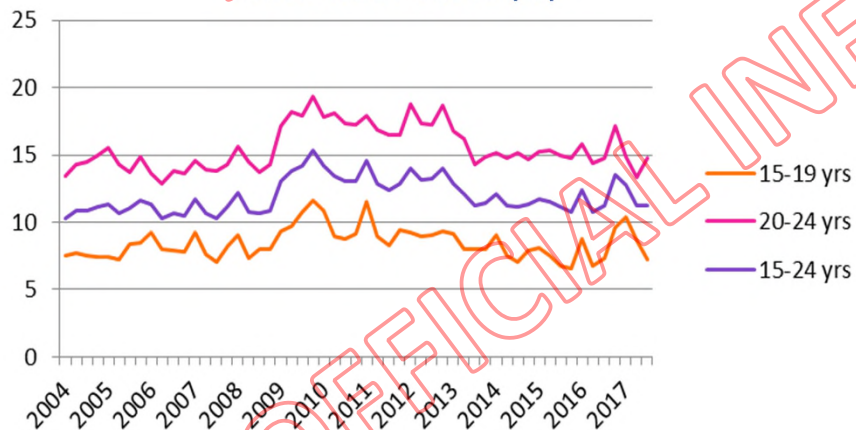
The transition of young people from education into the labour market is a key point for determining future outcomes.

Over 11% of young people (15-24 years) are **not in employment, education or training (NEET)**. This rate is higher for those aged 20-24 years. The youth NEET rate has been trending down, and is now at a similar level to before the GFC.

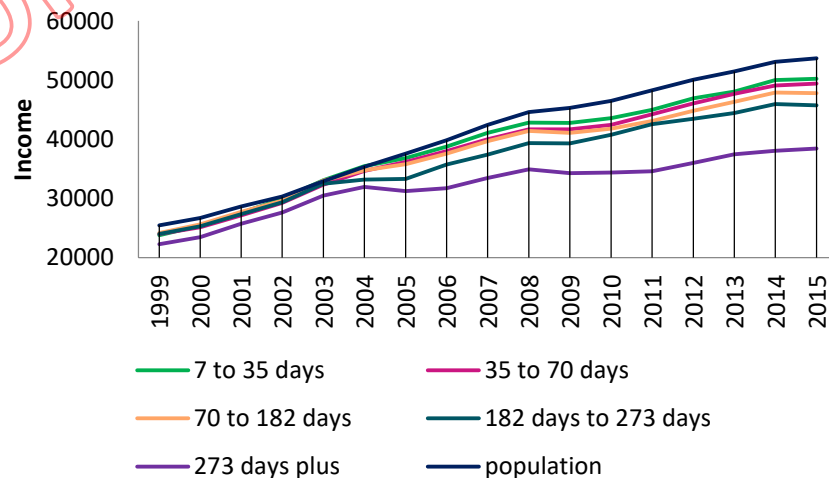
People who have been displaced from work (e.g. been made redundant) generally re-attach to the labour market, but they have poorer long term outcomes than those who have not lost their jobs.

Another at-risk group is **people who have suffered an injury**. While we have a comprehensive approach to managing income support and rehabilitation for people who have had accidents, recent research finds that an absence from work, even for a short period, is associated with lower longer term incomes.

Youth NEET rates (%)



Annual Income by absence from work after an injury



New Zealand has also had poor long-term productivity performance

NZ's recent economic growth is derived primarily from increasing labour force participation rather than labour productivity.

Our productivity performance is considerably lower than the OECD average, and that of the small advanced economies we compare ourselves with.

Potential contributing factors to New Zealand's poor productivity performance are:

- Our small size and distance from markets.
- Low levels of capital investment and diffusion of technology, competition, involvement in global value networks.
- Industry structure (heavy reliance on low productivity sectors).
- Proliferation of small firms and dearth of very large ones.
- Relatively poor quality of management and take-up of productivity enhancing workplace practices.



Source: OECD (2017), Productivity database; OECD (2017), Economic Policy Reforms: Going for Growth 2017

Paul Conway (Productivity Commission) 2018: *Can the kiwi fly? Achieving productivity lift-off in NZ*

- While NZ isn't a typical OECD economy, our productivity performance is poor by international standards: we're keeping up but catching up looks unlikely
- At an aggregate-level: a key driver of our GDP growth has been growth in labour input (rather than productivity)

- Since 2000, growth in NZ's labour force has been more than twice the OECD average:

Faster growth in working
age population
(immigration inflows)

Greater increase in labour
force participation
(older workers, women)

Smaller fall in
hours worked
per worker

- At a firm level: high- and low-productivity firms manage to coexist in the market
 - Could be due to poor technology diffusion and resource allocation
 - A large share of labour and capital is employed in low-productivity firms
- Several factors could explain why NZ firms have low productivity
 - We are a small economy that isn't well-connected internationally; and our domestic markets are small and geographically segregated
 - We have weak investment and a capital shallow economy → NZ firms are encouraged to grow by taking on additional workers rather than investing in capital
 - Low investment in R&D and knowledge-based capital; high incidence of skills mismatch

There is room to improve Māori and Pasifika outcomes

At present, compared to other ethnic groups, Māori and Pasifika have :

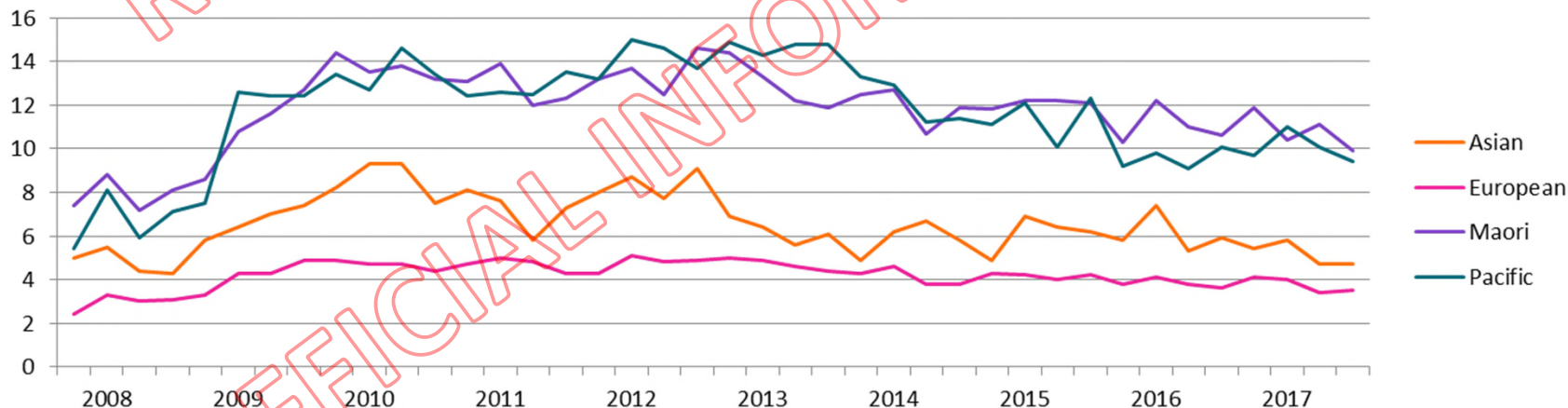
- Lower employment rates and incomes
- Higher unemployment rates
- Higher youth NEET rates.

Māori and Pasifika workers tend to be over-represented in lower skilled occupations and sectors.

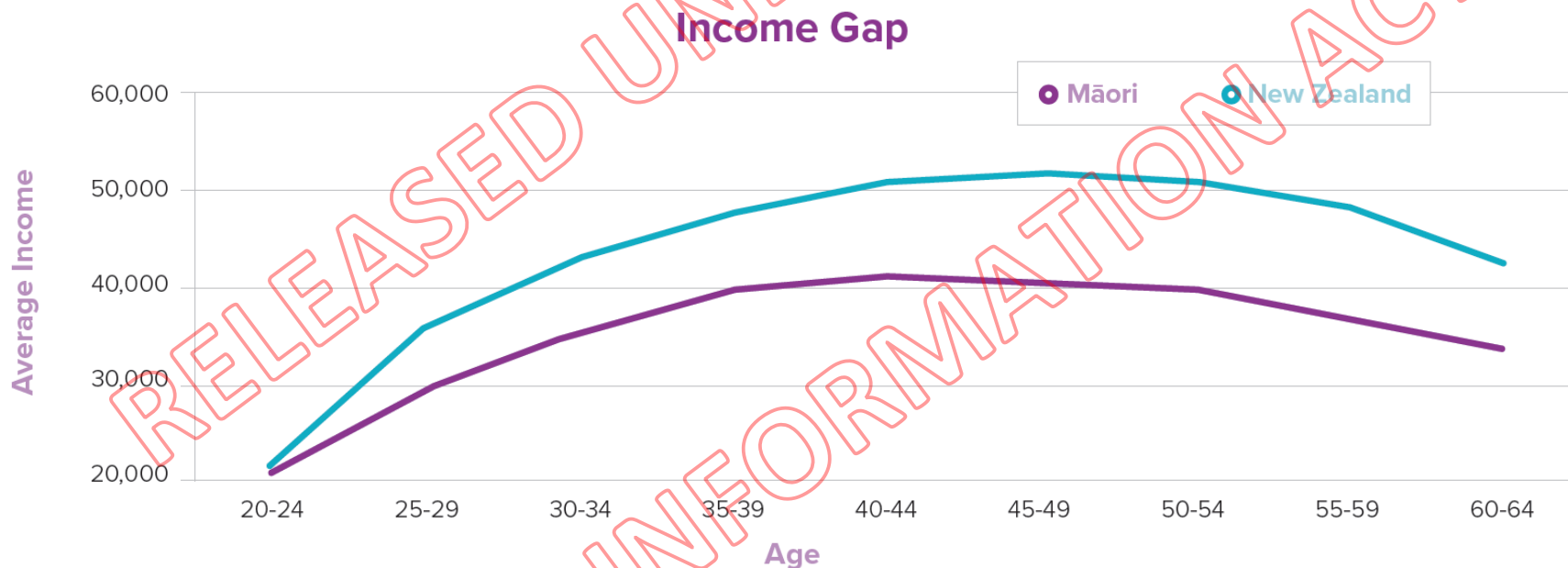
There is overlap between how we think about labour market outcomes for Māori and Pasifika, and our regions and sectors.

- Māori live predominantly in Auckland, Waikato, Bay of Plenty, Wellington and Manawatū-Whanganui, and make up a large proportion of the population in Northland and Tairāwhiti.
- Two-thirds of the Pacific population lives in Auckland, particularly South Auckland.

Unemployment rates by ethnic group (%)



There is room to improve Māori and Pasifika outcomes



If this income gap were closed, Māori would earn an \$140 per week per working age person. Due to peak Māori incomes coming earlier in life than the NZ average, any benefits from closing the income gap would be greater for the older population: those aged between 40 and 59 would earn \$200 more per week.

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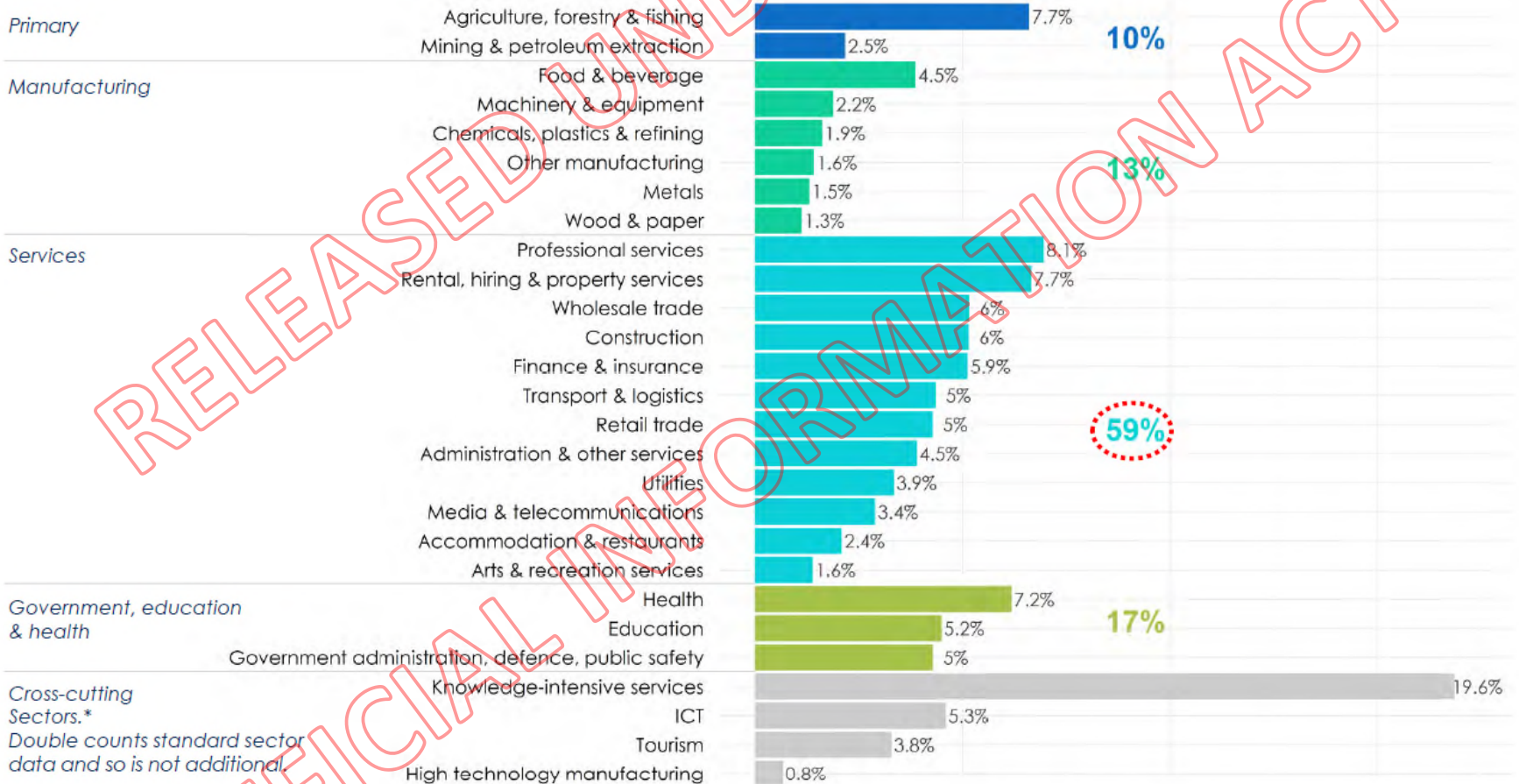
Our sectors are varied and complex



Like other developed economies, services generate the most GDP

Share of nominal GDP (total employing sectors)

% GDP; 2011

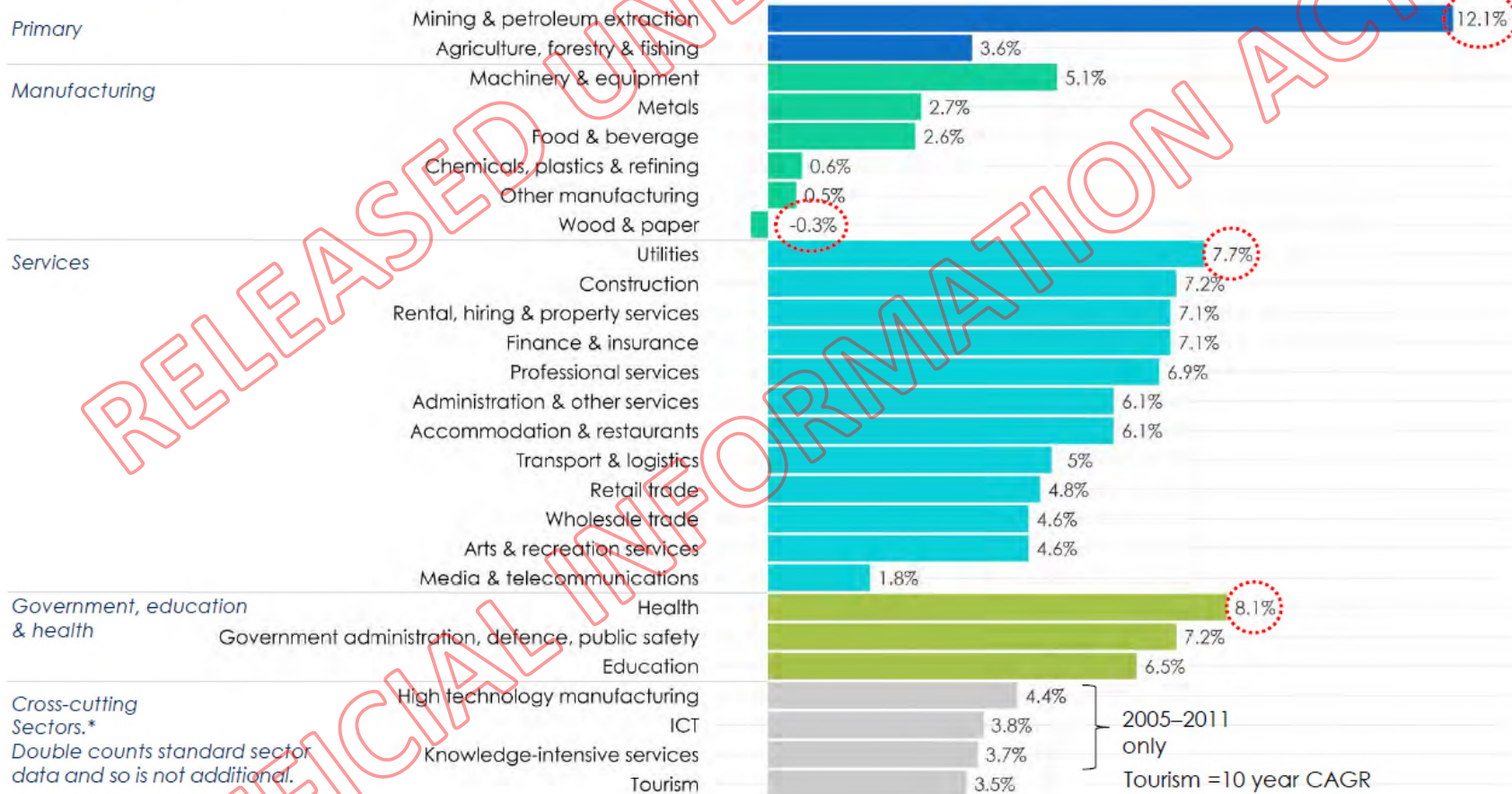


*Cross-cutting sectors have been double-counted and, tourism aside, have not been through the system of National Accounts so should be considered indicative only. Nominal GDP for 2011 used rather than 2013 real GDP because real GDP includes volume changes between 2010 and 2013, not only price changes. Source: Statistics New Zealand, National Accounts (2013)

(Almost) all sectors of the economy are growing

Nominal GDP 10 yr growth rate

% GDP CAGR, 2001–2011



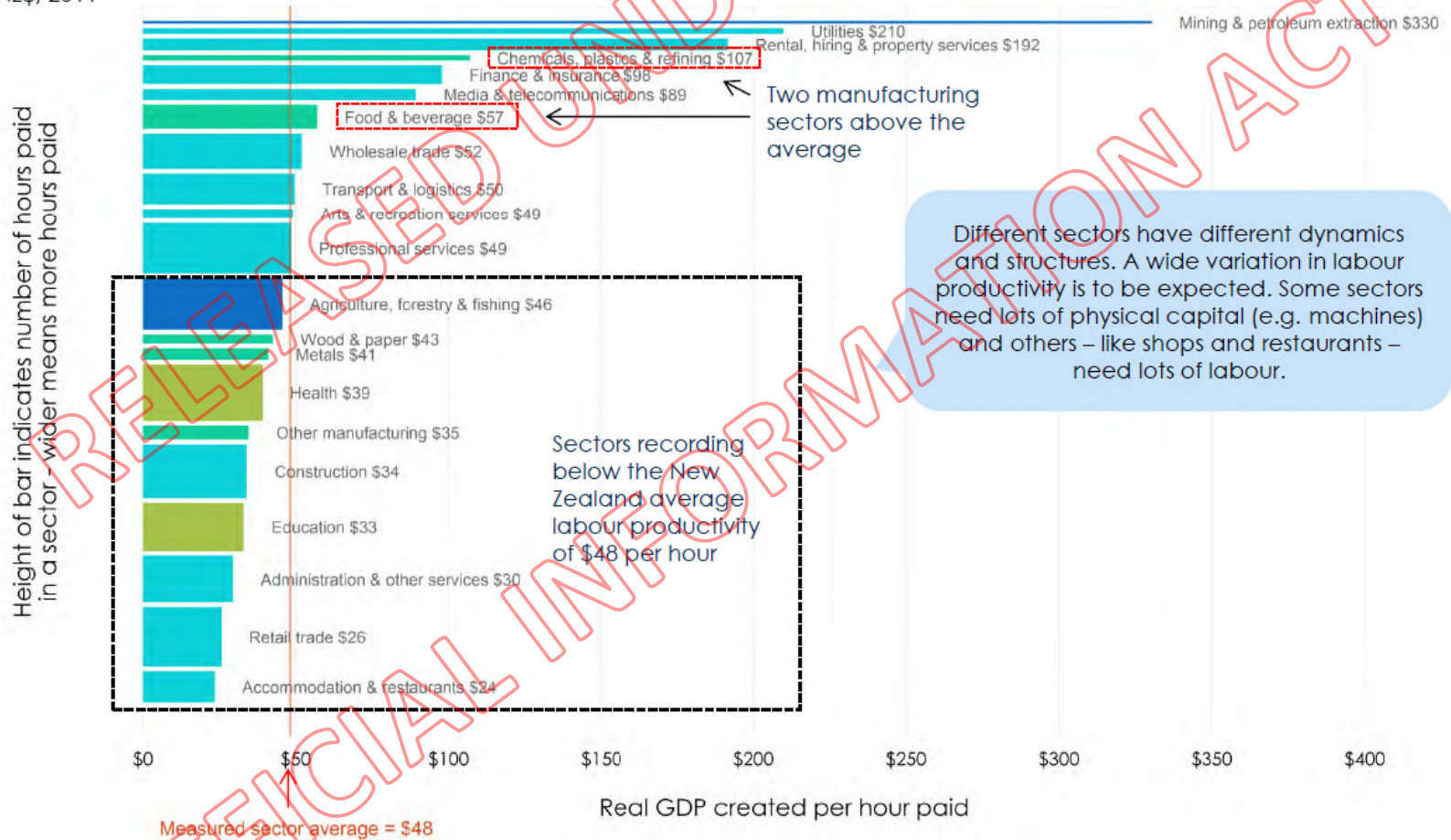
*ICT, high technology manufacturing and knowledge intensive services data is only available since 2005; treat as indicative only.

Source: Statistics New Zealand, National Accounts (2013).

Most workers are employed in lower labour productivity sectors

Sector employment (total hours paid) vs sector GDP (real) per hour paid

NZ\$, 2011



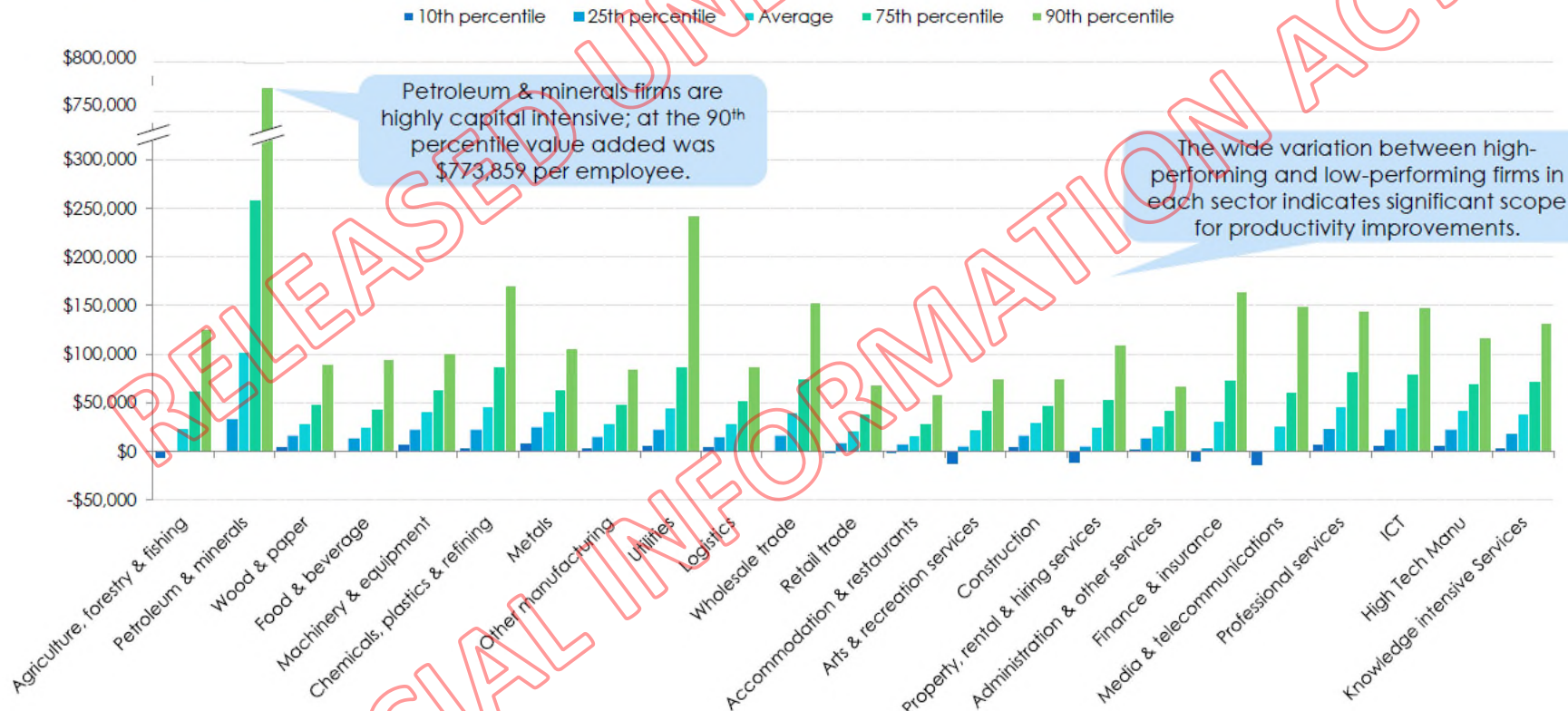
Note: data for government administration, education, health, ICT, high technology manufacturing and knowledge intensive services is not measured.

Source: Statistics New Zealand, National Accounts – Productivity Input Series year ended March 2012 (2013).

All sectors have high-performing and low-performing firms

Value added per employee, measured at selected percentile of the labour productivity distribution

Value added per employee; 2010

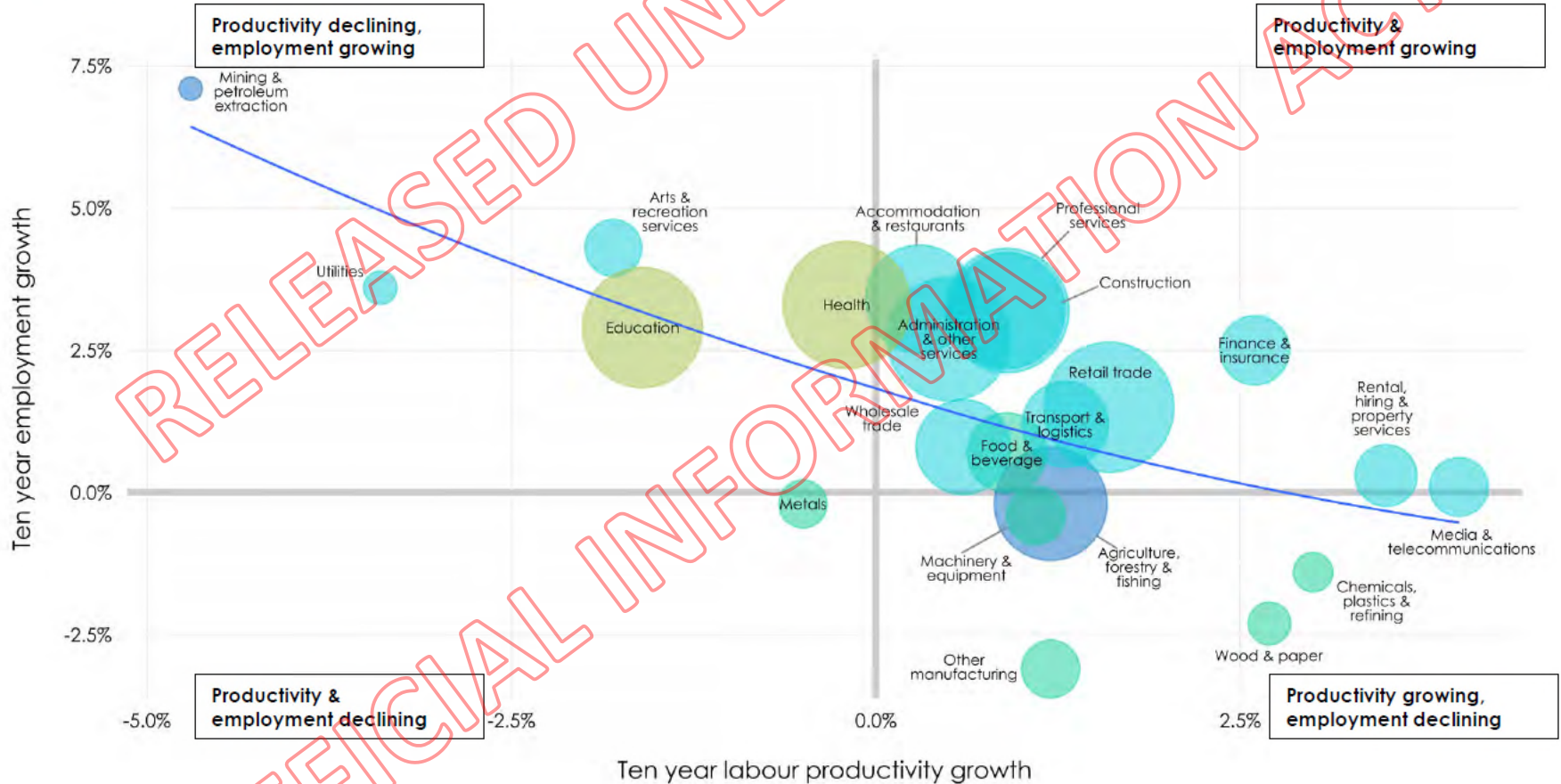


Note: government, education and health sectors are not included owing to the difficulty in measuring sectors whose primary objectives are social rather than financial.

Source: Statistics New Zealand, customised data drawn from the Longitudinal Business Database (2012), customised data drawn from the Annual Enterprise Survey (2010), Ministry of Business, Innovation & Employment calculations.

Labour productivity growth varies by sector

10 year labour productivity growth (x axis) vs 10 year employment growth (y axis); size of bubble indicates number employed
 Labour productivity CAGR; 2001–2011



Note: productivity data is unavailable for the cross-cutting, government, education and health sectors

Source: Statistics New Zealand (2013), National Accounts, Linked Employer-Employee Database, and customised data drawn from the Quarterly Employment Survey

Sectors increasing productivity are often reducing employment

10 year labour productivity growth
Labour productivity CAGR; 2001–2011

10 year employment growth by employing sector
Employment CAGR; 2001–2011



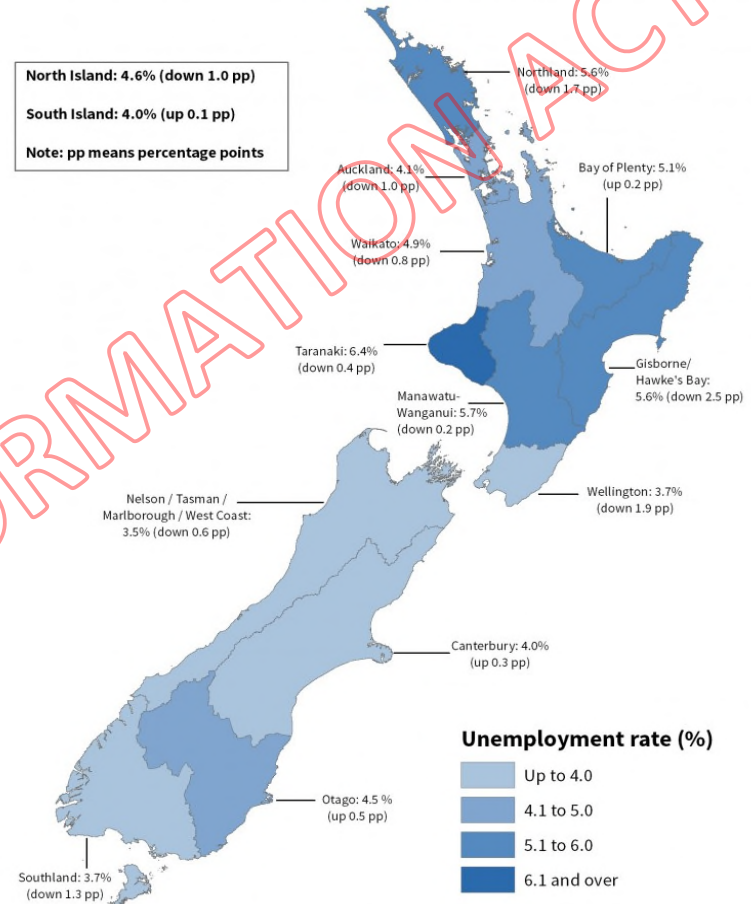
Note: data is unavailable for cross-cutting sectors and government; education and health.

Source: Statistics New Zealand (National Accounts, Annual Enterprise Survey and Linked Employer-Employee Database)

Regions also have very different labour markets

- Larger urban centres have higher employment and wages.
- Unemployment is higher and incomes lower in smaller, more distant regions.
- Taranaki is a bit of an exception, particularly when fortunes are good in the oil and gas sector.
- All else being equal, we would expect to see workers move from weaker to stronger labour markets. In fact, New Zealand workers are relatively mobile, compared to other developed countries. Most mobility is between adjacent regions.

Unemployment rates by regional council area
December 2017 quarter (compared with December 2016 quarter)



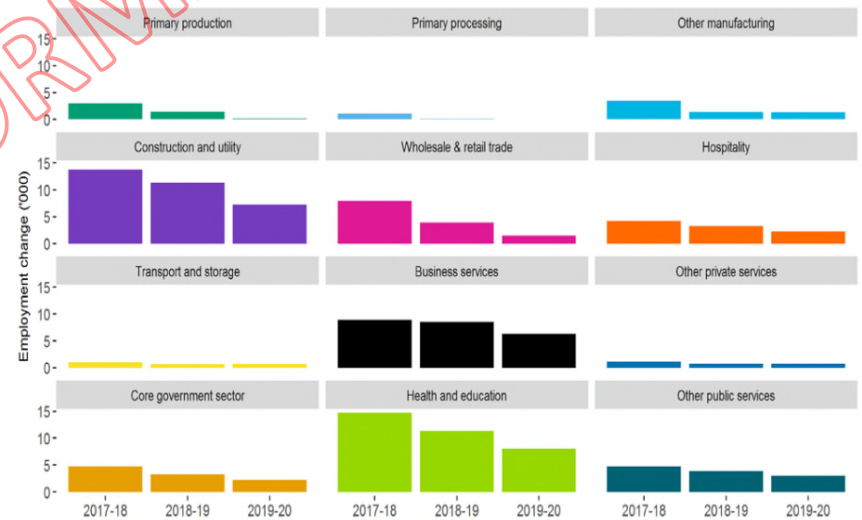
We forecast continuing job growth, particularly for skilled workers

- Job growth will continue (with 152,000 more people employed over the 2017-20 period) and the demand for skilled workers is forecast to increase.
- The construction sector, business services and health and education sectors will be driving overall employment growth.
- Employment is forecast to grow in all regions with some rural regions to grow at a faster rate. North Island growth is forecast to be highest in the Auckland, Waikato and Wellington regions while there is solid growth across the South Island with the fastest growth rates in Tasman and Marlborough regions.
- Highly skilled labour will continue to be in demand in New Zealand.

93,900 more high-skilled occupations by 2020



Construction and utility services (up 32,400), business services (up 23,700) and health and education (up 34,000 jobs) by 2020

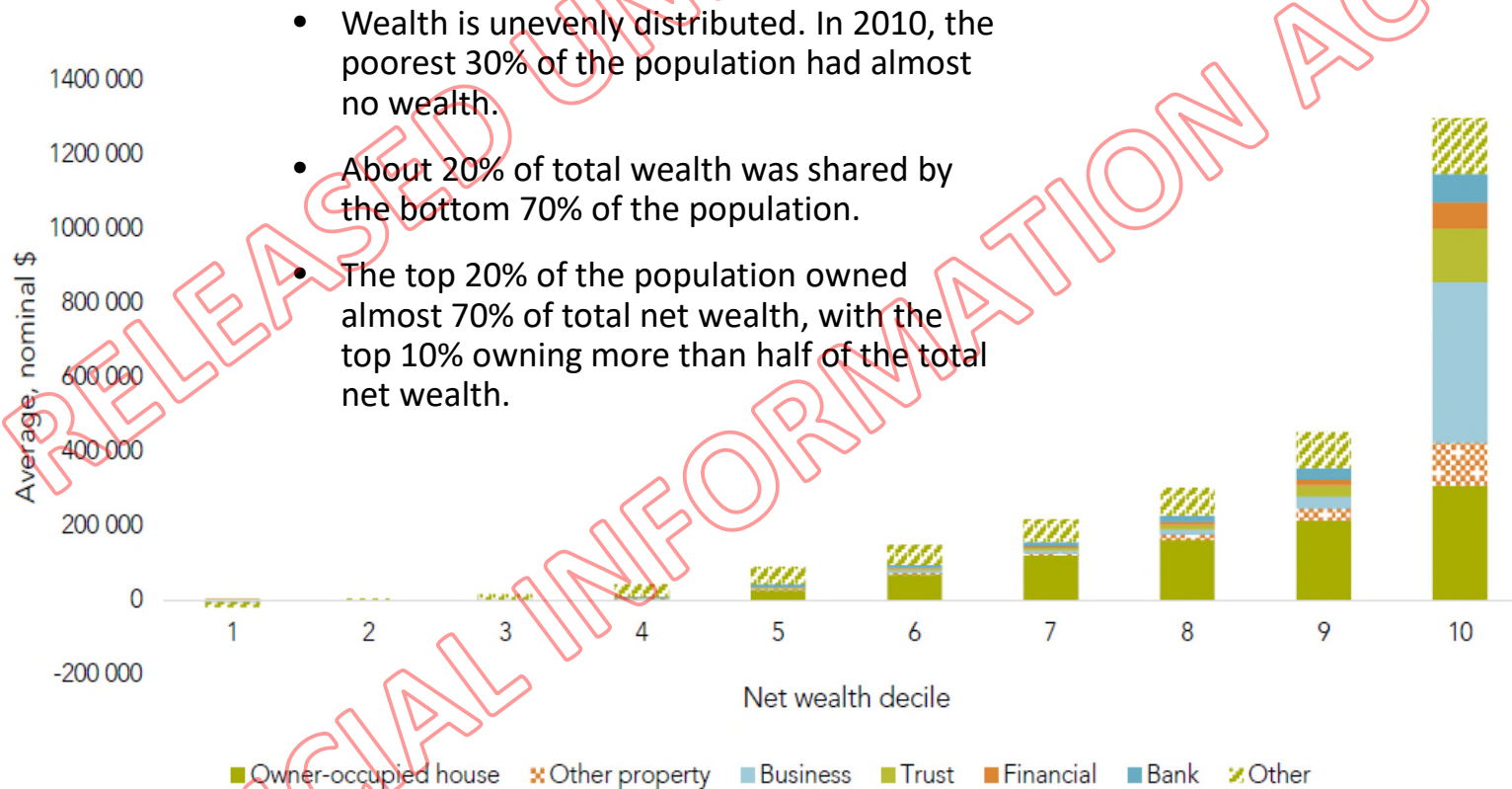


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Annex



Income inequality is compounded by uneven wealth distribution

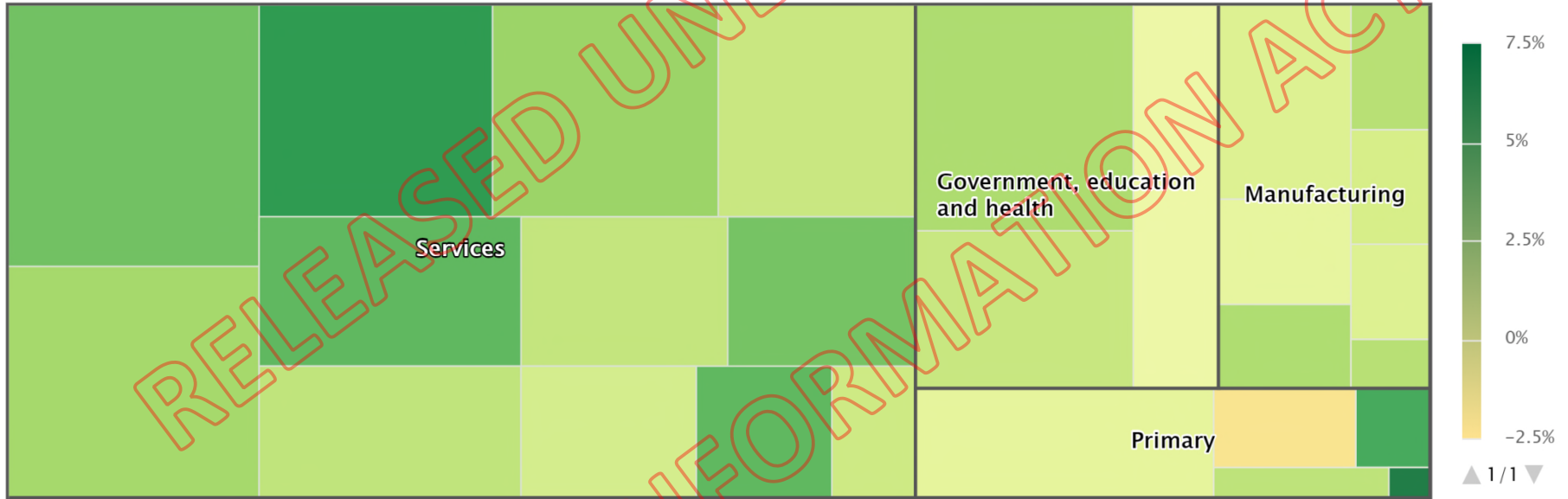


- Wealth is unevenly distributed. In 2010, the poorest 30% of the population had almost no wealth.
- About 20% of total wealth was shared by the bottom 70% of the population.
- The top 20% of the population owned almost 70% of total net wealth, with the top 10% owning more than half of the total net wealth.

Source: Productivity Commission analysis of Statistics New Zealand's Survey of Family, Income, and Employment data.

New Zealand sectors by real GDP in 2017

Coloured by compound annual growth rate (CAGR) for the past 5 years (%)



Sector	Real GDP 2017 (\$m)	CAGR for past 5 years
Services	126,979	3.4%
Govt, education and health	33,200	2.0%
Manufacturing	23,065	1.6%
Primary	15,773	1.3%



The agriculture sector

		Comparison
Real GDP (2017)	\$9.177 billion	4.2% of NZ total
Employment count (2017)	83,500	5% of NZ total
Firm count (2017)	55,488	10.5% of NZ total
Median earnings (2016)	\$45,220	\$51,910
Median earnings (2000)	\$22,570	\$31,280
Change in median earnings 2000 - 2016	100%	66%
Labour productivity growth since 2000 (2017)	19.4% higher than total industry	



The food and beverage manufacturing sector

		Comparison
Real GDP (2017)	\$7.364 billion	3.4% of NZ total
Employment count (2017)	93,300	3.6% of NZ total
Firm count (2017)	3,771	0.7% of NZ total
Median earnings (2016)	\$53,640	\$51,910
Median earnings (2000)	\$33,480	\$31,280
Change in median earnings 2000 - 2016	60%	66%
Labour productivity growth since 2000 (2017)	8.2% lower than total industry	



The construction sector

		Comparison
Real GDP (2017)	\$14 billion	6.5% of NZ total
Employment count (2017)	158,100	8.4% of NZ total
Firm count (2017)	59,712	11.3% of NZ total
Median earnings (2016)	\$58,540	\$51,910
Median earnings (2000)	\$34,680	\$31,280
Change in median earnings 2000 - 2016	69%	66%
Labour productivity growth since 2000 (2017)	4.7% lower than total industry	



The hospitality sector (accommodation and food services)

		Comparison
Real GDP (2017)	\$5.031 billion	2.3% of NZ total
Employment count (2017)	159,100	6.9% of NZ total
Firm count (2017)	21,345	4% of NZ total
Median earnings (2016)	\$30,060	\$51,910
Median earnings (2000)	\$15,410	\$31,280
Change in median earnings 2000 - 2016	95%	66%
Labour productivity growth since 2000 (2017)	10.4% lower than total industry	



The retail trade sector

		Comparison
Real GDP (2017)	\$11.166 billion	5.2% of NZ total
Employment count (2017)	215,300	9.2% of NZ total
Firm count (2017)	28,002	5.3% of NZ total
Median earnings (2016)	\$36,420	\$51,910
Median earnings (2000)	\$21,140	\$31,280
Change in median earnings 2000 - 2016	72%	66%
Labour productivity growth since 2000 (2017)	33.6% higher than total industry	





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Collective bargaining landscape in New Zealand

Fair Pay Agreement Panel meeting, 20 July 2018

In confidence: this is not government policy.



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Purpose of these slides

- Brief introduction to NZ's collective bargaining system
- Summary of the collective bargaining landscape
 - Unions (#, size, industry coverage)
 - Collective agreement coverage (by industry, public/private sector, MECA/SECA etc)
 - Trends in past 10 years
- Outline of commentary on the pros and cons of the existing system
- Data: Mostly from the Centre of Labour, Employment and Work, Victoria University (where not otherwise specified)



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Where we've come from

- Industrial Conciliation and Arbitration Act 1894
- Industrial Relations Act 1973
- Labour Relations Act 1987
- Employment Contracts Act 1991
- Employment Relations Act 2000

"Amongst industrialised countries, New Zealand experienced the greatest decline in collective bargaining coverage between the late 1970s and the mid-to-late 2000s – a consequence of being the only country to have shifted from one of the industrialised world's most regulated labour markets to one of its most deregulated" – CLEW 2017.



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- The Industrial Conciliation and Arbitration (IC&A) Act made New Zealand the first country in the world to outlaw strikes and introduce compulsory arbitration.
- Following the failure of the trans-Tasman Maritime Strike of 1890, some major employers refused to recognise unions, blacklisted their members and slashed wages and conditions.
- Any registered union could bring any employer before the Arbitration Court, and the court's decisions were legally binding.
- Centralised wage setting, where minimum wages for an entire industry were set by a single arbitrator, was common practice until 1973. However, it was abandoned at times of employer pressure, notably between 1932 – the low point of the 1930s economic depression – and 1937.
- This framework came under pressure as inflation gained momentum in the late 1960s, and it was replaced in a sequence of five acts, beginning with the Industrial Relations Act 1973, which relaxed the statutory restrictions on employment relationships.
- "Amongst industrialised countries, New Zealand experienced the greatest decline in collective bargaining coverage between the late 1970s and the mid-to-late 2000s – a consequence of being the only country to have shifted from one of the industrialised world's most regulated labour markets to one of its most deregulated" – CLEW 2017.

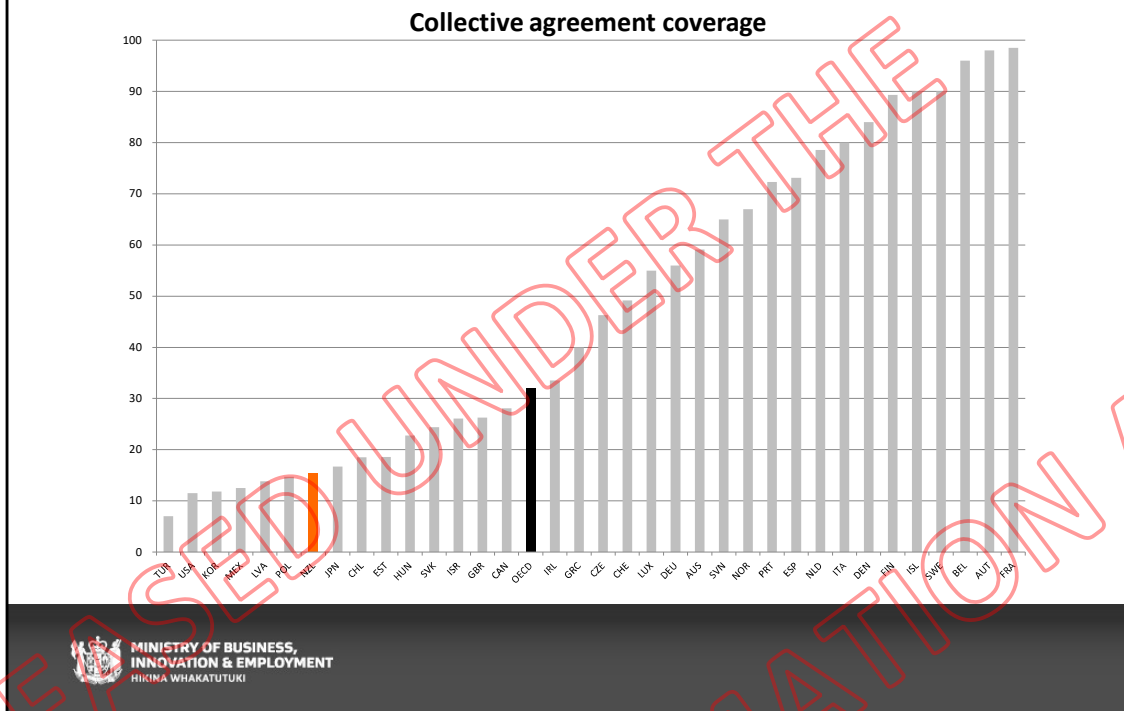
Current collective bargaining system

- Voluntary union membership
- Requirement to collectively bargaining once initiated
- Mechanisms for multi-employer collective bargaining
- No specific mechanisms for industry or occupation wide collective bargaining (other than some parts of the public sector, eg education).
- Rules on 'passing on' of collectively bargained terms and conditions to non-union members.



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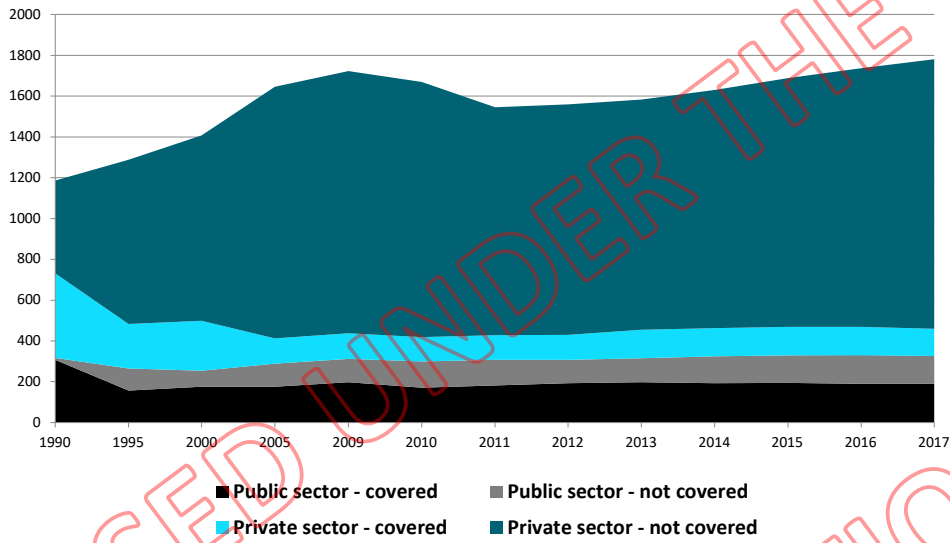
Coverage of collective agreements is low compared to the OECD



- On average across OECD countries, the share of workers covered by a collective agreement has shrunk to 33% in 2015 from 45% in 1985.
- The OECD found that “[o]verall, collective bargaining coverage is high and stable only in countries where multiemployer agreements (i.e. at sector or national level) are negotiated and where either the share of firms which are members of an employer association is high or where agreements are extended also to workers working in firms which are not members of a signatory employer association.
- In countries where collective agreements are signed mainly at firm level, coverage tends to go hand-in-hand with trade union density. Workers in small firms are generally less likely to be covered as these firms often do not have the capacity to negotiate a firm-level agreement, or a union or another form of worker representation is absent at the workplace.”

