



Improving the Quality of Work for Women in Homecare, Residential and Cleaning Sectors

Executive Summary

Research objective

The National Advisory Council on the Employment of Women (NACEW) has identified government contracting as one area where there may be potential for government as funder to influence improvements in the quality of work for women currently in precarious working situations or low paid work in the homecare, residential and cleaning sectors. The research was asked to describe the process of government contracting and whether precarious work or pay and employment equity outcomes for the provider's employees are considered when contracts are awarded.

Research methodology

- Brief examination of literature provided by Department of Labour (DoL) on the impact of purchasing frameworks on employment outcomes;
- Examination of government procurement policy and practice documents; and
- Interviews with key stakeholders: policy organisations; purchasing agencies; national provider organisations and the Service and Food Workers Union (SFWU).

Contracting context

The Ministry of Health (MOH), Accident Compensation Commission (ACC) and the District Health Boards (DHB) are all funders of home based disability support services. MOH has devolved publicly funded aged related residential care contracting to the DHBs. DHBs pay providers for services to "subsidised residents" in residential homes with which they have a contract.

Home based support services are provided by independent providers often under contract to all three funders. The industry is largely unregulated. Sixty organisations

belong to the provider umbrella organisation – New Zealand Home Health Association.

Residential services providers are a mix of for-profit and not-for-profit organisations. There are broadly three kinds of providers - religious and welfare groups; owner operator; and larger for-profit companies.

All government agencies contract for cleaning services with private providers. In the last few years three or four large provider organisations have dominated the field. An increase in the practice of syndicated procurement¹ among state sector organisations effectively means that only large provider organisations can tender for these contracts.

Government procurement policy and practice

Government expectations with respect to government contracting for goods and service are extremely well documented. There are three key government documents dealing with procurement policy and the implementation of that policy:

1. Government Procurement in New Zealand – Policy Guide for Purchasers, Ministry of Economic Development, Regulatory and Competition Policy Branch, July 2002.
2. Procurement: A Statement of Good Practice, Office of the Controller and Auditor-General, June 2001.
3. Guidelines for Contracting with Non-Government Organisations, The Treasury, 2003.

Each government department is expected to develop their own procurement policy in line with these documents.

These documents provide extensive advice on procurement good practice including the support of other government goals or policy such as environmental sustainability and recognition of trade policies such as CER. Of the three documents, only the Treasury paper mentions taking consideration of the employment practices of the provider organisations but it appears that this is neither actively promoted or monitored.

The 1980's "funder/provider" split philosophy and practice has resulted in funders maintaining a deliberate distance from the employment practices of the businesses they contract for services. In the cleaning sector even when tender documents make reference to providers being a good employer this is rarely discussed and apparently never enforced except in extreme situations. The research found examples of government organisations contracting for goods from overseas companies without any assurance of the quality of the working conditions (physical or fiscal) of those making the goods.

¹ One or two 'lead' Departments contract with a provider and the contract is then available for other state sector organisations to 'piggyback' on the same contract terms. While the service specifications may differ by department (e.g. allocated time to clear carpets rather than lino or the size of the office to be cleaned), only one tender for services is posted and only one price schedule is negotiated. This process prevents wheels being reinvented several times for similar services.

Contract price and wages

Home based support

In the home based support sector, contract price is set by the three funders per service hour. Although the funding organisations are independent organisations, there is a high correlation between the prices set for the three levels of care². The price includes all business and labour costs. Only one funder, ACC provides an allowance for the travel costs and holiday pay of the homecare worker. No-one interviewed in MOH was able to explain the funding formula on which these rates are based.

There is no minimum wage agreement in this sector and little provider support for union involvement. Hourly rates for the homecare workers are said to vary from around \$9.50 - \$12.00 an hour. The majority of homecare workers do not receive any allowance for travel costs, travel time, time for training or any increase in the hourly rate for up-skilling. Workers generally have no guaranteed hours of work. If a contract for services to an individual changes (though death, for example) the provider loses the contract and the homecare worker loses the work.

Residential care

The contract price for residential services is set by the DHB. There are four levels of care for "subsidised residents"³. Providers are paid per bed per day occupied. The price includes capital costs such as maintenance and building upgrade. This is said to be one reason why the religious and welfare agencies find it hard to compete.

There are two or three collective agreements with individual DHBs. The SFWU and New Zealand Nurses Union estimate that there is between 20-30 percent union density. The SWFU collective at Wairarapa pays a top rate of \$10.79 and a base of \$10.50 an hour.

While pay rates are low, staff are generally on fixed hours, have on-site supervision and training and do not have to pay for travel costs between clients as home based support staff do. This is part of the reason why many home based support workers find the residential setting more appealing.

Cleaning

Most of the large and medium-size cleaning services organisations are members of the Building Services Contractors New Zealand Ltd. They are party to a multi-employer collective agreement with the SFWU. This is a minimum document with a minimum hourly rate of \$10.60 an hour (and provision for holiday pay, qualifications allowances, overtime etc). In areas of extreme labour shortage such as Queenstown, the pay rate can be as high as \$15.00 an hour. The providers feel that having the minimum document means that they do not have to (and cannot) compete on prices that would reduce wages below this level.

² Housework management - \$15.60 per hour; Personal care - \$17.20 per hour; Overnight care - \$115 per night

³ Rest home, dementia, hospital and psycho-geriatric.

Providers believe that about 12-15 percent of workers in the cleaning sector are unionised. The union thinks it is more like 5 percent. Unlike home based support providers, cleaning providers have welcomed the multi-contract.

In all three sectors providers may have workers who may not be employees but sub-contractors. This would allow the provider to avoid compliance under employment legislation. If they are not employees, they will have no entitlements under employment legislation such as the Holidays Act and Employment Relations Act.

There does not seem to be any dispute about the fact that profit margins for the providers of services in these three sectors is low. Disability support providers believe their situation is exacerbated by a covert belief on the part of some funders that making a profit out of services to vulnerable people is somewhat morally reprehensible.

Current situation

The answer to the question of whether pay and employment equity and precarious work are considered in government contracting policy and practices is “no”.

All funders are aware that as the main, only or significant funders of the residential, home based support and cleaning sectors their funding decisions, especially around prices, do have a direct impact on business profits and pay rates. They are also well aware that the poor pay and employment conditions for cleaning and disability support staff impact directly on recruitment, retention, training and career progression of staff. In a labour market of near full employment such issues are now hard to ignore. Quality service provision and the stability of the sectors (especially residential and home based support) are seen to be fragile. One senior DHB official noted, “The workforce issues are immediate. Turnover is the key determinant of quality – and old people hate having changes of carers.”

Currently, government procurement advice to funders does suggest that the contracts should be let to encourage or support other government objectives such as environmental sustainability, support of SMEs, or business innovation. These precedents for “intervention” mean it is hard to sustain a “hand off” approach from an ideological point of view when it comes to positively influencing the employment practices of the provider organisations.

It was also apparent from the interviews that specifying either compliance with legal employment minimums or positive employment practices in the employment agreements has simply not occurred to many funders.

Emerging changes

In all three sectors there is a growing awareness that the relationship between the funders and providers is interdependent, particularly in the disability support area. Service failure or poor quality service directly impacts on public perception of government. Officials are moving towards a “partnership” principle for the relationships and there is general acceptance that the ‘health’ of the provider sector is the concern of government as much as it is the concern of the business shareholders. Relationships need to be enduring and supported by good will and a sense of mutual interest. Part of the mutual interest is having well-trained, motivated and committed staff. In the course of this research, all disability service funders interviewed acknowledged that wages and employment conditions for the front line

staff need to improve and this is part of the answer to increasing the reliability and quality of the services provided.

There are already examples of funders directly intervening to improve the quality of the service.

