

Aide-Mémoire

Joint Briefing - Holidays Act Remediation Programme

Due to MO:	4 March 2025	Reference	HNZ00079654
To:	Hon Simeon Brown, Minister of Health		
From:	Fiona McCarthy, Interim Chief Human Resources Officer		
Copy to:	Hon Casey Costello, Associate Minister of Health		
Security level:	In Confidence	Priority	Routine
Consulted	Ministry of Health		

Contact for further discussion (if required)

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Attachments

Appendix 1: Key Messages

Appendix 2: Governance Arrangements

Purpose

1. This Aide-Mémoire responds to your request for advice on the status of the Health New Zealand (Health NZ) led Holidays Act Remediation Programme, including current areas of focus, next steps, and any information regarding possible 'overcompliance'.
2. Currently no decisions are being sought from the Minister, however key communication lines are included in Appendix 1.

Summary of current status

3. As at March 2025, nine payrolls have been rectified with payments made to 41,929 current staff totalling \$308.2 million.
4. S9(2)(f)(iv)
5. S9(2)(f)(iv)
6. S9(2)(f)(iv)

Background

7. The Holidays Act 2003 (the Act) sets out the minimum entitlements to holidays and leave and the payment for these.
8. The Act also sets out the calculations for determining how to pay when holidays or leave are taken. For a standard five days a week, 40-hour employment arrangement, the application of the Act is relatively straightforward. However, when employees work unpredictable hours or receive variable pay, getting the payment calculation right has proved challenging for most businesses.
9. Over the period of 2012-2014, it was identified that there may be systemic problems throughout New Zealand with pay systems and processes not complying with the Act.
10. The Labour Inspectorate identified the 20 District Health Boards (DHBs) of New Zealand, as organisations which were required to undergo a payroll audit.
11. In 2016 the former DHBs, Council of Trade Unions, affiliate unions, and the Ministry of Business, Innovation and Employment (MBIE) Labour Inspectorate, developed a joint approach to remediate non-compliance of:
 - a) A Memorandum of Understanding (MoU) outlining the actions the DHBs will take to assess and rectify non-compliance with the Act.
 - b) A Baseline document of agreed interpretations of the Act as it applies to the health sector.
 - c) A Framework document (the Framework) outlining the process to ensure payroll systems are compliant with the agreements set out in the documents.

12. As part of the MoU, it was agreed that remediation payments would be backdated to 1 May 2010 (i.e. six years from the date the claim was raised).
13. The remediation work has two parts:
 - a) Calculating remediation payments for any underpayment of leave (remediation);
 - b) Correcting the configuration of rostering and payroll systems and processes (rectification).
14. In March 2023, the Ministers of Health and Finance established funding baselines in Vote Health to fund Health NZ (for previous DHB liabilities transfers to Health NZ) which included funding for remediation payments. Funding for the remediation and resolution of Holidays Act 2003 historical claims of \$2,235.5 million was agreed to in Budget 2023.

Holidays Act & Health NZ

15. The health sector workforce is complex, large and mobile. Work patterns vary from traditional 40 hours a week to complex shift work on a 24/7 basis and everything in between. In addition, there are several complex multi-employer Collective Agreements (CAs) in place that require some form of consistent interpretation.
16. The formation of Health NZ exposed significant variation in rostering practices and processes nationally, including more than 35 rostering, time and attendance, and awards interpretation systems.
17. Health NZ assumed responsibility for the MoU and inherited 14 separate Holidays Act Remediation Projects (HARP) at various stages of maturity.
18. The estimated number of current and historic Health NZ employees impacted by this programme is 270,000, although it is important to note that not all staff will be entitled to payments.
19. The liability estimated, based on the audited financial statement of Health NZ as at 30 June 2024, was \$1.8 billion.
20. Health NZ is committed to delivering accurate and correct payroll and people systems. A multi-year work programme is being established to strengthen controls and improve the system environment. This is broadly broken into two parts:
 - a) Stabilisation – Getting the basics right, achieving compliance, and improving economies of scale with tactical investments.
 - b) Modernisation – Implementing the more transformational changes which will significantly improve staff experience, people insights and unlock productivity and savings long-term.
21. We have previously provided you with further information on this stabilisation and modernisation work (refer HNZ00080058).

Solutions to rectify payrolls

22. While remediation focuses on addressing past claims, the rectification process addresses payroll setting going forward. To ensure staff are paid accurately and equitably across the many payrolls within Health NZ, and to ensure compliance with legislation, critical decisions were made by the former DHBs, and later by Health NZ (see Appendix 2).
23. The solutions agreed with the unions and Labour Inspectorate for remediation are, in many instances, the same as the rectification approach. Some parties perceive that staff are receiving above the minimum requirements of the Act. The complexity of interpretation of the Act for the health workforce and configuring systems means that these settings are necessary, however there is no set and forget with this level of complexity and interpretations, and configuration is reviewed on a regular basis.

Health NZ has rectified nine payrolls since inheriting the programme

24. Health NZ has seven payroll vendors with 20+ configurations and another 20 rostering systems, all needing to be configured to achieve compliance with the Act. Each system must continue to operate as BAU while the remediation work is underway.
25. Since December 2023, nine payrolls have been rectified resulting in payments to 41,929 current staff. Payments have totalled \$308.2 million to date. Table 1 provides details of the completed and upcoming projects.