The number of employees covered by a collective agreement is stable but total labour force is growing

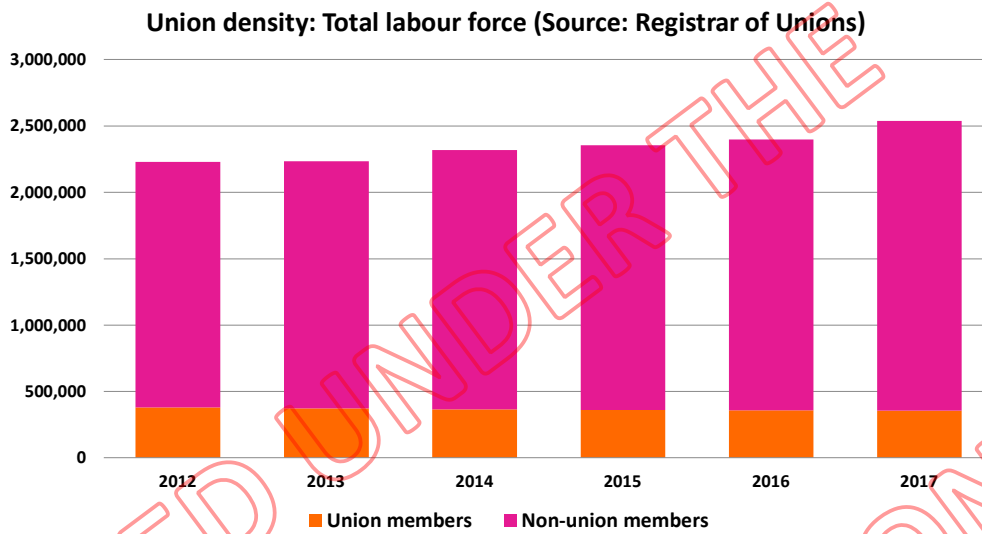
Collective agreement coverage (Source: CLEW)



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The situation is similar when looking at union membership



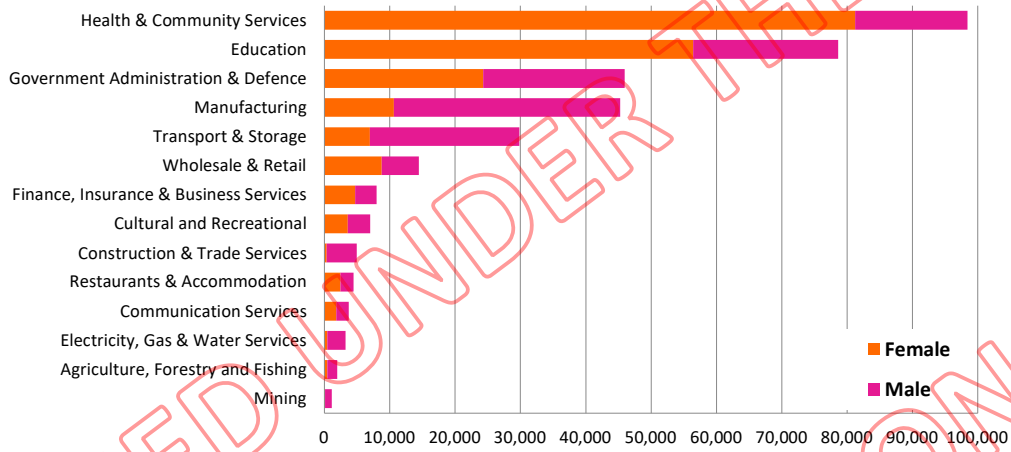
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Union members as a percentage of the workforce has also declined from over 20% to 17.2%.

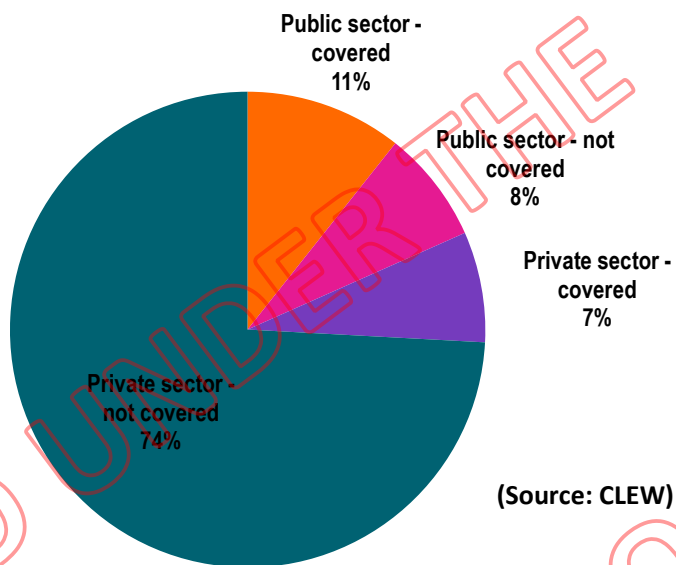
Union membership has declined by 1.28% on average over the past 5 years (compound annual average growth rate).

Most union members are women and are concentrated in particular industries

Union membership by gender and industry (Source: Registrar of Unions)



...and it is now largely in the public sector



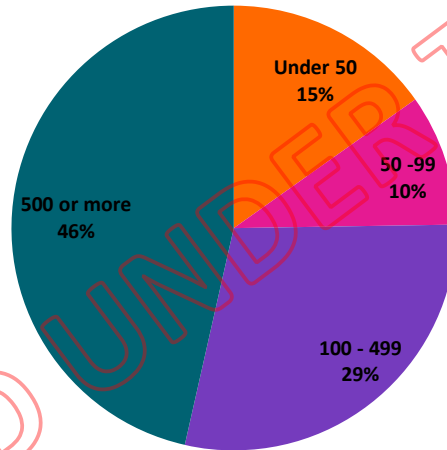
(Source: CLEW)



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Collective coverage in the private sector is mostly in large firms

Private sector collective agreement covered by settlement size (employees)



(Source: CLEW)

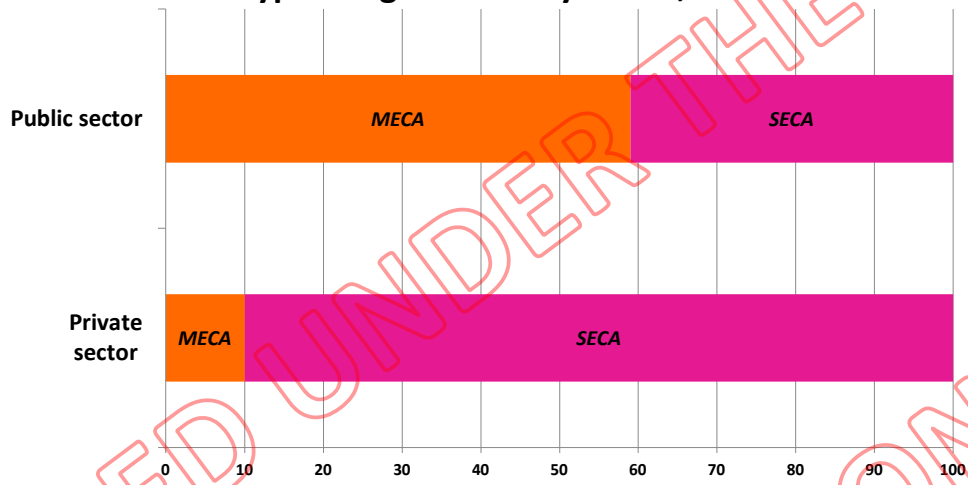


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1149 agreements cover just 15% of total CEA coverage in the private sector, but only 48 agreements cover 46% of employees.

MECAs are mostly in the public sector

Type of agreement by sector, 2017 (Source: CLEW)



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Extension of CEAs is limited

- Around 11% of CEAs extend coverage to all employees of the employer(s).
- This varies by industry, for example:
 - Public administration and safety – 30%
 - Finance and insurance – 23%
 - Accommodation and food service – 1%

(Source: CLEW)



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Summary of key points

- Union membership and collective agreement coverage is around 17% of all employees.
- Collective agreements are more significant in the public sector.
- Private sector coverage is low, and is mainly concentrated in:
 - certain industries
 - large firms
- MECAs are rare outside the public sector.



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Commentary on the pros and cons of the existing system

- High transaction costs to small employer collective bargaining.
- Resistance to collective bargaining from single employers where it creates commercial disadvantage.
- MECAs – need to line up expiry of CEA.



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International comparisons



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Categorising collective bargaining systems

- **Predominantly centralised and weakly co-ordinated collective bargaining systems:** Sector-level agreements play a strong role, extensions are relatively widely used, derogations from higher-level agreements are possible but usually limited or not often used, and wage co-ordination is largely absent.
- **Predominantly centralised and co-ordinated collective bargaining systems:** Sector-level agreements play a strong role and the room for lower-level agreements to derogate from higher-level ones is quite limited. Wage co-ordination is strong across sectors. E.g. Belgium
- **Organised decentralised and co-ordinated collective bargaining systems:** Sector-level agreements play an important role, but they also leave significant room for lower-level agreements to set the standards. Co-ordination across sectors and bargaining units tends to be strong. E.g. Sweden
- **Largely decentralised collective bargaining systems:** Firm-level bargaining is the dominant bargaining form, but sector-level bargaining (or a functional equivalent) or wage co-ordination also play a role. Extensions are very rare. E.g. Australia
- **Fully decentralised collective bargaining systems:** Bargaining is essentially confined to the firm or establishment level with no co-ordination and no (or very limited) influence by the government. E.g. New Zealand



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Centralisation is the degree to which terms are set at the national or sectoral level, and the scope of lower-level agreements to adjust the terms.

Coordination is the degree to which minor players deliberately follow what major players decide. Coordination can happen between bargaining units at different levels (for instance when sector- or firm-level agreements follow the guidelines fixed by peak-level organisations or by a social pact) or between units at the same level (for instance when some sectors or companies follow the standards set in another sector/company).

Predominantly centralised and weakly co-ordinated collective bargaining systems: Sector-level agreements play a strong role, extensions are relatively widely used, derogations from higher-level agreements are possible but usually limited or not often used, and wage co-ordination is largely absent. In 2015, France, Iceland, Italy, Portugal, Slovenia, Spain and Switzerland fell in this group.

Predominantly centralised and co-ordinated collective bargaining systems: As in the previous category, sector-level agreements play a strong role and the room for lower-level agreements to derogate from higher-level ones is quite limited. However, wage co-ordination is strong across sectors. In 2015, Belgium and Finland were part of this group.

Organised decentralised and co-ordinated collective bargaining systems: Sector-level agreements play an important role, but they also leave significant room for lower-level agreements to set the standards – either by limiting the role of extensions (rare and never automatic or quasi-automatic), leaving the design of the hierarchy of agreements to bargaining parties or allowing opt-outs. Co-ordination across sectors and bargaining units tends to be strong. In 2015, Austria, Denmark, Germany, the Netherlands, Norway and Sweden were in this group.

Largely decentralised collective bargaining systems: Firm-level bargaining is the dominant bargaining form, but sector-level bargaining (or a functional equivalent) or wage co-ordination

also play a role. Extensions are very rare. Australia with its modern awards and Japan were in this group in 2015, as well as Greece, Luxembourg and the Slovak Republic. Since the enactment of the Industrial Relations (Amendment) Act of October 2015, which re-introduced Sectoral Employment Orders, Ireland is also part of this group.

Fully decentralised collective bargaining systems: Bargaining is essentially confined to the firm or establishment level with no co-ordination and no (or very limited) influence by the government. In 2015, Canada, Chile, the Czech Republic, Estonia, Hungary, Korea, Latvia, Lithuania, Mexico, New Zealand, Poland, Turkey, the United Kingdom and the United States were part of this group.

Extension or administrative extension: extending the terms of collective agreements at sectoral level also to workers in firms which have not signed the agreement or are not affiliated to an employer organisation which signed the agreement. This also includes automatic extensions which therefore do not need a formal legal act but rely on standard administrative practice or jurisprudence (for instance, relating to the setting of minimum wages, working hours or social insurance contributions and entitlements).

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Comparator 1: Australia's Modern Awards system

- Decentralised with collective bargaining generally at company/sectoral level: modern awards are industry-wide regulations that provide a fair and relevant minimum safety net of terms and conditions. A proper sector-level bargaining system does not exist in Australia.
- Awards cover a whole industry or occupation and set mandatory minimum terms and conditions on top of National Employment Standards
- The interactions between modern awards and bargaining vary by sector, with pay in agreements in retail and hospitality being close to that in modern awards, while in other industries pay in agreements is usually well above modern awards).
- Awards do not apply to managers or 'high income employees' – the high income threshold is currently set at \$145,000 per annum



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Decentralised

Most employees in the national workplace system are covered by a modern award.

Modern awards are set by the Fair Work Commission and may contain terms about minimum wages, penalty rates, types of employment, flexible working arrangements, hours of work, rest breaks, classifications, allowances, leave and leave loading, superannuation, and procedures for consultation, representation, and dispute settlement.

The Fair Work Commission can make or vary awards that set minimum terms and conditions for particular occupations and industries. All modern awards are reviewed every four years by the Fair Work Commission. This process is regulated by the Fair Work Act 2009.

Comparator 2: Sweden

- “Organised – decentralised”: Sector-level agreements play an important role, but they also leave significant room for lower-level agreements to set the standards
- There is no statutory minimum wage. Collective agreements and individual contracts are the only ways to define how much a worker should be paid for the work performed.
- Unlike other European models (and Australia's Modern Awards) it is not mandatory (via statute) to extend collective agreements to all workers in an industry but agreements can be extended through application agreements
- The collective agreement applies to all workers at the workplace in question, i.e., not only trade union members. Union membership is high (approximately 70%)



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Sweden is “organised – decentralised” so sector-level agreements play an important role, but they also leave significant room for lower-level agreements to set the standards – either by limiting the role of extensions (rare and never automatic or quasi-automatic), leaving the design of the hierarchy of agreements to bargaining parties or allowing opt-outs.

Union membership is voluntary with approximately 70 per cent of all workers in Sweden affiliated to a trade union. About 90 per cent of the workers in Sweden are protected by collective agreements.

There is no statutory minimum wage. There is actually no legislation stipulating that wages should be paid at all.

Agreements are normally entered into between the nation-wide employer’s federations and their nation-wide central trade union counterparts.

While the key bargaining level for pay is the industry level, there is still some co-ordination at national level, as well as a lot of room for variation at company/organisation level. For three-quarters of employees pay is set by a combination of industry and local negotiations.

There is no bargaining extension mechanism in Sweden, whether statutory or otherwise. However, there are practices which have the effect of extension. For example, a trade union may enter into “application agreements” with employers who are not signatories to a collective agreement, with the effect of making that collective agreement also apply to a non-signatory company. Non-union employees can also enter into “application agreements” with trade unions.

Comparator 3: Belgium

- Centralised and applies to all workers
- Pay rates (excluding the minimum wage) are normally dealt with at industry and company level, but the framework for pay increases is set at national level.
- Collective bargaining in Belgium is highly structured:
 - At national level, negotiations cover a much wider range of topics than normal pay and conditions issues, including job creation measures, training and childcare provision
 - At industry level negotiations are carried on by unions and employers' federations meeting in joint committees (binding on all employers in the industries they cover)
 - At company level, the trade union delegations together with the local union organisations negotiate with individual employers.
- Lower level negotiations can only agree improvements on what has been negotiated at the level above



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Collective bargaining in Belgium is highly structured with a central level at the top covering the whole of the private sector, an industrial level beneath, covering specific industrial sectors, and company level negotiations at the bottom:

- At national level, the negotiations between the two sides cover a much wider range of topics than normal pay and conditions issues, including job creation measures, training and childcare provision. Pay rates, with the exception of the minimum wage, are normally dealt with at industry and company level, but the framework for pay increases is set at national level.
- At industry level negotiations are carried on by the unions and the employers' federations meeting in joint committees, which cover the whole of the private sector, with sub-committees for smaller industrial groupings. The agreements reached in these joint committees and sub-committees are binding on all employers in the industries they cover.
- At company level, the trade union delegations together with the local union organisations negotiate with individual employers. However, agreements are only valid when signed by a trade union official from outside the workplace. The number of company agreements has increased in recent years, and currently around a third of companies have their own agreements, although they may deal with topics other than wages.

Belgium has a national minimum wage, which is fixed by agreement between the unions and the employers' federation at the national level. The amount also rises in line with the government's revised price index. Negotiations on pay only take place in some companies.

The state potentially plays a major role in collective bargaining. A 1996 law allows it to link pay increases to the forecast pay trends in Belgium's neighbours, Germany, France and the Netherlands, in order to maintain the country's competitiveness. The national level negotiations take place in the context of an official technical report which sets out this forecast, and the government has the power to intervene if the two sides cannot agree on a figure within this limit.

Extensions are issued by Royal Decree upon a formal request from the joint committee that concluded the agreement.

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Comparator 4: the United Kingdom

- Decentralised. Bargaining generally occurs at the company or individual workplace level but national collective bargaining is still the norm in public services
- Extension mechanisms do not exist in the United Kingdom
- Where industry level agreements exist they are not considered to be legally binding on the parties who sign them. Employers are not bound by an agreement signed by an employers' federation even if they are members of it.
- Some negotiations cover all aspects of pay and conditions but others are limited to only a few areas (principally pay)



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Approximately 23% of UK employees are union members, although union density is much higher in the public sector than the private sector. The majority of union members are now in large unions, formed by mergers, which have members in many sectors of the economy with industry-based unions are now less common.

Collective agreements are voluntary, non-legally binding instruments. However, the terms of collective agreements are usually incorporated into individual employment contracts that are legally enforceable.

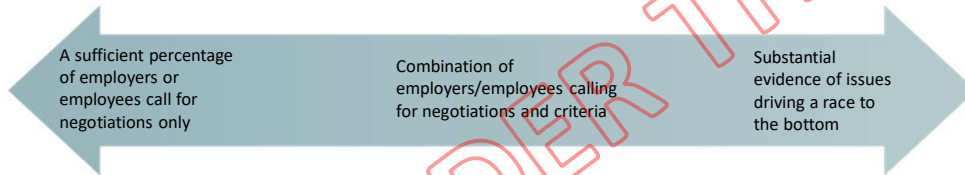
Partly as a result of the low level of collective bargaining coverage a national minimum wage was established in 1999. Nevertheless there is a distinct trade union pay advantage: the UK government estimates that union members earn 15% more per hour than non-union members.

Primary design questions



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What is the trigger/criteria to initiate negotiations?



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Who decides that bargaining has been initiated?



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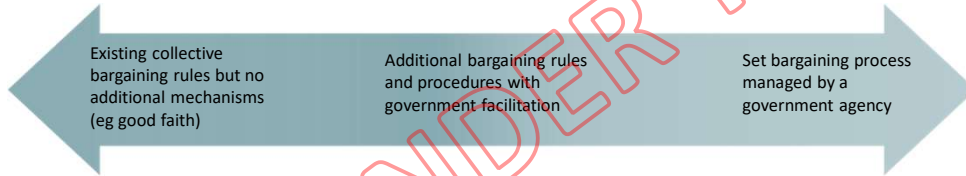
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Who are the participants in the bargaining process?



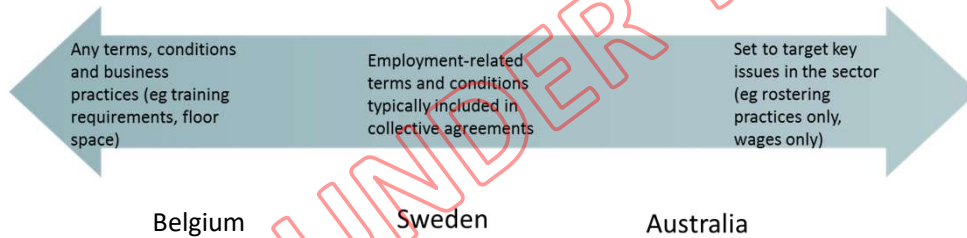
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What is the mechanism for supporting an efficient bargaining process?



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What is the scope of terms and conditions for collective bargaining?



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What is the legal mechanism for giving effect to, or extending a collective agreement?



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Next steps

- The next meeting is scheduled for 31 July 2018 (Tuesday) from 1 to 4 pm.
- Proposed focus areas of the next meeting:
 - A discussion on the specific features of a sector-level collective bargaining system for New Zealand.
 - Consideration of what the key components of this system could look like.



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Categorising collective bargaining systems

Centralisation is the degree to which terms are set at the national or sectoral level, and the scope of lower-level agreements to adjust the terms.

Coordination is the degree to which minor players deliberately follow what major players decide. Coordination can happen between bargaining units at different levels (for instance when sector- or firm-level agreements follow the guidelines fixed by peak-level organisations or by a social pact) or between units at the same level (for instance when some sectors or companies follow the standards set in another sector/company).

Predominantly centralised and weakly co-ordinated collective bargaining systems: Sector-level agreements play a strong role, extensions are relatively widely used, derogations from higher-level agreements are possible but usually limited or not often used, and wage co-ordination is largely absent. In 2015, France, Iceland, Italy, Portugal, Slovenia, Spain and Switzerland fell in this group.

Predominantly centralised and co-ordinated collective bargaining systems: As in the previous category, sector-level agreements play a strong role and the room for lower-level agreements to derogate from higher-level ones is quite limited. However, wage co-ordination is strong across sectors. In 2015, Belgium and Finland were part of this group.

Organised decentralised and co-ordinated collective bargaining systems: Sector-level agreements play an important role, but they also leave significant room for lower-level agreements to set the standards - either by limiting the role of extensions (rare and never automatic or quasi-automatic), leaving the design of the hierarchy of agreements to bargaining parties or allowing opt-outs. Co-ordination across sectors and bargaining units tends to be strong. In 2015, Austria, Denmark, Germany, the Netherlands, Norway and Sweden were in this group.

Largely decentralised collective bargaining systems: Firm-level bargaining is the dominant bargaining form, but sector-level bargaining (or a functional equivalent) or wage co-ordination also play a role. Extensions are very rare. Australia with its modern awards and Japan were in this group in 2015, as well as Greece, Luxembourg and the Slovak Republic. Since the enactment of the Industrial Relations (Amendment) Act of October 2015, which re-introduced Sectoral Employment Orders, Ireland is also part of this group.

Fully decentralised collective bargaining systems: Bargaining is essentially confined to the firm or establishment level with no co-ordination and no (or very limited) influence by the government. In 2015, Canada, Chile, the Czech Republic, Estonia, Hungary, Korea, Latvia, Lithuania, Mexico, New Zealand, Poland, Turkey, the United Kingdom and the United States were part of this group.

Extension of collective agreements

Extension or administrative extension: extending the terms of collective agreements at sectoral level also to workers in firms which have not signed the agreement or are not affiliated to an employer organisation which signed the agreement. This also includes automatic extensions which therefore do not need a formal legal act but rely on standard administrative practice or jurisprudence (for instance, relating to the setting of minimum wages, working hours or social insurance contributions and entitlements).

International comparisons

Australia

Most employees in the national workplace system are covered by a modern award.

Modern awards are set by the Fair Work Commission and may contain terms about minimum wages, penalty rates, types of employment, flexible working arrangements, hours of work, rest breaks, classifications, allowances, leave and leave loading, superannuation, and procedures for consultation, representation, and dispute settlement.

The Fair Work Commission can make or vary awards that set minimum terms and conditions for particular occupations and industries. All modern awards are reviewed every four years by the Fair Work Commission. This process is regulated by the Fair Work Act 2009.

Sweden

Sweden is “organised – decentralised” so sector-level agreements play an important role, but they also leave significant room for lower-level agreements to set the standards – either by limiting the role of extensions (rare and never automatic or quasi-automatic), leaving the design of the hierarchy of agreements to bargaining parties or allowing opt-outs.

Union membership is voluntary with approximately 70 per cent of all workers in Sweden are affiliated to a trade union. About 90 per cent of the workers in Sweden are protected by collective agreements.

There is no statutory minimum wage. There is actually no legislation stipulating that wages should be paid at all.

Agreements are normally entered into between the nation-wide employer’s federations and their nation-wide central trade union counterparts.

The key level for collective bargaining in Sweden is the industry level (particularly for pay), although around 90% of employees have part of their pay determined by local level negotiations, and 11% have all their pay determined locally.

While the key bargaining level for pay is the industry level, there is still some co-ordination at national level, as well as a lot of room for variation at company/organisation level. For three-quarters of employees pay is set by a combination of industry and local negotiations.

There is no bargaining extension mechanism in Sweden, whether statutory or otherwise. However, there are practices which have the effect of extension. For example, a trade union may enter into “application agreements” with employers who are not signatories to a collective agreement, with the effect of making that collective agreement also apply to a non-signatory company. Non-union employees can also enter into “application agreements” with trade unions.

Belgium

Collective bargaining in Belgium is highly structured with a central level at the top covering the whole of the private sector, an industrial level beneath, covering specific industrial sectors, and company level negotiations at the bottom:

- At national level, the negotiations between the two sides cover a much wider range of topics than normal pay and conditions issues, including job creation measures, training and childcare provision. Pay rates, with the exception of the minimum wage, are normally dealt with at industry and company level, but the framework for pay increases is set at national level.
- At industry level negotiations are carried on by the unions and the employers' federations meeting in joint committees, which cover the whole of the private sector, with sub-committees for smaller industrial groupings. The agreements reached in these joint committees and sub-committees are binding on all employers in the industries they cover.
- At company level, the trade union delegations together with the local union organisations negotiate with individual employers. However, agreements are only valid when signed by a trade union official from outside the workplace. The number of company agreements has increased in recent years, and currently around a third of companies have their own agreements, although they may deal with topics other than wages.

Belgium has a national minimum wage, which is fixed by agreement between the unions and the employers' federation at the national level. The amount also rises in line with the government's revised price index. Negotiations on pay only take place in some companies.

The state potentially plays a major role in collective bargaining. A 1996 law allows it to link pay increases to the forecast pay trends in Belgium's neighbours, Germany, France and the Netherlands, in order to maintain the country's competitiveness. The national level negotiations take place in the context of an official technical report which sets out this forecast, and the government has the power to intervene if the two sides cannot agree on a figure within this limit.

Extensions are issued by Royal Decree upon a formal request from the joint committee that concluded the agreement.

UK

Approximately a quarter (26%) of UK employees are union members, although union density is much higher in the public sector (56%) than the private sector (14%). The majority of union members are now in large unions, formed by mergers, which have members in many sectors of the economy with industry-based unions are now less common.

Collective agreements are voluntary, non-legally binding instruments. However, the terms of collective agreements are usually incorporated into individual employment contracts that are legally enforceable.

Partly as a result of the low level of collective bargaining coverage a national minimum wage was established in 1999 after a long campaign, especially by UNISON and its predecessor unions.

Nevertheless there is a distinct trade union pay advantage: the UK government estimates that union members earn 15% more per hour than non-union members.

Latvia

- Decentralised
- Have extension mechanism but use is uncommon. An agreement will apply to all workers and firms if threshold criteria are met. The employer organisation must represent more than 50% of employees or more than 60% of turn over in the sector
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AUSTRALIA

Wages	Minimum wage	\$11.10 (in 2016 based on 2015 USD PPP)
	How minimum wage is set	The national minimum wage in Australia is set at the lowest rate in any modern award. It is adjusted at the same time every year, along with the rest of the awards pay structure by the Fair Work Commission. Its level, in practice, is determined by the award structure.
Other benefits	Hours of work	Maximum hours of work are set by National Employment Standards. Maximum weekly hours of work are 38 hours for full-time employees. For part-time employees, the maximum is the lesser of 38 hours or the employee's ordinary hours of work a week. Additional hours have to be reasonable (with mandatory factors to be considered when deciding whether additional hours are reasonable).
	Leave and holidays	Minimum leave entitlements are set by National Employment Standards. <ul style="list-style-type: none"> • Annual leave: four weeks based on ordinary hours of work. Shift workers may get up to five weeks. • Parental leave: employees are entitled to 12 months of unpaid parental leave. They can also request an additional 12 months of leave. • Sick and carer's leave: ten paid days each year for full-time employees, or pro rata of ten paid days for part-time employees. All employees, including casual employees are also entitled to two days unpaid carer's leave.
	Redundancy	All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.
	Collective bargaining	
	Union density¹	15% (2016)
	Collective bargaining coverage²	54% (2014)
	Predominant level of collective bargaining³	Company/sectoral: modern awards are industry-wide regulations that provide a minimum safety net of terms and conditions. Other than this, a sector-level bargaining system does not exist in Australia.
	Degree of centralisation⁴	Decentralised
	Coordination⁵	No
	Use of extension mechanisms	Modern awards, as an extension mechanism, are frequently used. Most employees in Australia's national workplace system are covered by a modern award. The Fair Work Commission can make or vary awards, which set minimum terms and conditions for particular occupations and industries. There are 122 industry and occupation modern awards operating across Australia.
Economic model	One of the largest mixed-market economies in the world. Economy dominated by its service sector and has enjoyed considerable success in recent decades. Adjusting to end of commodity boom has not been painless. Unemployment has risen, and there are increasing concerns about inequality.	

¹ Union density is the ratio of wage and salary earners that are trade union members, divided by the total number of wage and salary earners.

² Collective bargaining coverage is the ratio of employees covered by collective agreements, divided by all wage earners with right to bargaining.

³ OECD assessment.

⁴ Centralisation is the degree to which terms are set at the national or sectoral level, and the scope of lower-level agreements to adjust the terms.

⁵ Coordination is the degree to which minor players deliberately follow what major players decide. Coordination can happen between bargaining units at different levels (for instance when sector- or firm-level agreements follow the guidelines fixed by peak-level organisations or by a social pact) or between units at the same level (for instance when some sectors or companies follow the standards set in another sector/company).

BELGIUM		
Wages	Minimum wage	\$10.20 (in 2016 based on 2015 USD PPP)
	How minimum wage is set	Overall, 75% of workers in Belgium have their wages solely determined through industry-level agreements. This means there is variation in minimum wage among industries. For workers who are not covered by a minimum wage-setting industry-level agreement, there is a nationwide minimum wage.
Other benefits	Hours of work	Maximum hours of work per week are generally set by industry-level agreements. For those not covered by an industry-level agreement, the national maximum is 38 hours per week (and eight hours per day). Work on Sundays and at night is generally prohibited.
	Leave and holidays	Leave requirements are generally set by industry-level agreements. For those not covered by an industry-level agreement, or where the industry-level agreement is silent on leave, workers receive 24 days off for 12 months' work in the year preceding that in which the holidays are to be taken).
	Redundancy	On an individual basis, a paid notice period applies. For redundancy on a collective basis, workers are entitled to a redundancy payment. This is equal to half the difference between the net wage and the amount of the unemployment benefits the worker receives (with a cap).
Collective bargaining	Union density	54% (2015)
	Collective bargaining coverage	96% (2016)
	Predominant level of collective bargaining	Sectoral/national: strong state-imposed control. Sectoral agreements play an important role, with some room for lower-level agreements to change the standards. As in many European countries, collective bargaining is conducted at three levels: national, industry and firm. It is hierarchical and structured such that an agreement concluded at one level cannot be less favourable than agreements reached at an upper level. Industry agreements are therefore subject to minimum terms set out in national agreements. Firm-level agreements can be more favourable than industry agreements. There is, however, large variation among industries in terms of the relative importance of industry-level and firm-level agreements.
	Degree of centralisation	Centralised
	Coordination	High: strongest coordination in OECD. Wages are indexed to increases in living costs and capped by a "wage norm" which takes into account wage developments in France, Germany and the Netherlands on top of a statutory minimum wage negotiated between social partners.
	Use of extension mechanisms	Extension of industry agreements is by Royal Decree. This procedure is initiated by: <ul style="list-style-type: none"> • A request from a sectoral joint committee (comprising main trade unions and employer representations in a particular industry), or • By one organisation represented in industry-level joint committee. This extension mechanism is frequently used. When industry collective agreements are rendered obligatory by Royal Decree, they apply compulsorily to all companies in the sector and to their workers, whether or not they are members of the signatory organisations (employers' organisations or unions).
Economic model	Belgium's macroeconomic policy framework has been strengthened by reforms in recent years, including in labour taxation, business regulation and support for the self-employed and SMEs. However, recent productivity gains are modest, partly reflecting stronger inclusion of low-skilled workers in employment.	

ESTONIA

Wages	Minimum wage	\$4.10 (in 2016 based on 2015 USD PPP)
	How minimum wage is set	National minimum wage is negotiated on a bipartite basis between social partners on a consensus basis and then established by Government decree.
Other benefits	Hours of work	The Working and Rest Time Act stipulates that standard working time is eight hours per day and 40 hours per week.
	Leave and holidays	Annual leave entitlements are specified in employment agreements and are usually 28 days.
	Redundancy	Under the Employment Contracts Act and the Unemployment Insurance Act, in cases of termination of the employment contract due to redundancy, the employer must pay compensation in the amount of one month's average wage of the employee calculated on the basis of the previous six months' wage.
Collective bargaining	Union density	4.5% (ILOSTAT 2015)
	Collective bargaining coverage	Not reported to ILO. 2015 Estonian Work Life Survey: 19% coverage.
	Predominant level of collective bargaining	770 current collective agreements are registered in the national database (2014). Wage formation takes place mostly at the firm level, with the exception of two sectoral agreements in the private sector (healthcare and road transport) and wage scales set in statute for public sector agencies. Legislation provides for collective agreements at three levels – national, industry and company/organisation.
	Degree of centralisation	Decentralised, firm level.
	Coordination	Uncoordinated.
	Use of extension mechanisms	Extension across a sector to non-signatories is provided for in legislation, but has only been used twice (see above).
	Economic model	Estonia has a well-educated and flexible labour force, a business-friendly environment, a robust financial sector, and a strong and credible fiscal policy. Estonia is well-integrated into global trade. Investment is weakening, particularly in projects required to increase business productivity. Skill shortages prevent business expansion in some sectors and investment in knowledge-based capital.

SINGAPORE

Wages	Minimum wage	\$7.20 (in 2016 based on 2015 USD PPP)
	How minimum wage is set	<p>There is no statutory minimum wage in Singapore.</p> <p>In 2015/16, the Progressive Wage Model (PWM) system was introduced for workers, and is mandatory in low-wage industries (eg cleaning, security and landscape). The PWM for each sector is developed by tripartite committees comprising government, union and employer representatives. The Singaporean government has expressed that this system allows for a productivity-based wage progression pathway.</p> <p>It aims to increase wages of workers in specific sectors through upgrading skills and improving productivity. The three mandatory PWM sectors are characterised by high churn, outsourcing, and low wages/skills, with limited scope for collective bargaining as prices are locked in when contracts signed for services.</p>
Other benefits	Hours of work	Set by the Employment Act. Maximum hours per day are 12 hours unless there are exceptional circumstances (eg threat of accident, national security).
	Leave and holidays	Set by Employment Act. Annual leave entitlement ranges between 7 and 14 days based on years of services.
	Redundancy	Employment Act provides for termination procedures.
Collective bargaining	Union density	8.2% (ILOSTAT 2016)
	Collective bargaining coverage	5.9% (ILOSTAT 2016)
	Predominant level of collective bargaining	About 1,000 collective agreements (2006, ILO) in effect each year. Overall stable number, with slight increase over time.
	Degree of centralisation	Collective agreements can cover any term and condition of employment and relations of employers and employees.
	Coordination	However, collective agreements cannot cover issues such as promotion, retrenchment, dismissal etc.
	Use of extension mechanisms	Primarily at enterprise level. Negotiations may be undertaken collectively at sector, occupation or omnibus union level, but each will sign separate collective agreements. MECAs are not prohibited, but rare in private sector apart from banking where joint negotiations are the norm for broad terms, and individual final agreements signed.
Economic model	<p>Low tax, low regulation, export-led growth economic model.</p> <p>Almost full employment, tight labour market, increasingly reliant on foreign migrant labour.</p>	

SWEDEN		
Wages	Minimum wage	There is no statutory minimum wage in Sweden.
	How minimum wage is set	<p>Collective bargaining is the sole system of minimum wage formation, both in the private and public sectors. There is general agreement from government and social partners that this is the best way to set minimum wages.</p> <p>This means there are varying minimum wages across sectors; these sometimes also depend on factors such as working experience and age. As of 2008, 90% of Swedish employees were covered by minimum wages regulated through collective agreements.</p>
Other benefits	Hours of work	<p>The Working Hours Act generally regulates working hours and rest breaks. It stipulates that a regular working week should not exceed 40 hours. Collective agreements generally also state regular working hours and overtime in particular industries.</p> <p>Hourly-based employment is not a valid form of work under Swedish law.</p>
	Leave and holidays	<p>According to the Annual Leave Act, all workers are entitled to 25 full days (pro-rated) of annual leave every year regardless of age or type of employment. Collective agreements can provide additional days off, but cannot go below 25 days of annual leave.</p>
	Redundancy	<p>Termination and redundancy is regulated by the Employment Protection Act. Any employer planning to shed jobs must notify the Swedish government in advance, and negotiate with local trade unions before making any decisions. All employers are obliged to redeploy workers if possible before making them redundant; the order of priority also applies (ie longer serving employees take precedence for continued employment). Severance compensation is paid through a collective employer-financed insurance scheme not the employer direct.</p>
Collective bargaining	Union density	67% (2015)
	Collective bargaining coverage	90% (2015)
	Predominant level of collective bargaining	Sectoral: sector level agreements leave significant room for lower-level agreements. Agreements may apply to a single firm but unusual.
	Degree of centralisation	Organised decentralisation. National or sectoral agreements define the broad framework but leave large scope for bargaining at the firm/establishment level.
	Coordination	High: there is “pattern bargaining”, where a sector sets targets first (usually the manufacturing sector, being exposed to international trade), and others (or at least some) follow.
	Use of extension mechanisms	<p>There is no bargaining extension mechanism in Sweden, whether statutory or otherwise. However, there are practices which have the effect of extension. However, collective agreements have a normative effect and there are practices which have the effect of extension. A voluntary approach to extension is also made easier due to high union membership.</p> <p>For example, a trade union may enter into “application agreements” with employers who are not signatories to a collective agreement, with the effect of making that collective agreement also apply to a non-signatory company. Non-union employees can also enter into “application agreements” with trade unions.</p>
Economic model	<p>Highly open and liberalised economy, growing strongly, with unemployment trending downward and living standards among the highest in the world.</p> <p>Labour market is relatively homogenous, characterised by close cooperation between government, workers and employers’ organisations, but is seeing rising levels of immigrant workers.</p> <p>While income inequality in Sweden remains among the lowest in the OECD, it has been rising rapidly since the 1990s and the Gini coefficient of household disposable income has increased more in Sweden than in any other OECD country with available data (OECD 2017).</p>	

UNITED KINGDOM

Wages	Minimum wage	\$8.40 (in 2016 based on 2015 USD PPP)
	How minimum wage is set	Minimum wage is set nationally. Rates are reviewed yearly by the government and are advised by the independent body Low Pay Commission.
Other benefits	Hours of work	A maximum average working week of 48 hours applies to most workers (but employees can opt out under certain circumstances)
	Leave and holidays	<p>Employees are entitled to (minimum) 5.6 weeks holiday each year.</p> <p>Most employers have terms in their contracts or procedures that specify the way in which an employee must report sickness. The contract of employment should provide whether an employee would be paid when off sick. If it does not provide any period of paid sickness then the only obligation is for the employer to pay Statutory Sick Pay of £92.05 per week for up to 28 weeks.</p> <p>To qualify for Statutory Sick Pay (SSP) an employee must:</p> <ul style="list-style-type: none"> • be classed as an employee and have done some work for the employer, • have been ill for at least 4 days in a row (including non-working days), • earn an average of at least £116 per week.
	Redundancy	Employees are entitled to a statutory redundancy payment calculated at a week's pay for each year of service, capped at approximately £14,670 (Employment Rights Act 1996)
Collective bargaining	Union density	23% (2016)
	Collective bargaining coverage	Approximately 26.3% (2016)
	Predominant level of collective bargaining	Bargaining generally occurs at the company or individual workplace level but national collective bargaining is still the norm in public services.
	Degree of centralisation	Decentralised
	Coordination	No or limited coordination
	Use of extension mechanisms	No extension mechanism
Economic model	<p>Highly developed and market-oriented economy. The unemployment rate has fallen to below 4.5%, but real wages are in a downward trend. Planned departure from the European Union (Brexit) has raised uncertainty and dented business investment, compounding the productivity challenge.</p> <p>Regional labour productivity is weak outside Greater London and South East England. Over a quarter of workers in the United Kingdom have only low skills, which is holding back labour productivity and job quality.</p> <p>There has been considerable merger activity amongst UK trade unions in the last decade which has included civil service trade unions. The civil service remains highly unionised, in contrast to the private sector.</p>	

UNITED STATES

Wages	Minimum wage	\$7.20 (in 2016 based on 2015 USD PPP)
	How minimum wage is set	<p>The minimum wage is set by federal, state and local laws. Employers have to pay the highest minimum wage prescribed by applicable laws.</p> <p>From July 2009, the federal minimum wage has been \$7.25 per hour. As of January 2018, 29 states had higher minimum wages than the federal minimum wage. States increase their minimum wages through a variety of mechanisms, including automatic adjustments and legislation.</p>
Other benefits	Hours of work	At a federal level, the Fair Labor Standards Act requires overtime pay (time and a half) after 40 hours of work in a week. Where state laws also provide for overtime pay, employees are entitled to be paid at the standard that provides higher pay.
	Leave and holidays	At a federal level, the Fair Labor Standards Act does not require payment for time not worked.
	Redundancy	At a federal level, the Fair Labor Standards Act does not require severance payment for any termination of employment.
Collective bargaining	Union density	10.3% (2017)
	Collective bargaining coverage	12% (2016)
	Predominant level of collective bargaining	Predominantly firm level bargaining
	Degree of centralisation	Decentralised
	Coordination	No or limited coordination
	Use of extension mechanisms	No extension mechanism for collective agreements
Economic model		<p>Highly-developed, mixed economy. World's largest economy by nominal GDP and second largest by PPP. Economy fuelled by abundant natural resources and well-developed infrastructure.</p> <p>Economic growth since the Global Financial Crisis has been among the strongest in the OECD, but productivity growth is sluggish. Employment growth above the rates needed to account for new entrants into the labour force has reduced unemployment to historically-low levels, which has resulted in tight labour markets for fast-growing locations and occupations.</p> <p>Material wellbeing is high and Americans are doing well on average in comparison with residents of other OECD countries.</p>

Dataset: Real minimum wages

Series	In 2015 constant prices at 2015 USD PPPs	
Pay period	Hourly	
Unit	US Dollar	
Time	2000	2016
Country		
France	9.2	11.2
Australia	10.1	11.1
Luxembourg	9.6	11.0
Germany	..	10.3
Belgium	10.2	10.2
Netherlands	9.5	9.9
New Zealand	6.5	9.3
Ireland	7.4	9.1
United Kingdom	6.3	8.4
Canada	6.6	8.1
Japan	6.0	7.4
United States	7.1	7.2
Slovenia	4.5	7.0
Israel	4.7	5.9
Turkey	3.1	5.8
Korea	2.4	5.8
Poland	3.0	5.7
Spain	4.6	5.1
Greece	5.1	4.7
Portugal	3.7	4.5
Hungary	2.0	4.4
Czech Republic	2.3	4.2
Estonia	1.4	4.1
Lithuania	2.1	3.9
Latvia	1.0	3.8
Slovak Republic	1.4	3.5
Costa Rica	..	3.2
Chile	1.9	3.0
Colombia	2.0	2.4
Brazil	1.0	2.0
Russian Federation	0.1	1.3
Mexico	0.8	0.9

Data extracted on 19 Jul 2018 03:19 UTC (GMT) from OECD.Stat



**MINISTRY OF BUSINESS,
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What are the objectives of the FPA system?

Or: what problem(s) are we trying to fix?

Fair Pay Agreements Panel: Meeting 3, 31 July 2018

In confidence: this is not government policy.

What do the Terms of Reference say?

- Objective of Panel: “...make independent recommendations to the Government on the scope and design of a legislative system of industry or occupation-wide bargaining.”



Labour market issues – recap

- Last time we identified potential problems in our labour market:
 - NZ is in the bottom half of OECD for work-life balance
 - Income inequality is slightly above OECD average, but has increased fast since 2014
 - Income equality is compounded by uneven wealth distribution
 - Incomes after housing costs are more unequal than before housing costs
 - Sectoral and regional differences
 - Wage growth is slower for people on lower wages: a ‘hollowing out’ for low/middle income earners
 - Despite rising wages, workers have a lower share of income
 - Considerable scope to improve labour force participation
 - There is room to improve Māori and Pacific peoples’ outcome
 - Collective agreement coverage and are reducing in private sector
 - Union membership rate is reducing



Productivity issues – recap

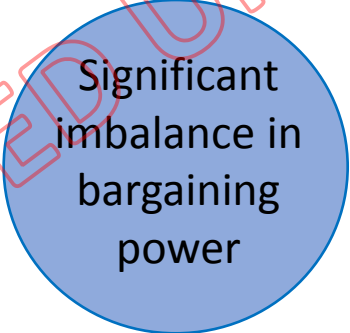
- NZ has poor long term productivity performance
- Potential contributing factors:
 - Our small size and distance from markets.
 - Low levels of capital investment and diffusion of technology, competition, involvement in global value networks.
 - Industry structure (heavy reliance on low productivity sectors).
 - Proliferation of small firms and dearth of very large ones.
 - Relatively poor quality of management and take-up of productivity enhancing workplace practices.
- All sectors have high-performing and low-performing firms

NB: next meeting is dedicated to exploring productivity issues



Symptoms v causes

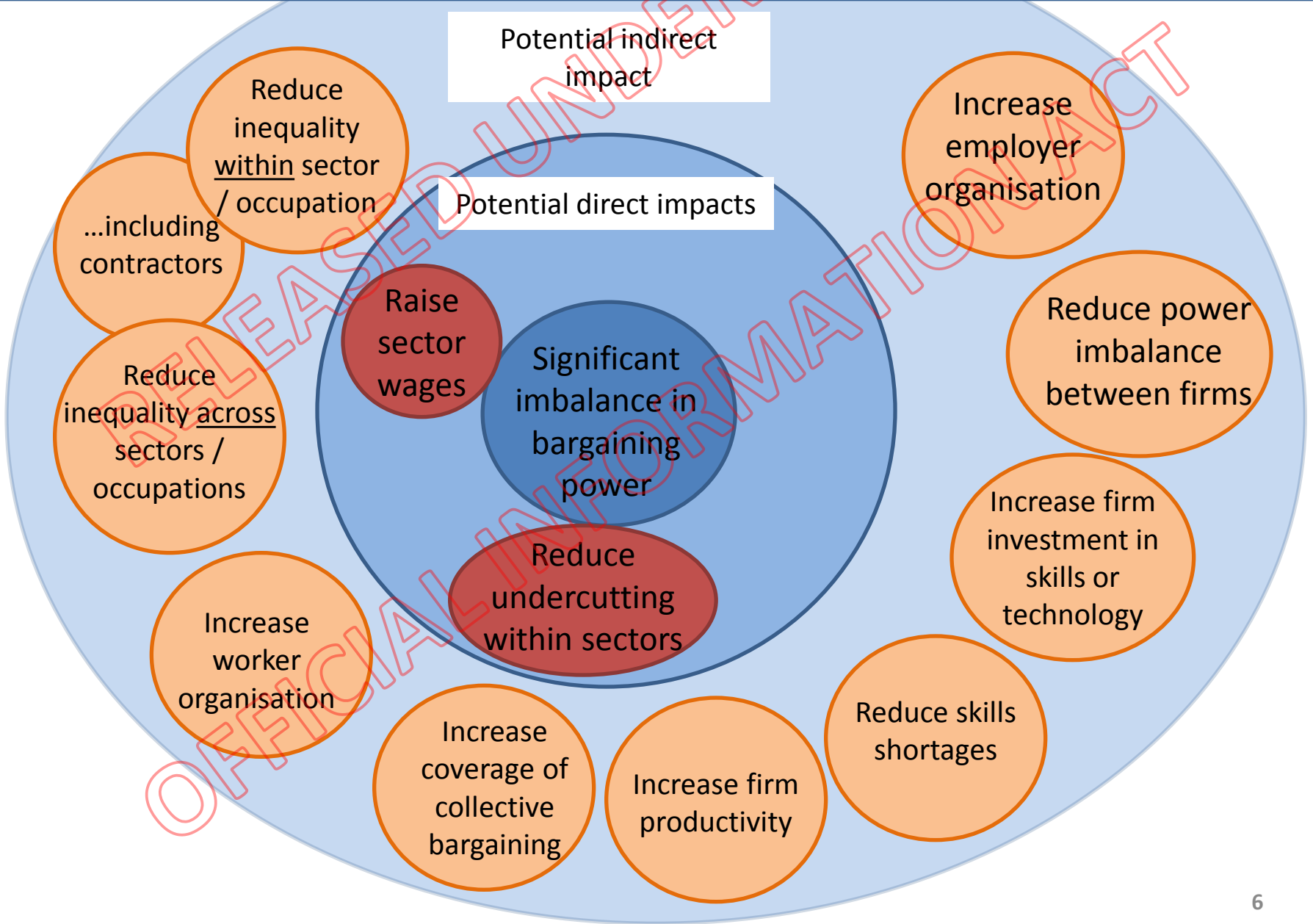
- We think some of the issues are symptoms or results of underlying causes:



Significant
imbalance in
bargaining
power

- An imbalance can be between employers and workers, or within those groups.
- Question: which symptoms/results are you trying to reduce? This will lead you to: which types of imbalances do you want to focus on?

Which combination of these are we trying to achieve with FPA system?





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Designing a Fair Pay Agreement system: Questions to consider

Fair Pay Agreements Panel: Meeting 3, 31 July 2018

In confidence: this is not government policy.



Purpose of this presentation

- Here are some initial thoughts on:
 - How to think about collective bargaining systems, and
 - Options for some building blocks of a FPA bargaining system for NZ.
- This is the start of a conversation: the panel doesn't need to make decisions about these elements today.
 - We expect these decisions to take several months to make, and to be heavily influenced by your chosen policy objective(s).
- We're interested in whether:
 - These are the right design questions to be asking,
 - The breadth of options for trigger, coverage and scope are broadly right,
 - There are any options missing, or that can be excluded from further consideration.

Questions to consider today

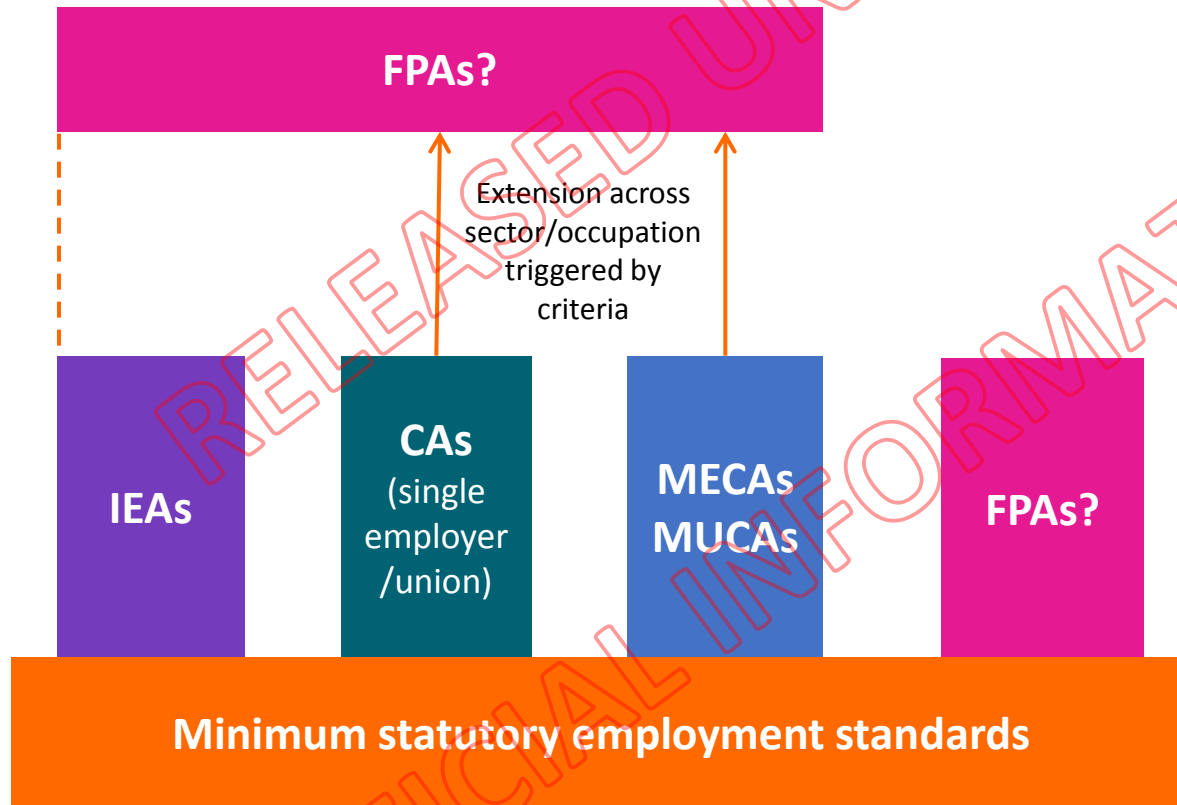
- How do you design an FPA system that works with our existing collective bargaining framework?
- What are the trade-offs in this system, and how will they play out in practice in different markets?
- How do you balance aspiration, transaction cost, and likelihood of reaching agreement?