There is wide acknowledgement that service needs in the disability support sector have changed in recent years. Some of this is to do with an increase in the volume of services required (and anticipated to be greater in the future) but there is also a recognition that service needs are more complex and that a “paying for task per hour” approach to contracting is not producing quality outcomes for the funder or the service client. Some DHBs are doing considerable work to re-define the services they wish to purchase and the contracting arrangements that will support this. Purchasing “packages of care” is expected to provide more stable employment outcomes for support workers.

Other potential points of influence

During the course of this research informants suggested other ways in which influence on the employment outcomes for workers could be brought to bear through contracting policy and practice. These include:

Addressing equity issues in funding

- A transparent, understandable and relevant model for prices setting in the disability support sector;
- Contract prices that reflect the realities of the work being undertaken – such as travel in homecare work or the need for well trained staff; and
- Fully addressing issues of holiday pay and training costs.

Preferred Suppliers

- Further developing the responsible Contractor Policy initiated by the Department of Labour and MED and including it in the official policy and practice guidelines;
- Educating government agencies for acceptance and implementation of the policy;
- Making compliance with the Policy a preferred supplier condition; and
- Preferring providers who have undertaken a pay and employment equity review in their organisation.

Minimum documents

- All government cleaning contracts could use Building Services Contractors New Zealand Ltd and the SWFU collective agreement as a minimum document for employment conditions in provider companies; and
- This same process could apply in the residential support sector.

Policy development

- Any changes in contracting policy or practice should be examined for any intended or unintended impact on the actual pay and employment conditions of those providing the service

Guaranteed hours of work

- The new approach to contracting for “packages of care” and the Community First model being piloted both assume that some guarantee of hours is vital to quality service delivery and sector sustainability. This could be adopted as a contract principle.

Conclusion

This research found that there is little or no disagreement about the negative impact of low paid and precarious work in the homecare, residential and cleaning sectors on both the quality and viability of the service purchased and the lives of the providers’ employees. The level and nature of government funding and contracting processes is acknowledged as one of the key drivers of this.

Changes to the funder/provider relationship, the way in which the services are purchased and the nature of the services provided are all crucial. However, fundamental to the success of these changes will be the raising of funding levels and contract prices specifically targeted at improving the wage rates and job security of those actually providing the services.

The report

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Part one: Introduction

Research background

The National Advisory Council on the Employment of Women (NACEW) has identified government contracting as one area where there may be potential for government as funder to influence improvements in the quality of work for women currently in precarious working situations or low paid work. The research is asked to describe the process of government contracting and whether precarious work or pay and employment equity outcomes for the provider's employees are considered when contracts are awarded.

There is a wealth of literature on non-standard and precarious work. This project adopts the definition of precarious employment established by previous Department of Labour (DOL) research.⁴ It is defined as employment generally at the "lower end" of the non-standard work continuum⁵. The employment is, "...low quality and ...encompasses a range of factors that put workers at risk of injury, illness and/or poverty (from low wages, low job security, limited control over workplace conditions, little protection for health and safety risks in the workplace and less opportunity for training and career progression)."⁶

There is general consensus that these conditions exist in the homecare, residential and cleaning sectors.⁷ The purpose of this project is not to explore the existence of these conditions, but rather to examine any linkage between the conditions and the government's contracting/funding processes.⁸

⁴ 'Precarious' Non-Standard Employment – A Review of the Literature, Deborah Tucker, Labour Market Policy Group, Department of Labour, Wellington, New Zealand, December 2002

⁵ The "higher end" being characterised by self-employed and part time workers who are more likely to have a reasonable income, job security and workplace autonomy and the "lower end" by unpredictable, irregular or insufficient hours.

⁶ Tucker, op cit p.5

⁷ Appendix 1 provides information about cleaners and disability support workers in the labour market and wages and conditions in the disability support sector

⁸ The Department of Labour has undertaken research on pay and employment equity. The first phase of the research covered the public service, public health and education sectors and the second will focus on how to influence pay and employment equity outcomes in the wider state sector and in government contracting.

Research methodology

- Brief examination of literature provided by DOL on the impact of purchasing frameworks on employment outcomes;⁹
- Examination of government procurement policy; and
- Interviews with key stakeholders¹⁰:
 - policy organisations
 - purchasing agencies
 - national provider organisation
 - Service and Food Workers Union.

⁹ This material is integrated throughout the report.

¹⁰ 19 interviews were held with 26 people: 11 interviews with funders; 2 with provider umbrella organisations; 1 union; 4 policy officials; 1 other

Part two: Government contracting policy and philosophy

Government procurement policy and practice

There are three key government documents dealing with procurement policy and the implementation of that policy:

4. Government Procurement in New Zealand – Policy Guide for Purchasers, Ministry of Economic Development, Regulatory and Competition Policy Branch, July 2002.
5. Procurement: A Statement of Good Practice, Office of the Controller and Auditor-General, June 2001.
6. Guidelines for Contracting with Non-Government Organisations, The Treasury, 2003.

Each government department is expected to develop their own procurement policy in line with these documents.

1. Ministry of Economic Development (MED) - Government Procurement Policy

Key extracts from the policy:

“This policy guide is intended to help government departments and other taxpayer funded agencies to support the government’s procurement policy. It is hoped that State-Owned Enterprises and local government authorities will also base their procurement approach on this guide.”

“... this guide generally does not set down prescriptive purchasing rules or procedures.”

The guide forms the basis for individual department’s procurement policy development. These policies vary but MED report that most have incorporated the principles in the MED document.

“New Zealand’s government procurement policy is based on the commercial principle of best value for money through competition, including full and fair opportunities for domestic suppliers...Responsibility for procurement procedure and decisions is devolved to the individual departments or agencies.

Guiding principles of the government’s procurement policy are:

- best value for money;
- open and effective competition;
- full and fair opportunity for domestic suppliers;
- improving business capabilities, including e-commerce capability; and

- recognition of our bilateral obligations to Australia (CER) and Singapore(CEP) and our trade policy interests in open and transparent government procurement markets.

“The Government expects its agencies to be fair but demanding buyers...”
MED provides government agencies with a list of things to consider when assessing providers. For example:

- reduced inventory costs
- easier cheaper communications/transport.

There is nothing in the guide about any assessment of employment practices or the capability of the providers’ employees.

Potential providers obtain procurement information through the Industry Capability Network New Zealand (ICN) and the Government Electronic Tenders Service (GETS).

ICN maintains an industry capability register, linked electronically to a similar one in Australia and can advise buyers of any potential competitive New Zealand and Australian suppliers. It has an advisory and information role only. All departments must notify ICN of their intention to procure supplies or goods for use within New Zealand involving expenditure of departmental Vote funds above a value threshold of \$50,000 excluding GST.

In addition, all publicly available opportunities (calls for registration of interest or tenders) are required to be listed in GETS (in addition to other advertising) irrespective of whether the procurement exceeds the \$50,000 threshold.

Contracts for the “provision of public health, education and social welfare services” are exempt from the requirements to notify the ICN reflecting the fact that the policy is more focussed towards the purchase of goods rather than services – although it is this policy that informs government department’s purchase of cleaning services.

MED is undertaking a review of the implementation of the Government Procurement Policy. It is concerned with how effective the implementation of current government procurement policy is rather than the policy itself. MED anticipates that, “There is likely to be scope within the existing policy framework for better performance both in terms of improved value for money for government and increased participation by New Zealand firms, including SMEs. The review will also consider the role of government procurement in supporting innovation in the New Zealand economy in response to a report by the Innovation Working Group. Firms can be stimulated to innovate by demand, in particular by sophisticated and demanding customers.”