S9(2)(f)(iv)

26. To remediate payrolls and make these payments, all the processes (i.e., policies, processes, forms, data) which lead to data being entered in our rostering and payroll systems must be compliant with the Act. To then calculate remediation payments, every line of pay made to an employee, and when they took leave, must be reviewed from the period of 1 May 2010 to the date that remediated data is loaded into the payroll¹.
27. The areas of non-compliance have led to both overpayments and underpayments of leave entitlements. Overpayments occurred due to payroll settings at the time. All payrolls had slightly different settings from which leave payments were calculated.
28. Broadly, the approach is to manage the risk of underpayments to impacted employees due to the use of assumptions, data quality issues and inclusion of certain non-compliance of contractual obligations (i.e. employment agreements relating to certain leave entitlements) as part of the remediation, which were not covered in the MoU. This helps minimise the risk arising from reliance on manual processes and controls that would have been required to ensure employees are paid correctly on a go-forward basis.
29. Remediation payments will also include remediating payments made to Kiwisaver, superannuation schemes, and student loans. The largest proportion of the liability (and issue of prevalence) is the calculation of termination payments.

¹ For example, in the recent remediated Hawke's Bay Health NZ used a third-party tool to process 716,000 lines of payroll data from 2010 to 2024.

Our current focus is timely and accurate payments

30. Our current focus is on the quick and accurate remediation of all remaining current staff. We expect to:
- a) Complete payments to all current staff by the end of the 2025 calendar year.
 - b) Start making payments to former staff in 2025, and
 - c) Complete former staff and those transferred between payrolls by the end of 2026.
 - d) Complete the project and handover in 2027².
31. The schedule and status for the remaining remediation projects is in Table 1.
32. A portal for former employees has been set up online to register potential claims. We have also attempted to contact anyone employed in the covered period through their last known contact details. So far, just over 87,000 former employees have registered with the programme.
33. While we expect that the current appropriation is sufficient to meet the costs of the Act remediation, it is unclear what the exact profile of spend will be to settle the tail of remediation settlements for former staff, as this will depend on when former staff register and the validation process before payments can be made.
34. There may be further changes between years to the remediation and resolution of Holidays Act 2003 historical claims appropriation, and these will be addressed in future baseline updates.

Next steps

35. Wairarapa is the next payroll targeted for remediation. Staff will be kept up-to-date once the programme is given approval by Health NZ executives and Ministry of Health to proceed with the rectification of its payroll configuration. Exact timings are not publicised in advance of this, due to the complex and changing nature of this work.
36. We continue to progress the stabilisation of our systems, with further advice provided to you in HNZ00080058.

² Handover will be done with the Inland Revenue Department (IRD) as part of their 'unclaimed money' process.

Appendix 1: Key Messages

S9(2)(g)(i)

Appendix 2: Governance Arrangements

Given the scale and scope of the liabilities of this work, a thorough governance programme is in place. Key officials meet weekly to ensure any barriers to progress are addressed and coordinate work to ensure that requests for funding are progressed. This governance structure ensures each stakeholder is aware of how the other is progressing work, and any concerns are discussed and answered rapidly so that the work is completed.

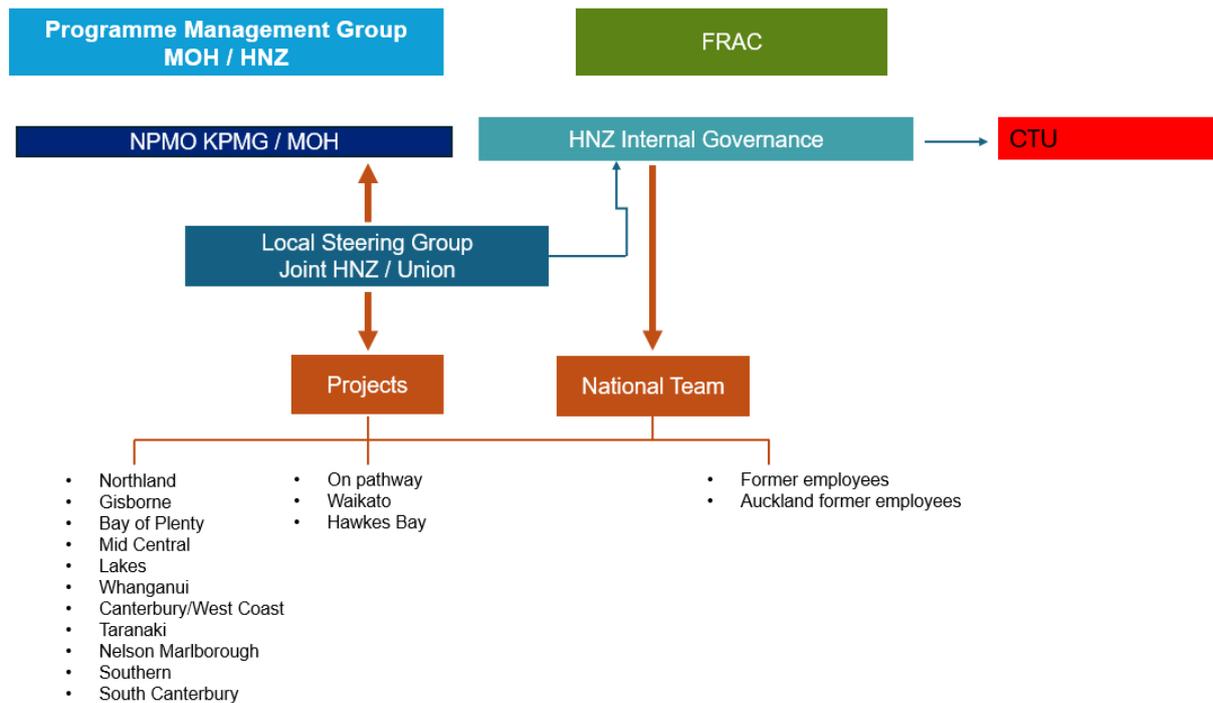


Figure 1 HARP Governance Structure

The Minister of Health is provided fortnightly updates on HARP through the Industrial Relations and Workforce Report.