Thinking about collective bargaining systems

- There are generally two objectives of collective bargaining:
 - To collectively set terms and conditions of employment relationships.
 - To manage wider economic performance (eg productivity).
- Collective bargaining leads to:
 - Enforceable employment contracts.
 - Processes to shape ongoing relationships and resolve issues.
- How collective bargaining works in NZ:
 - The law sets our minimum employment standards (eg wages).
 - We have a collective bargaining framework that is set in law.
 - Bargaining parties have the flexibility to use the framework to agree improvements in terms above minimum standards.
 - The role of government is to set and enforce rules, and resolve disputes.

How do FPAs fit into the existing system?

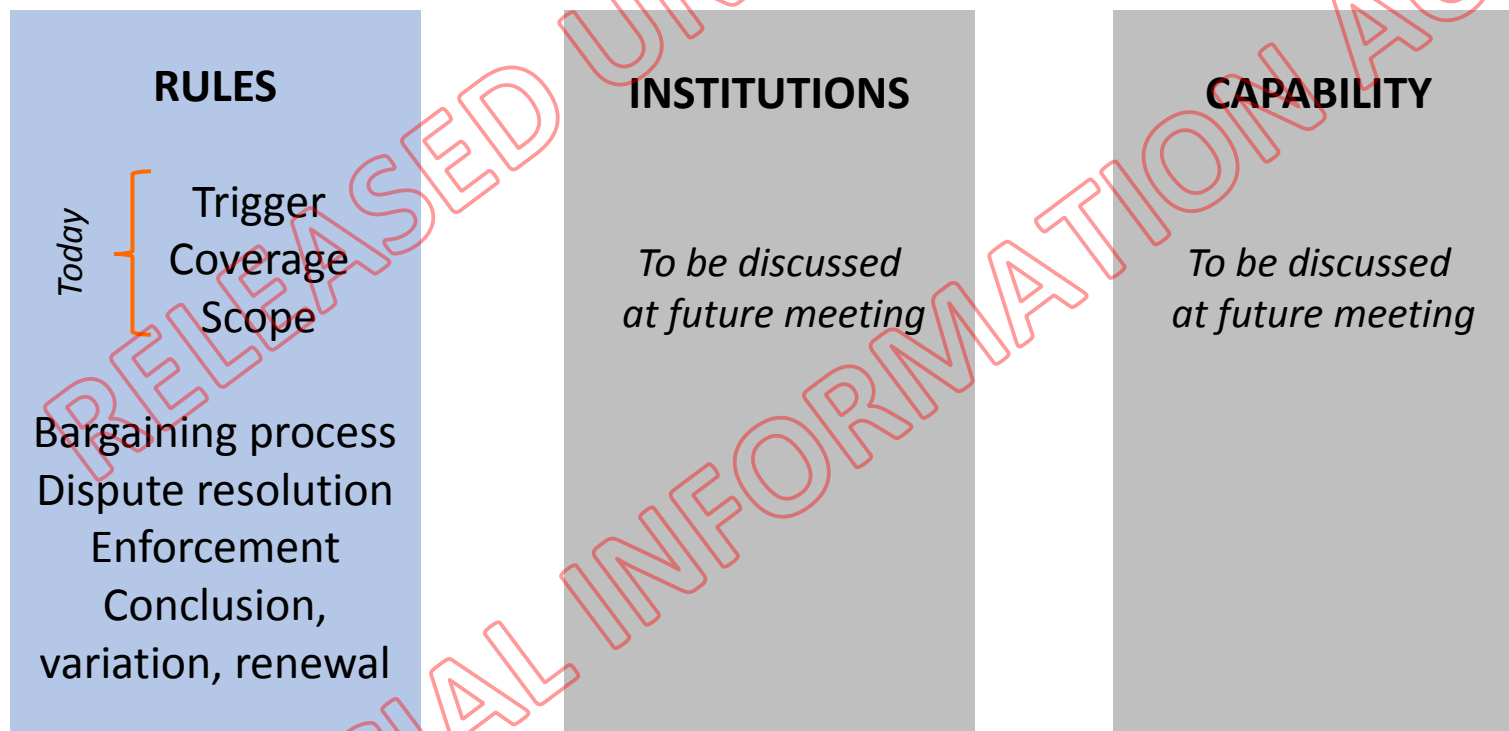


The government sets a floor for wages and conditions through the law. Parties determine improved wages and conditions through bargaining.

FPAs offer an additional bargaining route to set wages and conditions across a sector or occupation.

They may also offer a wider economic lever (eg to boost productivity).

What do we need to change about our existing collective bargaining system for FPAs?



Building blocks of collective bargaining rules



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Trigger for initiating FPA bargaining



What this means

- The term “trigger” generally refers to how the bargaining process is initiated/begun.

Current rules in New Zealand

- The only trigger is that one or more parties decides to initiate bargaining (with some time constraints).
- Once triggered, there is a duty to bargain in good faith and conclude agreements.*

** The duty to conclude is being reintroduced in the Employment Relations Amendment Bill 2018.*

How should an FPA be triggered?

- Cabinet has agreed that parties need to decide to initiate FPA bargaining themselves.
 - Not government-imposed or without consent of parties.
- What, if any, additional threshold requirements should there be?
 - Representativeness, public interest test, equity issues, disconnect between wage and productivity growth?
- How high or low should these thresholds be set?
 - This is related to how they are defined.
 - Who decides whether they've been met? Thresholds could involve met/not met criteria, or may require an assessment?

What process is triggered?



- Parties may want to bargain from a blank slate, creating a new sector/occupation-wide agreement.
- Should the system also provide for extension of CAs across a sector/occupation **if** FPA threshold requirements are met?

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Coverage of collective agreements



What this means

- The term “coverage” generally refers to who is bound by a collective agreement (ie who its terms apply to).

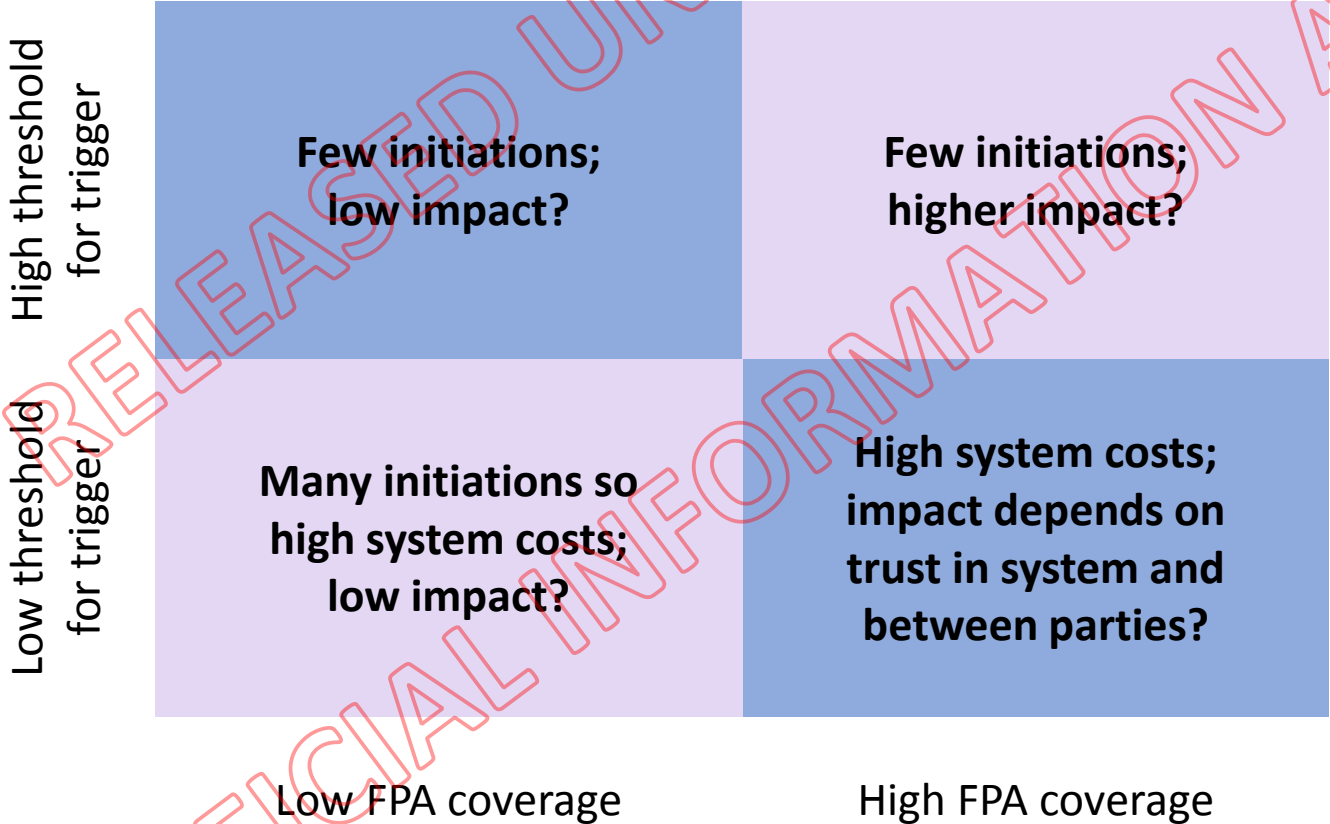
Current rules in New Zealand

- Collective agreements (CAs) generally bind:
 - Signatory unions and employers,
 - Employees of signatory employers, who are also union members, and whose work is covered by any coverage clauses in CAs.
- Terms and conditions in CAs may be “passed on” to non-unionised employees in certain circumstances (but parties are not bound by the CA).
- New signatory parties can join the CA after it comes into effect in accordance with set rules.

Who should be covered by an FPA?

- Prescribed:
 - Cabinet have asked the panel to make recommendations for an FPA system that results in agreements between employers and workers **across sectors or occupations**.
 - Secretariat will provide advice on definition options at a later meeting.
- Within this, should FPAs provide flexibility in terms of coverage?
 - Carve outs from the system (system designed to exclude some parties eg very small business, high earners).
 - Opt outs from specific FPAs (system allows for some parties to remove themselves from coverage; may need to meet certain requirements).
 - Phased introduction.
 - Possibility of including non-employees (eg contractors).
- Choices made re flexibility will result in lower or higher FPA coverage.
- Rules will need to provide for situations when a party is covered by multiple FPAs or CAs.

What is the relationship between trigger and coverage?



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Scope of collective agreements



What this means

- The term “scope” generally refers to the contents of collective agreements

Current rules in New Zealand

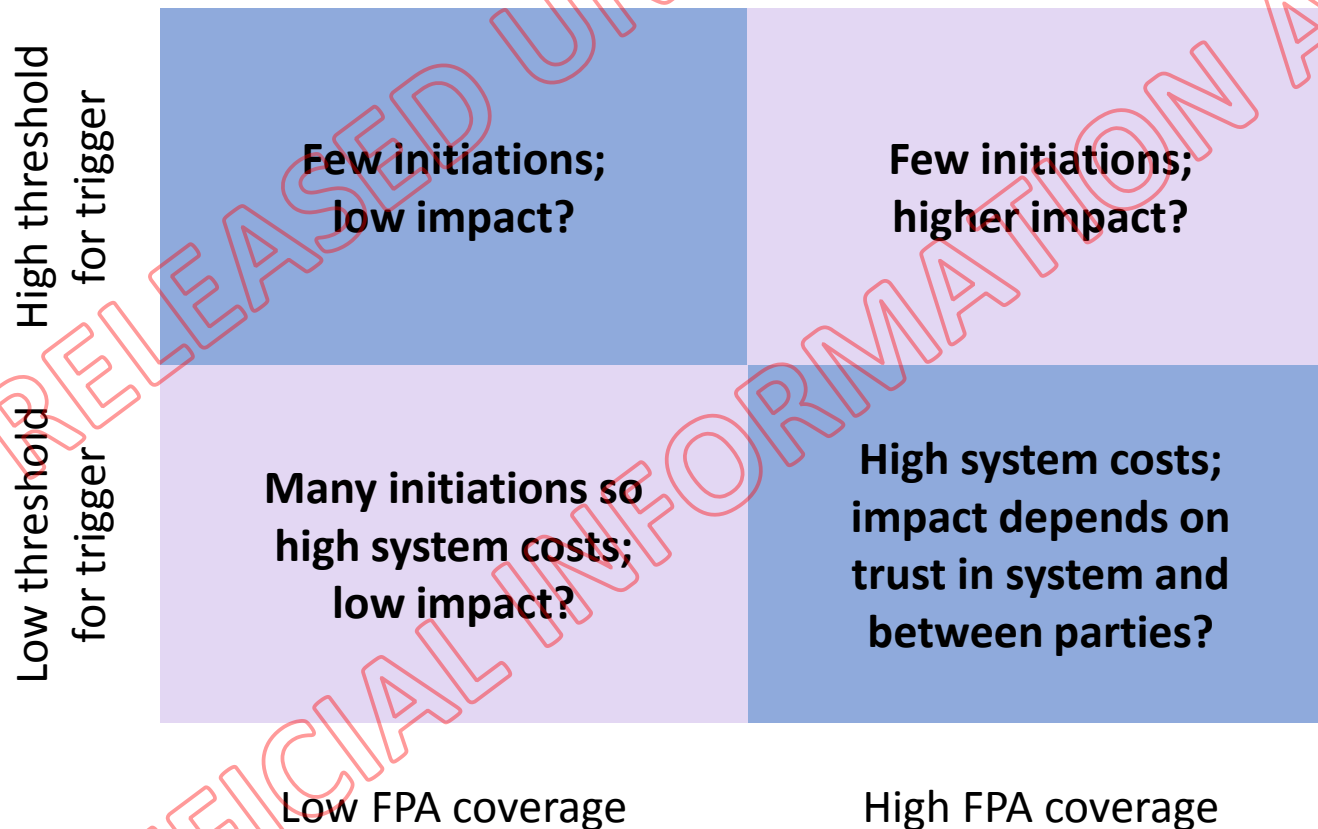
- Collective agreements **must*** include rates of wages or salary.
- Anything else **may** be bargained between parties, as long as above national minimum standards set in law.

** The requirement for CAs to include rates of wages or salary is being introduced in Employment Relations Amendment Bill 2018.*

What should the scope of an FPA be?

- Status quo for collective agreements.
 - Prescribed in law: wages.
 - Open to parties to bargain: any other terms and conditions of employment, as long as above national minimum standards.
- Could, or should, any of the following be included in an FPA?
 - Skills and training entitlements.
 - Salary/wage progression (eg setting a structure rather than a floor).
 - Linkages between skills and training, and salary/wage structure.
 - Party commitments to initiatives (eg skills, productivity, precarious employment, equity).
 - Regional/demographic variations.
 - Anything else?
- Can an FPA provide a framework for lower-level agreements (eg firm-level), or should they be the sole agreement?

Revisit: what is the relationship between trigger, coverage and scope?



Revisit: things to think about

- Design questions to consider:
 - How do you design an FPA system that works with our existing collective bargaining framework?
 - What are the trade-offs in this system, and how will they play out in practice in different markets?
 - How do you balance aspiration, transaction cost, and likelihood of reaching agreement?
- We're also interested in whether:
 - These are the right design questions to be asking,
 - The breadth of options for trigger, coverage and scope are broadly right,
 - There are any options missing, or that can be excluded from further consideration.
- Next meeting: focus on productivity.

Collective bargaining research proposal

What are the main questions we are looking to have answered?

- What does the current scope of collective agreements in New Zealand look like?
 - What is standard scope, what is bespoke? E.g. which terms and conditions are common across collective agreements? Are there any terms or conditions that are never included, or have been included once and then not included again? Any innovative or new approaches?
 - What level are they agreed at (firm or MECA/MUCA), and any trends in content or coverage across or within:
 - industry/sectors?
 - occupations?
 - regions?
 - How do terms compare with statutory minimum standards, and with those in comparable Individual Employment agreements in those sectors/occupations? Are terms and conditions essentially being extended by employers? Or setting patterns across sectors?
 - Any innovation in terms of including wider objectives than wages & conditions eg productivity initiatives, improvements to biosecurity? Are there any terms that employers are including in collective agreements that are achieving any of the potential outcomes of Fair Pay Agreements the group is discussing?
 - Are there any identifiable sector or regional level trends?
- New Zealand's collective bargaining system is characterised as 'uncoordinated'. What is the level and form of organisation/ coordination of employers and workers and how extensive are they? Variations across or within:
 - industry/sectors?
 - occupations?
 - regions?



**MINISTRY OF BUSINESS,
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HIKINA WHAKATUTUKI

Productivity in collective bargaining: international comparisons

Fair Pay Agreements Panel: Meeting 4, 16 August 2018

In confidence: this is not government policy.



Productivity bargaining

- In most overseas models, productivity is not an explicit goal of collective bargaining and productivity bargaining itself is rare.
- However there are a number of elements of productivity that are sometimes implicit in collective agreements including:
 - Training
 - performance based pay
 - profit sharing
 - flexible working hours



Singapore



- Singapore is one of the only countries to specifically address productivity.
- In 2015/16, the Progressive Wage Model (PWM) system was introduced for three low-wage industries - cleaning, security and landscape.
- These three sectors are characterised by high churn, outsourcing, and low wages and skills, with limited scope for collective bargaining to impact on wages as prices are locked in when contracts are signed for services.

Singapore: the Progressive Wage Model

- The PWM aims to increase wages of workers in these specific sectors through upgrading skills and improving productivity.
- The Singaporean government has expressed that this system allows for a productivity-based wage progression pathway.
- The PWM for each sector is developed by tripartite committees comprising government, union and employer representatives.
- There are four components to the PWM: salary progression through wage ladders, skills upgrading, career advancements and productivity improvements.



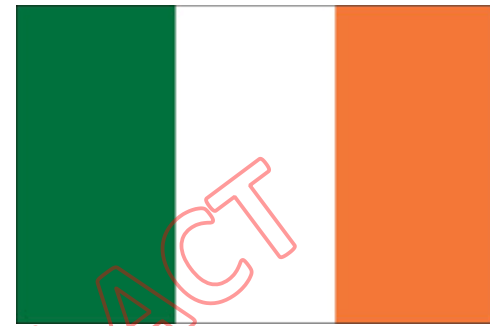
e.g. Security sector

Denmark



- Collective agreements that cover around 75% of workforce (although this varies depending on the sector).
- High levels of Government funding for training – highest spend proportionally in the OECD.
- Coordinated wage bargaining system – this enables unions to negotiate for training clauses in collective agreements. Employers covered by the agreements pay a levy into a sector fund.
 - employers also pay a state-imposed levy on all firms.
- There is a high level of social dialogue in the Danish system: consensus-based relationship between the social partners built on culture of dialogue and cooperation. Work together to develop and review the training courses and needs of the sector.

Ireland



- Ireland's collective bargaining system is similar to New Zealand (fully decentralised). This makes it harder to pursue productivity improvements through Collective Bargaining because there's effectively no centralisation or wage coordination compared to other countries like Denmark.
- Ireland and New Zealand similar high minimum wage but low levels of productivity.
- Low levels of training in low-paid sectors, particularly among SMEs. Poor profitability combined with high staff turnover makes investment in training difficult for firms.
- Many low-paid sectors caught in a low-wage, low-skills and low-productivity cycle.
- In both Ireland and New Zealand, voluntary systems being used e.g. training networks.

Overall...

- High level of government intervention in Singapore model compared with a high level of social dialogue in Denmark.
- Denmark, New Zealand and Ireland all have comparatively high minimum wages but their effectiveness at addressing productivity issues in low-paid sectors differs.
- High wages may play a role in productivity, but the wider framework is fundamental to creating the environment that will enable such transformative change in productivity to occur.
- Solutions need to take account of a range of factors – e.g. including industry training as part of a wider set of mechanisms.

- Would it be possible to collectively bargain a Progressive Wage Model without government intervention?
- What are the preconditions what would enable this?
- Given our starting point and based on your experience of collective bargaining, is this feasible?



MEMO

DATE 28 August 2018

TO Fair Pay Agreements Panel

PREPARED BY Secretariat

SUBJECT **OECD EMPLOYMENT OUTLOOK 2017 AND 2018: COLLECTIVE BARGAINING SYSTEMS**

PURPOSE

This memo summarises key findings in OECD's Employment Outlook 2017 and 2018 relating to collective bargaining systems.

BACKGROUND

Over its last two Employment Outlook publications, the OECD has been developing what it refers to as a "taxonomy" of collective bargaining (ie a way of classifying collective bargaining systems). The purpose of this work is to investigate links between the main features of collective bargaining systems and labour market performance at the macro level.

In this document, we refer to "sector-level collective bargaining". This is the level at which we expect Fair Pay Agreements to play a role in our collective bargaining system (ie across industries or occupations).

The relevant chapters are:

- Chapter 4 from the OECD Employment Outlook 2017: [Collective bargaining in a changing world of work](#).
- Chapter 3 from OECD Employment Outlook 2018: [The role of collective bargaining systems for good labour market performance](#) (also see [supplementary material](#)).

This note summarises commentary and analysis from the OECD. It does not reflect the views of MBIE or the Government. The OECD's own words have been used where possible in this note.



ABOUT COLLECTIVE BARGAINING

The term “collective bargaining” refers to the association of workers and employers to express their interests and concerns, and to negotiate terms and conditions of employment. It involves both benefits and costs for firms, workers, and society as a whole.

Collective bargaining is generally considered to serve the following functions:

- Protective function: ensuring adequate conditions of employment.
- Inclusive function: fair sharing of benefits of training, technology and productive growth.
- Conflict management function: maintaining social peace.

Collective bargaining can also be a tool of market control, for example by reining in wage competition between firms or limiting firms’ monopsony power. It can address market failures (eg information and bargaining power asymmetries) and reduce transaction costs involved in individual bargaining.

A key point is that different systems can achieve similar outcomes, and formally similar systems can lead to very different outcomes. This all depends on the specific ways these systems work in practice (which may or may not perfectly reflect their designers’ intentions).

Many European countries passed labour market reforms during the global financial crisis of 2008 – 2009, including changes to their collective bargaining systems. These changes generally strengthened firm-level bargaining and gave employers more flexibility in times of economic shocks.

KEY FEATURES OF COLLECTIVE BARGAINING SYSTEMS¹

Collective bargaining systems can be characterised by the following features:

1. Degree of coverage: this refers to proportion of workers whose work is covered by a collective agreement. This should not be confused for trade union density (ie the proportion of workers who are members of a trade union). Collective agreements covering a large share of workers can have a more sizeable macroeconomic effect—positive or negative—on employment, wages and other outcomes of interest rather than agreements confined to a few firms.

¹ Material in this section is mostly from the Employment Outlook 2017.



2. **Level of bargaining:** this is about where parties negotiate (eg firm, sector, or country). Collective bargaining systems with more sector-level or national agreements (“centralised”) can be expected to reduce wage inequality relative to systems with mostly firm-level agreements (“decentralised”).² This is because they tend to lower wage differentials not only between workers in the same firm, but also between workers in different firms and, in the case of national bargaining, in different sectors. Firm-level agreements, by contrast, allow more attention to be paid to firm-specific conditions, potentially raising productivity.
3. **Degree of flexibility:** sector-level or national agreements may differ substantially in the degree of flexibility they provide to firms to modify/depart from the terms of higher-level agreements. For example, the possibility of opt-outs can increase the flexibility of the system and allow for a stronger link between wages and firm performance, which may bolster employment and productivity on the upside, but increase wage inequality on the downside.
4. **Coordination:** this refers to the degree to which minor players deliberately follow what major players decide, and to which common targets (commonly re wages) are pursued through bargaining. Coordination can happen between bargaining units at different levels (eg when a firm-level agreement follows guidelines fixed by peak-level organisations), or at the same level (eg when some sectors follow standards set in another sector).

1. DEGREE OF COVERAGE

Across the OECD, **trade union density** is about 17% (ie 17% of employees are members of a union).³ This varies considerably across countries. Trade union density has been declining steadily in most OECD (and accession) countries over the last three decades. The only exceptions to this trend are Iceland, Belgium, Italy (in recent years), and Spain.

Much less is known about the membership and representativeness of employer organisations across the OECD than about trade unions. Representativeness, in particular, is hard to assess.

Employer organisation density in the OECD countries for which data is available is 51% on average but varies considerably from one country to the next.⁴ Contrasting sharply with trade union density, employer organisation density has been quite stable in the last decades.

Collective bargaining coverage (ie the share of employees covered by collective agreements) has declined significantly over the past 25 years. On average across OECD countries, collective bargaining coverage shrunk by a quarter, from 45% in 1985 to 33% in 2013.⁵ This indicator is key for comparing the relative strength of collective bargaining systems across countries because it captures the extent to which workers’ employment conditions are actually influenced by collective negotiation.

² The term “**centralised**” refers to collective bargaining systems in which wages and other terms of employment are generally set at the national/sectoral level (ie closer to “the centre” of the state). The term “**decentralised**” refers to collective bargaining systems in which wages and other terms of employment are generally set at the firm level.

³ New Zealand’s trade union density is 17.9% (ILOSTAT, 2015).

⁴ No information on New Zealand’s employer organisation density was available to the OECD.

⁵ New Zealand’s collective bargaining coverage is 15.9% (ILOSTAT, 2016).



Collective bargaining coverage is high and stable in countries where:

- Multi-employer agreements (either sectoral or national) are negotiated, even in several Southern European countries where trade union density is quite low, and
- Employer organisations are relatively strong and willing to negotiate. The relationship between collective bargaining coverage and trade union density is weaker than the relationship between collective bargaining coverage and employer organisation density.

In countries where collective agreements are generally at the firm level, coverage tends to reflect trade union density.

Extensions and erga omnes provisions are why collective bargaining coverage is higher than trade union density across the OECD.

- Erga omnes (Latin for “towards all”) provisions extend coverage of collective agreements to non-union members of signatory employers. This may create a disincentive for workers to become union members (a typical free-rider problem).
- Extensions (aka “administrative extensions”) go a step further and extend coverage to non-signatory/unaffiliated firms within a particular sector and their workers too. These can either be automatic or subject to criteria (eg representativeness thresholds, public interest tests).

In New Zealand, collective agreements apply to signatory parties, and people who work for a signatory employer and who are also members of a signatory union (this is known as “double affiliation”). Extensions occur rarely. By contrast, extensions are commonly used in two-thirds of OECD and accession countries.

Pros of extension	Cons of extension
<ul style="list-style-type: none">• Ensures fairness: all workers in same sector receive same treatment and standards → levels playing field across firms and ensures fair competition.• Reduces transaction costs linked to lengthy and detailed negotiations, particularly for small firms that lack resources (or do not have worker representation).• Guarantees stability of collective bargaining system and sustainability of “public goods” (eg sectoral training and mobility schemes funded through collective agreements).• Spreads best practice in terms of personnel management.	<ul style="list-style-type: none">• Can become tool of unfair competition (eg when used by insider firms to drive competitors out of market).• May have negative impact if agreements do not account for economic situation of majority of firms in sector.• Delayed extensions requiring sizeable back pay could affect labour markets experiencing liquidity constraints.



2. PREDOMINANT LEVEL OF BARGAINING

When talking about bargaining levels, the terms “centralisation” and “decentralised” are used commonly. Centralised bargaining systems are considered to be ones in which bargaining tends to happen at the national level; highly decentralised systems are ones in which bargaining tends to be at the firm level.

In two-thirds of OECD and accession countries, collective bargaining takes place predominantly at the firm level. Sector-level agreements play a significant role only in continental European countries.⁶

Since the late 1980s, there has been a trend towards decentralisation of bargaining across the OECD. This happened in two ways:

- The replacement of national/sectoral agreements by enterprise agreements (referred to as “disorganised decentralisation”), or
- Devolution within national/sectoral agreements that allowed firm-level agreements to negotiate wages and conditions within a general framework negotiated at a higher level (referred to as “organised decentralisation”).

Organised decentralisation takes two main forms in European countries:

- National/sectoral agreements define the broad framework but leave large scope for bargaining at the firm/established level. This is notable in Scandinavian countries and the Netherlands.
- National/sector agreements set terms and conditions, but allow for (and define the process for) deviations at lower levels. This is common in the rest of Europe and results in a two-tier bargaining structure: higher-level agreements dominate, generally leaving firm-level agreements only the possibility of improving on national/sectoral agreements (this is called the “favourability principle”).

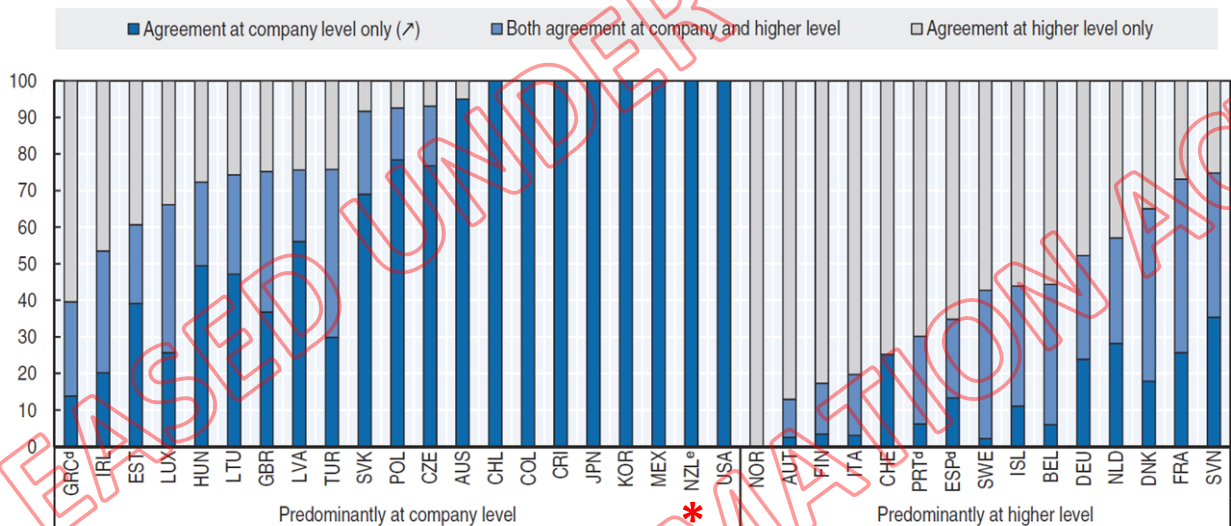
The diagram below shows an overview of bargaining levels across OECD and accession countries. Sector/industry-level bargaining continues to dominate in most continental European countries. It is also worth noting that countries with the same predominant level of bargaining (ie at company level or a higher level) can differ substantially in their actual structure.

⁶ This does not tell the whole story about the actual degree of centralisation or decentralisation as countries differ greatly in terms of the flexibility for firm-level agreements to modify the terms set out in higher level agreements.

- In some countries (particularly the Scandinavian countries), sectoral agreements define the broad framework but leave considerable scope for bargaining at the firm/establishment level.
- In other countries (such as Germany and Austria and more recently also Spain), sector-level agreements dominate but they leave room for firm-level agreements to apply less favourable terms for employees, either in a rather generalised way or only temporarily in case of a crisis.
- In a third group of countries (including Italy, Slovenia and despite the recent reform also Portugal), firm-level bargaining remains limited and in most cases strictly regulated by higher level agreements.



Detailed bargaining level (2017, page 148; refer to source for notes)



3. DEGREE OF FLEXIBILITY

Bargaining systems can also be differentiated by how they allow for deviation from agreements. These are called “derogation” clauses. They allow firms to exempt themselves either from standards set in law (where these exist), or terms set in higher-level agreements. These mitigate the potentially harsh effects of imposing common employment terms and conditions across a broad range of firms and workers.

Deviations from higher-level agreements can take the following forms:

- **General opening clauses:** these allow firm-level agreements to deviate from minima/standards set in higher-level agreements (eg to pay lower than collective-agreed wage floors, increasing working time).
- **Temporary opt-out clauses** (aka hardship clauses, inability-to-pay clauses): these allow for temporary suspension/renegotiation of the terms of agreements in cases of economic difficulties.

In most countries, general opening clauses and temporary opt-out clauses are subject to rules and procedures specified in higher-level agreements by social partners themselves, and to agreement at the firm level.

Derogations from sector-level agreements (whether temporary or permanent) are only applicable in systems with a clear and strict hierarchy between levels of negotiations (eg the favourability principle)⁷ and administrative extensions. Without either of these characteristics, unions and firms are free to negotiate firm-level agreements that set lower standards than sector-level agreements.

⁷ The “favourability principle” states that a lower level agreement can only take precedence over a higher level agreement if it improves the terms of employment for workers.



4. COORDINATION

Collective bargaining systems across the OECD differ greatly in the degree of coordination between bargaining parties at various levels.⁸ The role of coordination is to ensure that negotiations are not totally independent of one another across an economy, and occurs when there is a certain degree of synchronisation of different bargaining units when setting their strategy and targets.

Bargaining systems can vary in the degree of coordination (ie systems can have strong or limited coordination). They also vary in terms of mode of coordination. Some examples are:

- State-imposed coordination: eg in Belgium, in relation to wage coordination, minimum wages are indexed to increases in living costs and wage developments overseas. This means bargaining parties are indirectly following the lead set by overseas wage developments.
- State-induced coordination: eg in France, in relation to wage coordination, a relatively high minimum wage restricts bargaining parties' room to manoeuvre.
- Pattern bargaining: this happens where one sector sets bargaining targets first (usually the manufacturing sector, being exposed to international trade), and others follow.
- Inter- or intra-associational guidelines: this is where peak level organisations either set some norms or define an objective that should be followed when bargaining at lower levels.

Coordination is generally non-existent in countries where bargaining is predominantly at the firm-level (ie decentralised systems like New Zealand). The only exception in the OECD is Japan, which has a system by which trade unions set annual bargaining targets. The Japanese system is highly dependent on information sharing and a cooperative relationship between social partners.

A TAXONOMY OF COLLECTIVE BARGAINING SYSTEMS

Based on the above features, five categories of collective bargaining systems can be identified:

System type	Features	Countries (2015)
Predominantly centralised and weakly coordinated	<ul style="list-style-type: none">• Sector-level agreements play a strong role• Extensions are relatively widely used• Derogations from higher-level agreements are possible but usually limited/not often used	France, Iceland, Italy, Portugal, Slovenia, Spain, Switzerland

⁸ Coordination is the degree to which minor players deliberately follow what major players decide, and the degree to which common (wage) targets are pursued. Coordination can happen between bargaining units at different levels (eg when a firm-level agreement follows guidelines fixed by peak-level organisations), or at the same level (eg when some sectors follow standards set in another sector).



	<ul style="list-style-type: none">• Wage coordination largely absent	
Predominantly centralised and coordinated	<ul style="list-style-type: none">• Sector-level agreements play a strong role• Limited room for lower-level agreements to derogate from higher-level agreements• Strong wage coordination across sectors	Belgium, Finland
Organised decentralised and coordinated	<ul style="list-style-type: none">• Sector-level agreements play an important role• But they also leave significant room for lower-level agreements to set standards (either by limiting role of extensions, leaving hierarchy of agreements up to parties, or allowing opt-outs)• Coordination across sectors and bargaining units tends to be strong	Austria, Denmark, Germany, The Netherlands, Norway, Sweden
Largely decentralised	<ul style="list-style-type: none">• Firm-level bargaining is the dominant bargaining form• But sector-level bargaining (or a functional equivalent) or wage coordination also play a role• Extensions are very rare	Australia, Greece, Japan, Luxembourg, Slovakia
Fully decentralised	<ul style="list-style-type: none">• Bargaining is essentially confined to firm/establishment level• No coordination• No (or very limited) influence by government	Canada, Chile, Czech Republic, Estonia, Hungary, South Korea, Latvia, Lithuania, Mexico, New Zealand, Poland, Turkey, United Kingdom, United States



ROLE OF COLLECTIVE BARGAINING SYSTEMS FOR GOOD LABOUR MARKET PERFORMANCE⁹

Collective bargaining systems in the OECD are facing serious challenges, eg global competition, technological change, and a long-running trend towards decentralisation of bargaining. Concerns are growing about the ability of collective bargaining to contribute to better labour market performance.

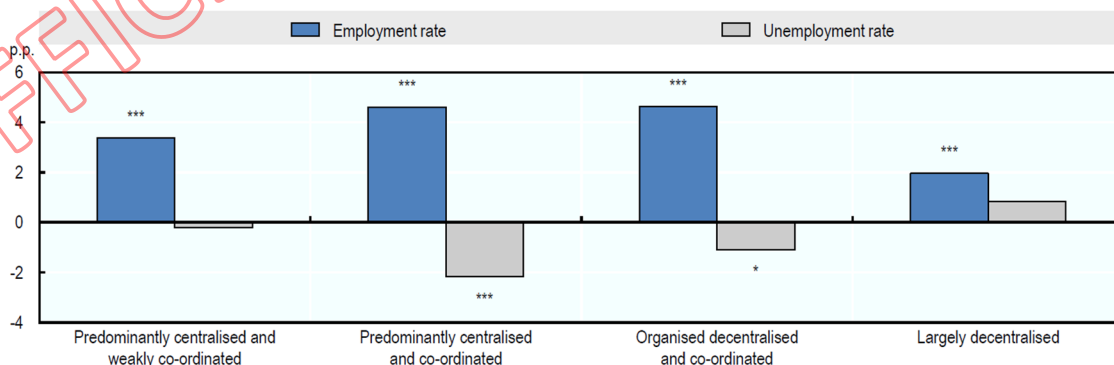
An assessment of the various types of collective bargaining systems identified above suggests **organised decentralisation** tends to deliver good employment performance, better productivity outcomes and higher wages for covered workers. Other forms of decentralisation (eg that replace sector- with firm-level bargaining, without coordination within and across sectors) tend to be associated with somewhat poorer labour market outcomes.

EMPLOYMENT OUTCOMES

The OECD found that coordinated bargaining systems are associated with higher employment and lower unemployment relative to fully decentralised systems (see chart below). Of coordinated systems, this is particularly the case for predominantly centralised systems, while for organised decentralised systems the result on unemployment is somewhat smaller and less robust.

Centralised but weakly coordinated systems and largely decentralised systems hold an intermediate position, with better employment outcomes than fully decentralised ones but similar unemployment outcomes. The difference between employment and unemployment results suggests that coordinated systems are linked with higher employment and labour force participation.

Labour market outcomes: difference in percentage points with respect to fully decentralised systems (2018, page 84)



On average across all systems, higher bargaining coverage is associated with lower unemployment rates.

⁹ Material in this section is mostly from the Employment Outlook 2018.



Ireland, New Zealand and the United Kingdom are identified as three countries with fully decentralised collective bargaining systems which are underperforming in terms of labour market outcomes (ie performing less well than would be expected based on our collective bargaining systems). This finding is unchanged even when accounting for country fixed effects.

Further findings relating to employment outcomes are:

- Coordinated systems—either centralised or organised decentralised systems—are also associated with better labour market outcomes for vulnerable workers.
- Fully decentralised systems are correlated with higher wage inequality for full-time employees. This is not a surprising finding given one of the core missions of collective bargaining is strengthening the bargaining power of low-wage workers.

In summary, in terms of employment, unemployment, integration of vulnerable workers and wage inequality:

- Coordinated systems —either centralised or organised decentralised systems—are associated with better results than other types of collective bargaining systems.
- Fully decentralised systems are generally associated with the worst results.
- Weakly coordinated but centralised systems and largely decentralised systems hold an intermediate position, performing similarly to fully decentralised systems in terms of unemployment, but sharing many of the positive effects on other outcomes with coordinated systems.

WAGE DISPERSION

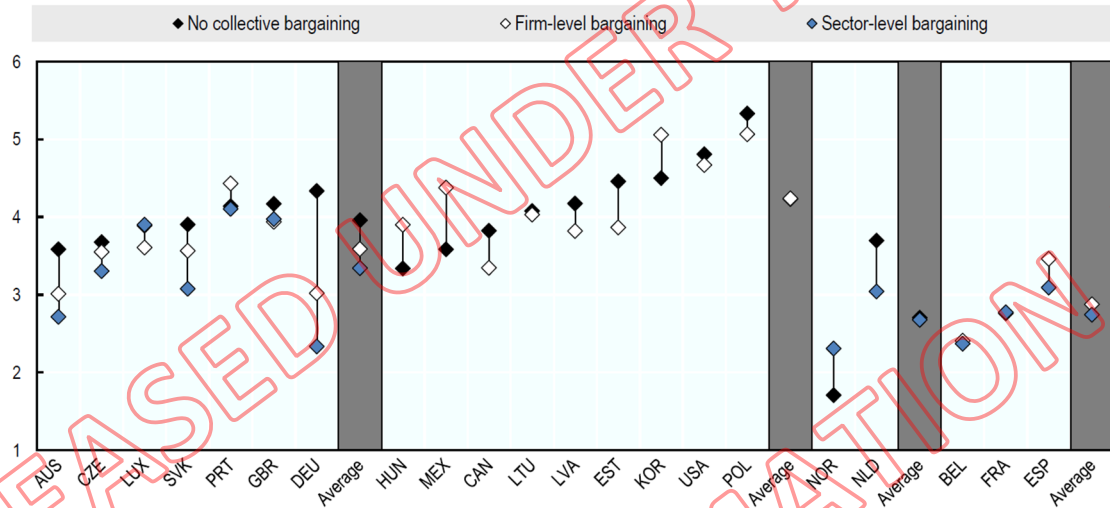
In many countries, the wages of some workers are principally determined by a collective pay agreement (collective bargaining), while those of others are not (individual bargaining). Whether this introduces injustice or unfairness between groups of workers depends on how each collective bargaining system actually works.

“Wage dispersion” refers to the amount of variations in wages encountered in an economy. Higher wage dispersion means a larger gap between the highest and lowest wages in an economy; lower wage dispersion means a smaller gap between the highest and lowest wages in an economy.

On average, wage dispersion is lower with collective bargaining, when accounting for compositional differences (see figure below).



Composition-adjusted wage dispersion by level of collective bargaining:
ratio of the 9th to the 1st earnings decile (2018, page 89)



In the figure above:

- The first group of countries (Australia¹⁰ to Germany) are ones where all three bargaining levels exist (ie sector, firm and individual bargaining). Wage dispersion in this group is highest among workers not covered by collective bargaining (black diamonds), followed by firm-level (white diamonds) and then sector-level bargaining (blue diamonds).
- The second group of countries (Hungary to Poland) are ones where there is no sector-level bargaining. Wage dispersion among workers covered by collective bargaining and those not, at least on average, is the same.
- The third group of countries (Norway and the Netherlands) are ones where workers are either bargaining individually or covered by sector-level agreements. There are only two countries in this group.
- The fourth group of countries (Belgium, France and Spain) are ones where workers are either covered by sector-level or firm-level agreements. There are only three countries in this group.

Overall, these suggest that economy-wide distribution of wages is more equal in systems with scope for sector- or higher-level bargaining.

COLLECTIVE BARGAINING WAGE PREMIUM

The above section compares wage dispersion *within* each bargaining type. It is also worth comparing pay difference *between* workers covered by collective agreements and those not covered (which is referred to as the “collective bargaining wage premium”).

¹⁰ For Australia, modern awards were treated as sector-level bargaining even though they are technically not a proper sector-level bargaining system.



Across the OECD, workers are paid more with firm-level bargaining, while sector-level bargaining is not associated with relatively higher pay on average (see figure below). This is not surprising as firm-level negotiations can often only raise wages relative to sector-level agreements (ie not go below wages set in sector-level agreements). This difference in wages may also signal higher productivity in companies with firm-level bargaining.

*Composition-adjusted difference in average wages relative to no collective bargaining, 2014
(2018, page 92)*



The results are in line with a large body of literature which finds that sector-level bargaining is not linked with higher wages on average. The variation for sector-level bargaining across countries is large, with a positive premium in some countries and a negative one in others. By contrast, wages of workers covered by firm-level agreements are higher than those of uncovered workers in all countries except Latvia.

PRODUCTIVITY

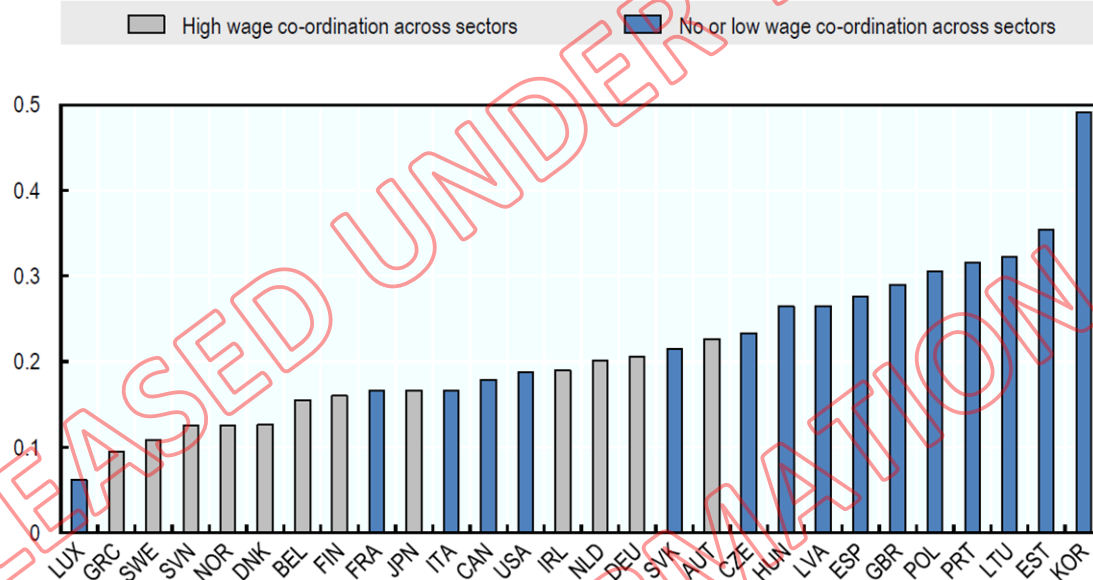
Theory about collective bargaining and productivity growth suggests that the effects of these could go either way. For example:

- Collective bargaining could increase aggregate productivity by setting higher wage floors and forcing unproductive firms to exit the market.
- A more compressed wage structure (because of collective bargaining) may reduce incentives for workers to move to more productive firms, harming firm productivity and efficient reallocation of workers.

Evidence suggests that wages tend to be less aligned with labour productivity in countries where collective bargaining institutions have a more important role. This is based on sector-level data and examination of the relationship between wages and productivity across sectors.



*Elasticity of wages with respect to productivity across sectors: country estimates
(2018, page 93)*



Several features of collective bargaining could affect the flexibility of firms in a sector to set wages in line with sector-level productivity:

- **Wage coordination across sectors:** this actively seeks to limit differences in pay across different sectors by establishing cross-sectoral wage norms for collective bargaining purposes. Wages and productivity are more aligned in countries without coordinated wage-setting. Even without institutionalised wage coordination, this feature may still matter if negotiations in one sector serve as an implicit benchmark for others.
- **Centralisation:** this may matter for wage-productivity alignments because in industries with stronger trade unions, workers may appropriate a greater share of the production surplus.¹¹
- **Coverage:** this may matter since without wide collective agreement coverage, wage coordination and centralisation have no role.

Coordination, collective bargaining coverage and centralisation jointly predict lower wage-productivity alignment. However, there is insufficient evidence to prove that such features of collective bargaining are the driving, or causal, factors behind the differences across countries in wage-productivity alignments. It is nonetheless suggestive that collective bargaining has an important role for how wages in a sector correspond to sector performance.

¹¹ This statement is not explained further by the OECD. We think this assertion could be because centrally-determined wages give firms less flexibility to respond to changes in productivity.



JOB QUALITY

Relatively little is known about the role of unions and collective bargaining for intrinsic measures of job quality. This analysis is about the link between the presence of a recognised form of employee representation and the quality of the working environment. Working environment quality is measured as the incidence of job strain (high job demands with low job resources).

The presence of a recognised form of employee representation, on average, is associated with lower job strain and hence a better quality of working environment. In particular:

- The effect is the result of a negative link between the presence of a recognised form of employee representation and the intensity of work (working long hours), and
- A positive correlation with the number of days spent in training over the last 12 months and the perceived prospects for career advancement, with
- No significant link found with physical demands of a job.

BALANCING INCLUSIVENESS WITH FLEXIBILITY

The OECD considers that the future of collective bargaining, its relevance and function will depend on how it adapts to changing labour market conditions. Collective bargaining has historically meant a trade-off between inclusiveness and flexibility:

- Inclusiveness is about being represented, suggesting emphasis on broad-based collective bargaining and social dialogue.
- Flexibility to adapt to changing circumstances can be attained in many ways, but the challenge is to nest it within systems that deliver broad-based coverage.

The OECD considers that **organised decentralisation** (of the models on pages 7 and 8 of this summary) is most promising, as a collective bargaining system, for balancing inclusiveness and flexibility. The following reasons are mentioned:

- Organised decentralisation leaves space for firm-level agreement to set terms of employment (enabling a better link between productivity and working conditions at the firm-level) within a broader framework of sector-level agreements.
- Organised decentralisation involves high levels of representation at the local level and wage coordination across sectors.



**MINISTRY OF BUSINESS,
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Summary of OECD Employment Outlook

2017 and 2018 collective bargaining chapters

Fair Pay Agreements Panel

Meeting 5: 31 August 2018



This presentation

- This presentation is the highlights version of our 14 page summary (also circulated to the Panel), of the OECD's chapters.
 - Part I: Key features of a collective bargaining system
 - Part II: The role of collective bargaining systems in good labour market performance



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OFFICIAL INFORMATION ACT

Part I

Key features of a collective bargaining system



Key features of collective bargaining systems

The OECD has classified collective bargaining systems using four elements.

Element	What it means
1. <i>Degree of coverage</i>	What proportion of workers are covered by a collective agreement?
2. <i>Level of bargaining</i>	What is the level at which agreements are negotiated? This ranges from national or sectoral (centralised) through to firm level (decentralised).
3. <i>Degree of flexibility</i>	How much flexibility do firms and workers have to depart from terms set in higher-level agreements (eg ones at national or sectoral level?)
4. <i>Coordination</i>	To what degree do minor players follow what major players decide?

Key features:

1. Degree of collective bargaining coverage

- This feature is about the extent to which workers' employment conditions are influenced by/set through collective bargaining.
- **Collective bargaining coverage** is declining across most OECD countries.
 - On average across the OECD: coverage shrunk from 45% in 1985 to 33% in 2013.
 - Collective bargaining coverage was 15.9% in NZ in 2016.
- Other key indicators are:
 - **Trade union density**, which is declining across most OECD countries. OECD average: 17%; NZ (2015): 17.5%.
 - **Employer organisation density**, which varies considerably from one country to the next but has been relatively stable in the last decades. OECD average: 51%; no data on NZ was available to the OECD.
- The reason collective bargaining coverage tends to be higher than trade union density is because of the use of extensions.
 - These extend collective agreement coverage beyond union members and firms who are part of bargaining.
 - We don't use extensions in New Zealand: this is why our collective bargaining coverage rate reflects trade union density. The same is true for other countries where collective agreements are generally at the firm level.
- The OECD found that collective bargaining coverage tends to be high and stable in countries with multi-employer agreements, and strong employer organisations.