The use of the contracting process to support other government goals (innovation and SME development) is in addition to requiring agencies, “...to ensure that their procurement is consistent with environmental policies of the Government.” A key mechanism for this is Govt3. This is a voluntary

programme aimed at helping government agencies improve the environmental sustainability of their activities, including the eco efficiency of their buying practices. Govt3 stands for three pillars of sustainability: environment, social and economic. The project is led by the Ministry for the Environment in conjunction with the Energy Efficiency Conservation Authority. There are 35 participating government agencies.

The Ministry for the Environment has worked with New Zealand Police to create the first syndicated contract¹¹ for the procurement of vehicles that includes key performance indicators designed to reduce environmental impact.

The inclusion of environmental considerations, the promotion of innovation in providers and the support of SME as desirable features to consider in provider selection provide a precedent for the use of funding contracts to promote bigger/other government goals.

2. Office of the Controller and Auditor-General: Procurement Good Practice

The original guide was produced in 1995 and updated in 2001. Further updates are in process.

The Guide has three parts¹²:

1. Overriding considerations that a public entity should consider
2. Step by step guide to each part of the procurement process – overall principles of good practice and information a public entity might include in its own manual
3. Discussion of particular types of procurement, e.g. engagement of consultants, sole source situations etc. More of these issues are being developed.

Key extracts from the policy:

“This publication is a statement of good practice. It is not a set of rules. We suggest that each public entity uses the statement as a benchmark for its own procurement policies and procedures and as a guide to what its own procurement manual should contain. In our role as the auditor of public entities, we would expect to find that an entity’s procurement policies and procedures compare favourably with this statement.”

¹¹ One or two ‘lead’ departments contract with a provider and the contract is then available for other state sector organisations to ‘piggyback’ on the same contract terms. While the service specifications may differ by department (e.g. allocated time to clear carpets rather than lino or the size of the office to be cleaned), only one tender for services is posted and only one price schedule is negotiated. This process prevents wheels being reinvented several times for similar services.

¹² See Appendix 2 for chart of procurement process.

“This publication is designed for use by any public entity, as defined in the Public Audit Act 2001 – except for local authorities and entities under their control.”

“A public entity has considerable discretion as to how it procures goods or services. However, each entity has a responsibility to manage its resources in an effective and efficient manner. Applying this principle may involve assessing whether productivity, innovation, greater choice and lower prices outweigh the benefits of maintaining stability, trust and effective working relationships with existing providers.”

“A public entity should be aware of, and comply with, all applicable legislation when it procures goods and services.” Examples of applicable legislation are the:

- Organisation’s own enabling legislation;
- Official Information Act 1982;
- Commerce Act 1986;
- Fair Trading Act 1986; and
- Dumping and Countervailing Duties Act.

This section does not include any requirement to ensure that the funded service provider complies with relevant legislation (including the Employment Relations Act or the Human Rights Act).

“A public entity should observe ethical standards, principles and behaviour throughout the procurement process.”

Value for money: “Value for money does not necessarily mean selecting the lowest price...Care should be taken to ensure that unreasonable delivery risk is not assumed in pursuit of the lowest ‘whole of life’ cost...”

Market effects: “A public entity should take into account the possible effects of its procurement decision on the supplier base – especially when deciding to join with other public entities to purchase for competitive advantage (syndicated procurement).”

The guidelines provide detailed suggestions for the development of agencies’ own procurement policies and plans. This includes suggested evaluation criteria to assess provider tenders or expressions of interest. There are several listed under “the supplier’s capability”. Examples listed are its:

- Experience in providing similar services;
- Skills, experience, and competence of its key personnel;
- Design and development capability;
- Financial status;
- Level of management competence; and
- Ability to meet the specified timetable.

In a later section of the guidelines on “Due Diligence” there are suggestions as to how these criteria would be demonstrated including, “...obtaining curriculum vitae and meeting with individuals to discuss their relevant experience and understanding of the requirements.”

Part 2 of the guidelines includes a section on “Dealing with low priced tenders”. It suggests that a public entity should scrutinise any tender that is priced very low in relation to others. It provides a list of criteria for doing this, for example, “...whether the tenderer has included all costs associated with the provision of the goods or service”. It does not include the requirement to check whether wages comply with statutory minimums or are a fair rate for the job. In services where costs are predominantly associated with labour costs such as cleaning or home based support work¹³ competing on prices may be at the expense of employee wage rates or hours allocated for the job.

3. The Treasury: Guidelines for Contracting with Non-Government Organisations

This paper is specifically aimed at contracting for the provision of services with NGOs, or otherwise providing funding for NGOs, not for the purchase of inputs. Because of other government policy and objectives in terms of the relationship between government and the not-for-profit sector, this document places particular emphasis on contracting with not-for-profit organisations.

Key extracts from the policy:

Principles underpinning the guidelines:

- Services purchased should contribute to the achievement of Government outcomes and objectives;
- Contracting should reflect the needs of the ultimate users or recipients of the service;
- Provide appropriate accountability for the public money;
- Represent value for money;
- Quality of service of central importance;
- Crown and its organisations should act in good faith; and
- Crown should understand the nature of the organisations they and the Crown contract with.

Selecting a provider

Government agencies can identify potential providers in a number of ways:

- Ask other government agencies;
- Ask other NGOs, particularly umbrella organisations;
- Published information;
- Advertising for expressions of interest;

¹³ Estimated by one provider as 80% of costs

- Tendering for services;
- From an existing provider they have a relationship with
- Contract managers knowing of suitable NGO in their area; and
- Information from needs assessments of service planning data.

The contract needs "...to strike a careful balance between;

- Including enough detail to ensure that there is certainty (for both NGO and the Government purchaser) as to the nature and scope of the service; and
- Allowing the NGO flexibility.

...Care must be taken to avoid compromising the effectiveness of the service provision by over prescription of its form and content."

Quality specifications include the need to (avoid) "unreasonable compliance costs."

The guidelines do suggest that inputs such as suitably qualified or trained staff could be considered.

Capability of the NGO

"Government agencies need to be confident an NGO can actually do what it undertakes, and in a manner consistent with the values and standards the government expects." Included in the information to provide this assurance is:

- "evidence of appropriate governance and management systems and internal controls. This may include, for example...having good employer practices."

"Good employer practices" is footnoted and defined as:

"Compliance with relevant employment relations and human rights legislation as well as fair and ethical practices such as:

- positive relationships with unions in the contractor's trade or industry;
- participatory mechanisms for employees, in addition to participation in matters such as health and safety;
- observance of EEO principles and opportunities;
- work/life balance policies;
- provision of training and development opportunities; and
- ethics and integrity."

Negotiating the terms of the contract

“The Crown should actively seek value for money. At the same time government agencies need to understand the interests of the NGO they are contracting with. Government agencies want NGOs to deliver services under the current contract, but also have an interest in their viability into the future, and maintaining a good relationship. NGOs – for profit and not-for-profit – must at least cover their costs of service provision, including the cost of capital. Purchasers want cost effective service. They need to be aware of the risk of under-pricing the service they are purchasing. “Driving down’ the price could undermine the quality of the service and damage the capability of the NGO to deliver.”

Information from interviews during the course of this research suggests that there is increasing attention paid by funders to the viability and sustainability of the home based support, residential and cleaning sectors in the contracting process. However, while there is general awareness of the issues, there is currently little direct or practical attention paid to the employment conditions for the employees in these sectors or to the impact that these very conditions have on issues of viability or sustainability.

Procurement philosophy

The “funder/provider”¹⁴ split in health and contracting out by government agencies of tasks/services often previously undertaken directly by the agencies themselves (such as cleaning, catering, recruitment, project work) has been operating since the 1990s. It reflects a belief that these tasks/services are not fundamental to the core business of government agencies and are more appropriately carried out by non-government agencies that may provide them more cheaply or efficiently. This results in the contracting interface between government agencies and non-government organisations.