Key features:

2. Level of bargaining



- In two-thirds of OECD countries, collective bargaining now takes place predominantly at the firm level (ie systems tend to be decentralised).
- There has been a trend towards decentralisation across the OECD. This has happened in two ways:

Disorganised decentralisation	Firm-level agreements have replaced national or sectoral agreements
Organised decentralisation	Instead of setting terms, national/sectoral agreements instead provide a framework within which firm-level negotiation determines wages and conditions

Key features:

3. Degree of flexibility

- Another key feature of bargaining systems is how much flexibility they give to firms to deviate from standards set at a higher level (eg national or sector standards).
- This can be essential in systems that:
 - Have a strict hierarchy between bargaining levels (eg rules saying firm-level agreements can only *improve* on conditions set at national/sector levels), and
 - Use extensions (ie bind workers and firms who may not have played a role in bargaining).
- To mitigate the potentially harsh effects of systems as described above, flexibility is provided in the form of **opt-outs or derogations**.
- These opt outs/derogations generally take two forms:
 1. General opening clauses allow for firm-level agreements to deviate from minimum standards in national or sectoral agreements.
 2. Temporary opt-out clauses allow firms to temporarily suspend terms when facing economic difficulties.



Key features:

4. Degree of coordination

- Coordination is about the degree to which minor players follow what major players decide in an economy.
- This is useful in showing how much independence or synchronisation there is across bargaining parties at different levels.
- There is generally no coordination in systems where bargaining mainly takes place at the firm level (eg NZ).
- Examples of coordination:
 - Pattern bargaining: this is where one sector sets bargaining targets first, and others follow.
 - Guidelines: this is where national/peak level organisations set objectives to be followed when bargaining at lower levels.

Key features:

Five types of collective bargaining systems

Type of system	Features	Countries (2015)
1. Predominantly centralised and weakly coordinated	<ul style="list-style-type: none"> • Sector-level agreements • Extensions are relatively widely-used • Opt-outs exist but are usually limited/not widely-used • No wage coordination 	France, Iceland, Italy, Portugal, Slovenia, Spain, Switzerland
2. Predominantly centralised and coordinated	<ul style="list-style-type: none"> • Sector-level agreements • Opt-outs exist but are usually limited/not widely-used • Strong wage coordination across sectors 	Belgium, Finland
3. Organised decentralised and coordinated	<ul style="list-style-type: none"> • Sector-level agreements play an important role • But leave significant room for lower-level agreements to set standards • Strong coordination across sectors and bargaining parties 	Austria, Denmark, Germany, Netherlands, Norway, Sweden
4. Largely decentralised	<ul style="list-style-type: none"> • Firm-level agreements, generally • But there's some sector-level bargaining or wage coordination too 	Australia, Greece, Japan, Luxembourg, Slovakia
5. Fully decentralised (NZ today)	<ul style="list-style-type: none"> • Firm-level agreements, generally • No coordination 	Canada, Chile, Czech Republic, Estonia, Hungary, South Korea, Latvia, Lithuania, Mexico, New Zealand, Poland, Turkey, United Kingdom, United States

Part II

The role of collective bargaining systems in good labour market performance



Elements of good labour market performance

In 2018, the OECD assessed the five types of collective bargaining systems it identified according to the following labour market outcomes:

1. Employment outcomes
2. Wage dispersion
3. Collective bargaining wage premium
4. Productivity
5. Job quality

The OECD pointed out that different systems can deliver similar outcomes, and similar systems can deliver different outcomes.

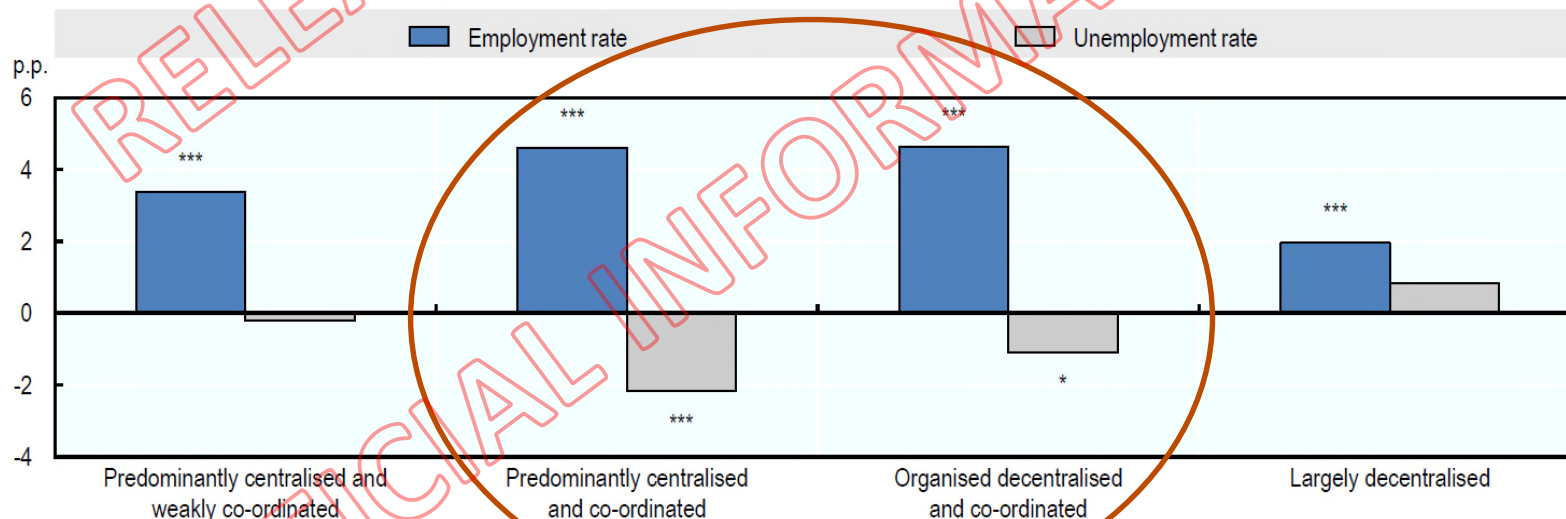
We take this to mean labour market outcomes are highly dependent on each country's unique economic and social circumstances—and collective bargaining models are just one part of these circumstances.

Elements of good labour market performance

1. Employment outcomes

Coordinated systems are associated with higher employment and lower unemployment, compared to fully decentralised systems.

Difference in percentage points of employment and unemployment rates compared to fully decentralised systems:

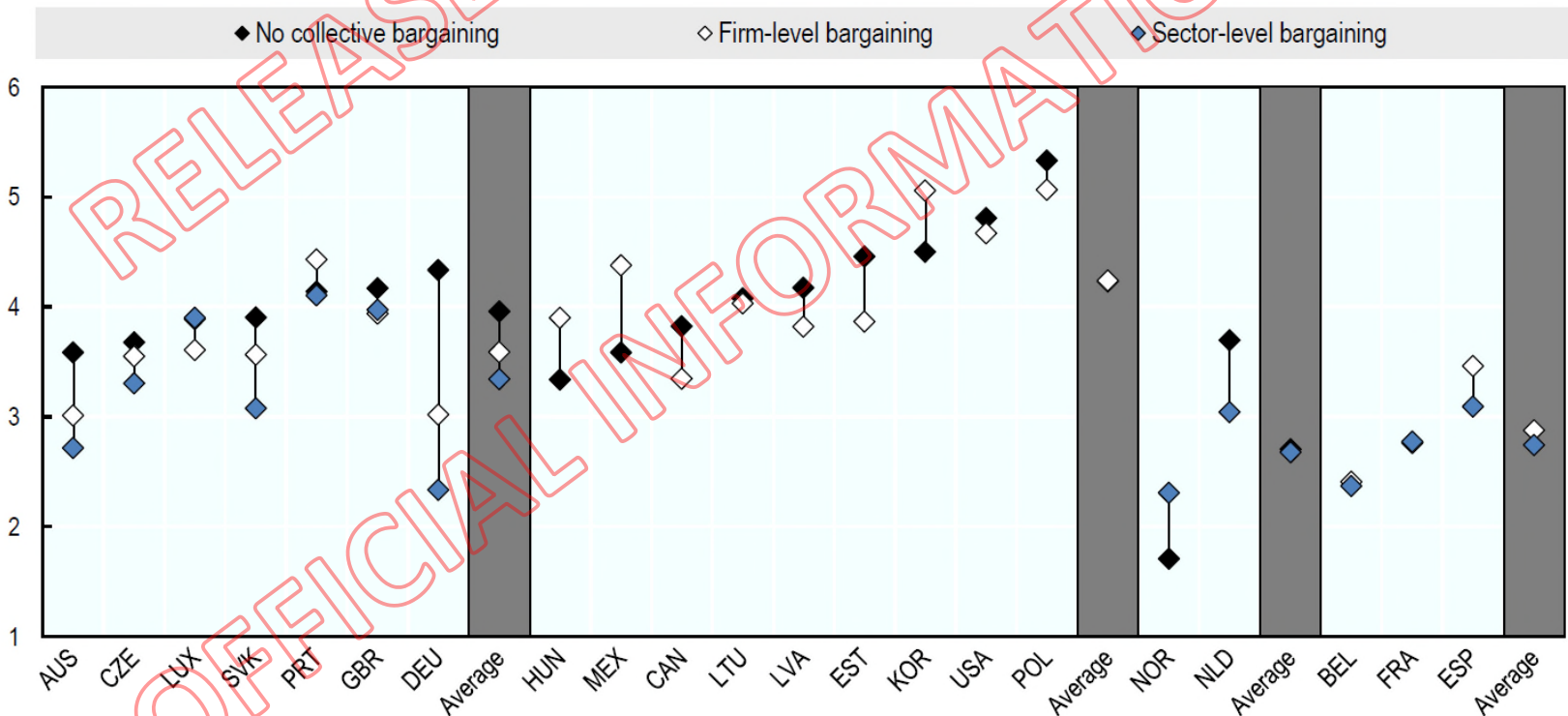


Elements of good labour market performance

2. Wage dispersion

Wage distribution tends to be more equal in systems with scope for sector-level bargaining (or higher):

*Composition-adjusted wage dispersion by level of collective bargaining:
ratio of the 9th to the 1st earnings decile*

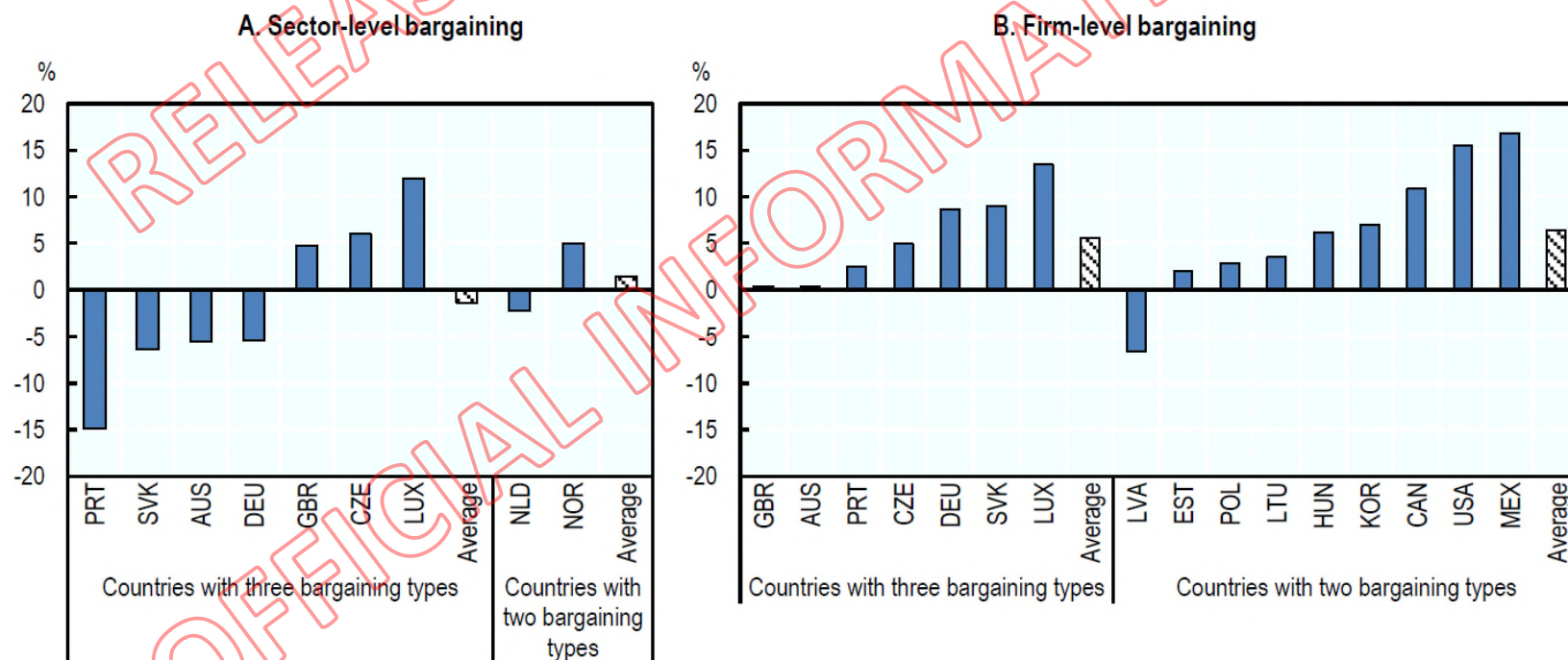


Elements of good labour market performance

3. Collective bargaining wage premium

Across the OECD, workers tend to be paid more with firm-level bargaining. Sector-level bargaining is not associated with relatively higher pay on average.

Composition-adjusted difference in average wages relative to no collective bargaining

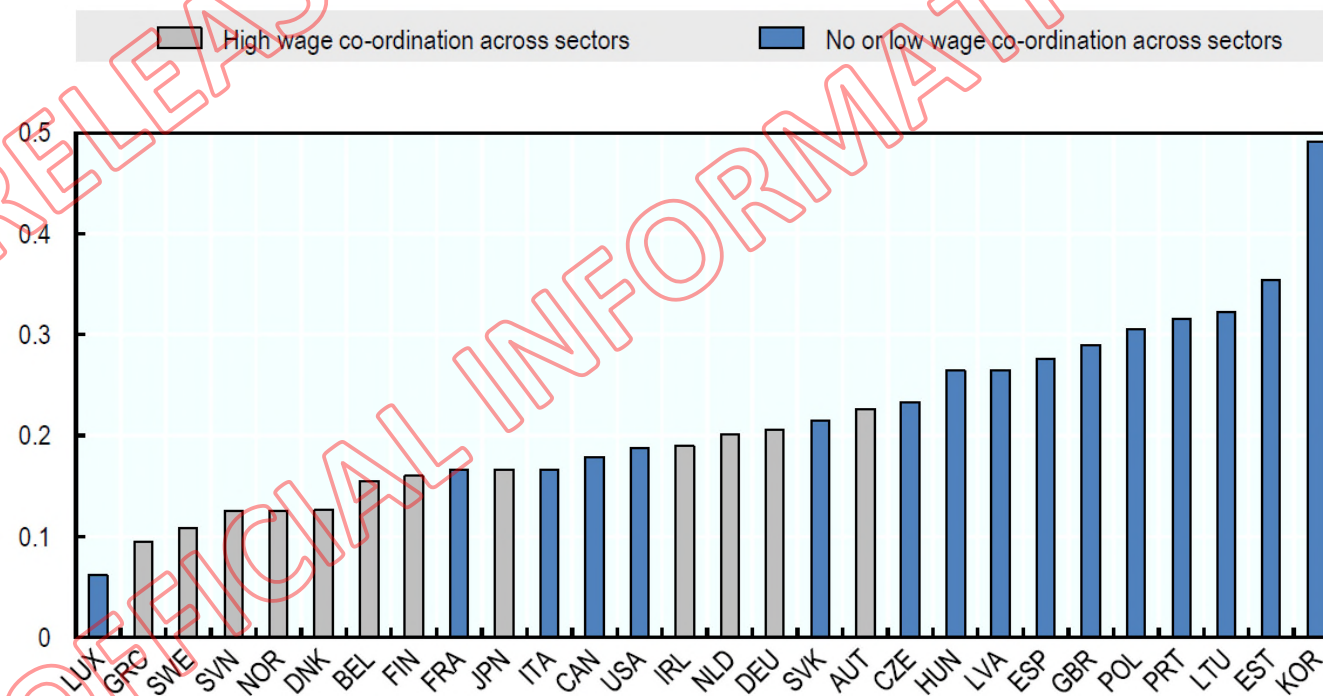


Elements of good labour market performance

4. Productivity

The OECD found that wages tend to be less aligned with labour productivity in countries where collective bargaining institutions have a more important role.

Elasticity of wages with respect to productivity across sectors: country estimates



Elements of good labour market performance

5. Job quality

The OECD found that a recognised form of employee representation (eg a union) is associated with lower job strain, and better quality of working environment.

- There is a negative link between presence of a recognised form of employee representation and work intensity (ie long hours).
- There is a positive relationship between amount of training in the previous year and perceived prospects for career advancement.
- No link was found between physical demands of a job and job quality.

Conclusion

- The OECD concludes the main trade-off in collective bargaining is between

inclusiveness and **flexibility**

This is about representation: ensuring collective bargaining has a solid base

This is about parties' ability to adapt to circumstances

- The OECD also concludes that **organised decentralisation** is the most promising system for balancing these two factors, because:
 - It leaves space for firm-level agreements to set terms
 - It involves high level of representation and wage coordination



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Fair Pay Agreements - design choices

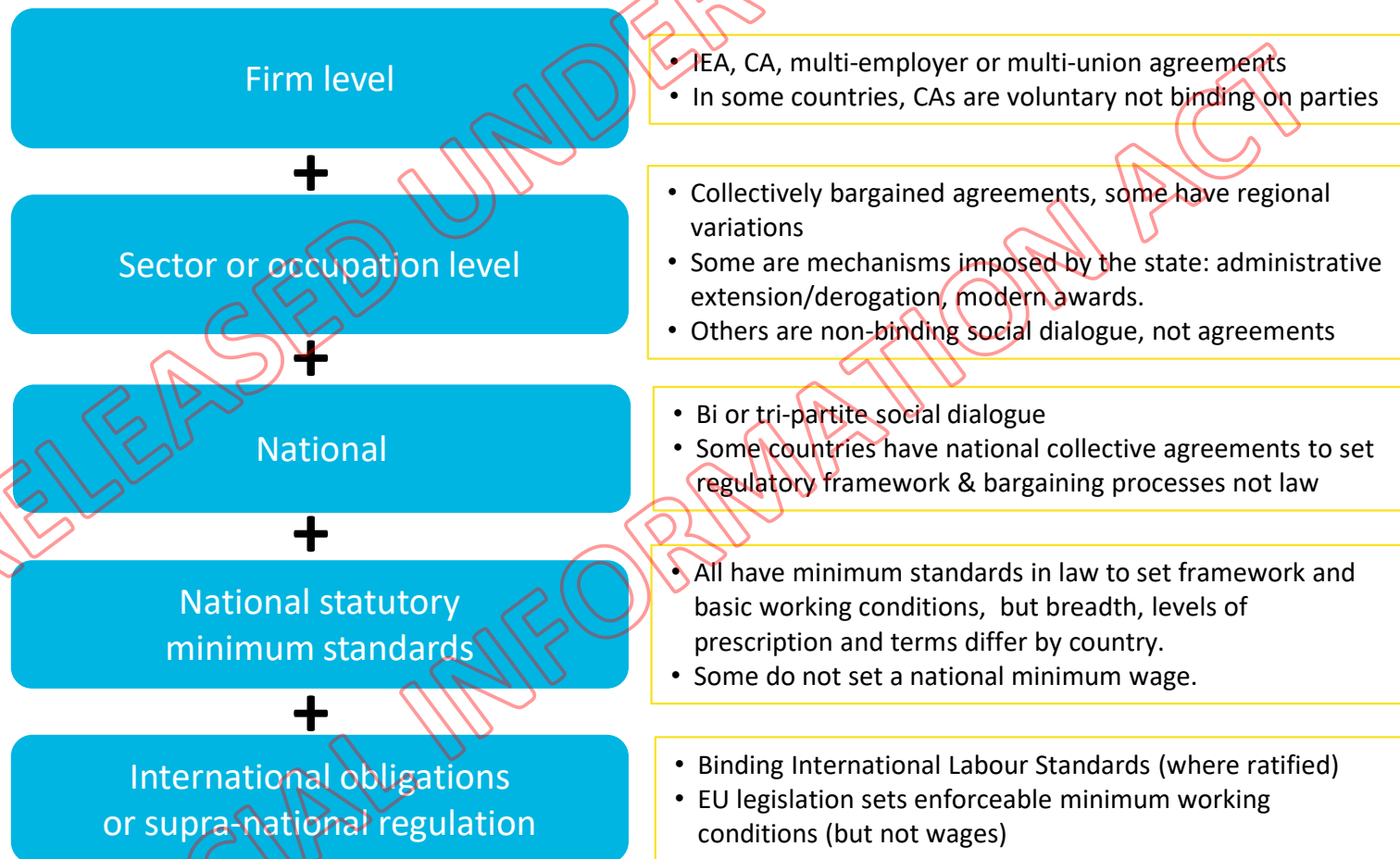
Fair Pay Agreements Panel

Meeting 5, 31 August 2018

A decorative graphic at the bottom of the slide consisting of three overlapping triangles. The leftmost triangle is blue, the middle one is green, and the rightmost one is teal. They are arranged in a row, with the green triangle overlapping the blue one, and the teal triangle overlapping the green one.

Collective Bargaining: the underlying global model

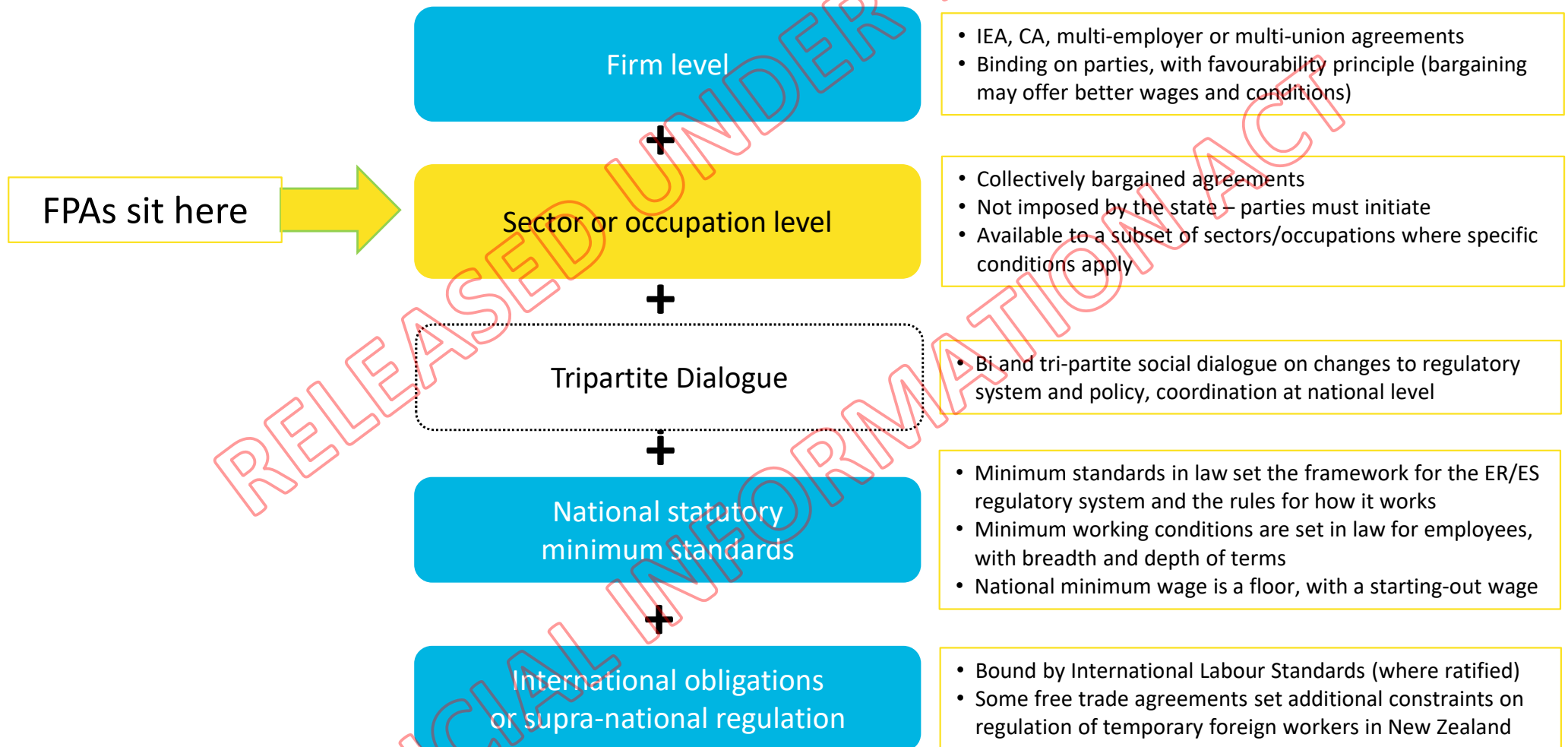
LEVELS OF BARGAINING



Exactly how regulated or bargained mechanisms work in each country differs in the detail – bargaining systems are adjusted to fit individual social and economic models.



Adding FPAs to New Zealand's collective bargaining system



FPAs add a new tool (level) to the collective bargaining system, they do not replace it.

Fair Pay Agreement design choices to discuss today

Design decisions	Government policy	Design choices to discuss
What is the objective?	Aimed at addressing specific deep rooted problems	<ul style="list-style-type: none">• How to describe the conditions?• Should other sectors/occupations be able to use FPAs too?
What role will it play in the collective bargaining system?	A new tool that adds to the system, not replacing it	<ul style="list-style-type: none">• Is this the right place for FPAs in the system?• How much flexibility should firms or workers have to depart from terms set in a FPA?
Who can initiate an agreement?	A bargaining parties must initiate (not government imposed)	<ul style="list-style-type: none">• What are the tests that need to be met? And how do we define them?
Who is covered by an agreement?	Binding on a whole sector or occupation	<ul style="list-style-type: none">• How much flexibility should parties have on how a sector or occupation is defined, and who the parties are?
What goes into the agreement?	Must include setting of wages and minimum working conditions	<ul style="list-style-type: none">• What should minimum content of the agreement look like?• How much flexibility should parties have on what goes in?

There is a trade-off across these choices between enabling flexibility and how complex / workable we make the system



Objectives of the Fair Pay system

Starting point

A new tool in the ERES system that enables a whole sector or occupation to transform its business practices, away from a race to the bottom, and creates a partnership for shared growth and better business models.

This is an employer and worker-led solution, not state-imposed. To make it work, there must be buy-in from both sides that they can work together to agree a significant shift to working conditions and business practices, and achieve a win-win outcome.

This tool is required because existing tools in the ERES system are not proving effective to respond to:

- Entrenched low wages and low wage growth – competition on the basis of labour cost, not innovation or investment
- Low levels of organisation among workers and firms – with low levels of management capability and power imbalances
- Work being defined outside of regulated standards as the norm – avoiding not evading our minimum standards

Design choices

How well have we described the objectives and conditions the FPA is targeting?

These conditions could be:

- set in the purpose statement of the Act, and
- the objective criteria used to test eligibility when FPAs are initiated

Should other sectors/occupations be able to use FPAs too?

1

No – targeted mechanism only. Only sectors or occupations meeting the specific objectives may trigger a FPA, if:

- One side wants to initiate, subject to a representativeness test, **and**
- They can demonstrate the sector/occupation meets the objectives.

2

Yes – but with a higher threshold test / double lock. Any sector or occupation who want to may use it, but only if:

- All bargaining parties agree to initiate, **and**
- They can meet a higher representativeness threshold.

Considerations:

- Can other sectors/occupations identify a clear public good outcome (or harm) that justifies imposition across whole sector? Why isn't MECA adequate tool?
- How do we manage potential gaming through a FPA if the targeted conditions don't exist?



Role in bargaining system

Starting point

FPA provide an extra tool, they do not replace minimum standards or the firm-level bargaining system:

- they support enforcement where business models are routinely defining work outside of regulated minimum standards
- they are supplemented by firm-level agreements, where parties may bargain for more favourable or additional terms

FPA should drive change in business practices, but not lock them in:

- be prescriptive enough to drive significant, collective change in business practices
- not a one-size fits all tool as sectors and occupations meeting the criteria will still have significant variations between and within them
- flexibility is needed to support dynamic business models, encourage new entrants, and early adoption of innovative practices, and allow firms to ride out economic shocks

Design choice

Do you agree this is how FPAs should fit into the system?

This will drive design choices on:

- how FPAs and firm level agreements interplay
- (for later) how we need to adapt existing compliance and dispute resolution systems to support the new tool

How much flexibility should firms and workers have to depart from the terms set in a FPA?

1

A strict hierarchy. Firm level agreements only improve on FPA terms or add further areas. In other countries, this is usually combined with allowing defined opt-out provisions (thought rarely used):

- General opening clauses can allow widespread deviation on a particular condition or minimum standard
- Temporary opt-out clauses allow firms to temporarily suspend terms, typically if facing defined economic difficulties

2

Allow greater firm-level flexibility. Parties can bargain to:

- exclude some terms from the FPA, or set as ranges, guidelines or common principles, with detailed terms at firm-level
- agree administrative mechanism for opt-outs (e.g. by agreement of parties)
- allow for geographic variations or exemptions (e.g. regional)



Initiation

Starting point

One of the parties must initiate the process, not government- imposed.

- Objective tests will need to be applied to decide whether the party may initiate the FPA.
- If sectors/occupations have low levels of worker or firm organisation, determining representativeness can be high cost and difficult to achieve. Efficiency will need to be balanced with the need for widespread buy-in.
- Allowing parties to self-define sectors or occupations narrowly or widely can help or hinder meeting a representativeness threshold.
- Tests need to be measurable, with high confidence in the data, assessment process, and decision maker.

Design choice

Are these the right tests to apply to initiation?

1 Representativeness

This would set a minimum threshold for parties seeking to initiate a FPA: do they adequately represent the worker or employer side of that sector or occupation?

Considerations:

- What is representative enough?
- Do all parties need to meet test?
- How is it counted? ballot, membership roll, % of employees or firms in sector / occupation
- Who verifies?

For future design discussion:

- Test for negotiating parties?
- Test for signatory parties?

2 Objectives / conditions

The sector or occupation the parties have defined must exhibit:

- Entrenched low wages and low wage growth
- Low levels of organisation among workers and firms
- Work being defined outside of regulated standards as the norm

Considerations:

- How to measure these?
- Do some or all need to be met?
- Who assesses/decides criteria met?



If you recommend any sector/occupation can access to FPAs, then there would only be one test, which may need be more stringent

Coverage

Starting point

Binding on a whole sector or occupation

- The Act can be **prescriptive** on how sectors or occupations are defined e.g. specifying the level or provide a rule-making power to set these in Regulations.
- Or **permissive**, allowing parties to self-define a sector or occupation against a criterion e.g. same or similar work.
- Allowing bargaining parties to self-define gives flexibility to target problem sectors with strong buy-in, and tackle the whole problem where there is substitutable labour, or value-chains
- But provides less certainty on who could be covered and gaming to undermine representativeness thresholds being met

Design Choice

How to define the sector or occupation the agreement covers?

1 Narrow definition

What could it look like?

- Kiwi fruit
- Courier drivers

Pros/cons:

- Firms and workers may have greater commonality of problems (fairness and equity of imposed solution)
- Weaker rationale for opt-outs or firm-level flexibility, may drive faster change
- Greater certainty of which firms are caught by it, easier to monitor compliance
- Fewer parties/views at the table, reduced costs and time to reach agreement

2 Wide definition

What could it look like?

- Horticulture
- Transport drivers

Pros/cons:

- Harder for firms to rebrand themselves out of a wider sector to avoid the agreement
- Greater scope to effect change across pools of substitutable labour
- Lower risk of regulatory arbitrage

For further discussion:

- How to define the parties and who should be included for an effective FPA?
E.g. employers, unions, workers, procurers of services



Scope

Starting point

Must include the setting of wages and minimum working conditions

Design choice

What should minimum content of the agreement look like?

How much flexibility should parties have to decide what goes in?

1 Law leaves scope to the parties

What could it look like?

- Parties can bargain extra terms beyond minimum in law, or exclude content if they can't reach agreement
- Wide or narrow FPAs, lots of variation in terms included between sectors
- Choice on flexibility to leave to firm-level detail

Pros/cons:

- Caters to a wide range of business models and occupations with different characteristics
- Could enable more ambitious commitments to terms beyond minimum – but may water down standard terms
- More scope for innovative approaches to agreements and new entrants/business models to be provided for
- Could be more difficult to conclude as more complex and trade-offs to make

2 Scope is prescribed in law

What could it look like?

- Only the minimum terms set in the law
- Flexibility for opt outs could be set in legislation
- Firm-level agreements only set more favourable or additional terms

Pros/cons:

- All or nothing
- Certainty for parties on what they may end up signing up to
- May not include all commitments needed to address problem
- Lack of choice could result in perverse outcomes – workers can't choose the hours they want, innovative or different business models are locked out





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Two possible models for a Fair Pay Agreements system

Fair Pay Agreements Panel: Meeting 6, 13 September 2018

In confidence: this is not government policy.



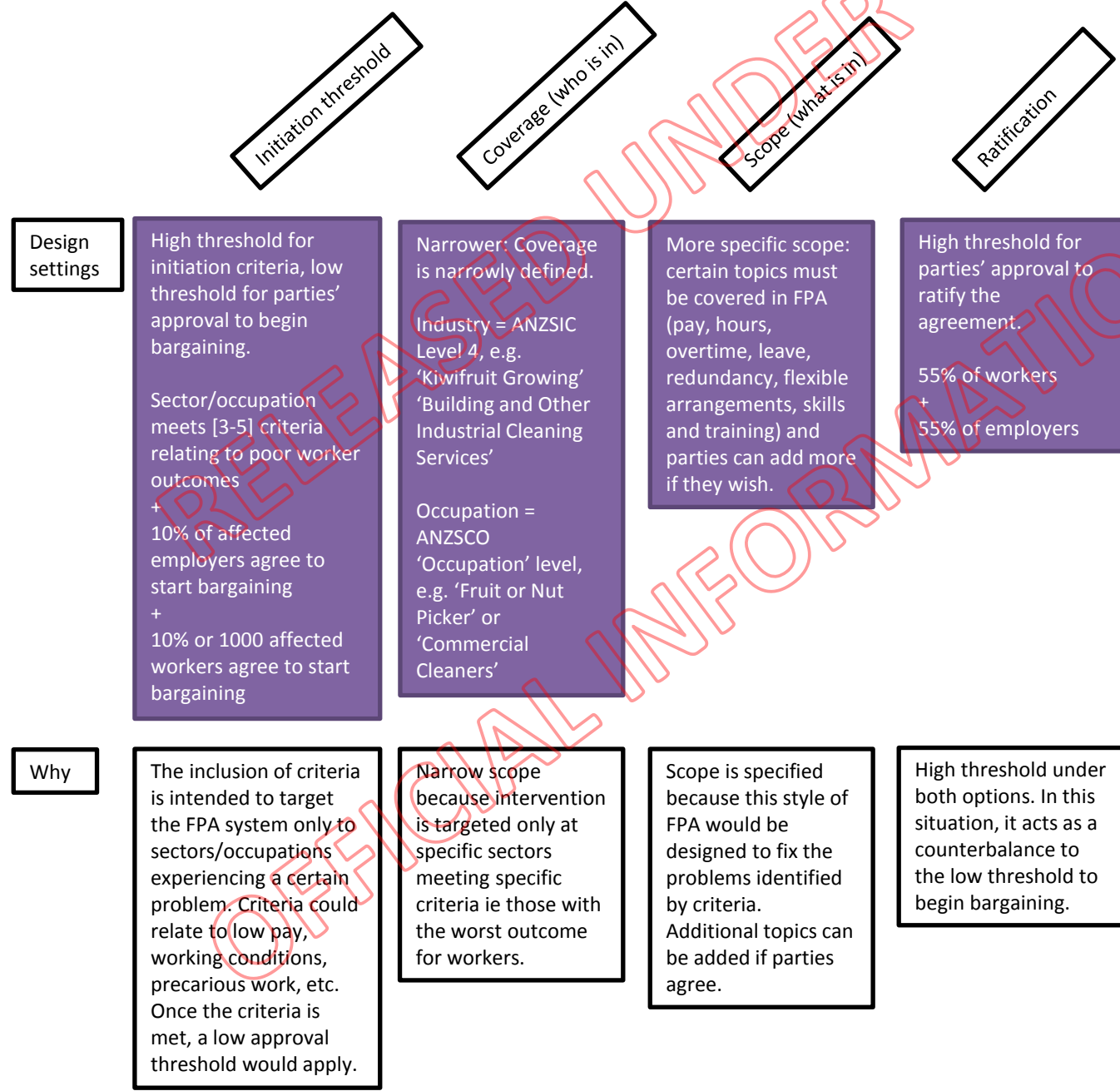
Introduction

- We have prepared two sample options for a Fair Pay Agreement model – A and B.
- For each we have described the characteristics of the model, what scenarios it might suit, the benefits, and risks.
- We will talk through each option in turn. The purpose of setting out two options is to generate discussion about what you like or are worried about.

These are not the only options.

- Showing only two models does not mean all other options are off the table – for example, you might still want to explore an “extension system”, where an existing collective agreement is extended out to cover a sector/occupation once it already covers a certain percentage of that sector/occupation.

Option A – FPAs designed to target a problem



Option A would be designed for this type of situation:

- A small number of sectors/ occupations – i.e. very targeted
- Where firms compete heavily on labour costs
- Where firms have a disincentive to implement change: risk of a few employers undercutting any effort to improve worker terms
- Resulting in particularly poor outcomes for workers
- And there is low worker and employer coordination (including where there is a large number of firms, making a MECA difficult)

Benefits

- Targeted only at sectors/ occupations with a significant problem.
- Limits uncertainty for business about whether an FPA is likely to be triggered and who/what it will cover.

Risks

- Focusing only on 'problematic' sectors/occupations may miss opportunities for improvement in others.
- Could lock in new business models – stifling innovation.
- Could create a negative image for the affected sector/occupation (possible mitigation could be a branding benefit e.g. a quality mark, or benefits in other regulatory systems e.g. access to migrant labour).

Option B – FPAs designed to enable any sector/occupation to improve



Option B would be designed for this type of situation:

- Open to a larger number of sectors/occupations
- Where firms may compete on labour costs
- Which may have opportunities for productivity growth (as suppression of wages may result in underinvestment in productivity)
- Where firms may have a disincentive to implement change: risk of a few employers undercutting any effort to improve worker terms
- Resulting in some poor outcomes for workers
- And there may already be moderate worker and employer coordination

Benefits

- FPA is at the instigation of the parties - minimises risk of it being imposed on unwilling parties
- Wider opportunities for improvement in more sectors/ occupations – flexibility allows parties to design it .
- Could create a positive image for the affected sector/occupation, a perception of front-footing opportunities.

Risks

- May result in sectors/ occupations with the worst worker outcomes not having an FPA.
- This degree of flexibility may create uncertainty for business about whether an FPA is likely to be triggered and who/what it will cover.

Comparison

Initiation threshold

Coverage (who is in)

Scope (what is in)

Ratification

High threshold for initiation criteria, low threshold for parties' approval to begin bargaining.

Sector/occupation meets [3-5] criteria relating to poor worker outcomes
+
10% of affected employers agree to start bargaining
+
10% or 1000 affected workers agree to start bargaining

Narrower: Coverage is narrowly defined.

Industry = ANZSIC Level 4, e.g. 'Kiwifruit Growing' 'Building and Other Industrial Cleaning Services'

Occupation = ANZSCO 'Occupation' level, e.g. 'Fruit or Nut Picker' or 'Commercial Cleaners'

More specific scope: certain topics must be covered in FPA (pay, hours, overtime, leave, redundancy, flexible arrangements, skills and training) and parties can add more if they wish.

High threshold for parties' approval to ratify the agreement.

55% of workers
+
55% of employers

SUMMARY

Targeted.
Initiation criteria.
Low threshold to begin bargaining.
Narrow coverage.
Specific scope.
High threshold to ratify.

Option A

(SAME)

Option B

No initiation criteria. Medium threshold for parties' approval to begin bargaining.

25% of affected employers agree to start bargaining
+
25% or 2500 affected workers agree to start bargaining

Can be broader: coverage is defined by parties, within limits.

Industry = up to ANZSIC Level 3 e.g. 'Fruit and Tree Nut Growing'.

Occupation = up to ANZSCO Level 3, e.g. 'Crop Farm Workers' or 'Food Process Workers'

Less specific scope: scope is defined by parties.

High threshold for parties' approval to ratify the agreement.

55% of workers
+
55% of employers

Open to any.
No initiation criteria.
Medium threshold to begin bargaining.
Coverage can be broader.
Less specific scope.
High threshold to ratify.

Questions for discussion

For each option:

- What do you like?
- What worries you?
- What questions do you have?

Overall:

Do you have a preference?

Do you see potential in either model?

Are we missing a model?



Table 1.1. Extension of collective agreements (CAs): Procedures, representation, conditions and use

Country	Procedure	Decision	Representation criteria	Public interest criteria	Use (*)	ICTWSS coding 2008 2015
SEMI-AUTOMATIC REGIME						
Argentina	Request of CA parties or initiative Min.	Min., automatic, if CA is approved	TU must represent >20% of employees to negotiate valid CA	Subject to budget approval (rarely applied)	Very common	3(*)
Austria	Request of CA parties	Tripartite body	CA must be of "overwhelming importance" (>50% employees)	No	Rare; compulsory EO membership ensures that CA applies to all employers and employees	3(*)
Brazil	Appeal to court, appellant need not to be party to CA	Court decision in dispute procedure or automatic application of CA	Requirement of 3/4 approval of workers and employers affected	Extension must be deemed in "public interest"	Common, but declining	2
Finland	Automatic if threshold criteria are met	Tripartite board in Ministry confirms if threshold is passed	CA is nationwide and representative (>50% of employees, or established bargaining tradition)	No	Very common	3
France	Request CA parties or initiative Min. Near automatic (ex lege) on registration of CA	Min. after (non-binding) consultation of joint bargaining committee	TU must represent >30% of employees to negotiate valid CA	No	Very common	3
Iceland	No formal extension; CAs apply to all employers and employees upon registration of CA	Automatic (ex lege)		No	General	3(*)
Spain	No formal extension, but 1980 Workers' Statute guarantees application of CA to all employers and employees	Automatic (ex lege)	Parties to CA must be representative (>50% of employees)	No	General	3(*)

Country	Procedure	Decision	Representation criteria	Public interest criteria	Use(*)	ICTWSS coding 2008 2015
SUPPORTIVE REGIME						
Belgium	Request of the joint industry committee (JIC) or by an organisation represented in the committee.	By Royal Decree upon a formal request from the (JIC).	EO and TU in JIC must be representative	No	Very common	3 3
Croatia	Request of CA parties	Min., after consultation tripartite board	CA parties must be "most representative"	Extension must be in public interest	Very common, but declining after 2009	2 3
Germany	Joint request CA parties (before 2015 one party to CA)	Min., after approval of tripartite committee in Ministry	Since 2015 eased: CA must be "of overriding importance". Before 2015: 50% of employees must be covered by CA.	Extension must be "in public interest" or, since 2015, "respond to social emergency"	Limited use	1 1
Italy	No formal extension mechanism, but Constitutional obligation (art. 36) to pay "fair wage" is used by courts to set wage by reference to relevant CA	Judges		No	Very common	3(*) 3(*)
Netherlands	Request of CA parties	Min., after non-binding advice bipartite Council	EO must cover >60% of employees, or >55% in special cases; below 55% possible if deemed in public interest by Min.	Extension must not be against "general interest"	Common	2 2

Country	Procedure	Decision	Representation criteria	Public interest criteria	Use(*)	ICTWSS coding 2008 2015
Portugal	Request of CA parties	Min.	None until 2011. Since 2012 EO must represent 50% of employees or, since 2014, >30% in sectors dominated by SMEs; none if extension excludes SMEs	Extension must be in "public interest", to be judged in light of social and economic circumstances	Very common until 2011, followed by near standstill until 2013, recent recovery	3 2
Slovenia	Request of CA parties	Min.	EO must cover 50% of employees	No	Common; until 2006 compulsory EO membership ensured that CA applied to all employers and employees	3(*) 2
South Africa	Request of CA parties represented in joint Bargaining Council	Min.	CA parties considered "sufficiently representative". Special consideration given in sectors with high proportion of workers in non-standard forms of employment. Min. can waive these conditions if not extending the CA is deemed to undermine collective bargaining	No	Common (frequent use in relative small number of industries)	2 2
Switzerland	Joint request CA parties; tripartite council can initiate procedure in sectors where wages and working conditions are "repeatedly and abusively undercut"	Federal or regional Government (after tripartite consultation)	Triple threshold of >50% employees in EO, 50% firms in EO and 50% employees in unions (not applied). Second threshold is waived if tripartite commission finds substandard wages and CA covers SMEs	Extension must not be against public interest	Common (frequent use in particular sectors)	2 2

Country	Procedure	Decision	Representation criteria	Public interest criteria	Use(*)	ICTWSS coding 2008 2015
RESTRICTIVE REGIME						
Albania	Request of CA parties	Min.	CA must cover >50% of employees	No	Rare	1 1
Bulgaria	Joint request of CA parties	Min.	Since 2012 representation criteria eased	No	Limited to few sectors (none in 2016)	1 1
Czech Rep.	Request of CA parties	Min.	EO and TU must represent "largest number" of employees in sector	No	Limited use	1 1
Estonia	Request CA parties, through clause inserted in CA)	Min. (automatic if clause included in CA)	CA must be signed by federation of employers	After 2012 reform: only minimum conditions can be extended	Rare	1 1
Hungary	Request CA parties	Min.	EO(s) must represent >50% if employees	No	Limited use	1 1
India	Request CA parties or Labour Officer	Min.			Limited use in some states	1 1
Ireland	Request CA parties	Labour Court can extend only minimum rates		Must take into consideration "competitiveness"	Rare (only some sectors)	1 1
Israel	Request of CA parties or initiative Min.	Min.	CA must be "important" and coverage "significant", EO must be "dominant" and TU "most representative"	No	Common in past, currently limited	2 1
Latvia	Request of CA parties or initiative Min.	Min.	CA must cover >60% of employees	No	Limited use (few sector CLAs)	1 1

Country	Procedure	Decision	Representation criteria	Public interest criteria	Use(*)	ICTWSS coding 2008 2015
Norway	Request of CA parties, or independent Tariff Board in special cases	Independent Tariff Board with tripartite representation	Only sectors with substantial proportion of foreign workers and below standard wages	No extension if only Norwegian workers involved	Limited but increasing use	0 until 2004 1
Romania	Request of CA parties	Min., after approval from Tripartite National Council	EO must represent 50% of employees (before 2012: 33%)	No	General under national agreements (2005–11), hardly used since	3 1
Slovakia	Request of CA parties	Min., after binding advice of tripartite body in Ministry	2010–13: employers could veto extension in tripartite body at Ministry	Extension must “abolish disadvantageous situation of employees”	Significant use until 2009; none 2010–13, re-established since, challenged in court.	2 1

Country	Procedure	Decision	Representation criteria	Public interest criteria	Use(*)	ICTWSS coding 2008 2015
NOT USED or SUSPENDED						
Canada	Only in Quebec, request of CA parties	Government			Very limited	0 0
Cambodia	Request of CA parties or initiative Min.	Min., after non-binding advice of Labour Advisory Committee			Not used	0 0
Greece	Suspended. Until 2010 automatic in case of national general agreement; Request of CA parties or initiative Min. for sectoral or occupational CAs	Min., after non-binding consultation	Employers must employ at least 51% of employees in sector or occupation (waived under national general agreements from 1990 to 2010).	No	Very common before 2010, none since	3 0
Japan	Request of CA parties	Min., under restrictive veto procedure (approval Ministerial wage committee)	E0 must represent >50 % of employees	No	Very limited	0 0
Lithuania	Request of CA parties	Min.	Agreement "must be important"	No	Not used (no sectoral CLAs)	0 0
Mexico	Joint request CA parties	Min.		No	Rare	0 0
Poland	Request of CA parties or initiative Min.	Min.		Extension must satisfy "vital social interest"	Not used since 2009, sectoral bargaining nearly non-existent	1 0
Turkey	Request of CA parties	Min., after binding advice of tripartite Commission	CA must be signed by "most representative TU"	No	Rare	0 0

(*) = as a result of a mechanism functionally equivalent to extension.



MEMO

DATE	11 September 2018
TO	Fair Pay Agreements Panel
PREPARED BY	Secretariat
SUBJECT	TRAINING PROVISIONS IN CARE AND SUPPORT WORKER SETTLEMENT

PURPOSE

At the request of the Fair Pay Agreements Panel, this memo extracts training-related provisions in:

- the Care and Support Workers (Pay Equity) Settlement Agreement (“settlement agreement”, and
- the Care and Support Workers (Pay Equity) Settlement Act (“the settlement Act”), which gives effect to the settlement agreement.



TRAINING-RELATED PROVISIONS IN THE SETTLEMENT AGREEMENT

Support for Training

The unions and Government absolutely support care and support workers gaining formal qualifications and wish to create the right incentives for employers to allow this to happen. To this end, the contracts between funders and providers (employers) will require employers to provide the necessary systems and support to enable workers covered by the settlement to reach the following NZ Qualifications Authority Health and Wellbeing Certificate (or their relevant equivalent) qualifications within the following time periods:

- Level 2 NZ Certificate – within 12 months of commencement of employment
- Level 3 NZ Certificate – within 3 years of commencement of employment
- Level 4 NZ Certificate – within 6 years of commencement of employment

The Settlement Act will state that if an employer fails or omits to take reasonable and appropriate steps to ensure that an employee is supported and enabled to reach levels of qualification required to achieve the wage levels provided in this Settlement Act, such employee may challenge such failure or omission by way of personal grievance under s103(1)(b) of the Employment Relations Act 2000.

The Government will fund employers for two days per employee per year (via on costs) as its contribution to education and training.

The goal is to have an industry wide workforce which is trained to meet current and future service needs.

Care and Support Workers, Minimum Pay Rates and the Qualification Path

The minimum rates and progression for care and support workers employed after 1/7/17 will be the following:

	1 July 2017 Year 1	1 July 2018 Year 2	1 July 2019 Years 3/4	1 July 2021 Year 5
L0	\$19.00	\$19.80	\$20.50	\$21.50
L2*	\$20.00	\$21.00	\$21.50	\$23.00
L3*	\$21.00	\$22.50	\$23.00	\$25.00

L4*	\$23.50	\$24.50	\$25.50	\$27.00
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*"Qualifications" are those recognised by NZQA



TRAINING-RELATED PROVISIONS IN THE SETTLEMENT ACT

12 Employers must ensure care and support workers are able to gain qualifications

- (1) An employer must take all reasonably practicable steps to ensure that a care and support worker is able to attain—
- (a) a level 2 qualification within the first 12 months of the worker's continuous employment with the employer; and
 - (b) a level 3 qualification within the first 36 months of the worker's continuous employment with the employer; and
 - (c) a level 4 qualification within the first 72 months of the worker's continuous employment with the employer.
- (2) If a care and support worker is not able to attain a qualification within the time required by subsection (1), the employer must take all reasonably practicable steps to ensure that the worker is able to attain the qualification as soon as is reasonably practicable.

15 Failure to comply with training obligations constitutes grounds for personal grievance

An employer's failure to comply with section 12 constitutes grounds for a personal grievance under section 103(1)(b) of the Employment Relations Act 2000.

17 Employer and care and support worker may negotiate more favourable terms and conditions

Nothing in this Act prevents an employer and a care and support worker from agreeing to a term or condition in an employment agreement that requires the employer to—

- (a) pay the worker more than is required under this Act; or
- (b) provide more support for the worker to gain a qualification than is required by this Act.