There is a strong perception, evident from the interviews and the policy documents, that it is not appropriate for government to be overly prescriptive about how the tasks/services are delivered as long as they are within set quality and legal parameters. The majority of funders and providers interviewed did not want contracts “over burdened” with “non-core” requirements and felt that the nature of the employment relationship with front line service providers (cleaners etc) was the sole business of the provider company. One funder said, “We can’t be seen to intervene with providers and their workers.”

There may also be a difference of opinion as to what margins are legitimate in the home based care industry. One informant questioned the soundness of the home care providers’ business model in that they appear to expect to make a return on revenue. “Unlike residential services there is no capital

¹⁴ In this paper “funder” refers to those government agencies who contract “provider” agencies to deliver the services to individual clients or organisations. Cleaners and support workers (residential and home based) are paid by the provider agency to perform the work.

investment. Their (home based support providers) costs are labour and administration. They should not get a return on other people's (taxpayer) money."

One official in a funder organisation noted that part of the reason there are poor employment outcomes for workers in the disability support sector is that "...exploitation of workers occurs because there is a volunteer mentality towards the sector – in a more business focussed environment this exploitation would not occur."

Where funders did express unease about the employment practices of provider companies it was in the context of the possibility of them supporting employment practices that may be illegal or where the employment conditions of the employees was impacting on the service durability or reliability because of issues such as high turnover.

There are, however, exceptions to the degree to which there is acceptance of the provider organisations as businesses entitled to make a profit. This was clear from interviews with some funders, especially in the health area, and most explicitly expressed by the provider organisations. Two explanations were offered for funder ambivalence:

1. Government funders are only just beginning to understand private sector business and business processes; and
2. There is covert distaste for organisations that make money (or are set up to make money) from taxpayer funding to provide services to infirm and vulnerable members of the community. One provider spokesperson said that funders seemed to think it was "reprehensible".

The research suggested that this perception may have consequences for the sector. One provider felt that there is a lack of "empathy" with the provider organisations and that this means that any discussion of the difficulty of being profitable under current funding arrangements does not appear to be seen as a legitimate complaint. Another provider spokesperson said that a lack of understanding of business goals or cost structures meant that service price was often the key driver for the funder and resulted in very low profit margin contracts and increased sector fragility.

Canadian research¹⁵ draws an interesting parallel between the home care industry and the child care industry. It discusses the transition from child care as perceived as a private good and a family responsibility to being seen as a public good and therefore needing to be supported by skilled staff in professionally run centres. In many ways, homecare of the elderly is still seen as a private good/service and is being run by low paid women as if it was still a family responsibility. The paradigm shift to the sense of public good – socially and economically – would create the environment for the development of the sector through training and improved wages and

¹⁵ The Changing Nature of Home Care and its impact on Women's Vulnerability to Poverty. Morris, M. Robinson, J. Simpson, J. Canadian Research Institute for the Advancement of Women. 1999

conditions. It can also be argued that it would also advance issues of gender equity. This issue is also discussed in Australian research.¹⁶

¹⁶ The Responsibility for Child and Aged Care: Shaping Policies for the Future. Michael Fine, SPRC Discussion Paper No.105. 1999 Australia

Part three: The contracting parties and the contracts

Funders and providers

Home based services

Key funders are:

- Accident Compensation Commission (ACC) – for people needing rehabilitative care after an accident. ACC purchases specific services for injured or disabled individuals assessed as needing assistance from a variety of provider organisations.
- Ministry of Health (MOH) – primarily for people with a long term disability who meet the definition of disability irrespective of age – although generally those under 65 years of age (meeting the objectives of the Disability Strategy). Directly funds provider organisations to provide specific care to individuals according to their assessed needs.
- District Health Boards – for people over 65 years who need support in their home (meeting the objectives of the Government Health of Older People Strategy). District Health Boards are funded through population based funding from MOH. DHBs provide 70 percent of the home based support Vote and MOH provides 30 percent. DHB's then purchase specific services from multiple providers.

Providers

Currently, long term DSS funded home based support services (HBSS) are delivered by independent providers under contract to multiple funders – DHBs, MoH and ACC. They number about 110 nationally and are a mix of not-for-profit and for-profit agencies within a largely unregulated industry. Providers deliver intermittent services over a 24 hour, seven day period, and vary in size from large national providers (four to five), to small owner-operated local enterprises. In urban areas providers will compete for contracts (although they will all be offered the same hourly rate for services). In some rural areas, funders report struggling to find providers.

It is estimated that there are around 40-50,000 support workers in New Zealand – around 18-20,000 of these may work in home based care services.

Sixty organisations belong to the New Zealand Home Health Association provider umbrella organisation set up to provide advocacy, information and assist the improvement of sector standards for its members. These organisations are, of course, often competitors for particular tenders and while seeking support on key industry issues have to be careful not to be collaborative in terms of the Commerce Act.

Residential services

Funders

MOH has devolved publicly funded aged related residential care contracting to the DHBs. DHBs pay providers for services to “subsidised residents” in residential homes with which they have a contract.

Providers

Providers are a mix of for-profit and not-for-profit organisations. There are broadly three kinds of providers:

- Religious and welfare groups;
- Owner operator; and
- Larger for-profit companies.

The larger organisations can use economies of scale in things such as compliance and certification costs and supplies and maintenance. These larger organisations generally do not rely on residential care for their profits. Most also have property (as in retirement villages) and this is their prime money earner. It is likely that the care services make little or, in some cases, no profit but exist to provide a more attractive package to potential residents.

Some of the religious and welfare agencies are exiting the sector citing costs as the reason.

Commercial cleaning

Funders

Individual government agencies contract for cleaning services, sometimes through syndicated contracts with other agencies.

Providers

Private sector organisations contract with government agencies to provide cleaning services. Some only provide cleaning and other larger organisations provide full building or facility management services. There are three to four large national organisations (a few years ago there were 10) and an unknown number of regional and local companies. The SFWU estimates that there are more than 20,000 commercial cleaners in New Zealand. Sixty big and medium sized companies belong to the umbrella group, the Building Service Contractors New Zealand Ltd.

Contract pricing

Home based service

All funders currently contract for services on a per-service level basis for a set number of hours. There are three levels of care and the tasks included in each service level are detailed in the MoH or DHB's Service Specifications, generally attached to each contract for services. Each care level attracts a different rate which is determined by each funder and varies:

MOH pays:

- Housework management - \$16.00 per hour
- Personal care - \$17.70 per hour
- Overnight care - \$115 per night.

DHBs pay:

- Housework management - \$15-17.90 per hour
- Personal care - \$ 16.32-20.30 per hour
- Overnight care - \$115 per night.

These rates paid to the service provider cover all business costs including labour costs.

No-one interviewed in MOH was able to explain the funding formula on which these rates are based. This information is apparently now not part of institutional memory. There was a pricing review three years ago but the "project was canned". ACC say that they do "benchmark to the market" when determining their rates but since providers believe they are "price takers" rather than "price setters" this would seem to be a rather circular exercise. Benchmarking does not seem to have altered the ACC hourly rate relative to MOH although they do pay for travel time and holiday pay.

Interviews suggest that there is strong pressure for a similarity of contract price rates between these organisations. ACC could afford to pay higher rates but acknowledge the budget constraints of the other players. Some DHBs have increased the hourly rate they pay to providers. Two DHBs interviewed tagged 80 percent of the increase to be passed on to wages but could not be certain that this in fact happened.

There is no minimum wage agreement in this sector and little provider support for union involvement. Hourly rates are said to vary from around \$9.50¹⁷ - \$12.00 an hour. Currently the contract price does not include an allowance for

¹⁷ At the time of writing \$9.50 was the statutory minimum hourly rate.

the requirement to pay holiday pay¹⁸ or travel time between clients or travel costs. Research undertaken by Auckland University on behalf of MOH (the Uniservices research) found that when costs associated with travel are paid¹⁹ by the provider it is generally not at the true cost of the travel and is taken out of the hourly rate paid by the funder. This research suggests that about half of the employers pay some travel costs but that only about 15-16 percent of employees actually receive it always or sometimes. This is likely to be because some of the biggest providers, employing the most people, do not pay travel costs

Providers argue that the low hourly rate does not allow any margin for hiring adequate numbers of supervisors or coordinators and cannot cover paid training time²⁰. These issues are fully acknowledged by funders.

The Uniservices research found that the lowest and highest rates paid indicated a very diverse pay scale exists in the industry. A home-based service provider reported that they paid a support worker providing personal care \$4.80 per hour (the lowest rate reported), while another mixed service provider paid a support worker providing personal care \$22.00 per hour (the highest rate reported). The difference between the median hourly rate for home help and care for clients with high needs was \$1.00 an hour.

As the home based support employers umbrella group said, "If we could, we would pay more to staff. We are not mad; we loose a lot of people because of the wage rates."

Residential Services

A "subsidised resident" is a person who meets two criteria. The first is that the person must have been assessed by a Needs Assessment and Service Co-ordination agency (NASC) as requiring residential care services indefinitely. The second is a financial means assessment carried out by the Work and Income. This identifies the amount a person may be required to contribute to their care. The DHB then pays the provider the difference between the amount a subsidised resident must pay and the price specified in the Contract for the level of care of the resident. The maximum any person should be required to pay for their care is the gazetted price for Rest Home Care for that region – this is known as the maximum contribution.

The national price varies due to local cost of living – e.g. higher in Wellington than in Porirua or Kapiti. Providers are paid per bed per day occupied. The

¹⁸ MOH is currently working on the distribution mechanism for additional money allocated in the budget for reimbursing for holiday pay. Providers are anticipating that this will be in the vicinity of 1-2% which will not cover the true cost

¹⁹ Disability Support Service in New Zealand: Service provider, Workforce and Service User Surveys, Auckland University for Ministry of Health and Accident Compensation Commission, 2004..

²⁰The National Party has pledged to provide \$19 million if it is elected to government. One of the largest providers (Healthcare NZ) estimated that the cost is closer to \$50 million. The Health of the Older People forum estimated that to pay for travel, fair wages, training and some re-investment in the business would take an additional \$100 million of funding.

price includes capital costs such as maintenance and building upgrade. This is said to be one reason why the religious and welfare agencies find it hard to compete.

There are four levels of Aged Residential Care (ARC) – rest home, dementia, hospital and psycho-geriatric.

The asset and income thresholds for subsidy eligibility are being raised. The first stage of this came into effect in July this year and lifted the asset threshold from \$15,000 to \$150,000²¹. This means that many more people are now eligible for state assistance with the cost of their residential care. The anticipated increase in volume has been met with additional funding from government.

Each year there is a pricing review between the DHBs²² and the provider organisations. This review includes the consideration of “material variations”. It is anticipated that this year the review will include consideration of the impact of the pay increases won by nurses in DHBs through the MECA agreement. This increase has resulted in the aged care sector having even more difficulty attracting and retaining nurses.

Unlike the home based support area, DHB payments to providers cover a wide range of variables – from wages to building maintenance and medical supplies. While providers have argued that the price controls their ability to pay higher wages, there is also a view from most funders that the wage rates (especially for support workers) are more of an internal business decisions (weighted against other cost factors) than in the home care sector.

There are two or three collective agreements with individual DHBs. SFWU estimated that about 1-5 percent of the support workers are unionised and that the union collective at Wairarapa pays a top rate of \$10.79 and a base of \$10.50 an hour. The MOH 2004 research with providers found that the average hourly rate paid to staff was \$10.35-12.60. One DHB informant confirmed that there is wide variety of salary rates offered between providers.

One DHB commented that while the pay rates are low, staff are generally on fixed hours, have on-site supervision and training and do not have to pay for travel costs between clients as home based support staff do. This is part of the reason why many home based support workers find the residential setting more appealing.

Cleaning services

There is a recognised cleaning industry standard of \$15 per square metre of cleaning. One large government department recently paid \$12 an hour for cleaning services – including 6 percent for holiday pay. They thought that the cleaners themselves would receive about \$11 an hour.

²¹ This is the amount for single or widowed people and couples with both partners in care; the rate is \$45-55,000 (house and care exempt) for couples with one partner in care.

²² DHB NZ manages this on behalf of the DHBs.

All members of the Building Services Contractors New Zealand Ltd are party to a multi-employer collective agreement²³ with the SFWU. This is a minimum document with a minimum hourly rate of \$10.60 an hour (and provision for holiday pay, qualifications allowances, overtime etc). In areas of extreme labour shortage such as Queenstown, the pay rate can be as high as \$15.00 an hour. The providers feel that having the minimum document means that they do not have to (and cannot) compete on prices that would reduce wages below this level.²⁴

Providers believe that about 12-15 percent of workers in the cleaning sector are unionised. The union thinks it is more like 5 percent. Unlike home based support providers, cleaning providers have welcomed the multi-contract.

Contract terms

General issues

- Some providers may have workers who may not necessarily be employees but sub-contractors. This would allow the provider to avoid compliance under employment legislation. If they are not employees, they will have no entitlements under employment legislation such as the Holidays Act and Employment Relations Act (ERA).
- Travel is a negotiable term and not governed by employment legislation. There is not obligation for an employer to pay this. This can be addressed under an individual or collective employment agreement.
- In relation to individual and collective agreements, there is an obligation under the ERA 2000 for the employer to provide this before the employee commences employment. This is known not to occur in practice in some precarious employment situations.
- Employers with employees have an obligation to pay holiday pay, which can be paid as annual leave or at 6 percent. Holiday pay paid at 6 percent can only be paid under certain circumstances for. Some employers, especially SMEs, may not be aware of the changes under the new Holidays Act, and in particular section 28 which provides for 6 percent holiday pay to be paid on a 'pay as you go' basis.
- Multi-Employer Collective Agreements usually provide minimum entitlements depending on the type of industry. Their clauses usually comply with current employment legislation.

Home based support

ACC's and MOH's standard agreements with providers are similar in that they set quality standards and have substantial detail about providing culturally appropriate services and competent and well trained staff. ACC also

²³ Details of this agreement are in Appendix 3

²⁴ Although this may happen indirectly through competition based on hours estimated to complete tasks.

requires the provider to abide by relevant legislation (including the Human Rights Act).

The MOH agreement with providers contains very detailed requirements on culturally appropriate care, particularly for Maori and also requires, “your employment policy and practices will support professional career pathway development for Maori Health Workers...”

The service components include:

“...provision of a suitable Caregiver who is acceptable to the client and arranging an alternative caregiver should the client request such a change. Maori clients must be offered the choice of a Maori Home Based Support Services Caregiver.”

Key inputs into this service are described as:

- Staff including selection and training
- Cultural advice.

There are also detailed requirements for trained staff. The provider is, “...responsible for employing competent staff to provide flexible services for the client group. Orientation and induction to the service must occur within six weeks of employment. The Provider must ensure that all staff have the following core ongoing training provided to them:

- Development of values and attitudes towards people with a disability;
- Treaty of Waitangi;
- Working with family/whanau members;
- Communication skills;
- Health and safety; and
- Additional training as required.”

There also should be, “...regular staff meetings and monthly reporting systems must be held. Staff should also be able to access supervisors outside of these structures if, and when, required.”

Providers are required to report on staff recruitment and retention issues and have documented policies/protocols for the following aspects of service delivery:

- Food management
- Shopping including money handling
- Assistance with medication
- Incident reporting
- Abuse and neglect
- Safety issues and risk assessment when working in client’s homes
- Changes in client’s health status.