MEMO

DATE	24 September 2018
TO	Fair Pay Agreements Panel
PREPARED BY	Secretariat
SUBJECT	INTRODUCTION TO OCCUPATION AND INDUSTRY DATA SUMMARIES

PURPOSE

This memo provides information about how MBIE has prepared occupation/industry data for your meeting on 27 September 2018. You have received this in the form of a sample of data summaries for the following ten occupations:

1. Checkout operators,
2. Kitchenhands,
3. Waiters,
4. Container fillers,
5. Child care workers,
6. Commercial cleaners,
7. Sales assistants (general),
8. Chefs,
9. Storepersons, and
10. Mixed crop and livestock farm workers.

This memo describes how this sample of ten occupations was selected, and provides some guidance on reading the data summaries.



CLASSIFICATIONS

Occupations

In New Zealand, our main system for classifying occupations is the Australian and New Zealand Standard Classification of Occupations (ANZSCO). The titles used in ANZSCO are intended to convey the clearest possible idea of the nature of the particular occupation. There are several levels of classification in ANZSCO. For example, container fillers also belong within the following more general groupings:

8	Labourers (<i>major group</i>)
83	Factory Process Workers (<i>sub-major group</i>)
832	Packers and Product Assemblers (<i>minor group</i>)
8321	Packers (<i>unit group</i>)
832112	Container Fillers (<i>occupation</i>)

At the most granular level, six-digit codes denote occupations. For container fillers this code is 832112 (see above). For your data summaries, we have tried to use the most detailed information we have. However, the level of granularity available varies based on the information source used. For example, we have demographic information about occupations at the six-digit level, but income data for occupations is only available at the three-digit level.

You can explore the full list of ANZSCO occupations here:

http://archive.stats.govt.nz/tools_and_services/ClassificationCodeFinder/ClassificationCodeHierarchy.aspx?classification=3781.

Industries

For industries, our main classification system is the Australian and New Zealand Standard Industrial Classification (ANZSIC). This has 19 broad industry divisions (denoted by a letter) and 96 industry sub-divisions (denoted by numbers). Similar to ANZSCO, ANZSIC classifications get more detailed the further down the levels one goes:

H	Accommodation and Food Services (<i>division</i>)
45	Food and Beverage Services (<i>subdivision</i>)
451	Cafes, Restaurants and Takeaway Food Services (<i>group</i>)
4511	Cafes and Restaurants (<i>class</i>)

You can explore the full list of ANZSIC industries here:

http://archive.stats.govt.nz/tools_and_services/ClassificationCodeFinder/ClassificationCodeHierarchy.aspx?classification=4894.

HOW THESE OCCUPATIONS AND INDUSTRIES WERE CHOSEN

These data summaries are an example of readily available information that we have at the occupational and industry level. We have extracted this information in relation to ten occupations, and the corresponding industries within which people from these occupational groups tend to work.



Step 1: Obtaining wage information for occupations

We began by obtaining wage information for all occupations in New Zealand at the three-digit level (minor groups). We then arranged these occupations according to the proportion of workers earning under \$20.50 an hour: see Annex 1 for the full list.

This information is from the income supplement to the Household Labour Force Survey. This is collected in the June quarter, and may therefore affect our understanding of occupations where there are seasonal patterns in levels of employment and wages.

Step 2: Shortlisting occupations at a high level

We then shortlisted ten occupations to explore in more detail for your data summaries.

We began by selecting the five occupations with the highest proportion of workers earning under \$20.50 an hour:

- Checkout operators and office cashiers (631),
- Food preparation assistants (851),
- Hospitality workers (431),
- Packers and product assemblers (832), and
- Child carers (421).

To select five more occupations for more detailed analysis, we then looked at occupations where at least half the workers within that occupation are earning under \$20.55 an hour. Of these, we chose the five largest occupations. This gave us the following additional occupations:

- Cleaners and laundry workers (811),
- Sales assistants and salespersons (621),
- Food trades workers (351),
- Farm, forestry and garden workers (841), and
- Miscellaneous labourers (899).¹

Step 3: Choosing specific occupations for detailed analysis

The wage information (hourly wages) used in the first step is only available at the three-digit level. This means within the three-digit occupational groups, we had to choose specific occupations at the six-digit level to extract detailed information about.

To do this, we looked at the number of workers in each six-digit occupation within the three-digit occupations. For some, there was a clear dominance of one occupation that was selected for detailed analysis:

- Checkout operators (631111) make up 75.6% of all checkout operators and office cashiers (631).
- Kitchenhands (851311) make up 77.9% of all food preparation assistants (851).
- Commercial cleaners (811211) make up 73.8% of cleaners and laundry workers (811).
- Sales assistants (general) (621111) make up 86.7% of sales assistants and salespersons (621).

¹ See next step for an explanation of why miscellaneous labourers were excluded from the ten data summaries that were produced.



For others, there was a fairly dominant occupation that was selected for detailed analysis:

- Container fillers (832112) make up 59.8% of packers and product assemblers (832), though product assemblers (832111) make up 22.5% of all packers and product assemblers (832). In terms of demographics, container fillers appear to be younger women working in food manufacturing and tend to be Māori or Pasifika; product assemblers are older men, and mostly Pākehā/NZ European.
- Child care workers (421111) make up 56% of child carers (421); and 30% are nannies.
- Chefs (351311) make up 53% of food trades workers (351). 26% of food trades workers are either butchers (11.3%) or bakers (14.7%).

For two of the three-digit occupations, we selected the most common six-digit occupation even though that group made up less than half the population:

- Waiters (431511) only make up 35.5% of hospitality workers (431).
- Mixed crop and livestock farm workers (841611) only make up 36.9% of farm, forestry and garden workers (841).

We decided not to choose a six-digit occupation from one of the three-digit occupations identified in the previous step: miscellaneous labourers (899). This is because the largest occupation within this is labourers not elsewhere classified (899999). We did not think providing detailed analysis about this group would be particularly useful given the broad type of labourers captured within this group.

Instead, we used storepersons (741) as the tenth six-digit occupation. This is because they are the next largest occupation after miscellaneous labourers (899) in terms of having at least half of that particular occupation earning under \$20.50 per hour.

There is an overlap between occupations and industries

Occupational classification tells us about the work that people do, and industrial classification tells us about the product markets firms operate in. This means there is an overlap between occupations and industries. For example, some occupations may be found only within certain industries (eg the majority of checkout operators tend to work in the supermarket and grocery store industry). Other occupations may be spread over a large range of industries.

The table below provides more information about the relationship between the ten chosen occupations and their corresponding industries:

Occupation (ANZSCO code)	Industry (ANZSIC code)	% of occupation who work in industry	% of industry made up of occupation
Chefs (351311)	Cafes and Restaurants (H451100)	46.2%.	17.0%.
Waiters (431511)		53.5%. 10.9% work in H440000 Accommodation.	15.6%.
Kitchenhands (851311)		28.3%. 17.4% of kitchenhands work in H451200 Takeaway Food Services; 11.7% of	7.3%.



		kitchenhands work in Q860100 Aged Care Residential Services.	
Child care workers (421111)	Child Care Services (Q871000)	40.2%. 25.3% of child care workers work in P801000 Preschool Education.	13.9%. This is the second largest occupational group in this industry. The only bigger group in this industry is early children (pre-primary school) teachers, who make up 49.4% of this industry.
Sales assistants (general) (621111)	Supermarket and Grocery Stores (G411000)	15.9%. 9.4% of sales assistants (general) work in G425100 Clothing Retailing.	28.2%. This is the largest occupational group in this industry.
Checkout operators (631111)		78.9%.	17.6%. This is the second largest occupational group in this industry.
Storepersons (741111)	Other Warehousing and Storage Services (I530900)	6.0%. This is the largest concentration of storepersons in any industry. 5.5% of storepersons work in G411000 Supermarket and Grocery Stores.	22.5%. This is the largest occupational group in this industry.
Commercial cleaners (811211)	Building and Other Industrial Cleaning Services (N731100)	35.7%. 12.7% of commercial cleaners work in H440000 Accommodation.	65.8%. This is the largest occupational group in the industry.
Container fillers (832112)	Packaging Services (N732000)	4.4%. This is the largest concentration of container fillers in any industry. 3.7% of container fillers work in C111100 Meat Processing.	15.5%. This is the largest occupational group in the industry. The next largest group is fruit and vegetable packers, who make up 8.1% of the industry.
Mixed crop and livestock farm workers (841611)	Dairy Cattle Farming (A016000)	30%. 15% work in A014400 Sheep-Beef Cattle Farming; 13% work in A014100 Sheep Farming (Specialised); 10% A014200 Beef Cattle Farming	



		(Specialised).	
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ABOUT OUR SOURCES OF INFORMATION

There are two levels of occupational information on the data summaries:

- Information at the six-digit level is generally from the last Census in 2013:
 - We expect most of the broad patterns indicated by this data (eg gender, ethnicity breakdowns) to still be relevant today.
 - Estimates of the number of people employed in an occupation are from MBIE's Detailed Employment Estimates. These are derived from Census counts and the Linked Employer-Employee Dataset (which is in turn built on tax data). This information is available at the six-digit occupation level.
- Information at the three-digit level is from the Household Labour Force Survey:
 - Data about union membership, underemployment and years in New Zealand are provided for the year ending June 2018.
 - Wage and income data is from the income supplement to the Household Labour Force Survey, which runs in June quarters every year. Because the income supplement runs at the same time every year, it may not provide a full picture of occupations in which seasonality is an issue.

QUESTIONS FOR WORKING GROUP TO CONSIDER

When looking at the data summaries, you may want to consider the following questions:

- How does this help you think about how coverage of Fair Pay Agreements could be set, and the difficulties we may face in capturing the firms and workers within that coverage?
 - Should boundaries be set in terms of occupations, or industries, or occupations-within-industries?
 - Should boundaries be set at the most granular level of occupations/industries, or at higher levels?
- How does this data help you think about the problem definition for Fair Pay Agreements?
 - Does this data help you understand what is happening in various occupations or industries?
 - How useful is this kind of data, eg for setting an objective, or thinking about observable criteria for a Fair Pay Agreement to be initiated?

Note: answering more detailed questions—assuming data is available—will likely require more time and resource.



Annex 1: Occupations according to proportion of workers earning under \$20.50 per hour

Occupation	Regular hourly rate (main job)		% below \$20.50	Weekly income (all sources)	Total workers (000s)
	Mean	Median	Percent	Mean	
Three-digit occupation	Mean	Median	Percent	Mean	
Checkout Operators and Office Cashiers	17.77	17	93.90%	406.57	15.6
Food Preparation Assistants	17.33	16.5	93.30%	412.07	21.9
Hospitality Workers	17.79	17	88.20%	487.59	39.2
Packers and Product Assemblers	18.32	17.26	84.80%	640.76	17.2
Child Carers	18.5	18	80.50%	462.04	12.8
Cleaners and Laundry Workers	20.01	17.5	79.60%	479.78	44.9
Sales Assistants and Salespersons	19.98	18	76.00%	655.99	107
Hairdressers	19.85	18.22	73.60%	630.05	9.9
Delivery Drivers	20.43	19.36	70.70%	702.71	6.5
Freight Handlers and Shelf Fillers	21.41	18	70.30%	716.11	8.6
Food Trades Workers	20.44	19	69.20%	774.54	40.1
Miscellaneous Sales Support Workers	23	19.18	68.10%	624.5	8.3
Education Aides	20.8	19.21	65.40%	511.57	15.5
Miscellaneous Labourers	20.34	18.5	65.10%	763.92	40.1
Clerical and Office Support Workers	21.11	19.5	63.90%	754.89	13
Farm, Forestry and Garden Workers	20.93	18.7	63.80%	794.71	41.4
Sports and Fitness Workers	24.19	20	54.30%	668.39	15
Arts Professionals	24.41	20	54.20%	753.7	7.8
Storepersons	21.3	20	53.00%	900.62	25.9
Machine Operators	21.52	20.2	51.20%	902.38	18.9
Automobile, Bus and Rail Drivers	21.95	20.45	50.10%	870.24	16.3
Personal Service and Travel Workers	24.49	20.62	49.80%	873.51	20.3
Personal Carers and Assistants	21.46	21	47.30%	688.28	54.8
Receptionists	23.19	21.58	44.90%	713.52	24.1
Accommodation and Hospitality Managers	26.93	21.37	43.90%	973.61	19.6
Horticultural Trades Workers	24.54	22	43.90%	755.25	17.2
Farmers and Farm Managers	35.62	22	42.60%	1272.73	54.5
Food Process Workers	23.67	22.38	42.20%	965.91	27
Textile, Clothing and Footwear Trades Workers	25.13	22	41.80%	1036.31	2.5
Call or Contact Centre Information Clerks	23.3	21	39.90%	911.61	6.7
Retail Managers	24.86	21.31	39.20%	1077.04	36.6
Keyboard Operators	21.55	21.58	38.50%	768.33	5.9



Occupation	Regular hourly rate (main job)		% below \$20.50	Weekly income (all sources)	Total workers (000s)
	Mean	Median	Percent	Mean	
Three-digit occupation					
Animal Attendants and Trainers, and Shearers	25.97	21.6	38.20%	870.54	7.6
Floor Finishers and Painting Trades Workers	24.73	23	34.90%	957.82	15.7
Miscellaneous Factory Process Workers	24.9	22.8	34.60%	1031.12	9
Insurance Agents and Sales Representatives	25.04	22.54	33.80%	986.1	48.3
Construction and Mining Labourers	50.75	23	33.30%	1094.88	22.9
Automotive Electricians and Mechanics	24.9	25	32.90%	1074.62	21.3
Prison and Security Officers	27.25	26	31.90%	1130.81	15.4
ICT and Telecommunications Technicians	27.18	23.97	30.70%	1066.63	8.8
Miscellaneous Technicians and Trades Workers	28.6	24	30.30%	1136.1	11.7
Panelbeaters, and Vehicle Body Builders, Trimmers and Painters	24.05	24	29.90%	979.11	4.7
Chief Executives, General Managers and Legislators	50.4	31.97	29.60%	1922.54	148.6
Mobile Plant Operators	25.79	23.98	29.60%	1176.93	27.2
Bricklayers, Carpenters and Joiners	24.93	25	29.10%	1066.64	19.7
Fabrication Engineering Trades Workers	26.29	25	28.70%	1167.9	13.9
Printing Trades Workers	29.04	27.9	28.50%	1148.29	5.3
Plumbers	30.94	24.93	27.80%	1107.35	12.5
Glaziers, Plasterers and Tilers	26.79	23.97	27.80%	1096.99	11.9
Health and Welfare Support Workers	24.89	23.5	27.10%	884.46	21.6
Real Estate Sales Agents	55.47	28.77	25.70%	1741.83	16.6
Logistics Clerks	25.69	23.97	24.90%	1070.98	26.6
Stationary Plant Operators	27.87	24.93	23.70%	1249.98	13.2
Electricians	31.41	27.2	23.00%	1290.76	18.1
General Clerks	34.07	24.29	22.60%	954.96	64.8
Truck Drivers	24.05	23.61	21.60%	1195.82	31
Agricultural, Medical and Science Technicians	26.45	24.69	21.50%	1051.22	17.1
Miscellaneous Clerical and Administrative Workers	31.54	25.89	20.10%	1238.82	17.6
Architects, Designers, Planners and Surveyors	41.98	31.17	19.60%	1572.76	28.6
Construction, Distribution and Production Managers	32.17	29	19.60%	1454.33	61.5
Media Professionals	40.4	35.96	18.50%	1562.61	7.7
Mechanical Engineering Trades Workers	32.51	30	17.70%	1432.54	17.5



Occupation	Regular hourly rate (main job)		% below \$20.50	Weekly income (all sources)	Total workers (000s)
	Mean	Median	Percent	Mean	
Three-digit occupation					
School Teachers	28.69	27.24	17.70%	1097.53	101.3
Social and Welfare Professionals	29.31	26.15	17.10%	1040.55	35.2
Wood Trades Workers	29.86	26.37	16.40%	1293.12	5
Office and Practice Managers	32.97	25.21	16.00%	1125.24	35.9
Health Therapy Professionals	41.58	32.6	15.90%	1475.11	16.9
Database and Systems Administrators, and ICT Security Specialists	38.83	32.5	15.10%	1559.42	6.2
Personal Assistants and Secretaries	30.11	27	14.50%	1035.7	20.4
Accounting Clerks and Bookkeepers	34.29	26.37	14.10%	966.58	35.7
Air and Marine Transport Professionals	55.22	40	13.10%	2002.36	8.4
Miscellaneous Education Professionals	34.79	30.69	12.70%	1119.05	12.3
Building and Engineering Technicians	33.21	29.73	12.70%	1348.28	21.4
Electronics and Telecommunications Trades Workers	29.49	28	12.20%	1274.34	13.8
Information and Organisation Professionals	44.82	35.8	11.10%	1564.73	34.6
Financial Brokers and Dealers, and Investment Advisers	44.06	32.32	10.40%	1917.98	9.8
Medical Practitioners	79.83	71.92	9.90%	3076.52	14.6
Sales, Marketing and Public Relations Professionals	36.42	30	9.90%	1431.97	23.5
Tertiary Education Teachers	39.54	35.96	9.80%	1494.3	22.7
ICT Network and Support Professionals	39.22	35	9.70%	1606.92	9.3
Contract, Program and Project Administrators	34.31	29.92	9.50%	1268.59	20.1
Business Administration Managers	43.08	35.96	8.90%	1813.23	70.2
Health Diagnostic and Promotion Professionals	36.64	35.96	8.40%	1265.62	14.7
Advertising, Public Relations and Sales Managers	42.8	38.36	8.20%	1896.85	34.3
Defence Force Members, Fire Fighters and Police	35.08	31.84	8.20%	1540.19	21.8
Miscellaneous Specialist Managers	39.38	36.76	8.10%	1669.84	8.7
Miscellaneous Hospitality, Retail and Service Managers	35.55	34.52	8.00%	1548.15	18.9
Accountants, Auditors and Company Secretaries	42.11	38.36	7.00%	1652.86	45.6
Natural and Physical Science Professionals	41.89	36.44	6.50%	1705.59	16.6
Financial and Insurance Clerks	32.47	28.77	6.30%	1314.62	18.7
Engineering Professionals	43.23	38.36	5.80%	1843.23	40.7



Occupation	Regular hourly rate (main job)		% below \$20.50	Weekly income (all sources)	Total workers (000s)
	Mean	Median	Percent	Mean	
Three-digit occupation					
Business and Systems Analysts, and Programmers	44.78	41.94	5.60%	1803.22	52.4
Human Resource and Training Professionals	37.48	31.97	5.10%	1492.07	14.6
Legal Professionals	49.81	40	4.60%	2046.89	19.2
Midwifery and Nursing Professionals	33.12	32	3.20%	1139.91	57.7
ICT Managers	57.95	52.74	2.60%	2624.76	10.2
Education, Health and Welfare Services Managers	41.44	36.23	1.30%	1808.82	14.5

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Annex 2: Information about regulatory compliance

We asked the Labour Inspectorate, WorkSafe and Immigration NZ for information about regulatory compliance within the chosen occupations and industries. Of the three, we have received information from WorkSafe, which follows in this annex.

We have also received some information from the Labour Inspectorate in raw form. We may be able to bring this to your meeting on 27 September 2018 if analysis can be completed in time.

REGULATORY ACTIVITY BY WORKSAFE

WorkSafe focuses its regulatory activity in the priority sectors of agriculture, forestry, construction and manufacturing. The consequences of non-compliance with the Health and Safety at Work Act 2015 (HSWA) in these industries can be much more serious than in lower-risk industries.

Assessment activity in other industries tends to be in response to an incident or complaint and therefore is more likely to result in enforcement activity. This does not necessarily represent the industry as a whole in terms of compliance.

The table below provides a summary of WorkSafe notices, assessments and investigation activity in the selected industries. Note that WorkSafe has a broad range of tools in addition to notices, such as prosecutions, enforceable undertakings, duty holder reviews and the SafePlus tool.

Table: Number of WorkSafe investigations, assessments and notices in selected industries, 4 April 2016 to 31 July 2018

Industry	Investigations	Assessments	Notices
Accommodation	3	27	8
Aged Care Residential Services	5	18	2
Beef Cattle Farming (Specialised)	2	108	18
Building and Other Industrial Cleaning Services	0	43	18
Cafes and Restaurants	1	21	4
Child Care Services	5	2	2
Dairy Cattle Farming	32	1675	493
Other Warehousing and Storage Services	3	217	77
Packaging Services	2	10	1
Preschool Education	3	5	1
Sheep Farming (Specialised)	0	101	15
Sheep-Beef Cattle Farming	3	837	125
Supermarket and Grocery Stores	0	98	22
Takeaway Food Services	5	22	0

Source: WorkSafe Case Management System

Checkout Operators (631111)

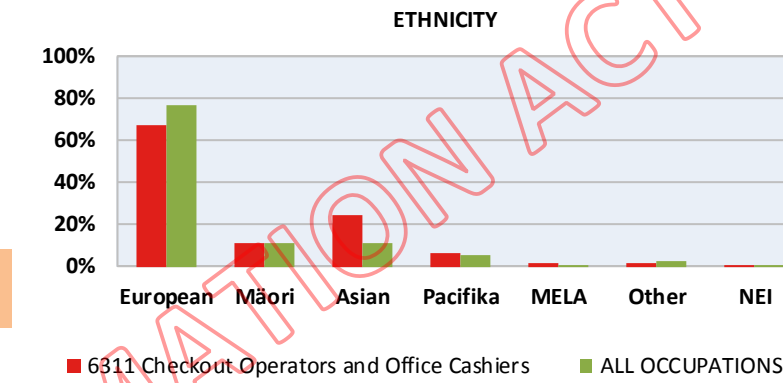
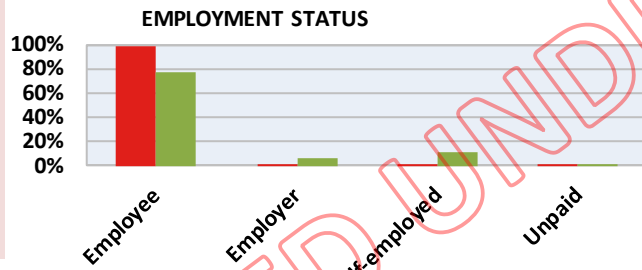
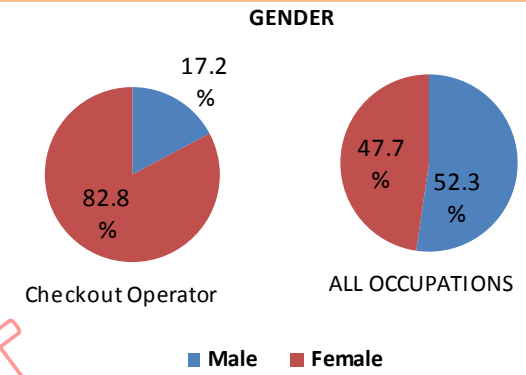
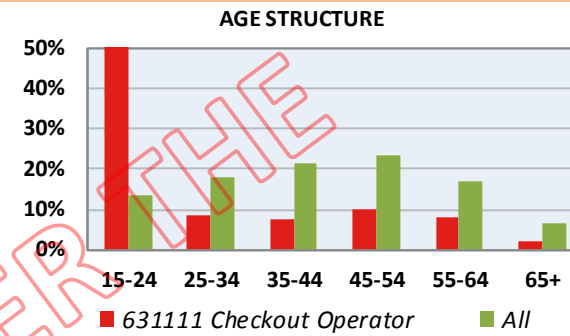
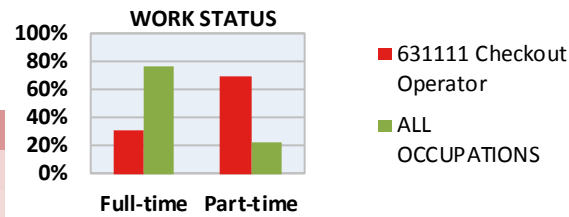
Occupational Structure

Total employed: 13,600 (March 2018)

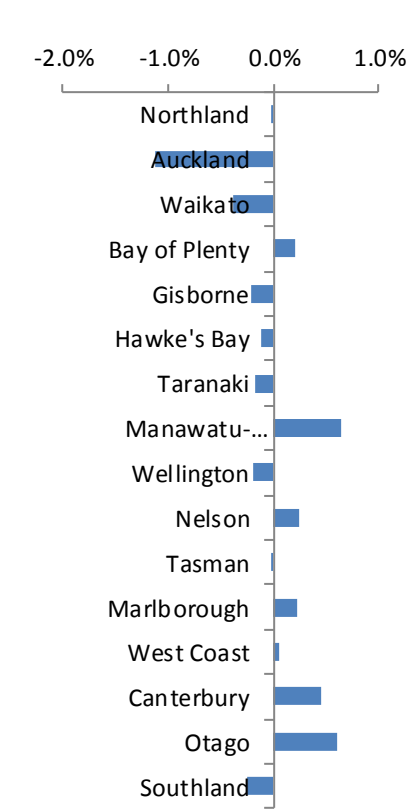
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

G411000 Supermarket and Grocery Stores	78.9%
G426000 Department Stores	8.4%
G423100 Hardware and Building Supplies Retailing	3.6%
G412200 Fruit and Vegetable Retailing	0.9%
H451200 Takeaway Food Services	0.7%
G412100 Fresh Meat, Fish and Poultry Retailing	0.7%
G427200 Stationery Goods Retailing	0.6%
C161100 Printing	0.6%
H451100 Cafes and Restaurants	0.5%
T999999 Not Stated	0.4%

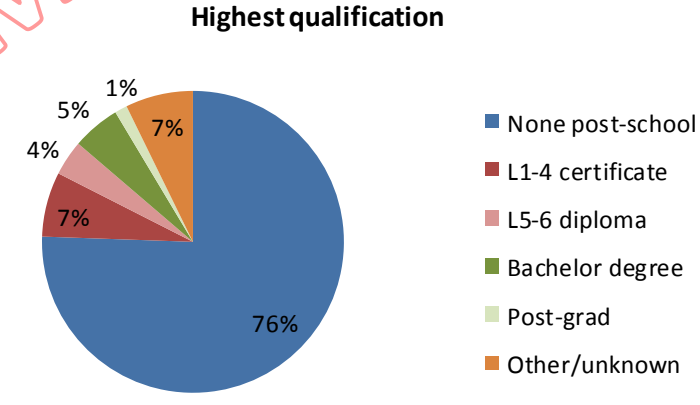
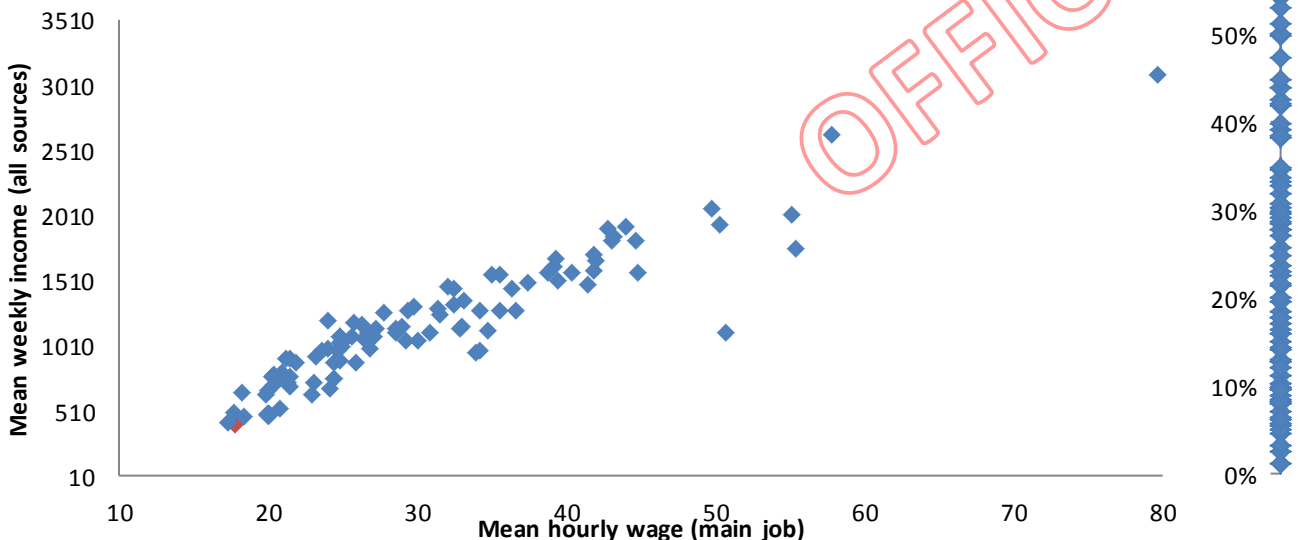
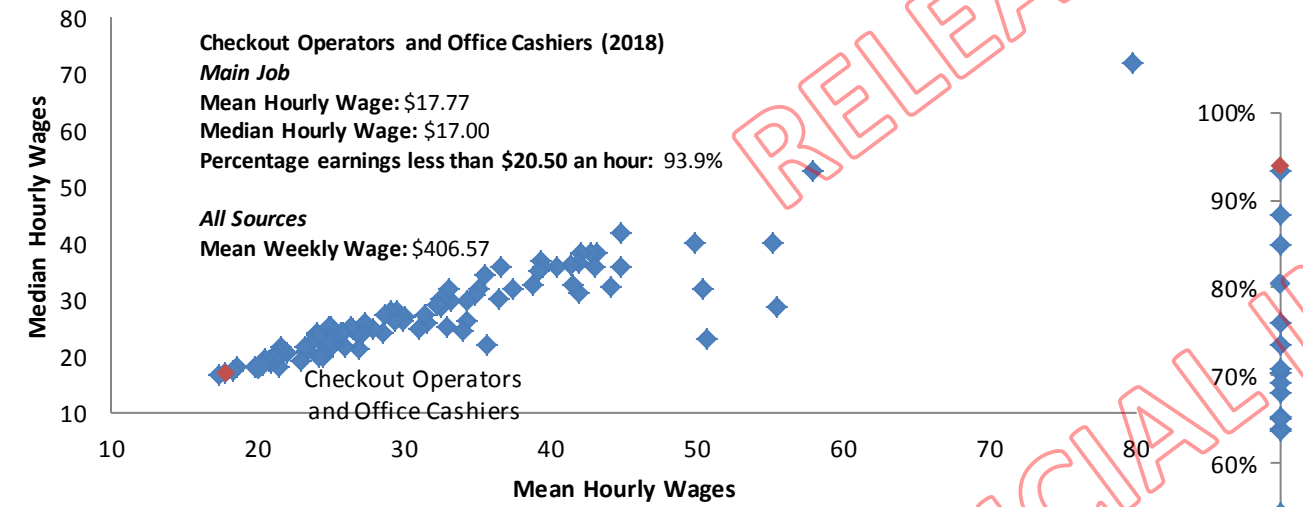
Demographic Structure



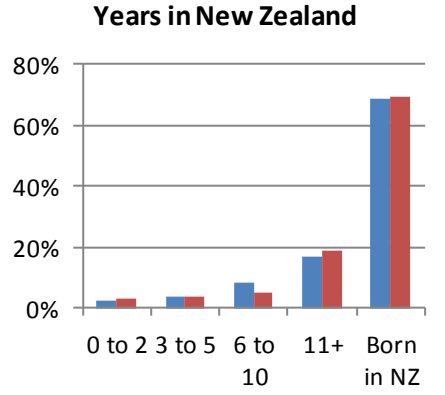
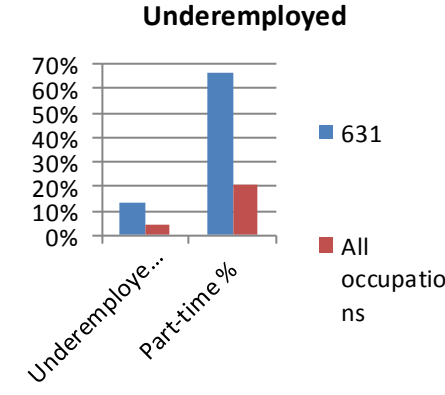
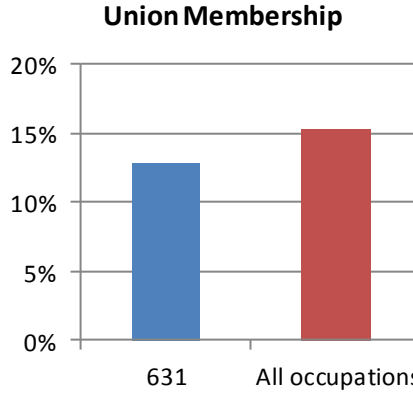
REGIONAL CONCENTRATION



Wage and Income



631: Checkout operators and office cashiers

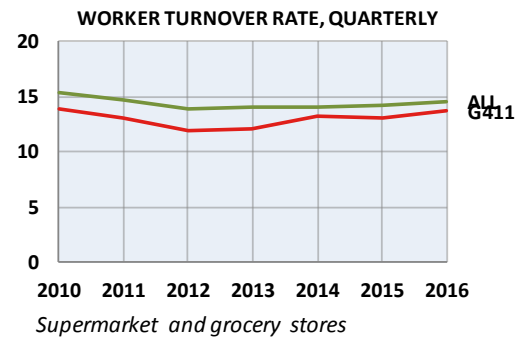


INDUSTRY PERSPECTIVE

Supermarket and Grocer Stores G411000

Occupation Distribution (Top 10) Census 2013

621111 Sales Assistant (General)	28.2%
631111 Checkout Operator	17.6%
142111 Retail Manager (General)	12.4%
891211 Shelf Filler	4.3%
621511 Retail Supervisor	4.0%
351111 Baker	2.4%
741111 Storeperson	2.1%
351211 Butcher or Smallgoods Maker	1.9%
611399 Sales Representatives nec	1.9%
851211 Pastrycook's Assistant	1.4%



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Kitchenhand (851311)

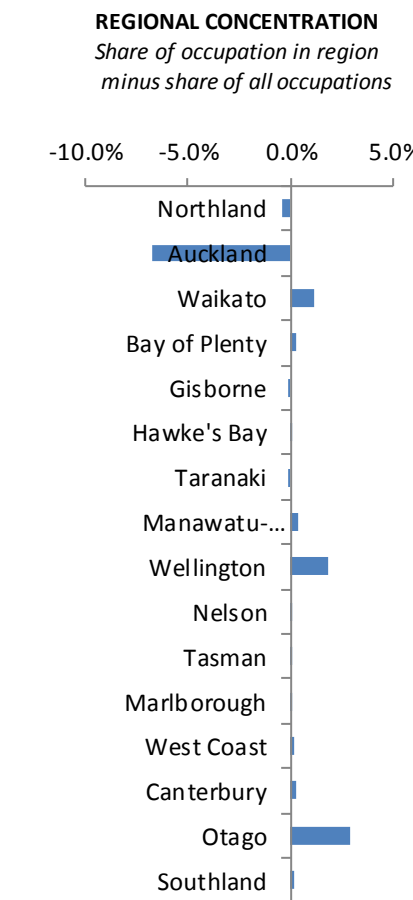
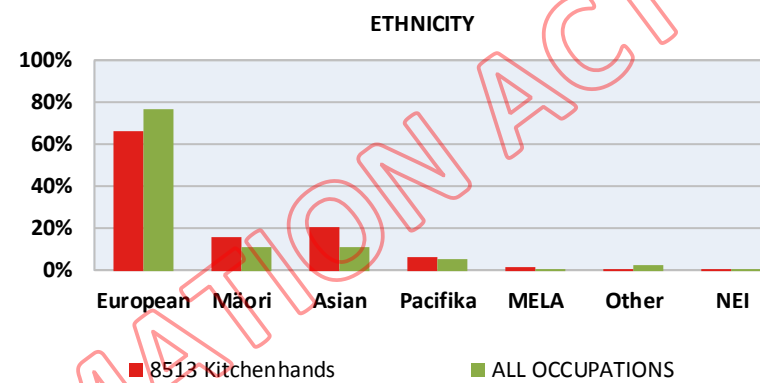
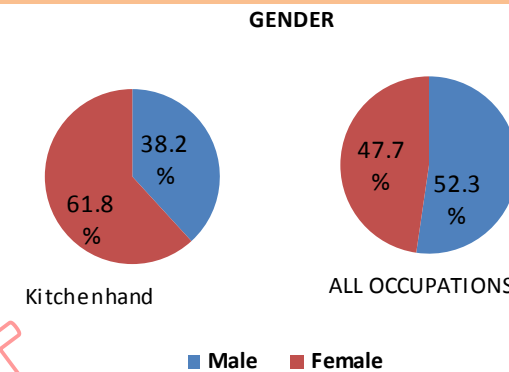
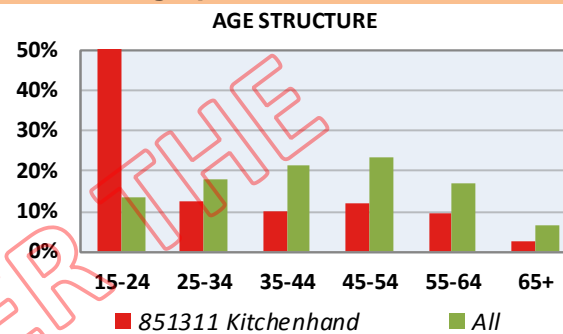
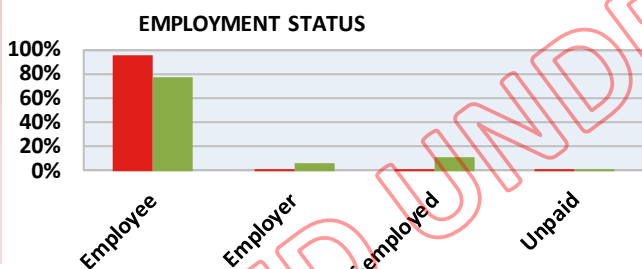
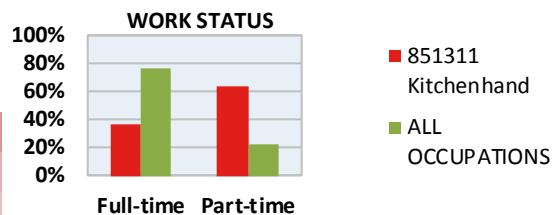
Occupational Structure

Total employed: 19,900 (March 2018)

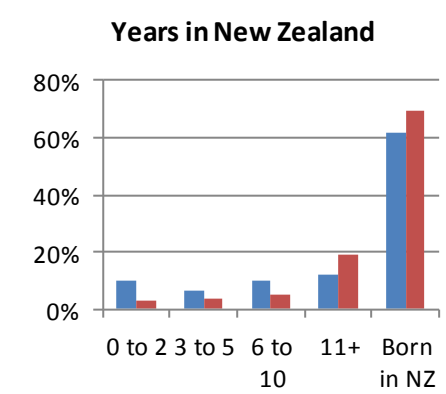
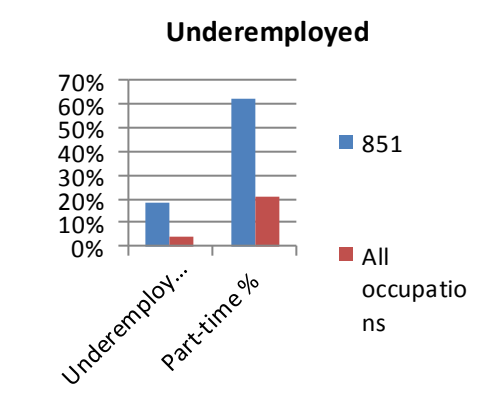
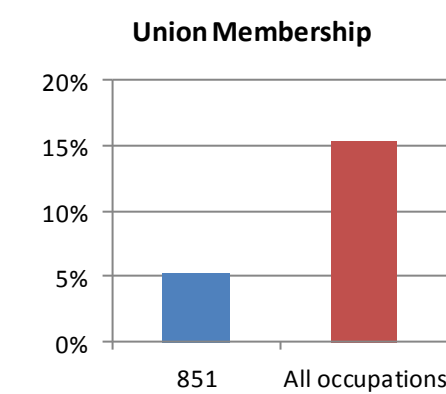
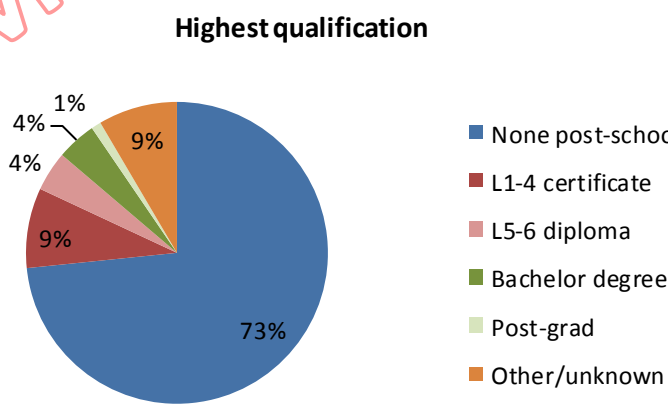
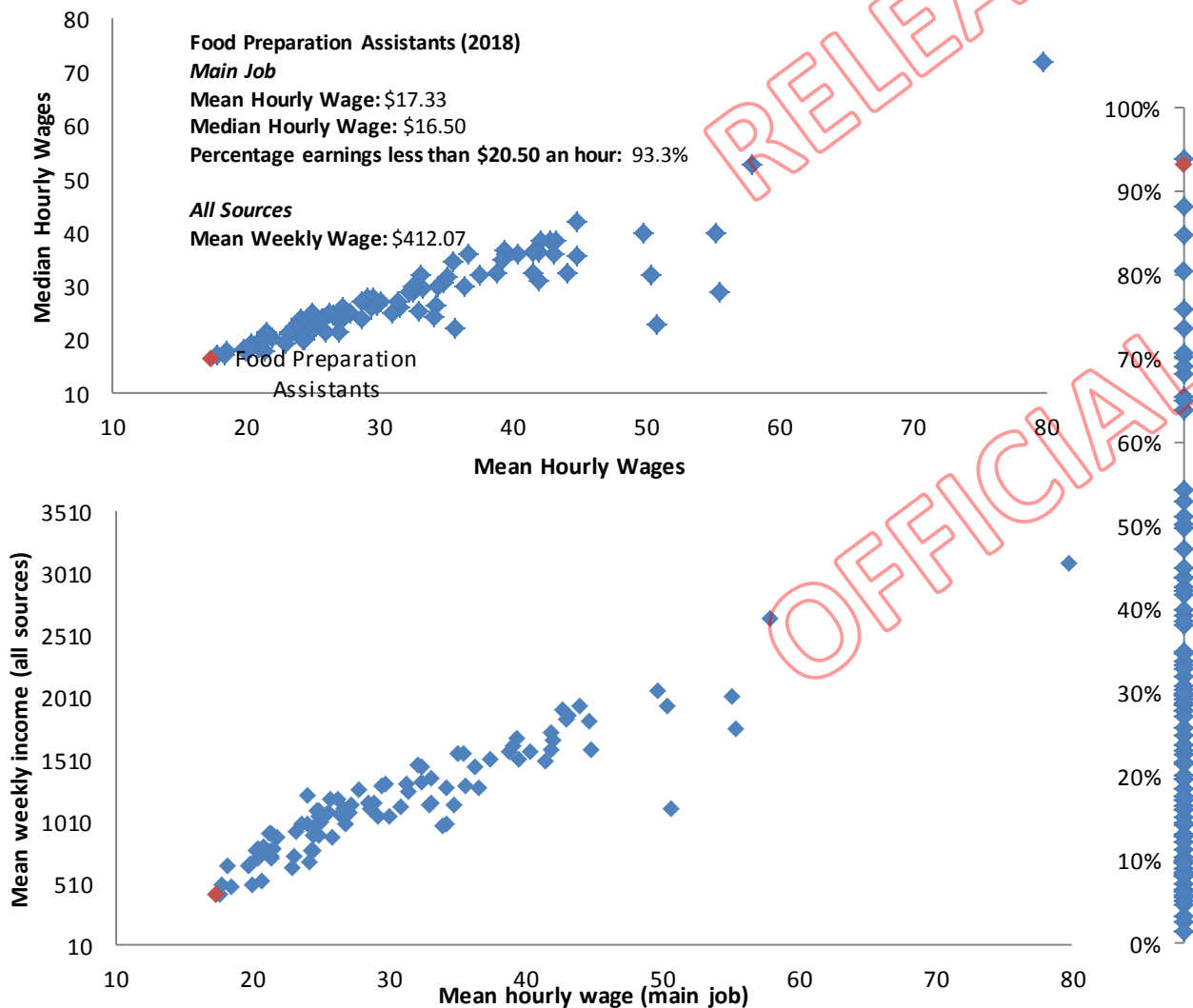
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

Industry	2013 (%)
H451100 Cafes and Restaurants	28.3%
H451200 Takeaway Food Services	17.4%
Q860100 Aged Care Residential Services	11.7%
H451300 Catering Services	6.2%
H440000 Accommodation	5.3%
H452000 Pubs, Taverns and Bars	5.2%
Q840100 Hospitals (Except Psychiatric Hospitals)	4.0%
H453000 Clubs (Hospitality)	1.8%
C117400 Bakery Product Manufacturing (Non-factory based)	1.6%
T999999 Not Stated	1.4%

Demographic Structure



Wage and Income

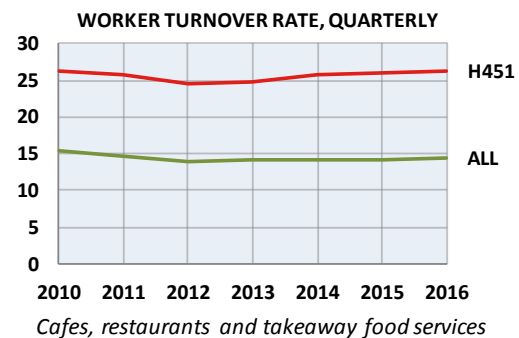


INDUSTRY PERSPECTIVE

Cafes and Restaurants H451100

Occupation Distribution (Top 10) Census 2013

351311 Chef	17.0%
431511 Waiter	15.6%
141111 Cafe or Restaurant Manager	12.8%
621111 Sales Assistant (General)	8.2%
851311 Kitchenhand	7.3%
431112 Barista	7.2%
431211 Cafe Worker	7.0%
351411 Cook	2.6%
142111 Retail Manager (General)	1.9%
431111 Bar Attendant	1.8%

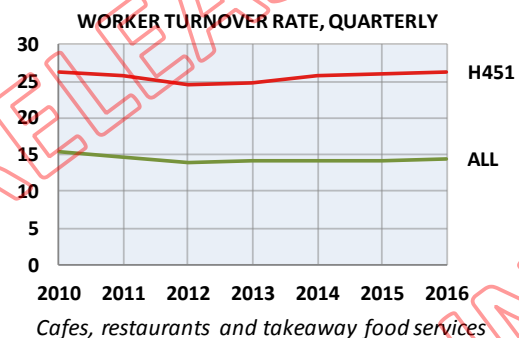


INDUSTRY PERSPECTIVE

Takeaway Food Services H451200

Occupation Distribution (Top 10) Census 2013

621111 Sales Assistant (General)	16.0%
851311 Kitchenhand	10.6%
351311 Chef	9.1%
142111 Retail Manager (General)	8.8%
351411 Cook	6.7%
141111 Cafe or Restaurant Manager	6.1%
611399 Sales Representatives nec	5.5%
431511 Waiter	3.7%
851111 Fast Food Cook	3.4%
851299 Food Trades Assistants nec	3.1%

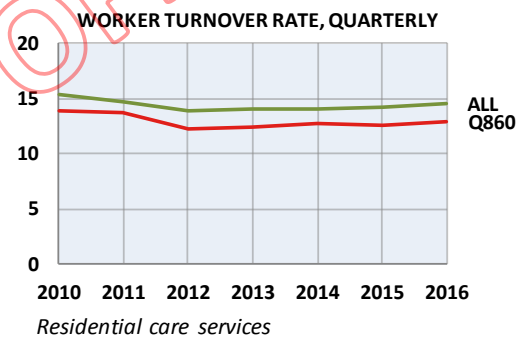


INDUSTRY PERSPECTIVE

Aged Care Residential Services Q860100

Occupation Distribution (Top 10) Census 2013

423313 Personal Care Assistant	43.7%
254418 Registered Nurse (Medical)	10.0%
851311 Kitchenhand	5.4%
423111 Aged or Disabled Carer	4.9%
811211 Commercial Cleaner	3.5%
351411 Cook	2.9%
411311 Diversional Therapist	2.8%
254311 Nurse Manager	2.2%
811511 Laundry Worker (General)	1.7%
411411 Enrolled Nurse	1.7%



CONTAINER FILLERS (832112)

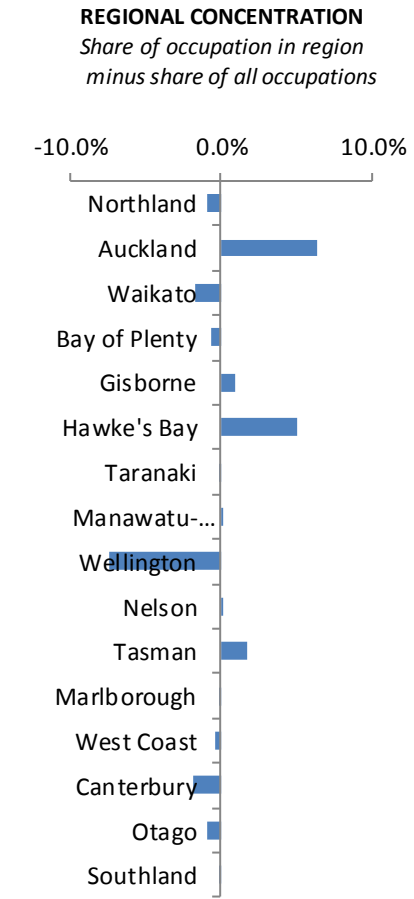
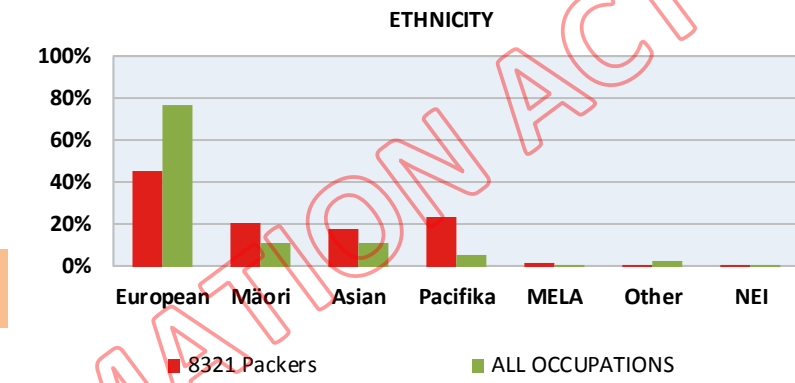
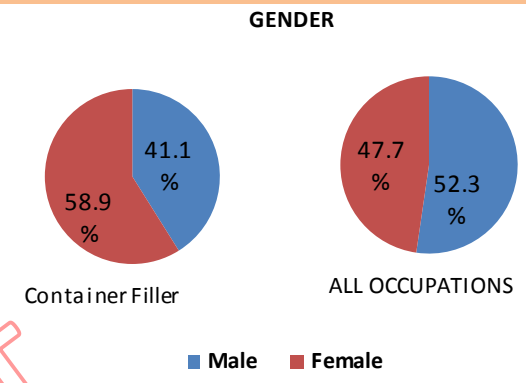
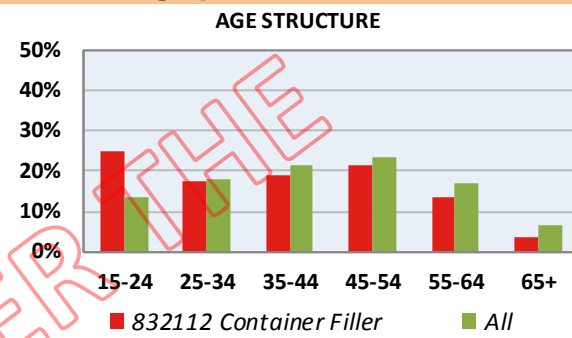
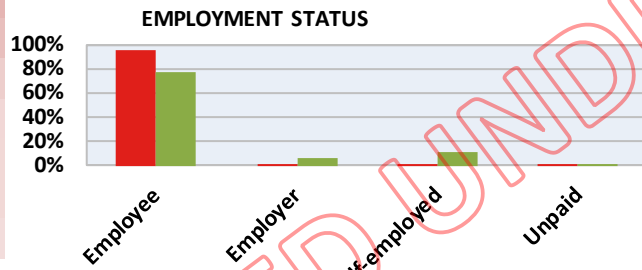
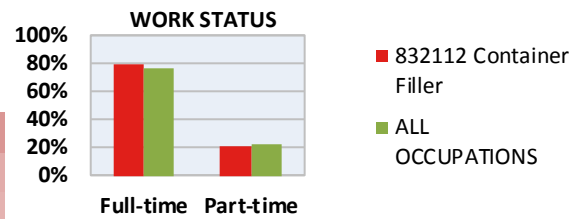
Occupational Structure