Providers have to ensure that risk to staff is assessed prior to the commencement of the service to client.

The agreement with the home based service provider strongly emphasises well trained and supervised staff. There is general agreement that neither of these outcomes is being achieved in the current environment. Average staff turnover in the home based support area is estimated at 39 percent (68 percent on the East Coast and in tourist or seasonal work areas) and recent Uniservices research²⁵ showed that just over half of the 420 residential and home based support providers that responded to the survey said that less than half of the workforce was adequately trained and that when training is held only 70 percent of residential staff and 40 percent of home based staff attend.

“The current high turnover of support workers, particularly in the first year of employment, makes it uneconomic for providers (and funders) to significantly invest in this workforce. Workers who undergo training are likely to leave in large numbers, using their training to gain better and more secure jobs elsewhere.”²⁶ The Uniservices research²⁷ showed that 17 percent of disability support workers (home based and residential) work for more than one disability provider.

Residential services

The national agreement between the government and residential care providers also includes the requirements to meet the cultural requirements of residents, particularly Maori residents.

There is a section on “human resources” that deals with numbers, ratios and qualifications of the staff required for rest homes and hospitals. It requires staff to be competent in any procedure they undertake and for on-duty staff to have access to support when needed.

They are required to, “...undertake a planned documented programme of staff development or in-service education with at least eight hours of programmes being provided annually, including courses attended other than at the Facility. You must keep a written record of staff attendance at such programmes.” All new staff are required to receive a planned induction programme. In addition, “You shall ensure that all staff who will be in direct contact with the Subsidised Residents have completed education that is related to the care of older people. Those staff who have not completed the training at the time of their appointment must complete appropriate training within six months of appointment. The training must address:

²⁵ Auckland University, op cit.

²⁶ Report for Central Region DHBS: Home Support Purchase and Contracting Models, February 2005, prepared by Shereen Moloney, Project Manager, Aged Care & Disability, Planning & Funding Directorate, Capital &Coast District Health Board.

²⁷ Auckland University, op cit.

- The ageing process, including sensory, physical, psycho social, spiritual and cultural aspects;
- Practical care skills;
- Awareness of cultural issues;
- Communication, including sensory and cognitive loss and other barriers to communication, communication aids;
- Observation and reporting;
- Promotion of independence and recognition of individuality, and
- Understanding of Subsidised Residents rights.

There are also clauses on safety obligations, safe practices, risk management and quality improvement programmes.

There are no clauses on good employer practices.

Cleaning services

All the government agencies interviewed said they were moving from task based to outcome based cleaning contracts. They set quality criteria rather than specify what has to be done to reach that standard. While the provider representative interviewed for this research felt this was a positive move an alternative view was expressed in the WEB research²⁸. The companies interviewed in the research said there has been a change in the form of tender specifications – from specific and detailed task lists to a phrase such as , “All rooms to be maintained in a clean state upon inspection.” – they believe this advantages the contracting organisation as there are no absolute measures of quality standards.

The contracts do not specify the hours to be worked but one large department said that they do discuss this during the selection process. The provider representative interviewed said that there is huge variation between government agencies in terms of how they handle contracts – especially in terms of the details they require of service costing. She said that in her experience, some contracts do have good employer clauses and occasionally they will be asked about this during the interview – generally by being asked if they have an EEO policy. Generally funders were not sure if their contracts contained these clauses or not but they were certainly not monitored if they did.

Two of the government agencies interviewed operate national or regional contracts and this means they are inevitably only getting tenders from the large provider companies.²⁹ Like home based support, cleaning has become a volume driven business.

²⁸ Report of Exploratory Case Study Research into Precarious Employment, WEB Research in association with Labour Market Policy Group, Department of Labour, March 2004

²⁹ This is an interesting development in light of the Government Procurement Policy's requirement to support the development of the SME sector in NZ

One procurement manager said that he assumed that these large companies have better employment practices than the smaller ones but he does not investigate this. All funders said that price was not the only consideration in selecting a provider but the provider representative said her experience was that funders said this but most did select on price. She described the two envelope tender process – the provider puts their price in one and details about experience etc in the other. In theory, the price envelope is only opened after the initial assessment has been made on the other criteria. She said that in all her years of tendering, this had only happened once. As mentioned earlier, the union believes that providers indirectly compete on price by reducing the number of hours available for the job. This view is supported by the case study research.³⁰

Funders are aware that providers are finding it hard to attract cleaners at the current wage rates. Providers have indicated to them that prices may have to rise to meet current market rates. Increases in petrol costs will affect the margins of both cleaning and home based care providers.

In the cleaning sector contracts are generally of three years duration although one major funder has extended this to four years at the request of the provider because providers say they lose money on the contract in the first year, break even in the second and make money in the third. The provider representative said that there is rarely more than 12-15 percent profit margin on contracts with government agencies and in some cases margins can be as low as 8 percent. Funders may well have a different view of how much money is being made by the provider companies with one large funder stating that when assessing the contracts they think a margin of about 18-20 percent is acceptable and that if it was below this they would carefully question the viability of the company.

Contracts generally have a termination clause in cases of service failure. The Union said that employees in smaller companies often worked for more than one company in case one of the contracts fell over. It is interesting that of the 20 percent of disability support workers (in home based and residential services) who had another job outside of care services, almost a quarter worked as cleaners. Case study research suggests that, “The threat of loss of a contract with one month’s notice or at its expiry is a constant discipline upon the work, expectations and bargaining behaviour of employees.”³¹ The research also suggests that some of the cleaning companies also believed that they have no ongoing employment obligations to their staff when the contract ends and that the contracting model permits the principal organisation to stand at a distance from the operation and the effects of the contract upon the cleaning company and their employees.

Providers fund employee training themselves.

Health and safety requirements

³⁰ WEB Research, op cit.

³¹ WEB Research op cit.

Funders in all three sectors require providers to meet appropriate health and safety standards for the consumers of the care and the workers providing the service.

The Health and Disability Services (Safety) Act 2001 does not currently apply to community services, although there is the possibility that it will be extended in the future.

The Health and Disability Standards that cover residential care do not apply to home based support services. To meet this need in the home based support industry, NZS 8158:2003 was jointly commissioned by the Ministry of Health and ACC and was developed by Standards NZ. The Standard is currently voluntary and will not become mandatory until the Act is extended to cover community based services. Compliance can also become mandatory if the funder writes it into contracts with providers.

It appears that no-one has yet made this standard mandatory. ACC have developed a workbook for providers to assist them to meet the standards and since 2003 have included a clause in their contracts that providers should be working towards certification on the standard. They said that eventually it could be a differentiator between competing providers. MOH currently does not include any reference to the standard in their contracts. They feel there is more work to be done in the sector before compliance is possible. They also know there are cost implications and that providers are looking to MOH to meet some of these costs. A provider representative said that one provider had just spent \$3000 to develop the document trail to start to meet the standard. There is some frustration amongst providers that yet another demand could be required of the hourly rate paid for services.

All three industries are currently covered by the general Occupational Safety and Health regulations, general privacy and employment regulations including the Employment Relations Act.

In the cleaning sector providers are contractually required to provide health and safety information sheets each worker.

Part four: Pay and employment equity, precarious work issues and contracting – the current situation and future possibilities

Current situation

The answer to the question of whether pay and employment equity and precarious work are considered in government contracting policy and practices is “no”.

As discussed earlier, part of the reason for this is an ideological view that such matters are the business of the provider company and it is not appropriate for funders to interfere. In spite of this, funders are aware that as the main, only or significant funders of the residential, home based support and cleaning sectors their funding decisions, especially around prices, do have a direct impact on business profits and pay rates. From the interviews, it was apparent that another reason for not specifying either compliance with legal employment minimums or positive employment practices in the employment agreements is that it has simply not occurred to those in policy or practice positions to do so.

Funders are aware that the poor pay and employment conditions for cleaning and disability support staff impact directly on recruitment, retention, training and career progression of staff. In a labour market of near full employment such issues are now hard to ignore. Quality service provision and the stability of the sectors (especially residential and home based support) are seen to be fragile. One senior DHB official noted, “The workforce issues are immediate. Turnover is the key determinant of quality – and old people hate having changes of carers.”

A couple of examples were provided that indicate how wide the funder/provider split is in terms of funder responsibility for the quality of the employment experience for those actually providing the service. Government agencies that need to procure uniforms for their staff³² now source these offshore. New Zealand manufacturers could not compete on price and in spite of the policy requirement to support innovation in New Zealand businesses and to also support SME’s, price was the determining factor. The procurement manager for a very large agency reported that the uniforms were made in Malaysia (through an agent) and that as far as he knew there had been no quality checks by the funding agency on the factory in terms of working conditions or the age of the workers. As one senior procurement manager said, “We are tasked to live within baseline position – there is no extra allowance to select New Zealand manufacturers who are more expensive or to raise the wages of suppliers. Any increase in minimum wages raises our costs.”

The other example was of a core government department who let a cleaning contract to a company who employed foreign students and not only paid

³² For example, Police, NZ Defence Force; NZ Customs; Ministry of Justice etc

below the minimum wage but required them to work for a month on trial without pay. This contract has now been terminated.

Since the well-publicised cases of MOH funding for organisations that were using the money to lobby government, there has been a tightening of the parameters of funding and contracting. Treasury's view (supported now by all government agencies) is that agencies do not pay for things they would not do themselves. A senior Treasury official commented that while this was in response to the lobbying issue, she could see no reason why the same logic should not be applied to being a good employer. "Departments would not employ people on poor or illegal conditions, why should they pay someone else to do this?"

Treasury recently completed a review that looked at the NGO contracting policies in a couple of departments. The review mainly focussed on their systems and practices rather than their contracts with providers. The official commented that she had not been aware that Treasury guidelines on government contracting with NGOs contained reference to using good employer principles as an evaluation criteria. This issue was not included in the review and she was not sure how it was interpreted or if it was ever monitored.

The State Services Commission (SSC) recently looked at how issues contained in the Public Service Code of Conduct (binding on Public Service departments) apply to NGO work undertaken on behalf of Public Service departments.

Initially SSC focussed on what values and standards, if any, should apply to NGOs when undertaking work under contract from Government agencies. Since the initial work, the focus has shifted to a risk management approach that departments could apply when choosing an NGO provider and to the contract with an NGO provider. SSC believes that there are some things that must be done by NGOs (like treating people properly or acting within the law), some things that they could do, and some things they should not do e.g. use service delivery money for advocacy. SSC was looking at the possibility of creating an 'ethics and values' filter for selecting providers or building it into a contract – this provides an opportunity for a discussion with the NGO during the life of the contract. This work has not progressed through to consultation and implementation.

SSC's initial work looked at whether there were some 'must do's' that could be part of contracts with NGO providers such as integrity, honesty and upholding the law. There were some 'could do's' that could be reflected in such contracts, at the discretion of the Government agency and subject to negotiations with NGOs. The third grouping was things considered to be the sole prerogative of the NGO provider.

SSC's focus is on the delivery of service to clients. They did not consider the implications for how providers treat staff as part of their recent examination of how issues contained in the Public Service Code of Conduct apply to NGOs,

because it is outside the focus of what SSC was doing. It was clearly the first time this issue had been raised in the ethics/integrity context within SSC.

Emerging changes

Many informants to this research said that they are experiencing or provoking changes that they believe have the potential to positively impact on the funder/provider relationship, the quality of services delivered to clients and more positive employment outcomes for the employees providing the services. Certainly in the health area, there is general agreement that the current situation is not working for any of the players.

Below are some of the changes being experienced.

Contracting context

The experience of near full employment has put pressure on labour supply and wage rates. Providers in both the disability service and cleaning sectors report finding it hard to get and keep staff for wages at, or not far above the minimum wage. In some parts of the country these workers have other choices and where this choice is to take better paid seasonal work, this decimates the health and cleaning sectors at certain times of the year. Current wage rates in the disability support sector were not seen as sustainable in this context.

Within government agencies, roles responsible for the procurement process have evolved from supply officers to procurement managers. The cleaning sector representative interviewed said that this 'professionalisation' of the procurement role has had very positive impacts on the procurement process and the relationship between funder and provider.

Maturing of provider/funder relationships

In all three sectors considered in this research there has been what is described as a 'maturing' of the relationship between the funder and provider.

This change is most evident in the disability services sector. Over the years of the funder/provider split there has been an increasing understanding of the interdependence of the two players and the fact that contracting for services to dependent and vulnerable people is not like purchasing photocopying paper. Service failure or poor quality service directly impacts on public perception of government. Officials have moved more towards a "partnership" principle for the relationships and there is general acceptance that the 'health' of the provider sector is the concern of government as much as it is the concern of the business shareholders. Relationships need to be enduring and supported by good will and a sense of mutual interest. Part of the mutual interest is having well-trained, motivated and committed staff. In the course of this research, all disability service funders interviewed acknowledged that wages and employment conditions for the front line staff need to improve and

this is part of the answer to increasing the reliability and quality of the services provided.

There are already examples of funders directly intervening to improve the quality of the service. MOH is running a pilot programme to provide advanced induction level training for homecare workers delivering personal care. In doing this they acknowledge that there are funding issues for providers in terms of providing the training themselves. While this certainly does address a part of the reason why there are low levels of training in the sector, it does not in the longer term address the issues from the workers' perspective. These include not being paid to attend training, generally having travel costs to attend training and not receiving higher wages for achieving training.³³ While acknowledging it was positive that something was happening, the provider representative said that many of their members would rather be given the money to manage training of their staff themselves. The large DHB interviewed is developing a new service model and will also commit funding to assist the sector to prepare to deliver this model.

The need to develop closer funder/provider relationship is not without tension. One funder described the home based service sector as quite immature in terms of business practice. She felt that funders make demands on disability service providers in terms of disclosure of business practices that are not required in other business areas. She said, " We are trying to work with companies to get mutual solving of problems – but it is hard because we feel there are some questions about the way they run their businesses such as client allocation and efficient planning for travel."

The Treasury guidelines (reflecting other government policy on government/not-for-profit relationships) substantially reinforce the partnership and support model of contracting with NGOs.

The need to develop more of a partnership approach to the funder/provider relationship in the cleaning sector is made more acute by the awarding of contracts (particularly syndicated contracts) to the three to four larger providers. This creates more mutual dependence on the viability of the companies. As mentioned earlier in this report one example is the extending of contracts to a four year cycle to assist this viability. One funder described this new approach to relationships as allowing for more 'productive discussions during the life of the contract' on issues such as quality or service organisation.

An example of responsiveness to provider needs is the move to day cleaning by some government agencies. Traditionally government buildings are cleaned once staff have left the building. Night time cleaning attracts a

³³ Auckland University 2004 research estimated that only 12 percent of service providers (residential and home based care) have support workers with recognised and adequate training. Just over half (53.6 percent) of the home-based service providers who answered the question reported that 40 percent or less of their support workforce was adequately trained. When training was offered attendance rates by staff were 70 percent in residential settings and 40 percent in home based setting.

particular segment of the workforce - a segment that in some areas of the country is able to access higher paying jobs elsewhere. It also excluded some potential workers that were not able to leave their children or other dependents alone at night. Day time cleaning aims to increase safety of the cleaners and provide opportunities for the recruitment of people who prefer to work during school or early childhood education hours.