Total employed: 15,300 (March 2018)

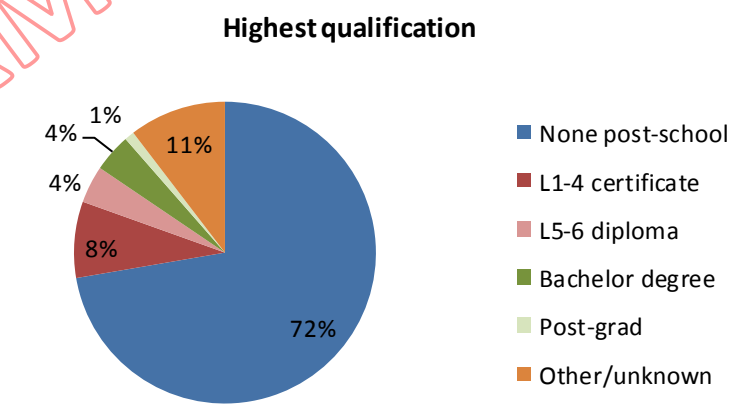
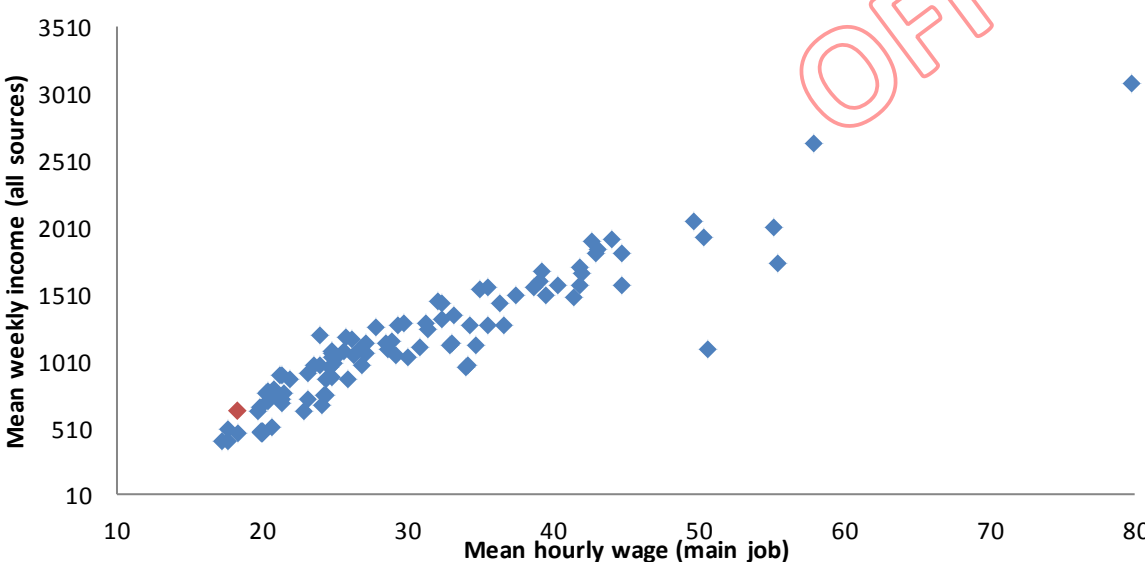
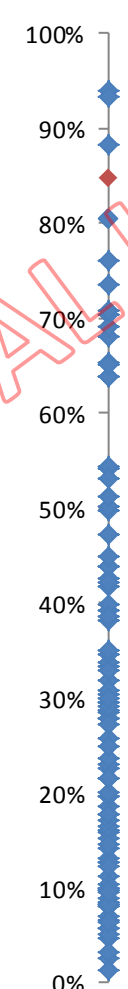
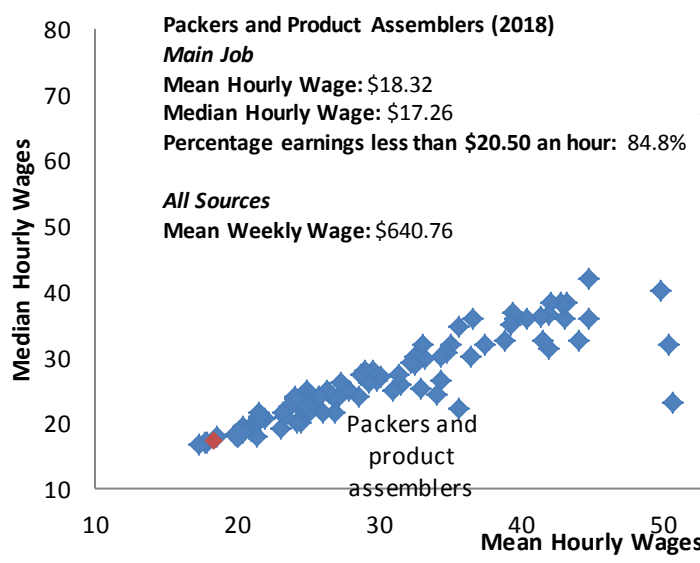
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

N732000 Packaging Services	4.4%
C111100 Meat Processing	3.7%
C119900 Other Food Product Manufacturing n.e.c.	3.5%
C113300 Cheese and Other Dairy Product Manufacturing	3.4%
F360500 Fruit and Vegetable Wholesaling	3.1%
C114000 Fruit and Vegetable Processing	2.6%
T999999 Not Stated	2.3%
G411000 Supermarket and Grocery Stores	2.3%
F360900 Other Grocery Wholesaling	2.3%
I530900 Other Warehousing and Storage Services	2.1%

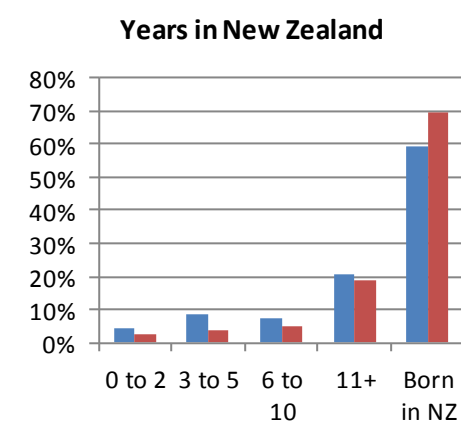
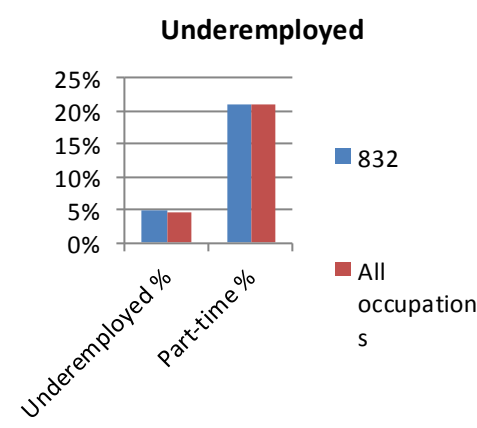
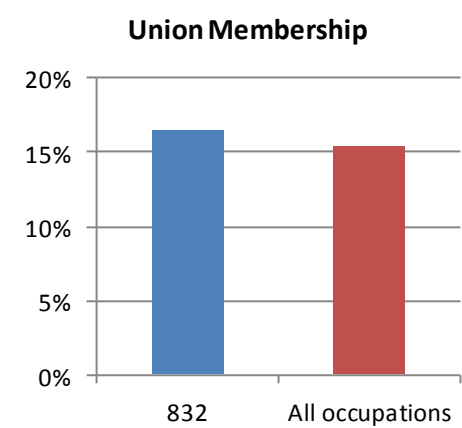
Demographic Structure



Wage and Income



832: Packers and product assemblers

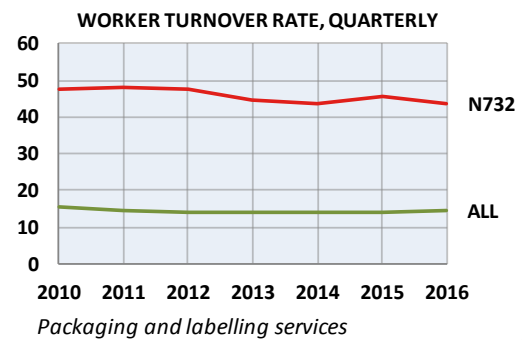


INDUSTRY PERSPECTIVE

Packaging Services N732000

Occupation Distribution (Top 10) Census 2013

832112 Container Filler	15.5%
832113 Fruit and Vegetable Packer	8.1%
899999 Labourers nec	6.7%
841211 Fruit or Nut Farm Worker	6.4%
121213 Fruit or Nut Grower	6.3%
721311 Forklift Driver	6.1%
997000 Response Unidentifiable	2.9%
591116 Warehouse Administrator	2.9%
741111 Storeperson	2.6%
841212 Fruit or Nut Picker	2.6%



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CHILD CARE WORKERS (421111)

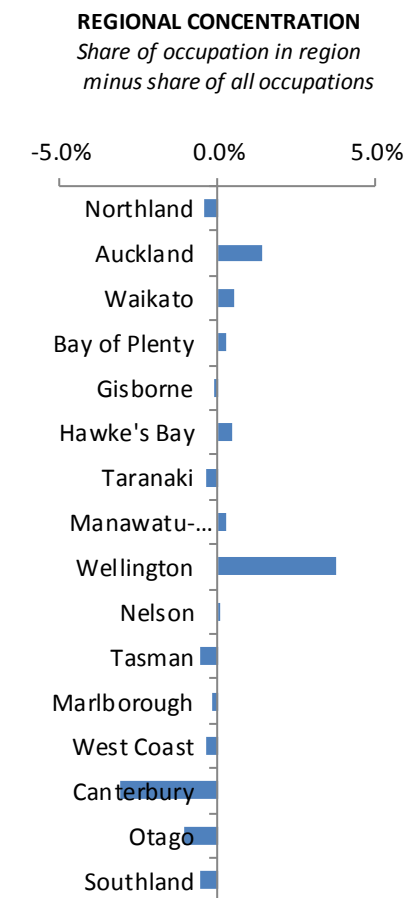
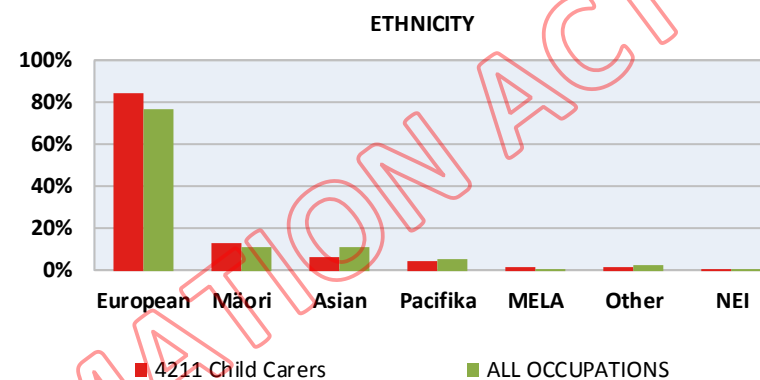
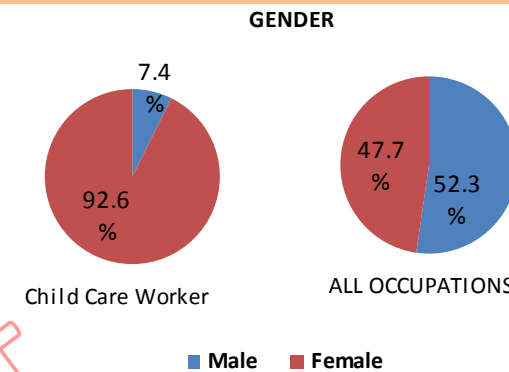
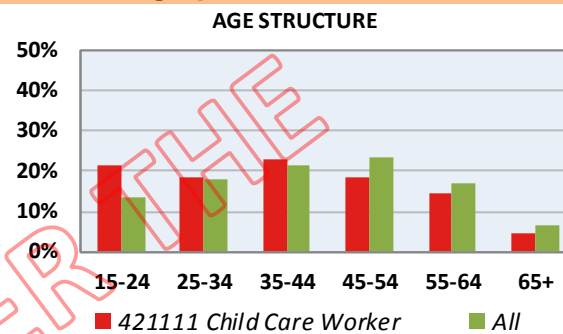
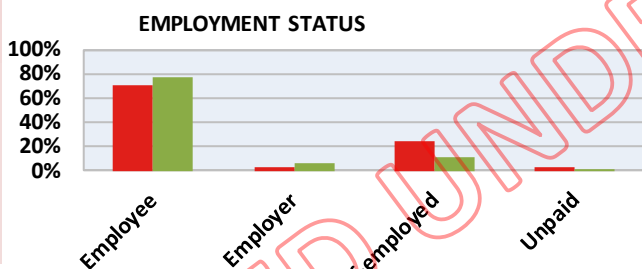
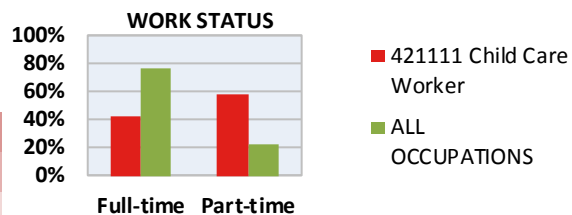
Occupational Structure

Total employed: 6,000 (March 2018)

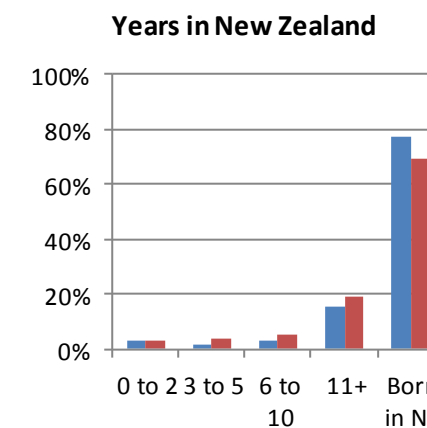
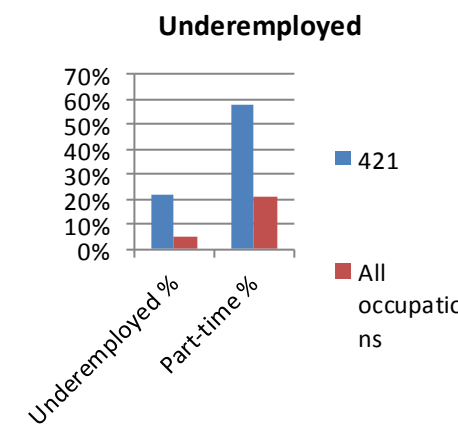
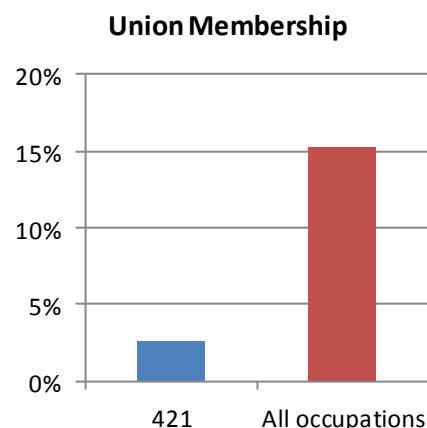
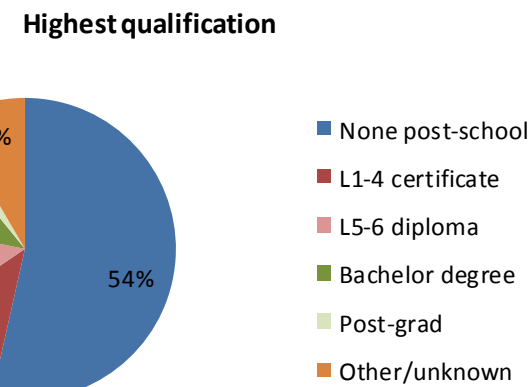
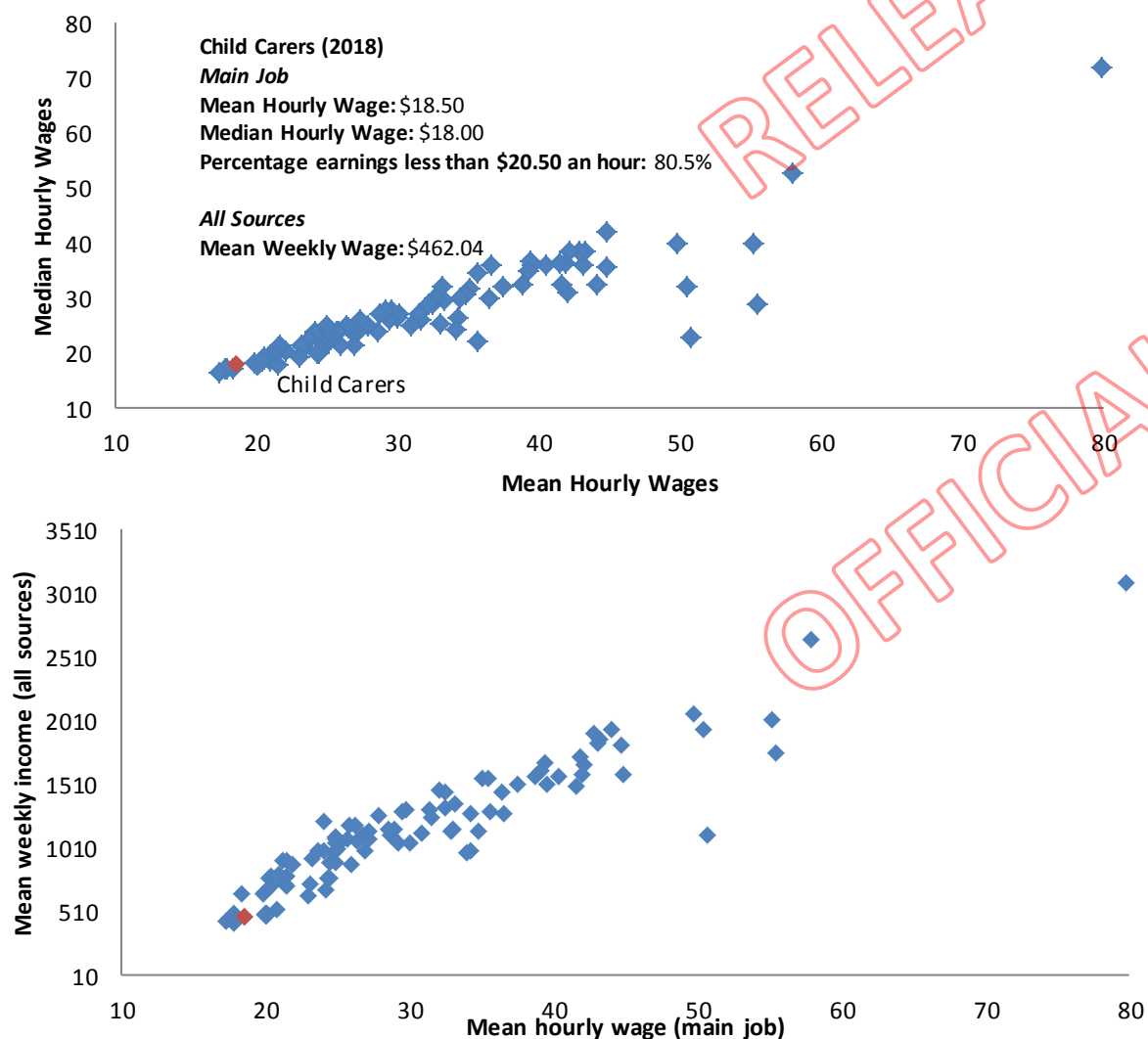
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

Industry	2013 (%)
Q871000 Child Care Services	40.2%
P801000 Preschool Education	25.3%
T999999 Not Stated	3.7%
P802100 Primary Education	3.5%
Q879000 Other Social Assistance Services	3.3%
S955900 Other Interest Group Services n.e.c.	1.6%
R911100 Health and Fitness Centres and Gymnasia Operatio	1.6%
O751000 Central Government Administration	1.5%
Q853900 Other Allied Health Services	1.4%
P821900 Adult, Community and Other Education n.e.c.	1.3%

Demographic Structure



Wage and Income

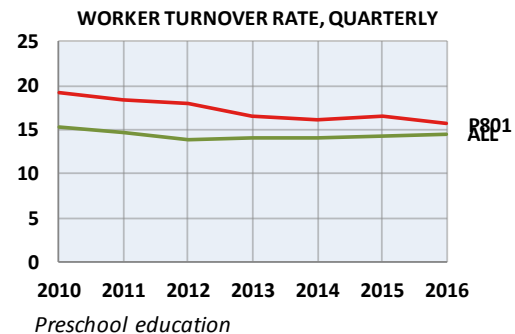


INDUSTRY PERSPECTIVE

Q871000 Child Care Services

Occupation Distribution (Top 10) Census 2013

241111 Early Childhood (Pre-primary School) Teachers	49.4%
421111 Child Care Worker	13.9%
421113 Nanny	5.6%
421114 Out of School Hours Care Worker	3.9%
423313 Personal Care Assistant	3.3%
351411 Cook	1.9%
422116 Teachers' Aide	1.3%
997000 Response Unidentifiable	1.3%
811211 Commercial Cleaner	1.2%
531111 General Clerk	1.2%

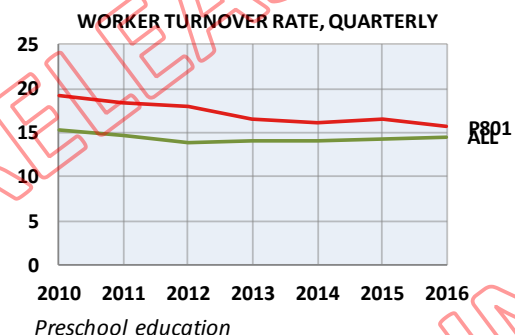


INDUSTRY PERSPECTIVE

P801000 Preschool Education

Occupation Distribution (Top 10) Census 2013

241111 Early Childhood (Pre-primary School) Teachers	61.3%
421111 Child Care Worker	6.0%
241112 Kaiako Kohanga Reo (Māori Language Nurturers)	2.8%
422116 Teachers' Aide	2.7%
997000 Response Unidentifiable	2.4%
512111 Office Manager	1.9%
421113 Nanny	1.8%
531111 General Clerk	1.8%
811211 Commercial Cleaner	1.6%
351411 Cook	1.4%



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COMMERCIAL CLEANERS (811211)

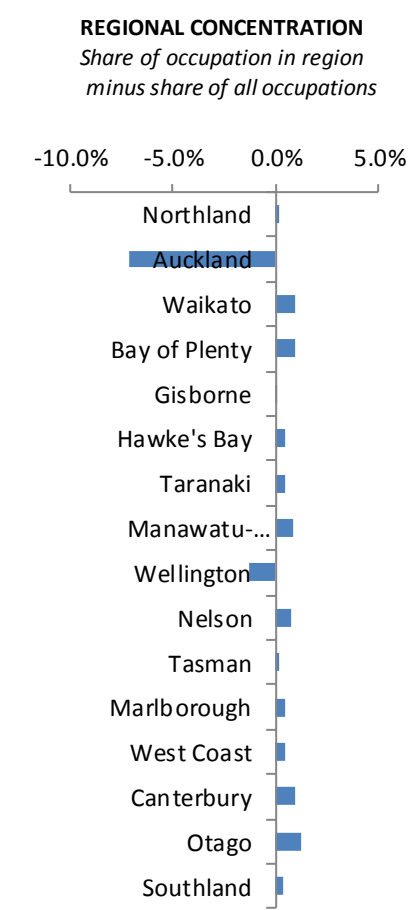
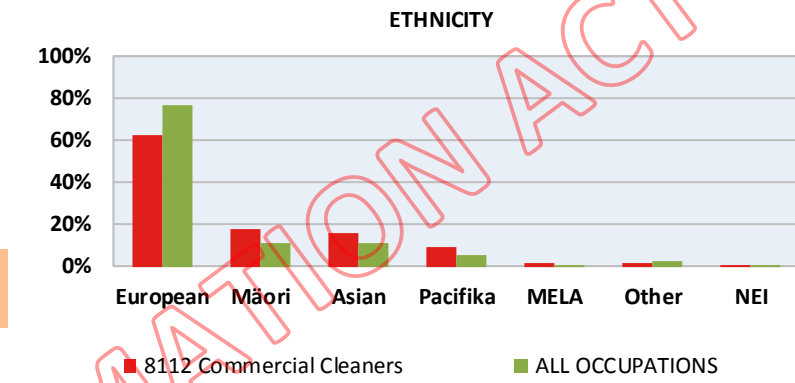
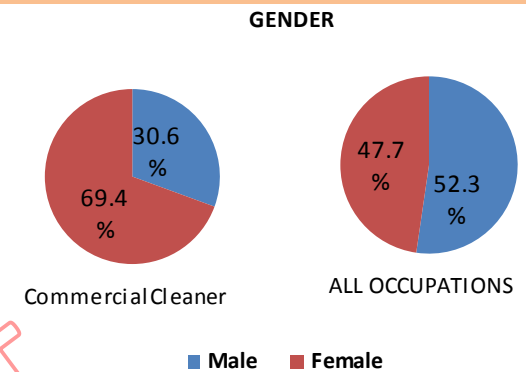
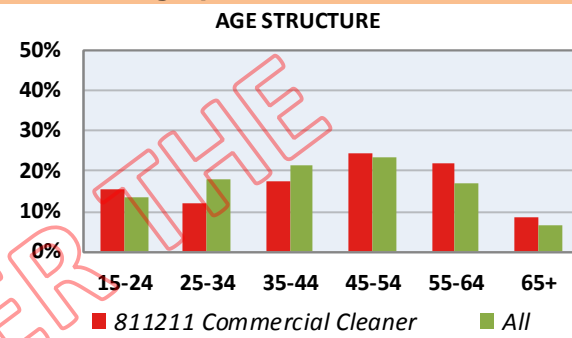
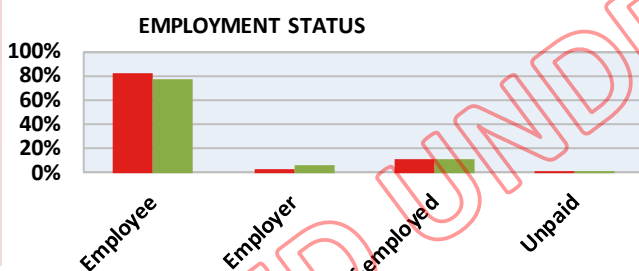
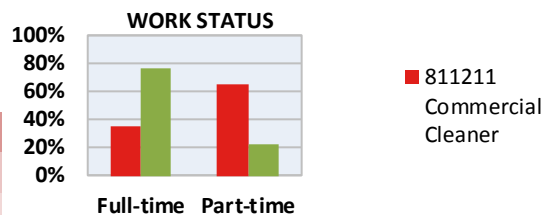
Occupational Structure

Total employed: 46,000 (March 2018)

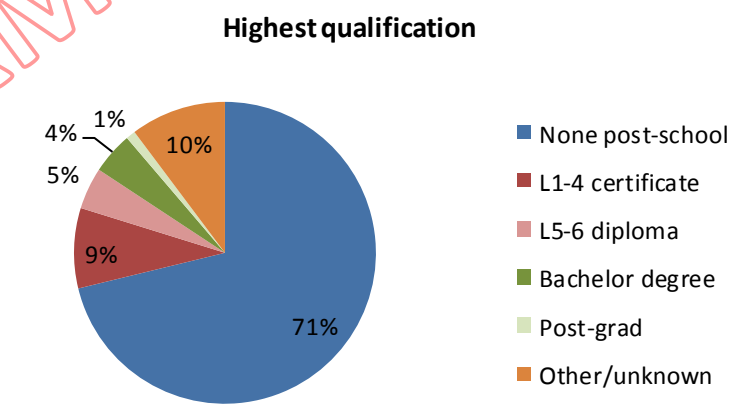
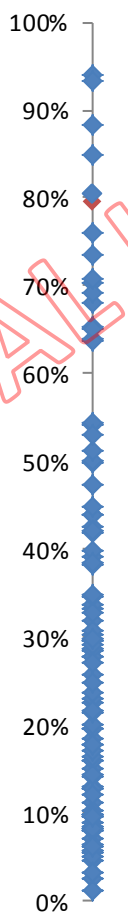
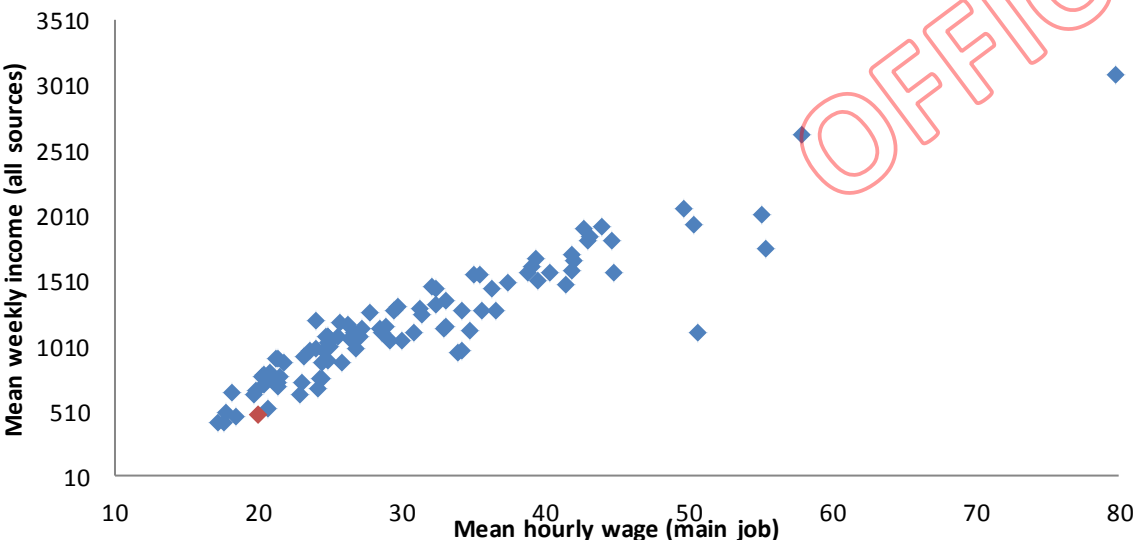
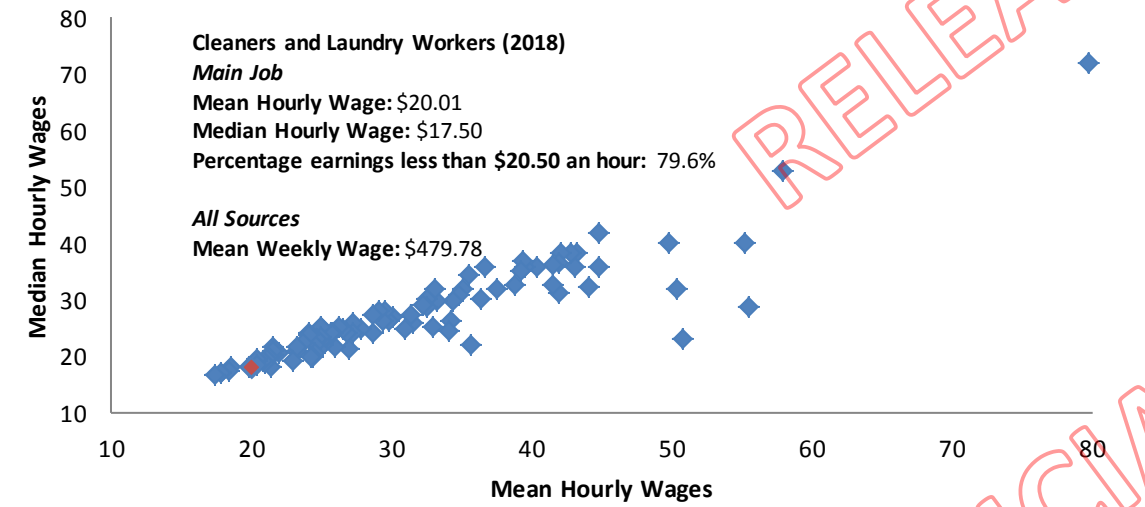
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

N731100 Building and Other Industrial Cleaning Services	35.7%
H440000 Accommodation	12.7%
T999999 Not Stated	3.4%
P802100 Primary Education	3.3%
Q860100 Aged Care Residential Services	2.9%
P802200 Secondary Education	2.3%
Q840100 Hospitals (Except Psychiatric Hospitals)	1.7%
H451300 Catering Services	1.1%
P801000 Preschool Education	1.1%
H451100 Cafes and Restaurants	1.1%

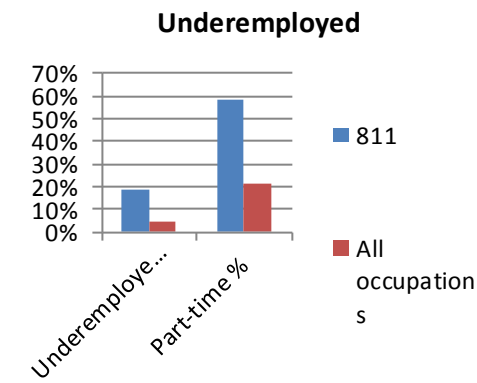
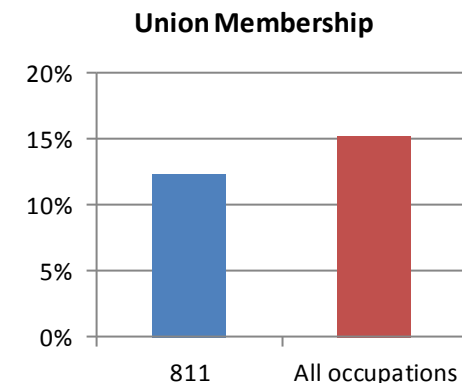
Demographic Structure



Wage and Income



811: Cleaners and laundry workers

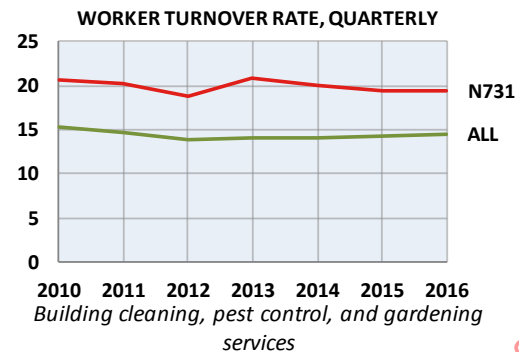


INDUSTRY PERSPECTIVE

Building and Other Industrial Cleaning Services N73100

Occupation Distribution (Top 10) Census 2013

811211 Commercial Cleaner	65.8%
811311 Domestic Cleaner	2.8%
811612 Window Cleaner	2.6%
111111 Chief Executive or Managing Director	2.3%
111211 Corporate General Manager	1.7%
999999 Not Stated	1.1%
997000 Response Unidentifiable	1.0%
899999 Labourers nec	0.9%
512111 Office Manager	0.9%
423313 Personal Care Assistant	0.9%

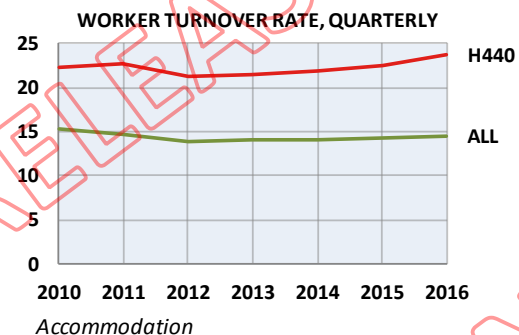


INDUSTRY PERSPECTIVE

Accommodation H440000

Occupation Distribution (Top 10) Census 2013

141311 Hotel or Motel Manager	16.1%
811211 Commercial Cleaner	14.0%
811411 Commercial Housekeeper	6.6%
351311 Chef	5.5%
431511 Waiter	5.2%
542111 Receptionist (General)	4.6%
431411 Hotel Service Manager	4.6%
141999 Accommodation and Hospitality Manager	4.2%
851311 Kitchenhand	2.2%
141211 Caravan Park and Camping Ground Man	2.2%



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WAITERS (431511)

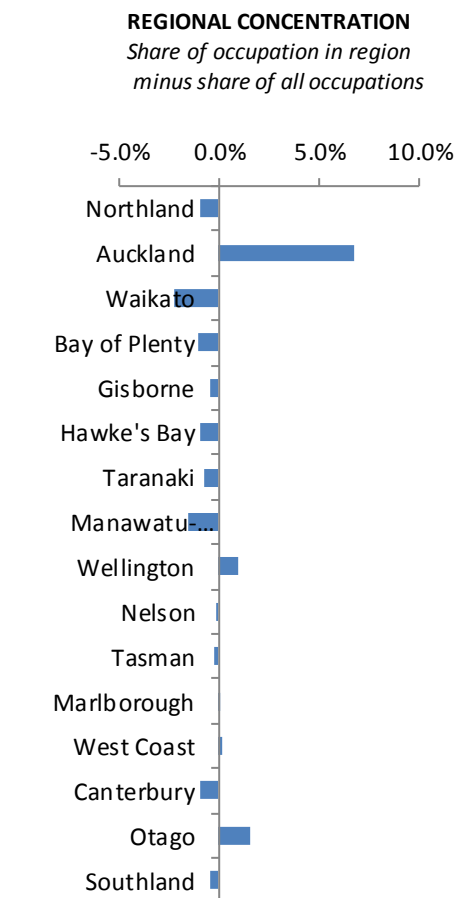
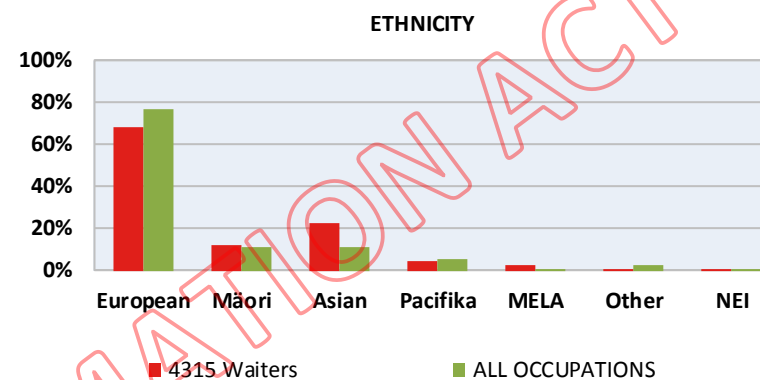
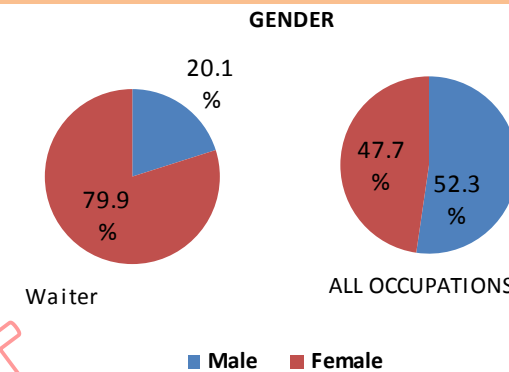
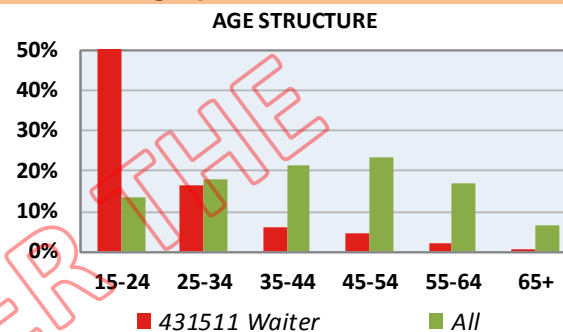
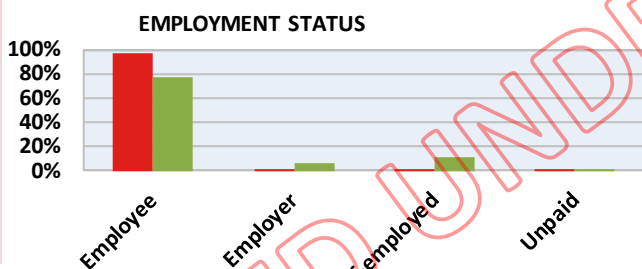
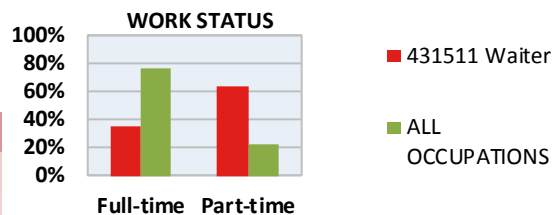
Occupational Structure

Total employed: 24,600 (March 2018)

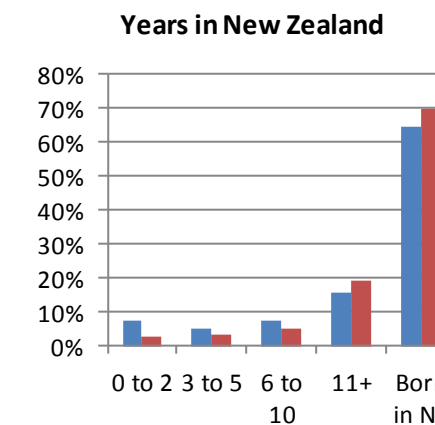
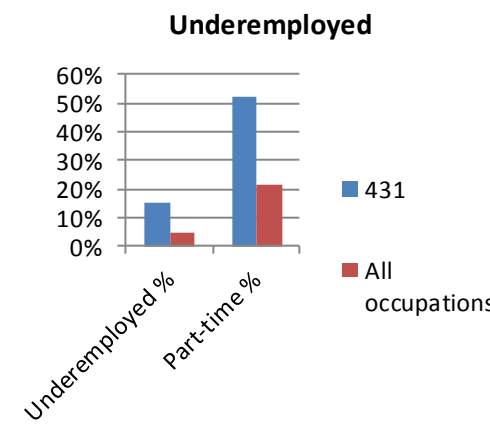
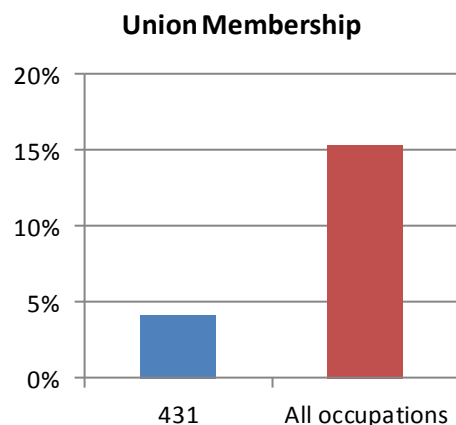
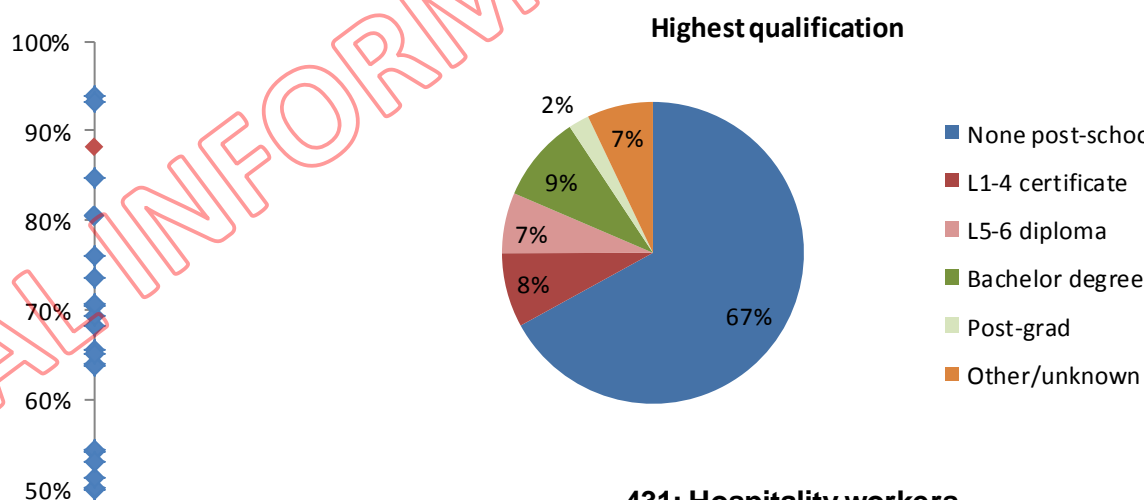
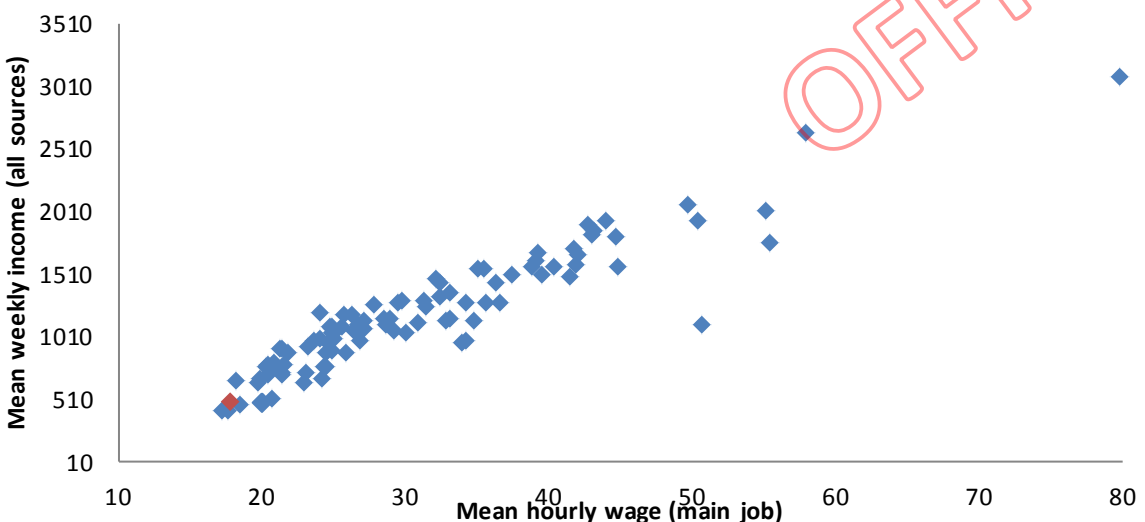
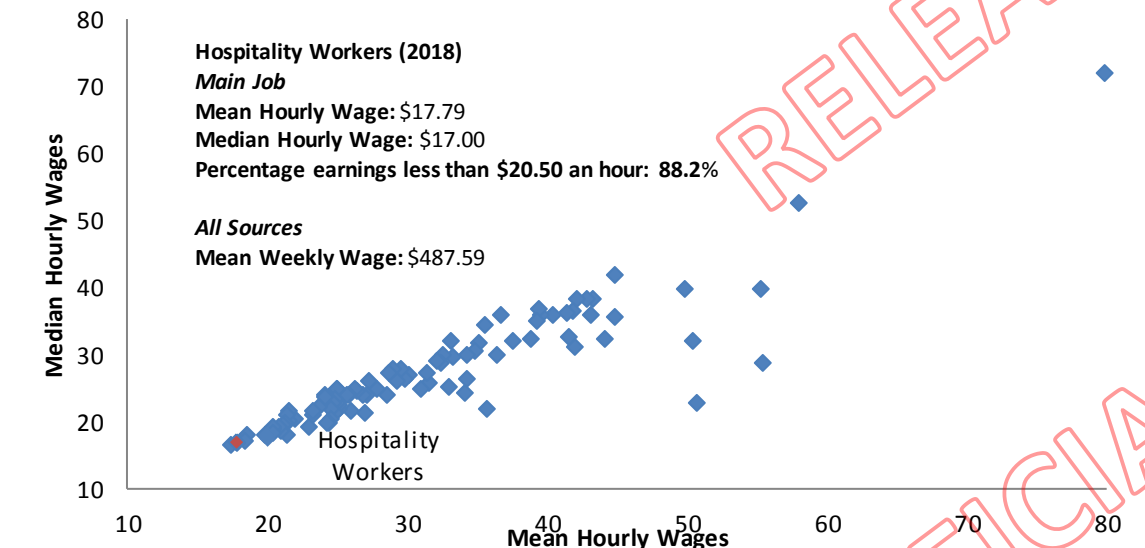
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

H451100 Cafes and Restaurants	53.5%
H440000 Accommodation	10.9%
H452000 Pubs, Taverns and Bars	7.1%
H451200 Takeaway Food Services	5.3%
H451300 Catering Services	5.3%
H453000 Clubs (Hospitality)	2.1%
T999999 Not Stated	1.1%
C121400 Wine and Other Alcoholic Beverage Manufacturing	0.8%
N729900 Other Administrative Services n.e.c.	0.7%
A013100 Grape Growing	0.6%

Demographic Structure



Wage and Income

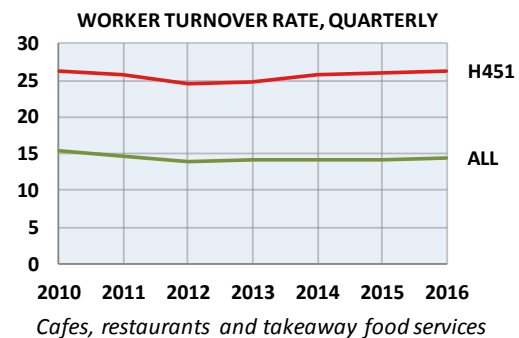


INDUSTRY PERSPECTIVE

Cafes and Restaurants H451100

Occupation Distribution (Top 10) Census 2013

351311 Chef	17.0%
431511 Waiter	15.6%
141111 Cafe or Restaurant Manager	12.8%
621111 Sales Assistant (General)	8.2%
851311 Kitchenhand	7.3%
431112 Barista	7.2%
431211 Cafe Worker	7.0%
351411 Cook	2.6%
142111 Retail Manager (General)	1.9%
431111 Bar Attendant	1.8%

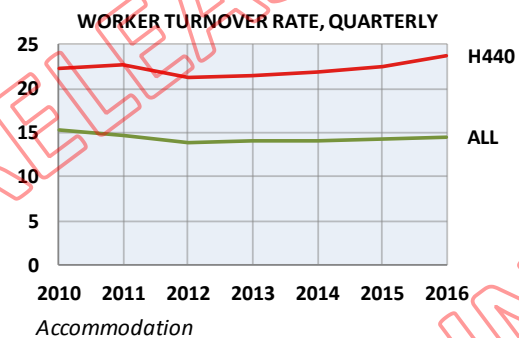


INDUSTRY PERSPECTIVE

Accommodation H440000

Occupation Distribution (Top 10) Census 2013

141311 Hotel or Motel Manager	16.1%
811211 Commercial Cleaner	14.0%
811411 Commercial Housekeeper	6.6%
351311 Chef	5.5%
431511 Waiter	5.2%
542111 Receptionist (General)	4.6%
431411 Hotel Service Manager	4.6%
141999 Accommodation and Hospitality Manager	4.2%
851311 Kitchenhand	2.2%
141211 Caravan Park and Camping Ground Man	2.2%



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SALES ASSISTANT (GENERAL) 621111

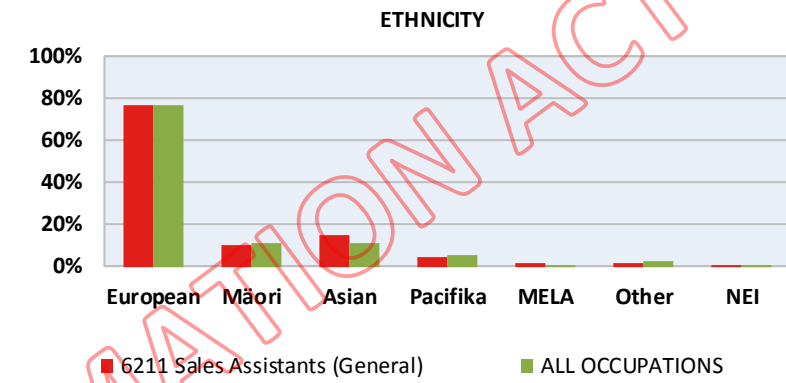
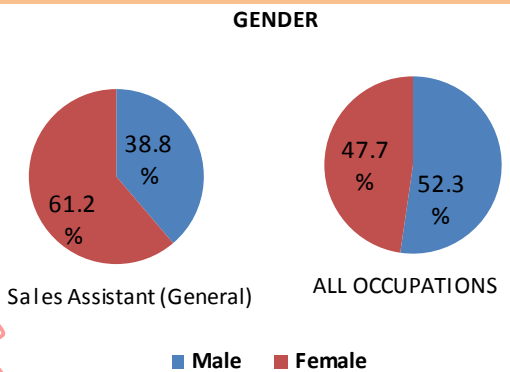
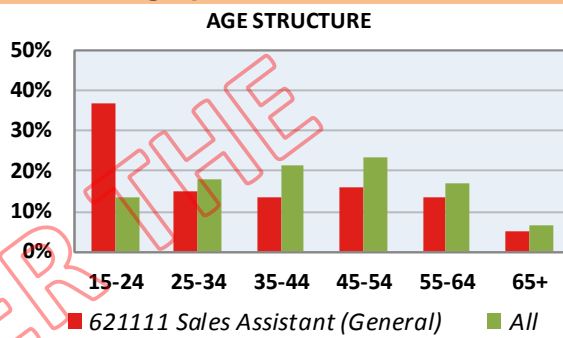
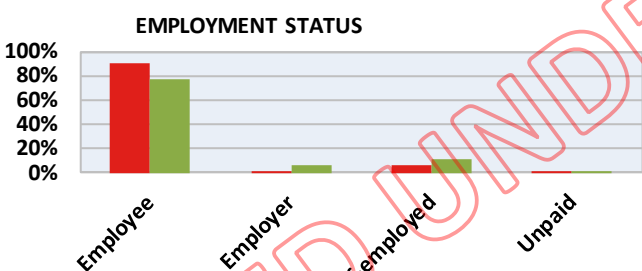
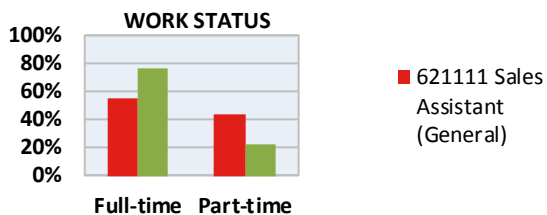
Occupational Structure

Total employed: 125,300 (March 2018)

INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

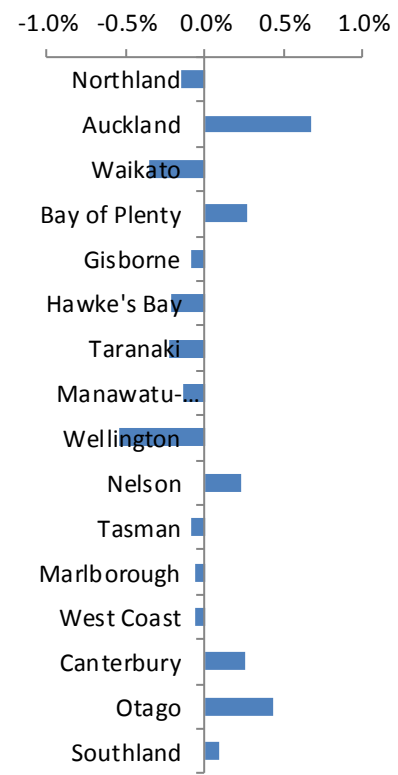
G411000 Supermarket and Grocery Stores	15.9%
G425100 Clothing Retailing	9.4%
G426000 Department Stores	6.5%
G423100 Hardware and Building Supplies Retailing	5.2%
H451100 Cafes and Restaurants	4.3%
G427900 Other Store-Based Retailing n.e.c.	4.1%
H451200 Takeaway Food Services	3.5%
G422100 Electrical, Electronic and Gas Appliance Retailing	2.5%
G424100 Sport and Camping Equipment Retailing	2.2%
G425200 Footwear Retailing	2.2%

Demographic Structure

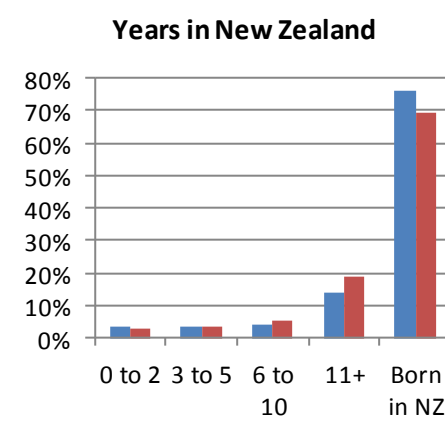
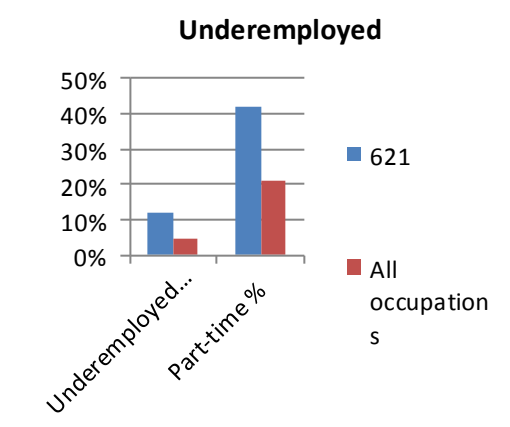
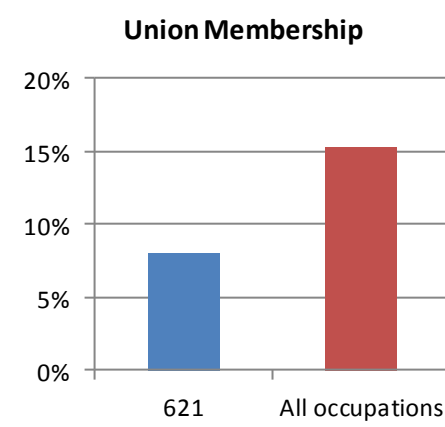
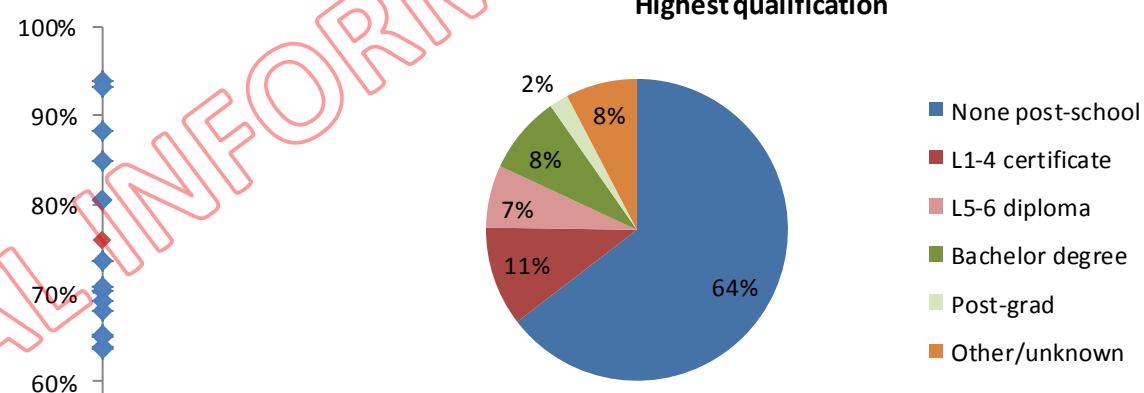
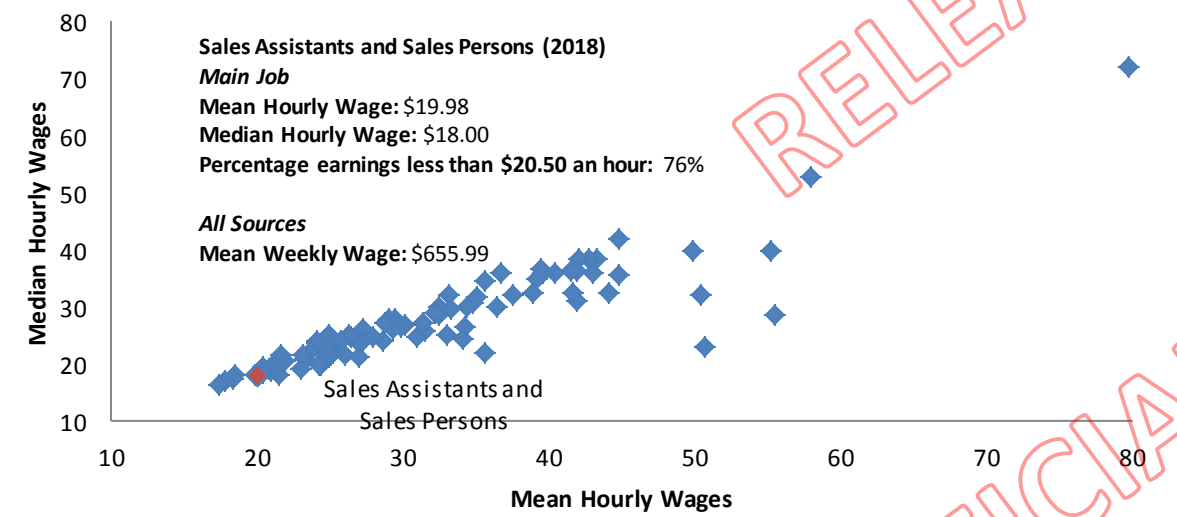


REGIONAL CONCENTRATION

Share of occupation in region minus share of all occupations



Wage and Income

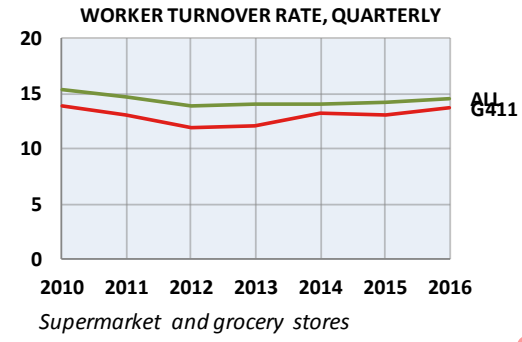


INDUSTRY PERSPECTIVE

Supermarket and Grocer Stores G411000

Occupation Distribution (Top 10) Census 2013

621111 Sales Assistant (General)	28.2%
631111 Checkout Operator	17.6%
142111 Retail Manager (General)	12.4%
891211 Shelf Filler	4.3%
621511 Retail Supervisor	4.0%
351111 Baker	2.4%
741111 Storeperson	2.1%
351211 Butcher or Smallgoods Maker	1.9%
611399 Sales Representatives nec	1.9%
851211 Pastrycook's Assistant	1.4%



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CHEF 351311

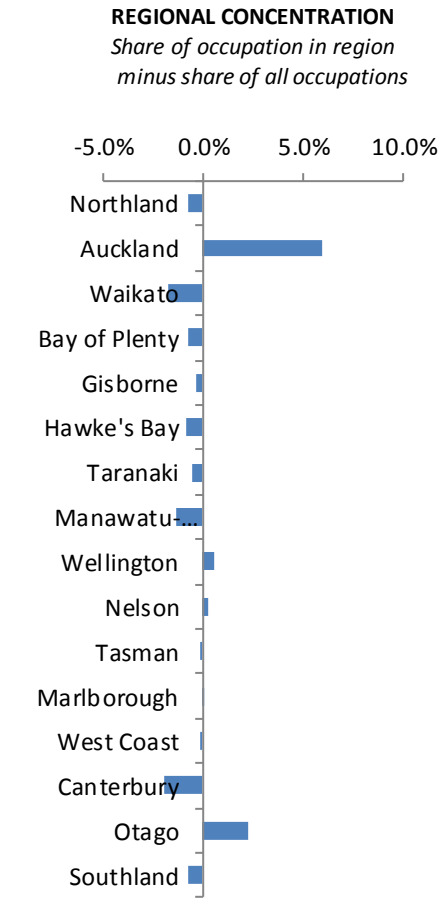
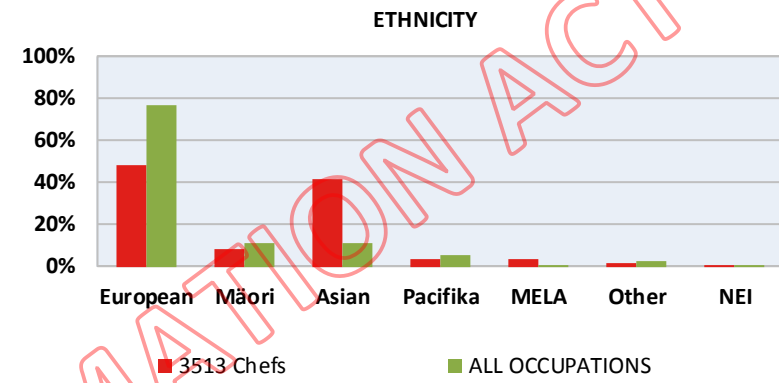
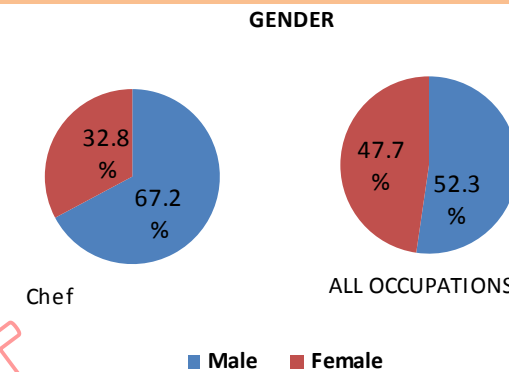
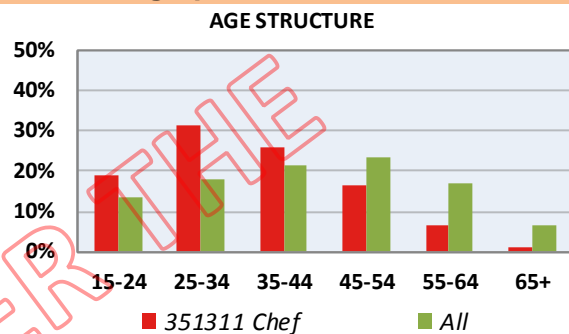
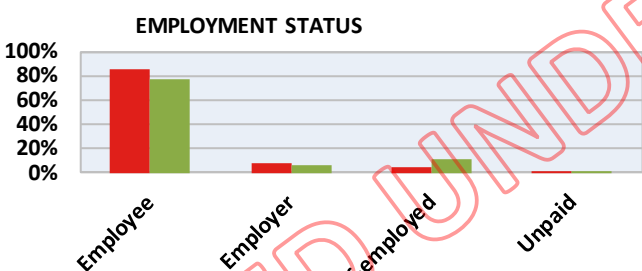
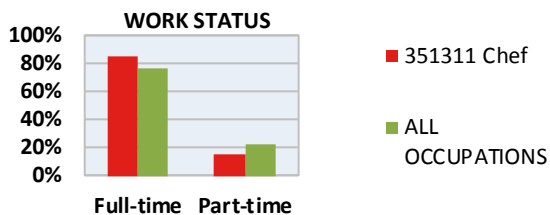
Occupational Structure

Total employed: 30,800 (March 2018)

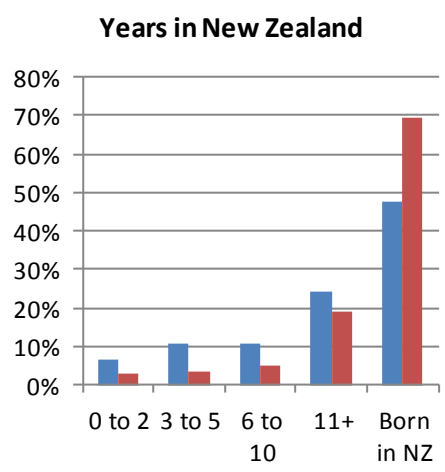
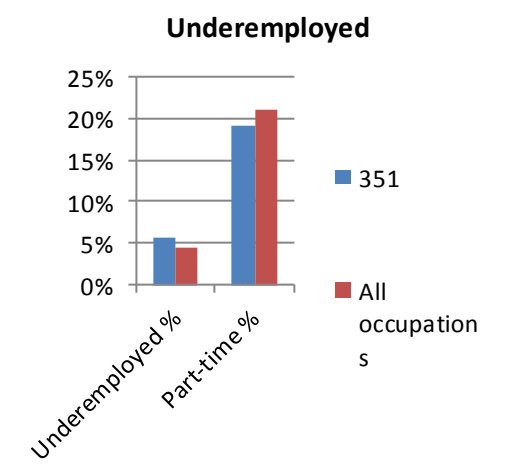
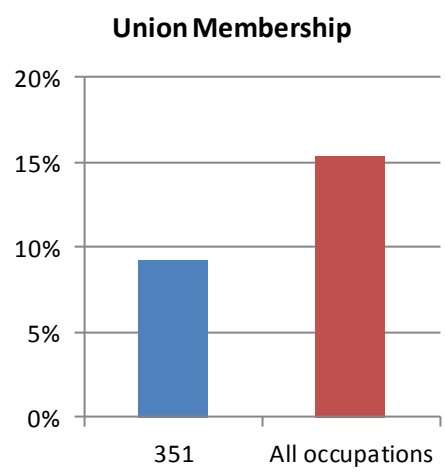
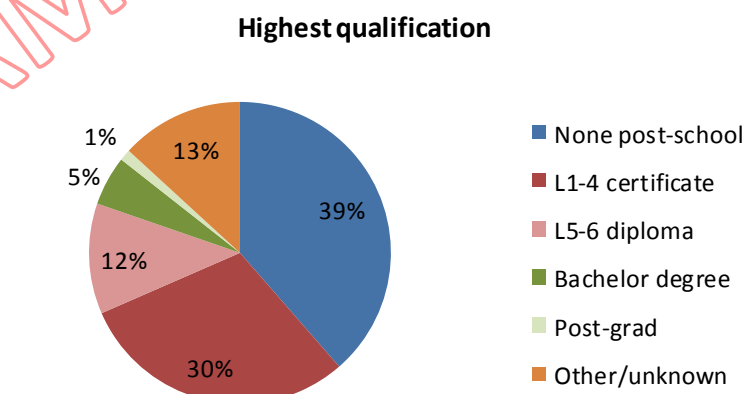
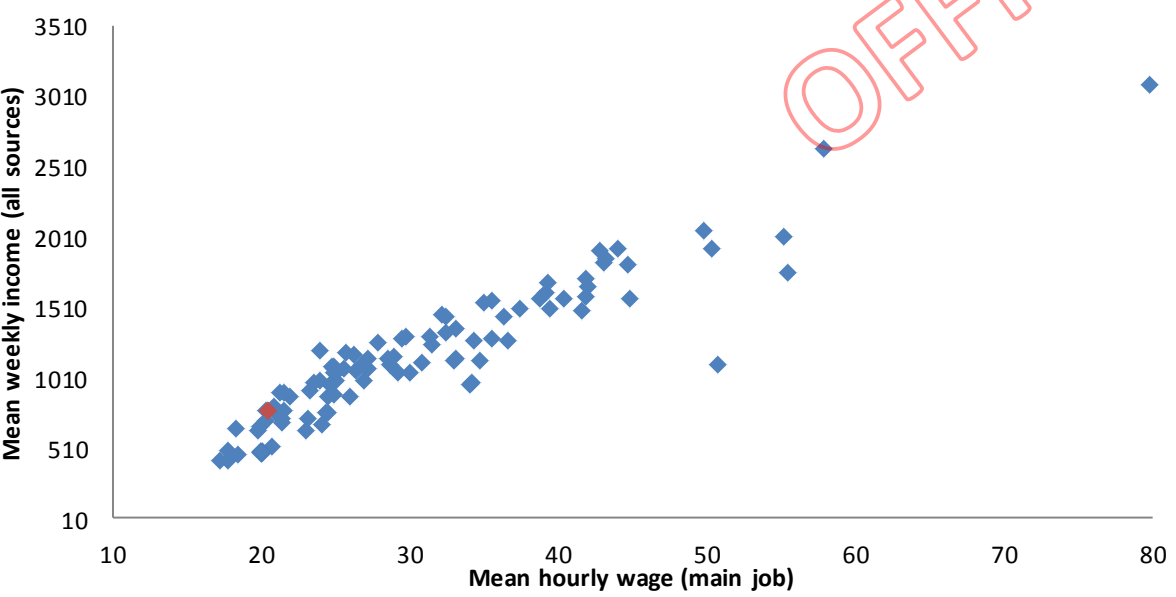
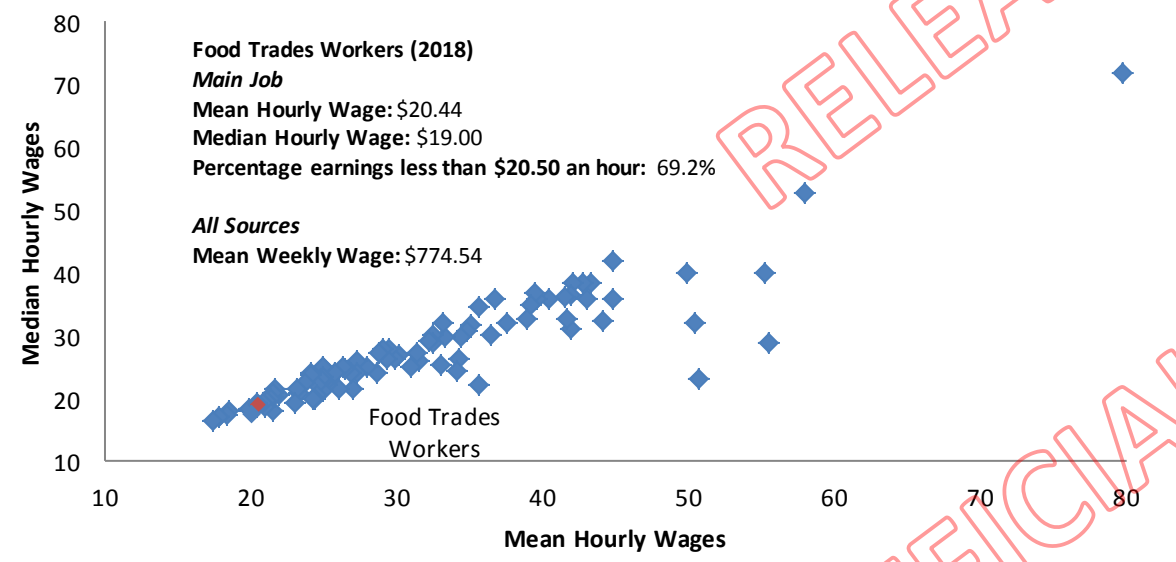
INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

H451100 Cafes and Restaurants	46.2%
H451200 Takeaway Food Services	10.5%
H440000 Accommodation	9.1%
H452000 Pubs, Taverns and Bars	7.6%
H451300 Catering Services	6.5%
H453000 Clubs (Hospitality)	1.7%
Q860100 Aged Care Residential Services	1.3%
T999999 Not Stated	1.3%
C117400 Bakery Product Manufacturing (Non-factory based)	0.7%
C119900 Other Food Product Manufacturing n.e.c.	0.7%

Demographic Structure



Wage and Income

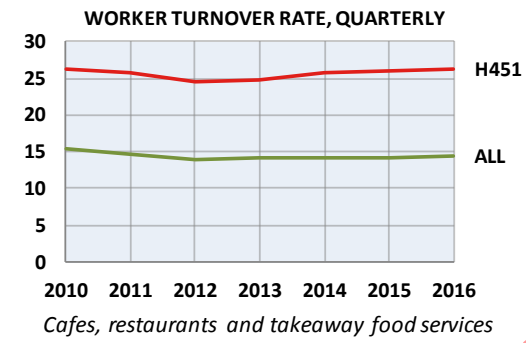


INDUSTRY PERSPECTIVE

Cafes and Restaurants H451100

Occupation Distribution (Top 10) Census 2013

351311 Chef	17.0%
431511 Waiter	15.6%
141111 Cafe or Restaurant Manager	12.8%
621111 Sales Assistant (General)	8.2%
851311 Kitchenhand	7.3%
431112 Barista	7.2%
431211 Cafe Worker	7.0%
351411 Cook	2.6%
142111 Retail Manager (General)	1.9%
431111 Bar Attendant	1.8%



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STOREPERSONS 741111

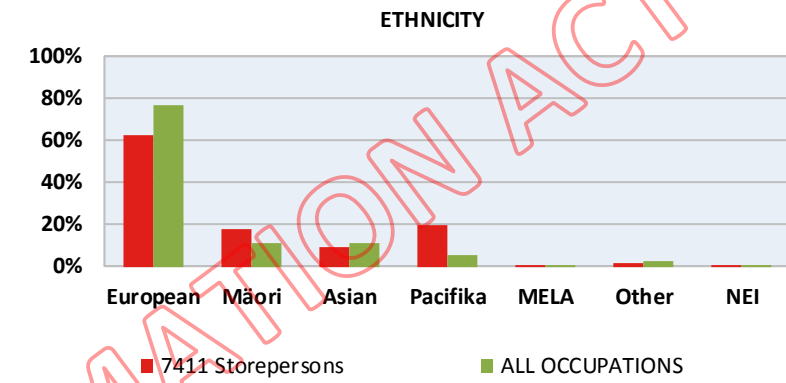
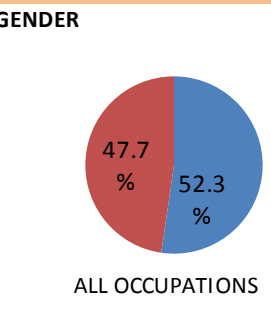
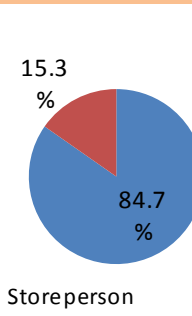
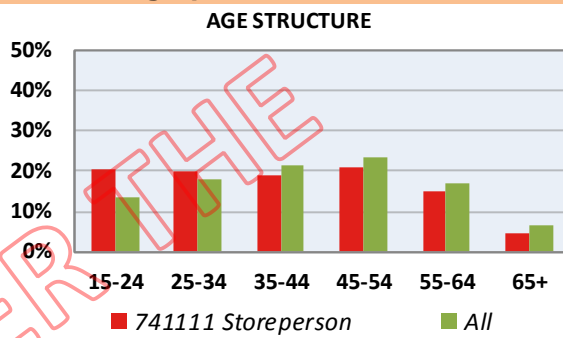
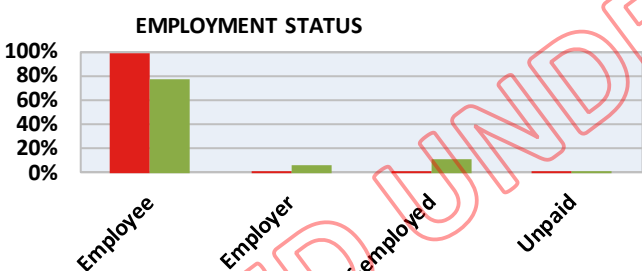
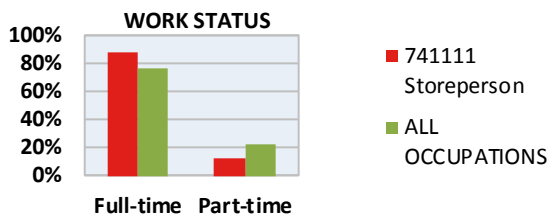
Occupational Structure

Total employed: 32,000 (March 2018)

INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

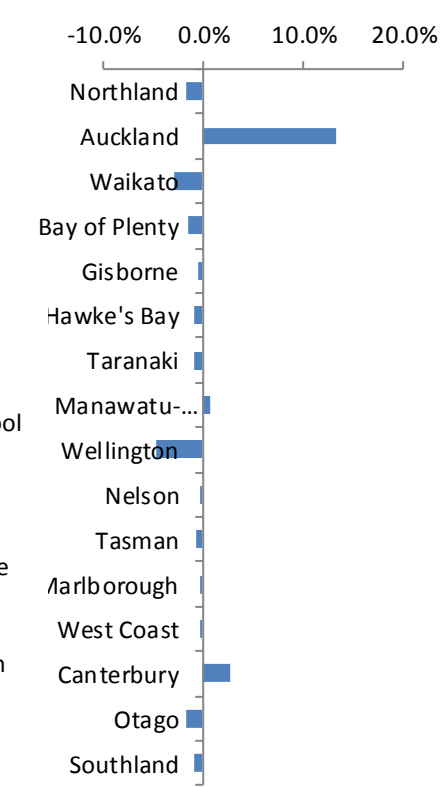
- I530900 Other Warehousing and Storage Services 6.0%
- G411000 Supermarket and Grocery Stores 5.5%
- F360100 General Line Grocery Wholesaling 4.4%
- I461000 Road Freight Transport 3.5%
- G426000 Department Stores 2.6%
- F360900 Other Grocery Wholesaling 2.6%
- I529200 Freight Forwarding Services 2.6%
- F373900 Other Goods Wholesaling n.e.c. 2.6%
- C111100 Meat Processing 2.5%
- F333900 Other Hardware Goods Wholesaling 2.4%

Demographic Structure

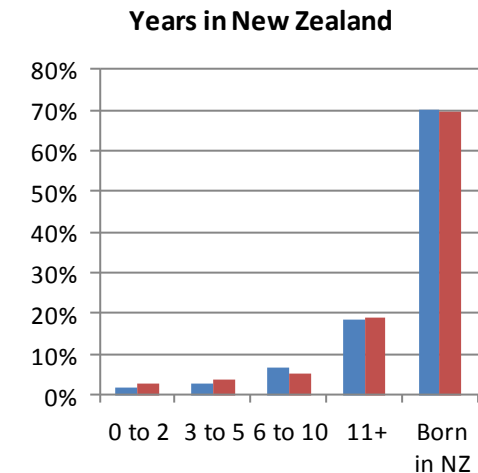
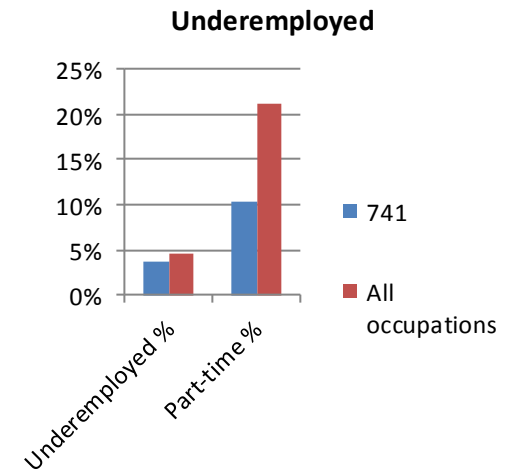
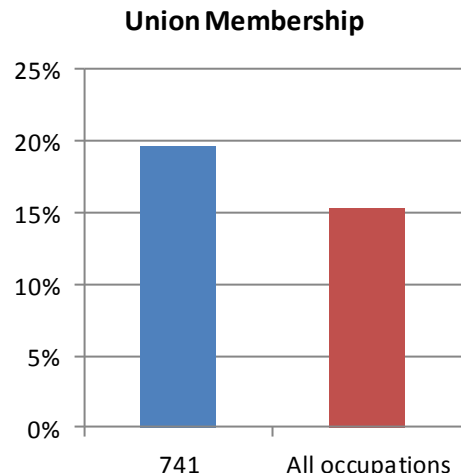
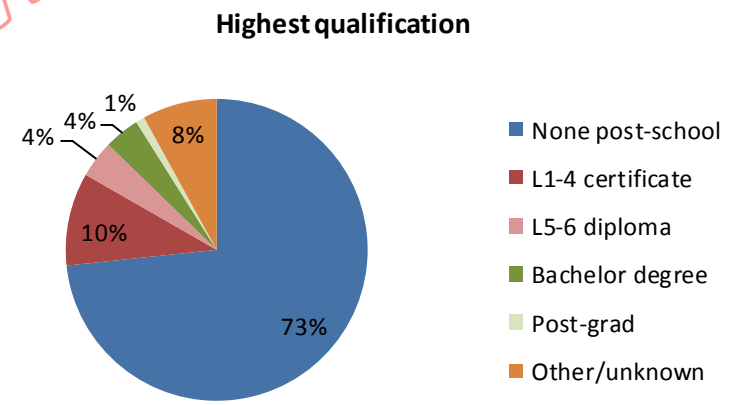
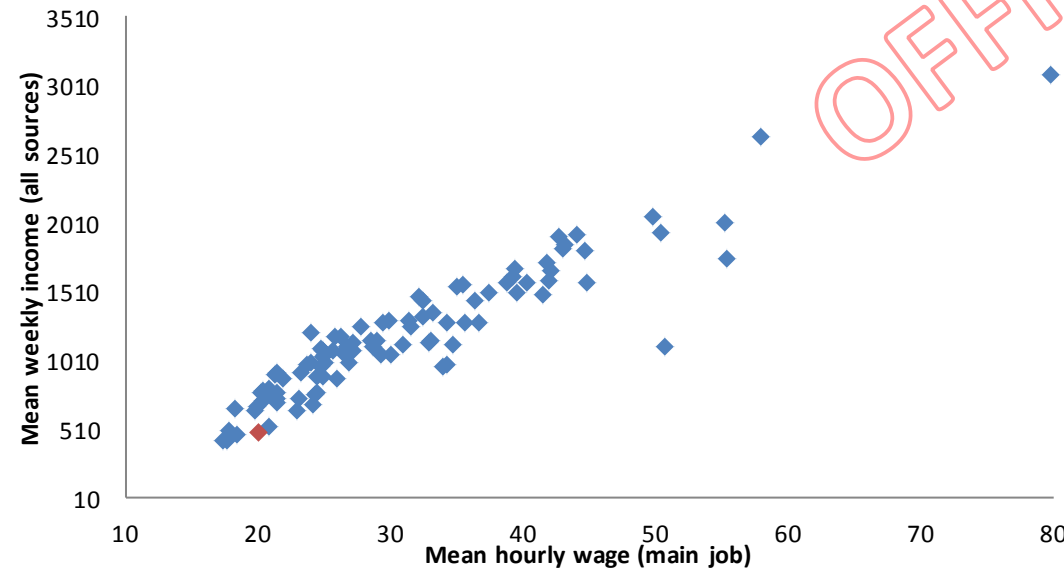
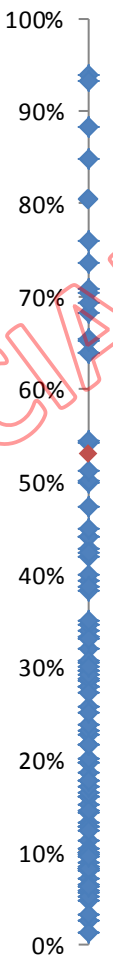
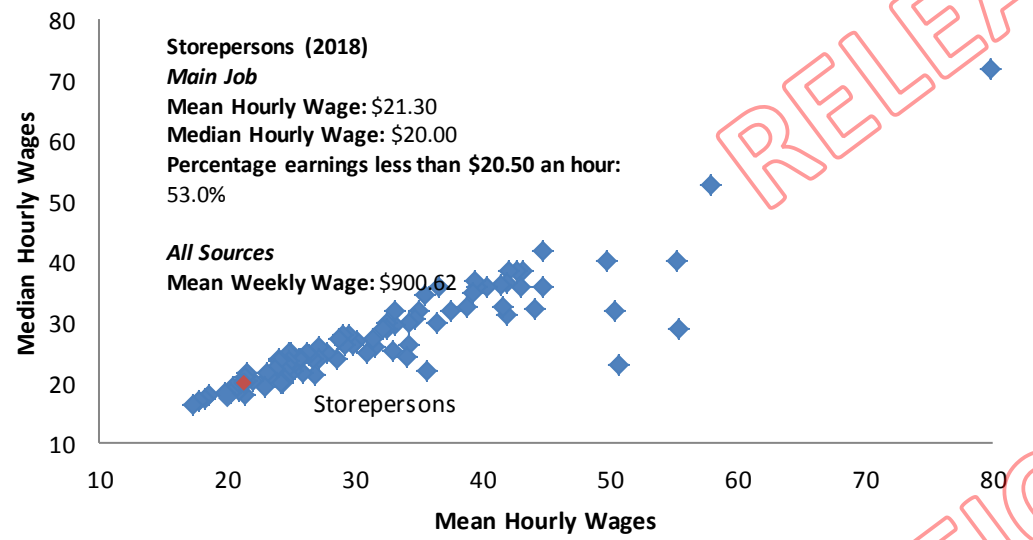


REGIONAL CONCENTRATION

Share of occupation in region minus share of all occupations



Wage and Income



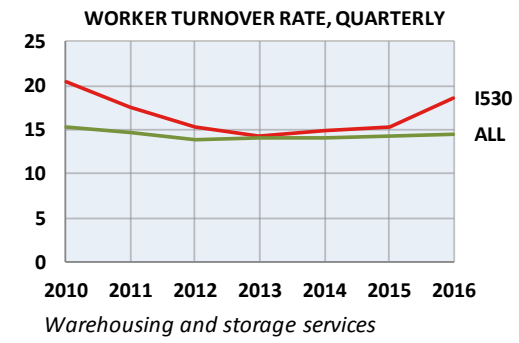
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INDUSTRY PERSPECTIVE

Other Warehousing and Storage Services I530900

Occupation Distribution (Top 10) Census 2013

741111 Storeperson	22.5%
733111 Truck Driver (General)	5.9%
721311 Forklift Driver	5.9%
591116 Warehouse Administrator	4.4%
899999 Labourers nec	3.5%
591115 Stock Clerk	3.5%
832112 Container Filler	3.3%
531111 General Clerk	3.1%
111211 Corporate General Manager	2.8%
611399 Sales Representatives nec	2.6%



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Mixed Crop and Livestock Farm Workers (841611)

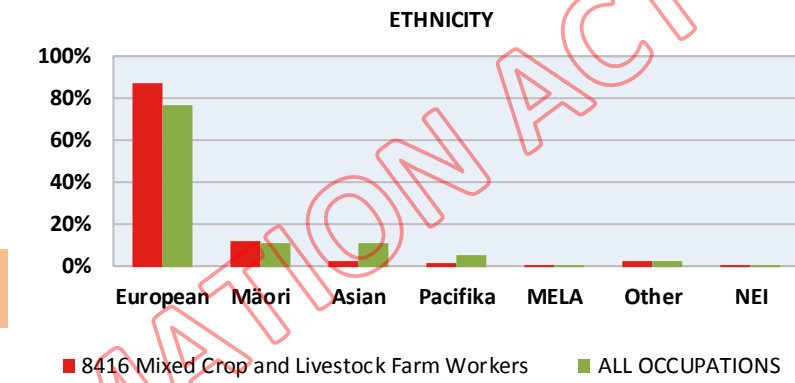
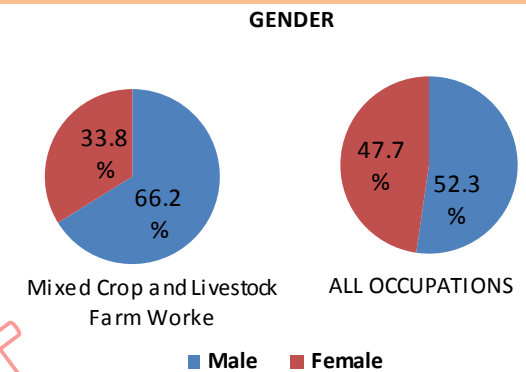
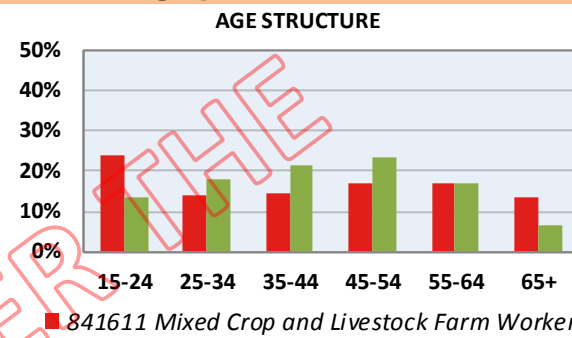
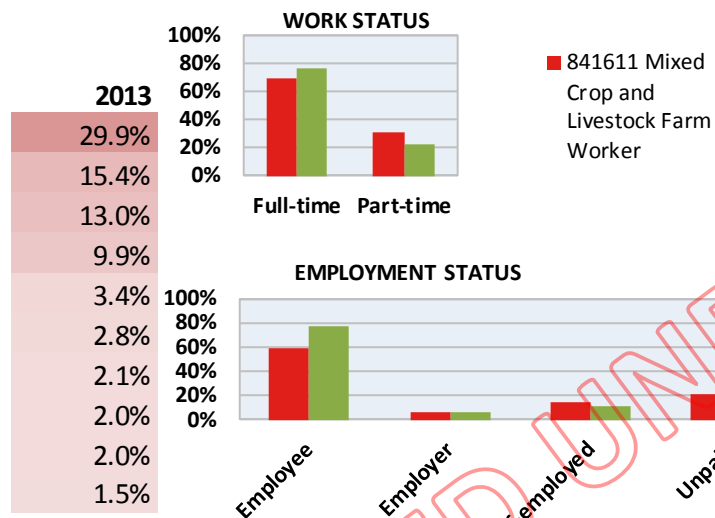
Occupational Structure

Total employed: 20,900 (March 2018)

INDUSTRY DISTRIBUTION (TOP 10) - Census 2013

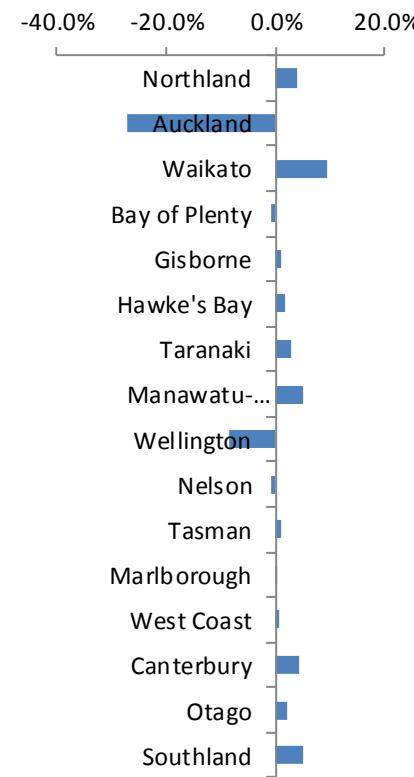
A016000 Dairy Cattle Farming	29.9%
A014400 Sheep-Beef Cattle Farming	15.4%
A014100 Sheep Farming (Specialised)	13.0%
A014200 Beef Cattle Farming (Specialised)	9.9%
L671200 Non-Residential Property Operators	3.4%
A052900 Other Agriculture and Fishing Support Services	2.8%
T999999 Not Stated	2.1%
A014500 Grain-Sheep or Grain-Beef Cattle Farming	2.0%
A019900 Other Livestock Farming n.e.c.	2.0%
A012300 Vegetable Growing (Outdoors)	1.5%

Demographic Structure

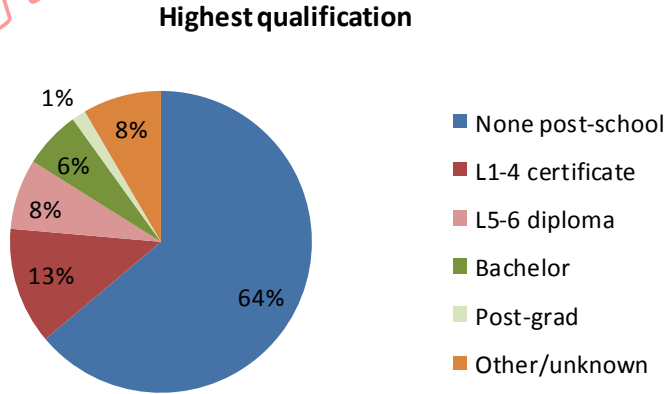
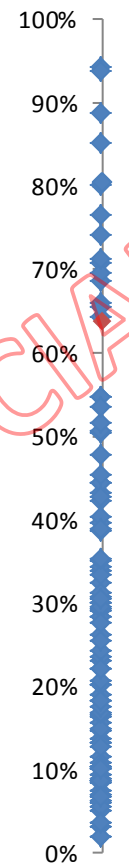
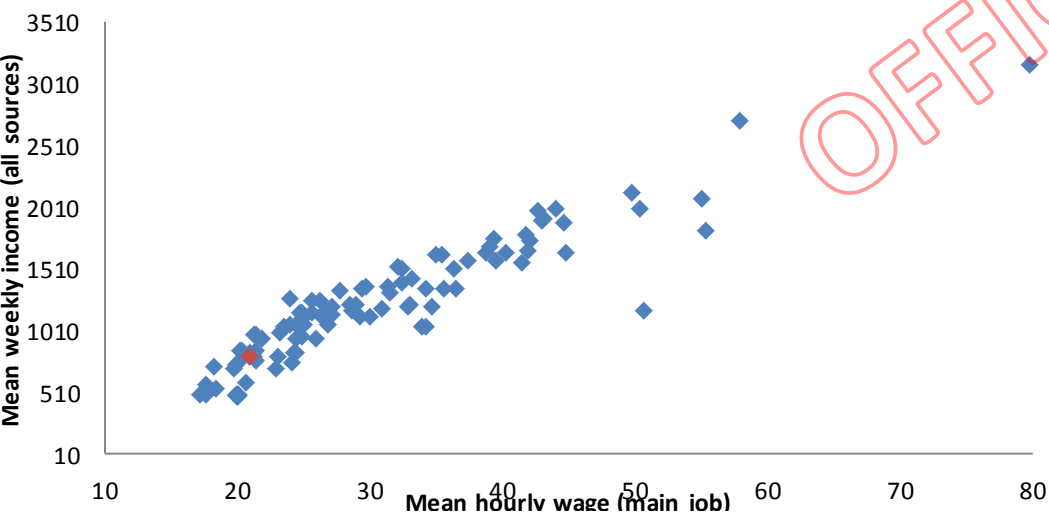
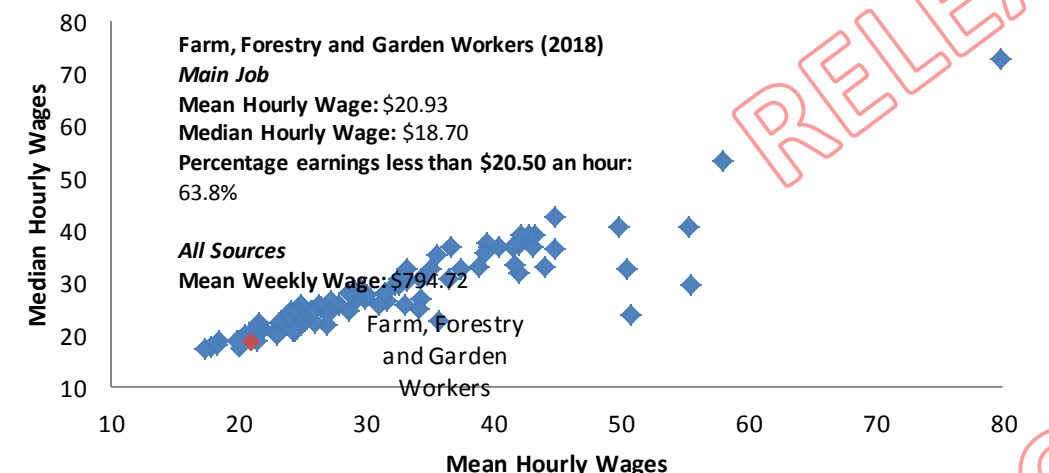


REGIONAL CONCENTRATION

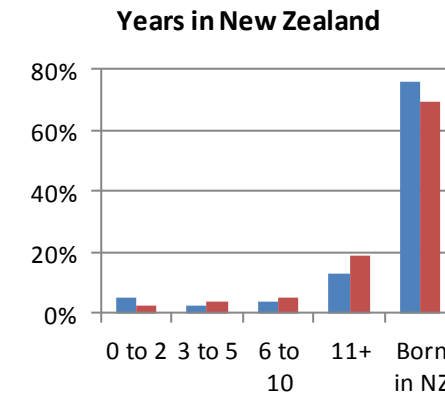
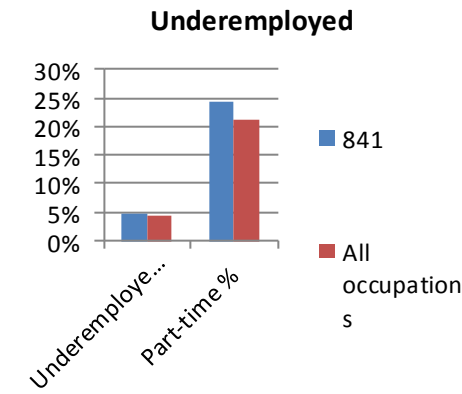
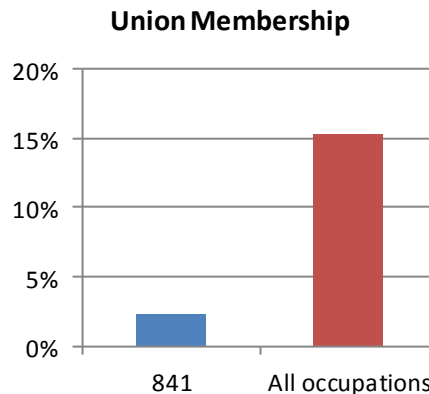
Share of occupation in region minus share of all occupations



Wage and Income



841: Farm, Forestry and Garden Workers

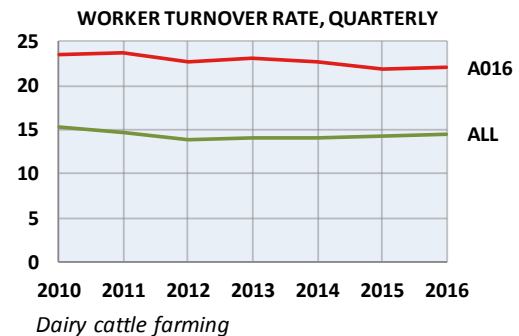


INDUSTRY PERSPECTIVE

Dairy Cattle Farming A016000

Occupation Distribution (Top 10) Census 2013

121313 Dairy Cattle Farmer	53.1%
841611 Mixed Crop and Livestock Farm Worker	14.2%
841512 Dairy Cattle Farm Worker	8.6%
121411 Mixed Crop and Livestock Farmer	5.1%
121399 Livestock Farmers nec	2.5%
999999 Not Stated	1.4%
111111 Chief Executive or Managing Director	1.0%
721111 Agricultural and Horticultural Mobile Plant	0.9%
121312 Beef Cattle Farmer	0.9%
531111 General Clerk	0.6%

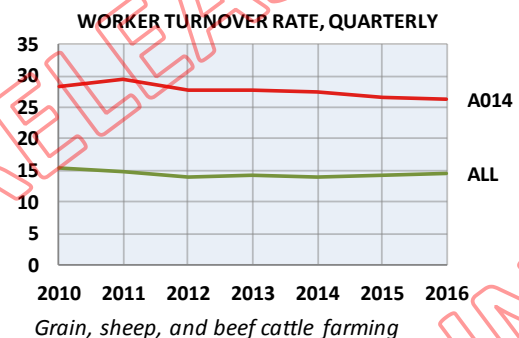


INDUSTRY PERSPECTIVE

Sheep-Beef Cattle Farming A014400

Occupation Distribution (Top 10) Census 2013

841611 Mixed Crop and Livestock Farm Worker	18.7%
121411 Mixed Crop and Livestock Farmer	17.4%
121317 Mixed Livestock Farmer	10.1%
121322 Sheep Farmer	9.6%
841515 Sheep Farm Worker	5.6%
121312 Beef Cattle Farmer	4.1%
121399 Livestock Farmers nec	3.1%
999999 Not Stated	2.6%
899999 Labourers nec	2.4%
121313 Dairy Cattle Farmer	1.9%

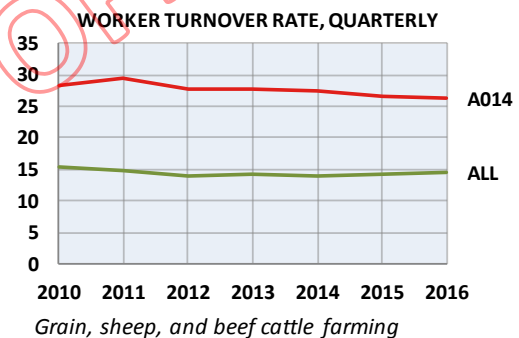


INDUSTRY PERSPECTIVE

Sheep Farming (Specialised) A014100

Occupation Distribution (Top 10) Census 2013

121322 Sheep Farmer	26.0%
841611 Mixed Crop and Livestock Farm Worker	19.4%
121411 Mixed Crop and Livestock Farmer	13.8%
999999 Not Stated	4.9%
841515 Sheep Farm Worker	4.4%
121317 Mixed Livestock Farmer	3.8%
121399 Livestock Farmers nec	2.1%
121313 Dairy Cattle Farmer	1.8%
999000 Response Outside Scope	1.6%
899999 Labourers nec	1.5%



Time	Item 3 – Small group discussion: thinking ahead to Panel Report
40mins	<p>Whole group discussion</p> <ul style="list-style-type: none"> • What topics do you feel you have converged on, so far? • What can you rule on or off the table? • Is there anything you want to recommend the government <i>not</i> do? • Is there anything where you feel there is a long way to go and we should rule out now (ie not doable in the 2 months remaining?) • What have we discussed enough? What sections are you happy for us to write, based on your discussions to date?
<p>Split into 2 groups, listed below. Each group will have an opportunity to do both exercises. An MBIE person will facilitate each exercise.</p>	
20mins	<p>Exercise 1: Topics we've covered</p> <p><u>Purpose:</u> This is an opportunity for you to tell us if our report outline is incomplete, and to tell us points you want included in the report.</p> <p><u>Exercise:</u> Based on your reading of the draft report, add your thoughts to the sheets provided. The most important questions are:</p> <ol style="list-style-type: none"> 1. Are there any important topics or headings which we have not reflected in the current draft report? 2. What key points do you want to ensure we include? 3. How would you write the problem definition and objective, based on discussions to date? 4. What should we include as case studies? <p>Exercise 2: How to use remaining meetings</p> <p><u>Purpose:</u> This is an opportunity to tell us how you want to use your remaining time together.</p> <p><u>Exercise:</u> Read the draft forward agenda, and discuss in your group whether you agree with that plan. Prompting questions:</p> <ol style="list-style-type: none"> 1. Do you agree with our suggestions for how to use your remaining meetings? 2. Do you agree with the order? 3. Are there any discussion topics missing? 4. Do you need any extra supporting materials do you need from MBIE? 5. Would you like to volunteer to present how you see an FPA system working, on 11 October?
20mins	<p>Groups swap, to do the other exercise.</p>
10mins	<p>Regroup</p> <p>MBIE people to report back on the groups' answers to the two exercises.</p> <ol style="list-style-type: none"> 1. Do you disagree with anything the other group has suggested?

Split into small groups

Group 1: Caroline, Richard, Ruth, Steph, Stephen, Tony

Group 2: Izi, Jim, John, Kirk, Paul



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Fair Pay Agreements – remaining building blocks

Status quo and international examples

Meeting 8, Fair Pay Agreements Working Group, 11 October 2018

In confidence: this is not government policy.



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Introduction

- Over recent weeks we have focussed a lot on **trigger** and **scope**, in the context of the models.
- This presentation is a chance to consider the other building blocks.
- At this meeting we are presenting the status quo in New Zealand, what other countries do, and questions we'd like your initial input on.
- At the next meeting, we will incorporate your views / ideas / questions from today, and come back with some options on each of the building blocks.



This topic will be done in two halves – we'll have a break and hear from Doug, then pick it back up.

Building blocks of collective bargaining rules



The two in grey are not covered today.

Contents

Context: our international obligations

Coverage

- Should an FPA apply across an industry or occupation?
- Should an FPA covers only employees, or also workers?
- Should opt outs or carve outs be allowed?
- Should any other kind of easing in be allowed, eg phasing

Bargaining process rules

Support for the bargaining process

Dispute resolution

Enforcement

Conclusion

Variation and renewal



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Today we'll cover these topics – coverage has several parts to it.

Context: international obligations

New Zealand is a member of the International Labour Organisation (ILO). ILO Conventions govern how member countries should organise their labour relations systems and promote collective bargaining.

- The Right to Organise and Collective Bargaining Convention (No. 98) provides for the establishment of measures to ensure respect for the right to organise and encourage the development of collective bargaining (New Zealand has **ratified**)
 - The ILO does not support compulsory arbitration as a dispute resolution method, as it is contrary to the principle of the voluntary negotiation of collective agreements as established in Convention No. 98, and thus to the autonomy of the parties.
- The Freedom of Association and Protection of the Right to Organise Convention (No. 87) recognises the right of workers and employers to freely establish and join organisations of their own choosing (New Zealand has **not ratified**)
 - NB: Although New Zealand hasn't ratified this Convention, this is a fundamental Convention and as an ILO member New Zealand still reports on any changes that impact on this Convention

Our international obligations constrain our choices in some of the building blocks.



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First some context: our international obligations may mean some choices are off the table, or may guide us away from some choices – we haven't identified these explicitly on the slides, but just to keep back of mind.

The ILO believes a right to strike derives from Convention 87 - but takes a broad view of what that entails, so if there is no ability to strike as a part of bargaining, it might be OK to provide an alternative. Eg the police cannot strike, but do have compulsory arbitration.

Are there other international obligations you think we should keep in mind?

Coverage – industry or occupation?

Questions

1. Conceptually, does it make more sense to have an FPA across an industry, or occupation?
2. Are there pragmatic difficulties in seeking to bargain an FPA across an industry, or across an occupation?
3. What did the data (last meeting) make you think about this issue?

Status quo in New Zealand

- Not applicable under current law.
- Labour Relations Act 1987: employee was subject to only one award or agreement, using doctrines of 'substantial employment' or 'the indivisibility of the weekly wage' to decide which.

International examples

Australia: Modern Awards can cover an industry eg 'all employers operating an alpine resort'; or occupation (eg 'clerks', 'surveyors' or 'professional employees' (covers engineers, scientists) – most Awards seem to be industry-focussed though.

In countries which apply an extension model, we couldn't find any examples where extension across an occupation is common – it appears to be sector.

Netherlands: CA can be extended to all employers and employees in the sector.

Finland: a special board determines whether a CA is representative of its sector (ie if at least half the employees in the sector are covered by it) – if yes, it becomes generally binding across the sector.

Portugal: occupation-based agreements are possible but infrequent because law prioritises vertical (sectoral) agreements.



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Should a FPA be bargained across an industry, or across an occupation? Here we use industry and sector as interchangeable.

Most examples we can find were across industry. Even Australia's modern awards are mostly described as industries – aquaculture industry, building and construction, black coal mining, car parking industry, retail industry, food beverage and tobacco manufacturing, live performance industry, pastoral industry.

Some are quite wide: pastoral includes livestock grazing, poultry, sheep shearing, dairying, broadacre (large scale field crops eg wheat, maize, millet, sorghum), fencing. Some that might be occupations: mannequins & models, nurses, medical practitioners – not many that cross multiple industries.

We couldn't find any literature on why industry was chosen, or how broad 'industry' is interpreted.

Neither option is perfect. The A3 sheets of data from the last meeting illustrated that whichever you choose, there will be some workers or firms which are not caught. Eg of checkout operators: 79% of this occupation were in supermarket and grocery stores – so you would miss 21% of the target occupation if you limited it to supermarket and grocery industry.

Similarly, if you did the whole supermarket and grocery industry, checkout operators only make up 18% of that industry. Even combining checkout operators with sales assistants (another of the 10 A3 sheets), still only about 45% of industry. So if using only industry,

then most people covered by an FPA would not be those you intended to target.

Relating to the issue of overlapping FPAs, section 57 of ERA is the closest: if employee is member of more than 1 union, employee is only bound by 1 CA covering the same work (the first initiated).

Under the 1987 Act, when an employee did several types of work covered by different awards, the matter was resolved using ***See Hughes book (1989 version) paras 10.375

- Doctrine of substantial employment =
- Doctrine of the indivisibility of the weekly wage =

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Coverage – employees, or also workers?

Questions

1. What might be the effect of:
 - including workers?
 - excluding workers?
2. What did the data (last meeting) make you think about this issue?

Status quo in New Zealand

Employment Relations Act: only provides for 'employees' (which is determined based on the real nature of the relationship). Does not contemplate other workers.

Commerce Act: Part 2 (relating to restrictive trade practices) does not apply to contracts or arrangements setting employee pay or conditions – but it does apply to other workers. → So other workers are not allowed to enter agreements which are likely to substantially lessen competition.

Potential issues

- Excluding workers might incentivise firms to structure business models in a way that avoids the FPA's reach.
- Including workers might encroach on competition law.

International examples

Automatic upgrade to employee A digital platform for cleaning services. Freelance cleaners are initially workers but after 100 hours, automatically become employees and become covered by the union agreement (pension, holiday pay, sickness benefits, higher wages). Workers can opt out of this change in status. (Denmark)

Industry-wide agreement Film industry agreement in UK agreed in 2018, covers all workers for films >£30m budget (80% of workers are freelance). Sets minimum terms and conditions, but not pay (hence why it didn't run into competition law problems). Not legally enforceable, but terms translated into individual agreements are. Industrial peace is the incentive for employers to comply. (UK)

Gig economy beginning to organise ILO researchers note that gig economy workers (usually independent contractors) are beginning to organise for better conditions – but there are few examples to date of fully fledged collective bargaining yet.



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The issue is: should FPA cover only employees, or also workers like contractors?

Other regulation in the ERES system regulates employment, ie employees only, determined by 'the real nature of the relationship'. Self-employed are separate. Exception: Health and Safety at Work Act. We think the competition laws may be a big hurdle here.

The data A3 sheets showed that most of the lowest-paid sectors were heavily employees - checkout operators were just shy of 100% employees, for childcare workers it was down at 70% (with over 20% self-employed) – most were between 80% and 90% employees.

Some considerations might be:

- The substance of the contract is different in a (true) contractor relationship – matters that you have talked about including in a FPA, like holiday pay and redundancy, may not be relevant.
- Contractors may not want to be covered.

Denmark example: platform is Hilfr, after 100 hours they move from 115 kroner p/h (approx €15.50) to 141 kroner p/h (approx €19).

UK example: we think it's significant that the film agreement only applied to large productions. And it's important to note that competition law didn't apply because

Question: what else should we consider? Do you want to keep workers on the table?

MBIE is planning to do some thinking (starting in 2019) about contractors and how we extend some protections to workers rather than employees.

The Film Industry Working Group has also considered this matter, and has finalised their recommendations which I can share in confidence.

At present:

People doing film production work are excluded from the definition of “employee” under the Employment Relations Act, unless they are party to a written employment agreement that says they are an employee.

This means contractors doing film production work cannot challenge their employment status, even if they feel the real nature of their relationship with their principal is one of employment.

The FIWG has recommended that contractors doing screen production work be allowed to bargain collectively, and have the protection of a set of minimum standards.

In the FIWG’s recommended model of collective bargaining, collective contracts (ie collective agreements) would have universal coverage across an entire occupation, with no ability to opt-out unless in exceptional circumstances.

Firms are also recommended to be able to have their own collective contracts for their contractors, but these cannot go below floors set in any other applicable collective contracts for occupational groups.

This recommended model will only apply to contractors: nothing (in terms of ERES rights and obligations) will change for employees doing screen production work.

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Coverage – opt outs, carve outs, phasing

Questions

1. What are the most disadvantaging effects, or unintended consequences, of a FPA?
2. What 'pressure valve' measures could reduce those worst effects?

Status quo in New Zealand

- ERA: employer can opt out of MECA bargaining within 10 days of receiving a notice of intent to begin bargaining (s44A)
- As currently drafted, the Employment Relations Amendment Bill would change this: new s33 would require parties to conclude a CA once bargaining initiated, unless genuine reason not to (that CA could be a MECA or SECA).

International examples

OECD suggests that CB should support strong economic outcomes, which may require flexibility at the firm level.

Flexibility: a trend in Southern Europe towards giving more flexibility to employers, which kick in in times of economic shocks. Also in France opt-out clauses introduced in 2016 in cases of economic difficulties (doesn't apply to wages).

Australia: Certain occupations excluded from a modern award: commonly, accountants, lawyers, HR, IT, finance, marketing specialists, managers. Modern awards do not apply to employees who earn over \$145,400. Transitional arrangement: pay rates and conditions were phased in 5 years 2010-2014. There is no contracting out of minimum standards in a modern award.

Netherlands: firm can be excluded from extension if (1.) CA allows for it (eg building industry: can opt out if there is a firm-level agreement that, on balance, guarantees the same wages and conditions), or (2.) Minister agrees to exemption (must be satisfied it is 'unreasonable' for the agreement to apply to firm).

Switzerland: in 2012 all firms with turnover lower than CHF1.2m (NZ\$1.85m) were exempt from extension.

Germany: General opening clauses – parties can agree in CA to allow for firm-level deviations from sectorally-agreed minimums, e.g. working time and wages. Deviations may be agreed with a union or work council – these are now widespread.



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The issue here is: should there be allowances for certain cases- to act as a pressure valve, preventing unintended consequences?

We have seen a move towards this in Europe, especially southern Europe after feeling the effects of strict rules in the GFC. What effects would you want to soften the edges of?

We've heard you mention possible exemptions for firms hiring long-term beneficiaries (eg higher wages may not apply for the first year), start ups, or firms in economic difficulties.

Or, should some employees not be included, eg if you were to assume that they would have good bargaining power – like Australia? Is there a benefit in that?

What other exemptions would you like to consider? Would you like us to consider how an exemption be granted, eg by the Minister, or automatic?

Bargaining process rules

Questions

1. Which of our existing bargaining process rules would not work for FPAs?
2. What additional rules might be needed?

Status quo in New Zealand

Duty of good faith:

- Parties must have a plan for an effective and efficient process for bargaining, meet with each other for the bargaining, consider and respond to proposals made by each other.

Duty to conclude:

- As currently drafted, the Employment Relations Amendment Bill will add a duty to conclude bargaining.

Strikes:

- Strikes are permitted in connection to negotiating for a collective agreement.

Process

- ERA provides process rules for initiation, notice, responding, ballots, facilitation, deadlock, ratification.

International examples

Australia: The Fair Work Act 2009 also specifies that collective bargaining is to be done in good faith.

Canada: Both the federal labour code and some labour legislation at the provincial level include a general duty to bargain in good faith.

United Kingdom: The Trade Union and Labour Relations (Consolidation) Act 1992 does not require a duty of good faith, but has a duty to disclose information to promote good bargaining. The Trade Union and Labour Relations (Consolidation) Act 1992 states that strikes cannot be disallowed in collective agreements.

Netherlands: Right to strike is not included in Dutch legislation. However case law states that the right to strike cannot be subject to restrictions or limitations except for limited circumstances eg public interest, national security, public health (Supreme Court case in 2015). This is in line with the European Social Charter.

Tanzania: The procedures for collective bargaining are left to workers and employers to define by agreement amongst themselves.



Issue here: which bargaining process rules should we recommend?

John and Richard's paper goes into some detail on bargaining process rules. For those of you who know how the rules work in practice, can you see anything that might work well or badly in a FPA system?

The no strikes matter will need to be handled carefully, to ensure we remain within international obligations.

Tanzania shows the other end of the spectrum: from principles and rules, down to leaving it up to parties.

Support for the bargaining process

Questions

1. Who is best placed to support the process across the spectrum of possible support?
2. Are any of these forms of support needed?
 - Passive information/active information
 - Capability building
 - Facilitation/encouragement
 - Incentives

Status quo in New Zealand

- Government publishes information about the bargaining process and employment rules generally
- Good faith rules in place to encourage constructive behaviour
- Free mediators are available during collective bargaining, and must be used in some cases before strikes or lockouts
- The Employment Relations Authority can facilitate bargaining in some circumstances
- MBIE is working to respond to the Reconvened Working Group on Pay Equity Principles recommendations that the government should:
 - support pay equity information
 - encourage transparency across employers
 - consider investing to support necessary skills, knowledge and resources to effectively support the resolution of pay equity issues.

International examples

Good faith: procedural good faith/good process requirements in the Fair Work Act to support the bargaining process (Australia)

Prohibition on unfair practices: includes things like surface level bargaining, or directly dealing with employees rather than the union. (Canada)

Voluntary bargaining process, with good information sharing: Government is generally not involved in the collective bargaining process in UK – mostly voluntary agreements. Have a Code of Practice for Disclosure of Information to Trade Unions for Collective Bargaining Purposes. (UK)

Sector group/not-for-profit pays supports process: British Film Institute funded an independent facilitator in the UK Major Motion Picture negotiations (UK)

Apply for assistance, eventually arbitration: parties can apply to the Ministry of Manpower for conciliation assistance, and can refer a dispute to the industrial arbitration court. (Singapore)

Government supports workplace training, to support tripartite process: productivity grants, workforce training support scheme, etc (Singapore)



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Issue: what support will bargaining parties need? This does bleed a lot into the next 2 slides about dispute resolution.

Some international examples of support we found are:

- Structural support, where the system sets rules designed to support – eg Canada rules about unfair practices, or UK CoP requiring firms to give info to unions
- Independent facilitator in UK
- MBIE provides free mediators who are available for all collective bargaining – so does anyone have practical experience with that service, is it fit for purpose here?
- What kind of support is most effective? Who is closest and best placed to provide it?

Harry

Dispute resolution (during bargaining)

Questions

1. Will a conciliatory or determinative process work best?
2. Should it be compulsory or voluntary?
3. Who decides dispute resolution is needed?
4. Where might we run into problems with adjusting the existing system?
5. What else do we need to consider in assessing the best system?

Status quo in New Zealand

Mediators from Employment Mediation Services are available free of charge to help parties at any stage of the collective bargaining process. Either party can ask for help from Employment Mediation Services. Mediation will be offered if both parties agree to attend. Mediation Services helps to settle 75% of cases.

Where collective bargaining runs into serious difficulties, one or more of the bargaining parties can ask the Employment Relations Authority to help resolve their differences through facilitated bargaining.

At the end of the facilitation process, the Authority can make recommendations about the process the parties should use to reach agreement and the terms and conditions of the collective agreement. Recommendations must be considered by the parties in good faith.

International examples

Most overseas jurisdictions follow similar dispute resolution pathways centred around mediation or conciliation.

Disputes are resolved by negotiation and bargaining between employers and workers: The Government may intervene in circumstances where the parties are unable to resolve their differences after a prolonged strike or lockout, but state intervention remains the exception, not the rule (Denmark)

Independent agency handles disputes: similar to the NZ status quo, an independent agency or government commission provides conciliation services to resolve collective bargaining disputes (Australia, UK)

Joint committee facilitation: A Conciliation Board, created within a Joint Committee. A Joint Committee is the bi-partite collective bargaining body at sector level, composed of a representation of the social partners and chaired by a mediator. Suggestions from the committee are non-binding. (Belgium)



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The overall question is: what avenues should be open to parties to resolve disputes that come up during bargaining?

Most dispute resolution systems have mediation first, as does NZ – there's a fully-funded service run out of MBIE which has a good success rate. If not, then parties can go to the Employment Relations Authority, which can make recommendations.

Most overseas are similar – but some have government intervention or the previous slide noted arbitration in Singapore. Obviously in Australia in Modern Awards there is a third party binding decision too.

Enforcement and dispute resolution (after agreement concluded)

Questions

1. What's the likely scale of non-compliance and why?
 - o Lack of awareness?
 - o Confusion?
 - o Deliberate evasion/non-compliance?
2. Should mediation be required before a complaint will be heard?
3. Which body would be the appropriate one to enforce FPAs?
4. Is there a role for industry, unions, or government in enforcement?

Status quo in New Zealand

- Collective agreements are legally binding/enforceable.
- Unions can enter workplaces to monitor compliance with CAs.
- The Act requires that before the Authority can hear a complaint, it must require the parties to undertake mediation first (unless it won't contribute constructively to resolve the matter, won't be in the public interest, etc).
- Employees and employers can complain to the Employment Relations Authority to enforce an agreement.
- Penalties of up to \$10,000 (for individuals) and \$20,000 (for companies) for breaching—or aiding/abetting breach—of an employment agreement.
- The Labour Inspectorate enforces minimum standards, and targets resources using a risk-based approach.

International examples

Largely voluntary system: Collective agreements are not legally binding. However terms can be incorporated into individual employment contracts, which means the terms can be legally enforceable. (UK)

Legal proceedings can be started to enforce rights: parties which sign agreements are prohibited from taking action which contravenes the agreements (peace obligations/good faith). Working condition rights etc in agreements can be enforced through legal proceedings. Labour inspectorate can also enforce collective agreements. (Belgium)

Dispute resolution required first: Firm level agreements must set out a step-by-step process for dispute resolution regarding how the agreement is applied. Can complain to the Fair Work Commission after dispute resolution process exhausted. (Australia)

Attempt to resolve disputes amicably first, then apply to courts: If the parties to an employment-related dispute cannot solve a dispute amicably, they can bring the dispute to the courts or special employment tribunals that can decide certain employment-related claims for employees covered by a collective agreement. (Denmark)



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This question is about how an agreement will be enforced, and how to resolve disputes about different interpretations of it.

Currently our main avenues are the Labour Inspectorate for minimum standards, and mediation then the Employment Relations Authority for complaints.

Looking internationally, some CAs aren't enforceable - UK

In Australia the agreement sets out what the dispute resolution process will be, Belgium enables labour inspectorate to enforce CAs.

Generally mediation then a tribunal seems common process.

Our questions for you are about what do you think the reasons for non-compliance will be, and how should that affect how we design enforcement?

Conclusion

Questions

1. What parts of the current rules for conclusion would suit FPAs?
2. What different or additional rules might be needed?
3. Do any of the international examples appeal?

Status quo in New Zealand

- A collective agreement is concluded when it is ratified.
- The ratification process for a collective agreement should be decided at the beginning of bargaining by the parties.
- Currently the duty of good faith does not require collective agreement to be concluded. As currently drafted, the Employment Relations Amendment Bill will add a duty to conclude.
- If there is deadlock over an issue, either party can seek a declaration from the Employment Relations Authority about whether bargaining has concluded.
- No retroactivity allowed.

International examples

Simple majority of employees: To conclude an enterprise agreement, it must be submitted to vote by the employees who will be covered by the agreement. A simple majority is needed. If the parties are unable to reach agreement on an enterprise agreement, the Fair Work Commission can make a determination. (Australia).

Duty to make reasonable effort to conclude: In both the federal labour code and some labour legislation at the provincial level there is a general duty to make every reasonable effort to conclude a collective agreement. (Canada)

Registration: A collectively bargained agreement becomes legally binding once registered. (Belgium)

Retroactivity: some OECD countries (Belgium, Spain, Italy) allow CAs to be applied retrospectively.



Sorry for misleading heading! This is about concluding the bargaining, or finalising the agreement.

We've already discussed that ratification will be a key element of an FPA system.

Do you want to make mention either way about a duty to conclude? I think you probably to do want to rule out retrospectivity?

Variation and renewal

Questions

1. What parts of the current rules for variation and renewal would suit an FPA system?
2. Which of the international examples do you like?

Status quo in New Zealand

- Maximum duration of CA set in law (3 years).
- 60 days prior to expiry date of collective agreement (no earlier): parties can initiate bargaining to vary and renew a collective agreement.
- If a collective agreement expires, employees will move onto an individual employment agreement based on the expired collective agreement
- Once a collective agreement expires, a new collective agreement needs to be initiated to replace it within 12 months.
- Once a new collective agreement is agreed within 12 months, union members will automatically move off the individual employment agreement onto the new collective agreement.

International examples

Duty to initiate negotiations to replace CA: Has the same variation/renewal rule as New Zealand: there is a duty to initiate negotiations for a new collective agreement or replace an existing one at least 60 days before expiry of the current collective agreement (Slovakia).

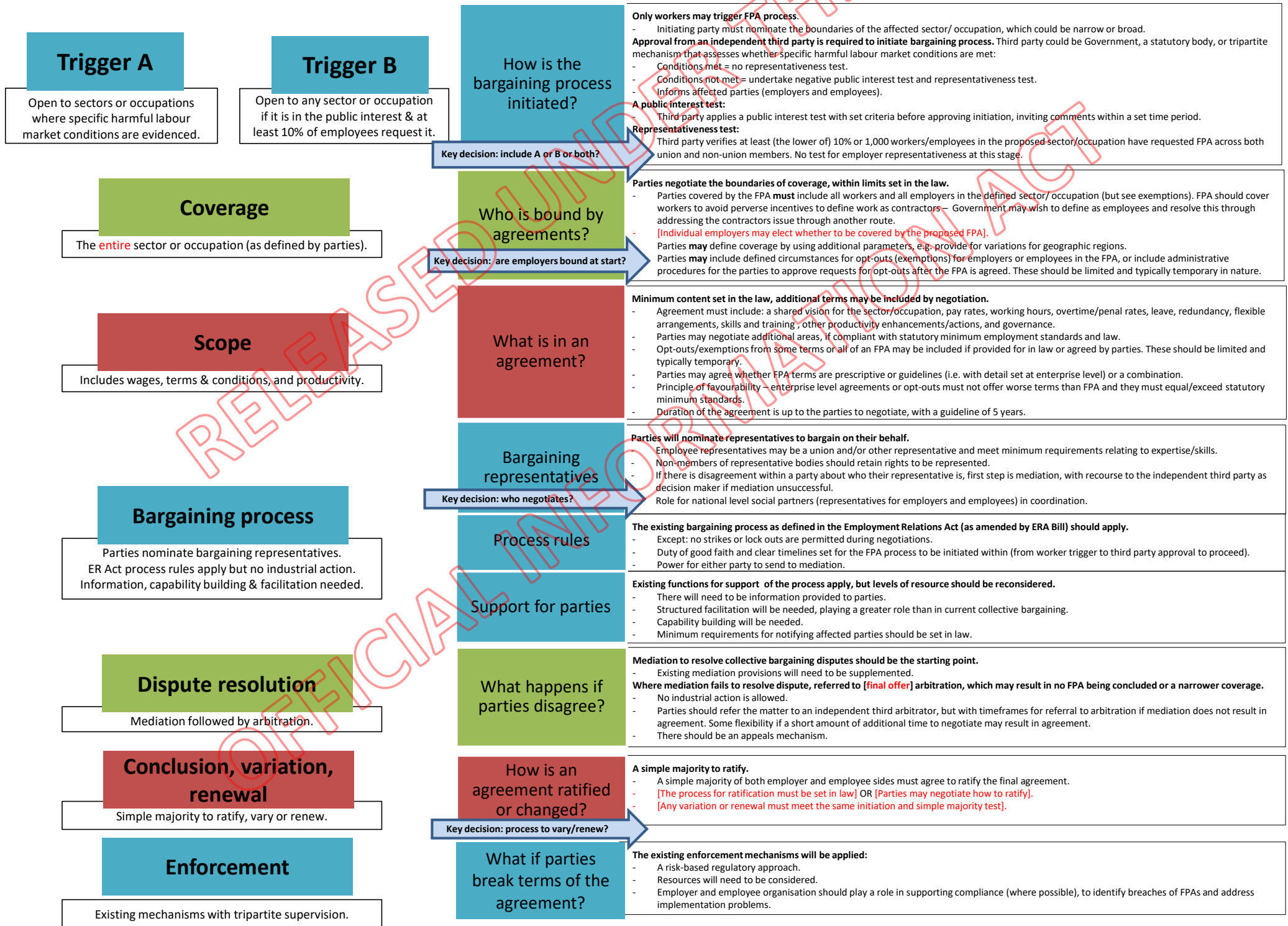
Length of time: Across OECD, CAs are renewed on average every 12-24 months. Every 3 years in Australia, Chile and Sweden. >40 months on average in Canada and Portugal. Most OECD countries allow social partners to set length.



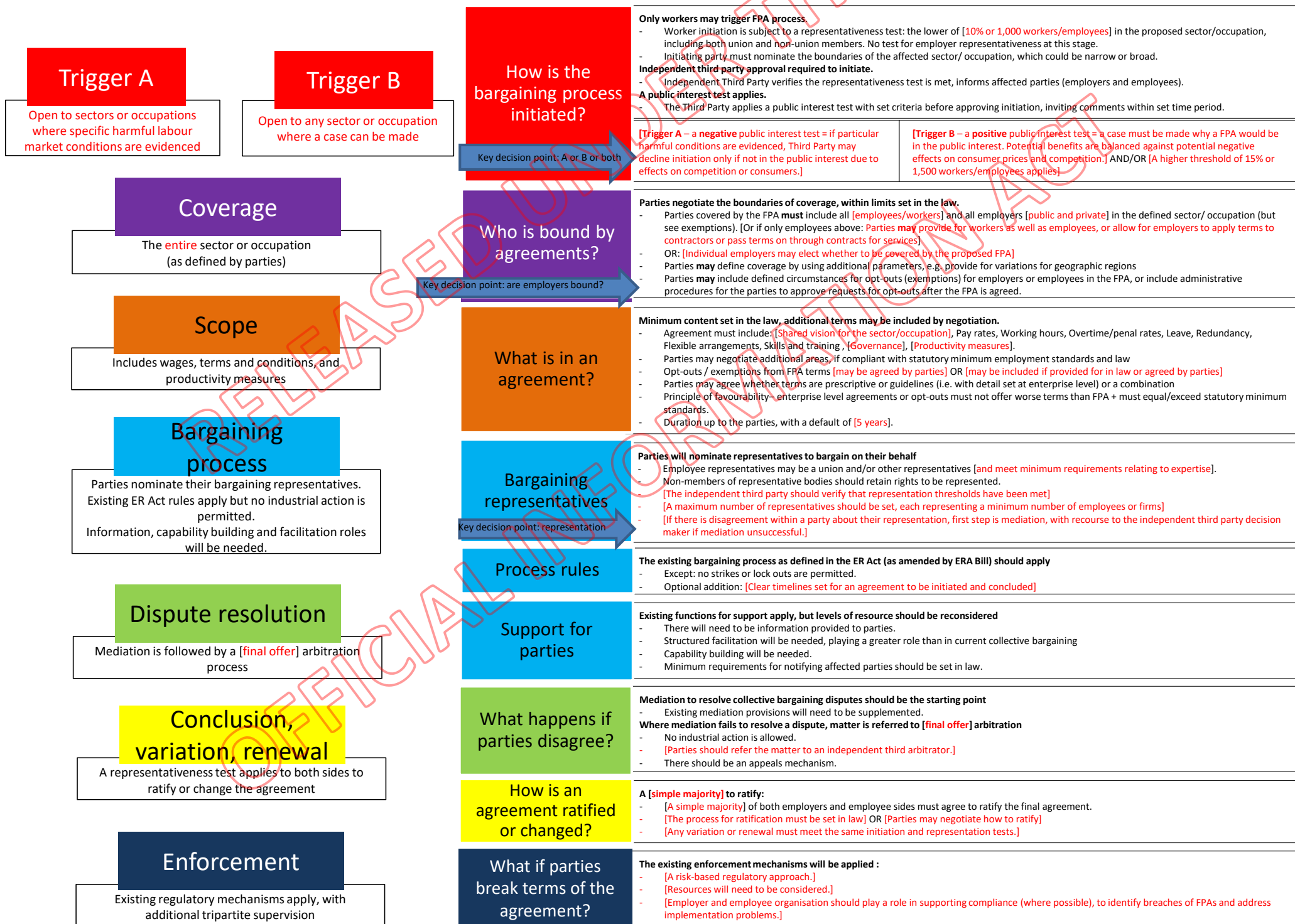
Last slide. How should agreements be changed, renewed or renegotiated?

NZ currently has a 3 year lifespan for CAs. Should the law set boundaries or should it be up to the parties?

Key features of a Fair Pay Agreements system – a model for sector-based collective bargaining



Key features of a Fair Pay Agreements system – a model for sector-based collective bargaining





MEMO

DATE	30 October 2018
TO	Fair Pay Agreements Working Group
PREPARED BY	MBIE Secretariat
SUBJECT	NEW ZEALAND'S INTERNATIONAL OBLIGATIONS

PURPOSE

1. This memo responds to an action from the Fair Pay Agreements Working Group from its meeting on 11 October 2018.
2. The action was "Secretariat to provide advice on our international obligations and whether they constrain the Group's options, for example in relation to imposing a Fair Pay Agreement on all affected parties, or building in an element of compulsion (such as final offer arbitration) if parties cannot agree."

INTRODUCTION

3. In international law, a state's obligations in a particular circumstance are often not definitive, but a matter for interpretation. With this memo we do not intend to set out a position on the government's interpretation of its responsibilities, but have set out the text of the obligations, and the indications given by authoritative bodies about how those responsibilities have been interpreted in other circumstances.
4. Key phrases in various quotes have been **bolded** throughout this memo by MBIE for emphasis.

INTERNATIONAL LABOUR ORGANISATION CONVENTIONS

5. New Zealand's international obligations can be deduced from several sources:
 - 5.1. the basic principles that apply to all states,
 - 5.2. the particular treaties or Conventions that the New Zealand government has ratified,
 - 5.3. guidance issued by authoritative international bodies, such as International Labour Organisation (ILO) committees, which expands on the meaning of those Conventions – this guidance is not strictly binding, but does give a strong indication of how the Conventions are likely to be interpreted.



6. New Zealand has ratified the Right to Organise and Collective Bargaining Convention 1949 (No.98).¹ It has not ratified the Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87)² although as this is a 'Fundamental Convention',³ the ILO considers that the fundamental principles and rights it contains effectively apply to all ILO members by virtue of their membership.⁴ This memo outlines relevant parts of these treaties, as well as commentary from authoritative bodies on those treaties.

MANDATING THAT A FAIR PAY AGREEMENT APPLIES TO ALL AFFECTED PARTIES

7. This part of our memo sets out the relevant international law in determining whether New Zealand could provide in law that a fair pay agreement must apply to every firm and employee or worker in an industry or occupation, regardless of whether the firm, employee or worker agrees to it.
8. Most of the guidance relates to 'extension', a term describing the common practice in Europe where if a certain proportion of the firms or workers in an industry has agreed to the terms of a single collective agreement, the coverage of the agreement is extended (automatically or on application) to bind the entire industry.
9. It should be noted that a key difference between the 'extension' model and that being considered for Fair Pay Agreements is that the latter envisages that a FPA would be explicitly bargained as such from the start, with every affected firm or worker having the opportunity to be represented in bargaining and to indicate whether they wish to ratify the resulting agreement.
10. ILO Collective Agreements Recommendation 1951 (No.91), which accompanies Convention 98 on Collective Bargaining, states at paragraph 5:⁵

(1) Where appropriate, having regard to established collective bargaining practice, **measures**, to be determined by national laws or regulations and suited to the conditions of each country, **should be taken to extend the application of all or certain stipulations of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement.**

(2) National laws or regulations **may** make the extension of a collective agreement **subject to the following, among other, conditions;**

(a) that the collective agreement **already** covers a number of the employers and workers concerned which is, in the opinion of the competent authority, **sufficiently representative;**

¹ https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::no::P12100_Ilo_Code:C098

² https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312232

³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312232

⁴ <https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>

⁵ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R091:NO



(b) that, as a general rule, the **request** for extension of the agreement shall be **made by one or more organisations of workers or employers who are parties** to the agreement;

(c) that, prior to the extension of the agreement, the **employers and workers** to whom the agreement would be made applicable by its extension **should be given an opportunity to submit their observations**.

11. In its comments on this, the ILO Committee of Freedom of Association (CFA) focusses on issues of representativeness:⁶

1506. In a case where the public authorities decreed the extension of collective agreements when current collective agreements had been concluded by minority organizations in the face of opposition by an organization which allegedly represented the large majority of workers in the sector, the Committee considered that the **Government could have carried out an objective appraisal of representativity** of the occupational associations in question **since, in the absence of such appraisal, the extension of an agreement could be imposed on an entire sector of activity contrary to the views of the majority organization** representing the workers in the category covered by the extended agreement, and **thereby limiting the right of free collective bargaining of that majority organization**.

1507. Any **extension** of collective agreements **should take place subject to tripartite analysis of the consequences it would have on the sector** to which it is applied.

1508. When the extension of the agreement applies to non-member workers of enterprises covered by the collective agreement, this situation in principle does not contradict the principles of freedom of association, in so far as under the law it is the most representative organization that negotiates on behalf of all workers, and the enterprises are not composed of several establishments (a situation in which the decision respecting extension should be left to the parties).

1509. The extension of an agreement to an entire sector of activity contrary to the views of the organization representing most of the workers in a category covered by the extended agreement is liable to limit the right of free collective bargaining of that majority organization. This system makes it possible to extend agreements containing provisions which might result in a worsening of the conditions of employment of the category of workers concerned.

12. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted that:⁷

245. The Committee considers that the **extension** of collective agreements **is not contrary to the principle of voluntary collective bargaining and is not in violation of Convention No. 98**. It observes that such measures are envisaged in several countries.

⁶

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70002:0::NO:70002:P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3947747,1

⁷ https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/giving_globalization_a_human_face_1.pdf



ARBITRATION

13. This part of our memo sets out the relevant international law in determining whether New Zealand could provide for a compulsory way to reach a conclusion in bargaining (such as arbitration) when the parties cannot agree.

14. Convention 98 on Collective Bargaining states at Article 4:⁸

“Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.”

15. The CFA has noted that:⁹

697. ... the overall aim of Article 4 of Convention No. 98 is the promotion of good faith collective bargaining with a view to reaching an agreement on terms and conditions of employment.

1328. It is important that both employers and trade unions bargain in good faith and make every effort to reach an agreement; moreover genuine and constructive negotiations are a necessary component to establish and maintain a relationship of confidence between the parties.

16. Generally the ILO favours voluntary arbitration as best suited to the objectives of collective bargaining. The CFA notes that:¹⁰

1322. If the negotiations are not successful because of disagreement, the Government should consider with the parties ways of overcoming such an obstacle through a conciliation or mediation mechanism, or, if the disagreements persist, through arbitration by an independent body trusted by the parties.

1323. The intervention of a neutral, independent third party, in which the parties have confidence, may be enough to break a stalemate resulting from a collective dispute, which the parties cannot resolve by themselves.

1325. The bodies appointed for the settlement of disputes between the parties to collective bargaining should be independent, and recourse to these bodies should be on a voluntary basis.

17. CEACR has noted that:¹¹

⁸ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R091:NO

⁹ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_183430.pdf

¹⁰ <https://www.ilo.org/dyn/normlex/en/f?p=1000:70001::NO::>



247. **Compulsory arbitration in the case that the parties have not reached agreement is generally contrary to the principles of collective bargaining.** In the Committee's opinion, compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis. However, arbitration accepted by both parties (voluntary) is always legitimate. In all cases, the Committee considers that, before imposing arbitration, it is highly advisable that the parties be given every opportunity to bargain collectively, during a sufficient period, with the help of independent mediation.

STRIKES

18. This part of our memo sets out the relevant international law in determining whether New Zealand could legislate to ban industrial action by parties while negotiating a Fair Pay Agreement.

19. Convention No. 87 does not explicitly mention a right to strike. However, the CFA has stated that:¹²

752. The Committee has always recognized the **right to strike by workers** and their organizations as a **legitimate means of defending their economic and social interests.**

754. The **right to strike is an intrinsic corollary to the right to organize** protected by Convention No. 87.

777. Provisions which prohibit strikes if they are concerned with the issue of whether a collective employment contract will bind more than one employer are contrary to the principles of freedom of association on the right to strike; **workers and their organizations should be able to call for industrial action in support of multi-employer contracts.**

20. In addressing the relationship between strikes and forms of dispute resolution, the CFA has stated that:¹³

793. Legislation which provides for voluntary conciliation and arbitration in industrial disputes before a strike may be called cannot be regarded as an infringement of freedom of association, **provided recourse to arbitration is not compulsory and does not, in practice, prevent the calling of the strike.**

794. In general, a decision to suspend a strike for a reasonable period so as to allow the parties to seek a negotiated solution through mediation or conciliation efforts, does not in itself constitute a violation of the principles of freedom of association.

¹¹ https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/giving_globalization_a_human_face_1.pdf

¹² <https://www.ilo.org/dyn/normlex/en/f?p=1000:70001::NO::>

¹³ <https://www.ilo.org/dyn/normlex/en/f?p=1000:70001::NO::>



816. Compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, i.e. in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

818. **In as far as compulsory arbitration prevents strike action**, it is contrary to the right of trade unions to organize freely their activities and **could only be justified in the public service or in essential services** in the strict sense of the term.

822. The Committee considers that a system of **compulsory arbitration** through the labour authorities, if a dispute is not settled by other means, **can result in a considerable restriction of the right of workers organizations to organize their activities** and may even involve an absolute prohibition of strikes, contrary to the principles of freedom of association.

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9E – Points for discussion

For each of these points of difference you could:

- a) Settle on a single recommendation
- b) Describe several options, but not recommend any
- c) Describe several opinions, and make a split recommendation

Initiation

- Should both Trigger A and B be allowed?
- How should potential negative effects on competition be considered in the FPA design?
- Should the independent third party be a statutory body (and specifically not Minister / central Government)?
- What should the number and percentage threshold be for workers to trigger a FPA?

Coverage

- Should employers be able to elect whether to be covered at the start of the process (opt-in)?
- Should parties be able to agree exemptions for employers that have an enterprise-level agreement with more favourable terms than the FPA?

Scope

- Should a shared vision for the sector, productivity-related actions, and governance arrangements be mandatory or optional provisions in the FPA?
- Should parties have to set prescriptive terms in all FPA provisions, or should they have flexibility to be less prescriptive and leave enterprise-level bargaining to set the detail?

Bargaining parties

- Should only unions be able to represent workers?
- Who should represent employers?
- Should employers have to pay worker bargaining representatives for their time and cover travel, accommodation costs for the FPA process?
- Should workers be paid to attend meetings to elect or direct bargaining team, and to ratify?

Dispute resolution

- Should arbitration be 'final offer'? Or should arbiter be able to rule no FPA or set narrower coverage or scope than desired by one party?
- How do you want us to describe facilitation, mediation and arbitration?
- Should the arbitration be done by a single person or a panel?
- In what circumstances should an appeal be provided for, if any - e.g. a claim that notification process was not followed, or e.g. to determine whether a worker or employer is covered by the FPA?

Ratification

- Should ratification procedure be set in law?
- Should parties be able to renew a FPA easily?



MEMO

DATE 20 November 2018

TO Fair Pay Agreements Working Group

PREPARED BY MBIE Secretariat

SUBJECT **GOVERNMENT SUPPORT FOR IN-WORK TRAINING**

PURPOSE

1. This memo responds to an action from the Fair Pay Agreements Working Group from its meeting on 6 November 2018.
2. The action was for the Secretariat to provide advice on what funding is already provided by Government for in-work formal training. This was sought in the context of the Group discussing the role of upskilling in increasing productivity.
3. In gathering this information on current funding programmes we have spoken to colleagues at the Tertiary Education Commission, MBIE, and Ministry for Social Development, and given the limited time, it isn't exhaustive.
4. At the outset, we note the Vocational education and training system is currently under review by the Ministry of Education, including the role of Government in that system.

INDUSTRY TRAINING FUND

5. The Industry Training Fund (ITF) supports industry training organisations (ITOs) to develop and maintain skill standards (e.g. qualifications) and arrangements for delivering work-based training.
6. The ITF subsidises formal, structured, employment-based training linked to qualifications primarily at levels 1–4 on the New Zealand Qualifications Framework (NZQF), covering New Zealand Apprenticeships, industry training and industry-training related projects.
7. The ITF is the Government's contribution to the cost of industry training. The balance of the cost is met through contributions from employers, trainees and apprentices. This is based on the view that work-based training has more private benefits (for the learner and the firm) than other education.
8. TEC's experience is that in most cases employers do not pay for their employees to undertake industry training, and most costs are carried by the participating learners.
9. Some work-based learners are eligible for Fees Free training, which means there is also no cash cost to the employer. Some learners undertaking 60 credits or more can be paid the training wage (80% of the minimum wage), which reduces costs to employers.



MICRO-CREDENTIALS AND JUST TRANSITION INITIATIVES

10. In 2018, NZQA is introducing a micro-credential system as part of New Zealand's regulated education and training system, following three pilot programmes in 2017-8. Micro-credentials are intended to support work underway on career transitions, including where jobs requiring similar skills are clustered, and individuals supported to gain the few extra skills needed (for example, if it is a regulated occupation, or to meet employers' needs) to transition into sustainable jobs.
11. At 5 to 40 credits, micro-credentials will be smaller than qualifications and focus on skill development opportunities not currently catered for in the tertiary education system, and for which there is strong evidence of need by industry, employers, iwi and community. Micro-credentials are new stand-alone education products intended to enable learners to access specific knowledge and skills in a cost-effective and time-efficient way.
12. Micro-credentials will be fundable from 2019. The TEC is finalising the criteria and investment process for micro-credentials for tertiary education organisations. TEC plans to invest in high-quality micro-credentials that meet the needs of industries and communities, and support TEC priorities. Its focus is on ensuring additionality: i.e. that the funding results in people upskilling who would not have otherwise.

WORKPLACE LITERACY AND NUMERACY

13. Direct funding to employers and through providers is available to support workplace literacy programmes that increase the skills of employees and build productivity: \$75 per person per hour in provider-funded workplace literacy and numeracy programmes (WLN), or approximately \$80 per person per hour in employer-funded WLN. WLN programmes often use the context of a quality improvement methodology, health and safety, customer service, and other productivity enhancing settings.

OTHER INITIATIVES

14. There are several TEC-driven tertiary education projects currently responding to industry or employer needs, including Engineering e2e, the Primary Sector Advisory Group and the Construction Skills Action Plan which have specific upskilling and recruitment focuses.
15. Ministry of Social Development offers a Flexi-wage subsidy for employers who want to hire a jobseeker who is on a benefit but doesn't have the required skills for the job. The scheme can help with training to gain the required skills. The Skills for Industry programme also supports employers to upskill workers in industries with skills or labour shortages.
16. The Sector Workforce Engagement Programme (SWEP) is an industry-led, Government-supported initiative, which focuses on certain sectors with lower skilled occupations. These include horticulture and viticulture, dairy farming, road freight transport, construction, tourism and hospitality, and residential aged care. As well as connecting jobseekers to employers, SWEP has supported more than 3000 people into recognised training since 2016.



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17. These initiatives illustrate that it is important to consider and address the wider barriers to uptake of in-work training, not just cost.

SUGGESTED TEXT FOR YOUR REPORT

18. In summary, there are many programmes available and initiatives in development, with practical support as well as funding for in-work training. Arrangements for Vocational Education and Training are being reviewed at present.
19. We suggest text below to reflect your discussion on 6 November 2018 and the above information. If you agree, we will insert the below at the end of section 6.9.

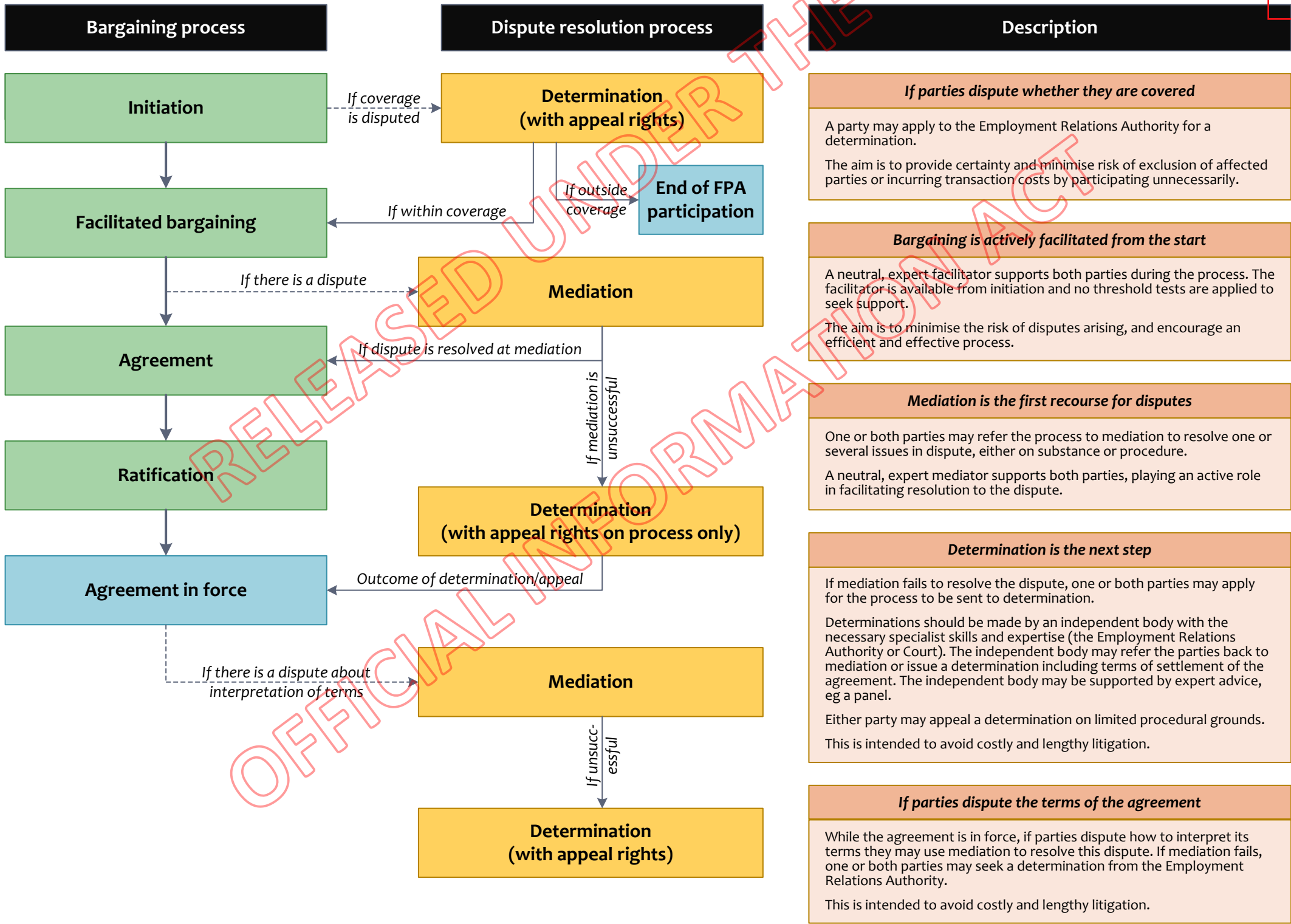
Support for industries to improve productivity through investments in skills

“The Group agreed that improving access to pathways for work-based learning and upskilling would be a key way that Fair Pay Agreements could contribute to raising the productivity of the sectors and occupations they cover.

The Group noted the variety of funding sources available for work-based training, and also that the Vocational Education and Training system is under review. A key consideration will be the opportunity cost faced by workers and employers in prioritising training, especially the time commitment required or where the benefits are longer term, or spread across the industry.

The Government should consider whether there is a further role it could play in industries with a Fair Pay Agreement, to encourage and support employers to take up opportunities to upskill their workers for long term gain.”

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If parties dispute whether they are covered

A party may apply to the Employment Relations Authority for a determination.

The aim is to provide certainty and minimise risk of exclusion of affected parties or incurring transaction costs by participating unnecessarily.

Bargaining is actively facilitated from the start

A neutral, expert facilitator supports both parties during the process. The facilitator is available from initiation and no threshold tests are applied to seek support.

The aim is to minimise the risk of disputes arising, and encourage an efficient and effective process.

Mediation is the first recourse for disputes

One or both parties may refer the process to mediation to resolve one or several issues in dispute, either on substance or procedure.

A neutral, expert mediator supports both parties, playing an active role in facilitating resolution to the dispute.

Determination is the next step

If mediation fails to resolve the dispute, one or both parties may apply for the process to be sent to determination.

Determinations should be made by an independent body with the necessary specialist skills and expertise (the Employment Relations Authority or Court). The independent body may refer the parties back to mediation or issue a determination including terms of settlement of the agreement. The independent body may be supported by expert advice, eg a panel.

Either party may appeal a determination on limited procedural grounds. This is intended to avoid costly and lengthy litigation.

If parties dispute the terms of the agreement

While the agreement is in force, if parties dispute how to interpret its terms they may use mediation to resolve this dispute. If mediation fails, one or both parties may seek a determination from the Employment Relations Authority.

This is intended to avoid costly and lengthy litigation.