Changing service needs

The funding model that operates in the home based support area has been based on the purchase of a set number of hours at a specified level of service. As one funding official noted, this input mode is relatively straightforward to monitor. In spite of this, there is general dissatisfaction with the model – particularly on the part of the DHBs who inherited the old MOH contracts with providers when the funding was devolved. The direction for the change they envisage is well articulated in a discussion paper produced on behalf of the Central Region DHBs.³⁴

“The existing industry has developed as a result of historical funding and contracting approaches and services have evolved within a narrowly defined framework. However, the health and disability environment is changing rapidly, and the needs of clients receiving home based support services are significantly different to what they were when home based support services were established.

The current issues facing the sector are described as:

- Stability and sustainability of the industry
- High worker turnover
- Inflexible and inappropriate services
- Cost blowouts
- Need for a rehabilitative approach to service delivery”.

The paper argues that a paradigm shift in the approach to the service delivery and the way that the service is funded and then contracted out, will have a significant and positive impact on the home based service industry and the conditions for the actual providers of the service. The shift is broadly characterised as moving from purchasing of tasks on an hourly basis to a rehabilitative approach based on purchasing packages of services based on client assessment and client goals. Payment would be determined by an assessment of care levels and the provider would have flexibility to respond to changes in client needs without going back to the funder for “more hours”.

Moloney argues that this fundamental change will mean that, “The flexibility and continuity in purchasing offers a way of addressing recruitment and retention issues, by improving the ability of providers to develop long-term business and workforce plans, improved conditions of employment, career prospects for support workers and enhanced job satisfaction.” She is very

³⁴ Moloney, op cit.

clear that, “The issues that need to be resolved are complex and are unlikely to be resolved merely by increased funding within the current purchasing framework of task specific funding.” As she said in an interview, “The problem is that the workforce we need to deliver the packages of care does not exist at the moment.” She argues that while MOH is currently putting a focus on sector strengthening through training, it is training for the old model of service delivery.

She also says, “Providers in NZ have consistently identified the “per hour per client” purchase model with its attendant volatility and uncertainty as a barrier to service sustainability. They see this as leading to casualisation and inefficient use of the workforce, which in turn generates staff turnover. This view is borne out by international research which links a ‘pay per hour’ purchasing approach to a low skills/casualised approach to the workforce.”

Moloney cites the Community First model being piloted in Waikato, Otago and Bay of Plenty. These pilots utilise a bulk purchasing service model which works on the basis of some guaranteed hours and places considerable emphasis on the team. Evaluation results will not be available until next year but informal reports indicate that the turnover of support workers is significantly less than in normal support programmes.

Capital and Coast District Health Board (C and CDHB) recently “put its toe in the water” and issued a request for proposal for home and community care packages. They saw this as a way of signalling a change in service provision to providers and as a way of starting to assist the strengthening of the sector. The proposal describes one of the key principles of the service approach as:

“Workforce Development: The service will support improved recruitment, retention, training and supervision of the homecare workforce, including addressing employment conditions, role enrichment and worker satisfaction.”

The proposals were to be evaluated by C and CDHB against a number of criteria including:

Workforce

- How comprehensively the proposal demonstrates the ability of the service to recruit, train, supervise and generally support the workforce required to deliver the service;
- The extent to which the proposal demonstrates an understanding of the needs of the proposed workforce; and
- The extent to which the proposal will support improved recruitment and retention of the proposed workforce.

MOH agrees with taking a different approach to the purchase of services but has concerns about how it will be monitored. They also acknowledge a tension between the drive for national consistency in service quality and delivery and the need for DHBs’ to respond autonomously to the particular service needs in their area.

While this new model is seen as an improvement by service providers many would prefer to have even more autonomy. This would see funding come to them directly and they would undertake the care assessments and allocate the money. One DHB sees this as creating enormous service risks and worries that it may not necessarily do anything to improve wage rates.

There have also been changes in the services required of residential providers. As the recent publicity campaign has highlighted, the services required have become increasingly more complex and demanding because those clients with lesser needs are being supported in the community. Training and attracting the high quality staff has become even more important. One funder commented, "We know that the situation for workers in the residential sector is variable – some get less than homecare sector. There are huge literacy problems – some staff cannot read the care plan."

Other potential points of influence

During the course of this research informants suggested other ways in which influence on the employment outcomes for workers could be brought to bear through contracting policy and practice. The brief review of the literature raised some other possibilities. The suggestions are not listed in any order of importance and they are not necessarily independent of each other or mutually exclusive.

Addressing the agreed equity issues in funding

Having a transparent and understandable model for price setting in the disability services sector would greatly assist the discussion of fair wages and employment conditions.

The structure of home based support is well understood – intrinsic to the work is the need to travel between clients. Funding should (at a minimum) take account of the realities of this occupation.

While there is general agreement that issues of sector viability will not be resolved through increased funding alone, for the people at the end of the process – the actual service providers – wages that recognise their work structure, actual skills used and labour market shortages are the most pressing concern.

While the other suggested critical points of influence listed below can support pay and employment equity and may mitigate against precarious work outcomes, it is difficult to escape the conclusion that increased government funding is the vital first step.

The business case for fair and predicable employment

Several funder informants suggested that for 'good employer' practices to be included as a selection criteria in the contracting processes funders would need to be convinced that there is a sound business case – how would

services improve and be more sustainable by doing this? No-one was arguing that there was no such business case but had either not thought about it or had not seen one articulated. A Canadian paper³⁵ put the arguments for intervention as:

- Higher wages can raise productivity and job quality. Employers invest more in capital equipment and training when they pay higher wages;
- Wage floors can lower turnover and increase skills and experience; and
- A common wage and benefit package means that firms must compete with one another on the basis of non-labour costs such as quality and customer service which require more skilled workers.

Educating for change

The requirement for environmental sustainability in government contracting was often cited as a good example of a change process that combined education about the issues and practical assistance to make it easy and make it work. The Ministry for the Environment was commended for the way it took a gradual and non-dogmatic approach with the result that there is a widespread commitment of hearts and minds to the issue. Environment picked two or three issues that would have maximum impact in terms of their broader policy goals and targeted these.

One commentator noted that it was not easy at first and agencies were concerned that it would cost more and create more work. He noted that it would likely be the same if pay and employment equity and precarious work became contract features. However, as he said, "People get used to it" - but gradual and considered implementation processes certainly helped.

Responsible Contractor policy

MED and DOL have undertaken some initial work on the development of a responsible contractor policy. The MED and DOL work suggested that:

1. The responsible contractor policy recognises that government agencies are in a position to promote good ("fair and ethical") employment practices in the private sector when contracting for provision of services
2. State Sector chief executives have a specific statutory obligation to 'operate a personnel policy that complies with the principles of being a good employer'....Their employment practices must also conform to a range of other relevant employment and health and safety legislation applicable to both the public and private sector.

³⁵ Precarious Jobs and Social Exclusion: Key Issues and New Policy Directions by Andrew Jackson, Canadian Labour Congress. Policy Research Initiative. December 2004, Vol.7 no.2

The work outlined the benefits of the policy and places them in the context of the Government Procurement Policy guidelines, including the key principle of value for money over the “whole of life” of the service. Two key planks are:

- Demonstration of compliance with relevant legislation (e.g. minimum employment)
- Evidence of good employment practice (over the above minimum standards) e.g. belonging to EEO Trust’s employers group

In the interview MED felt that with sufficient education about “why, and how to” this policy could be introduced fairly easily. They did not see it as overly restrictive or as introducing unacceptable compliance costs.

As it stands the draft policy does not explicitly mention issues such as precarious work or pay equity. Details of what the policy might cover and how to make an assessment of compliance could be the subject of a new section in Part 3 of the Good Practice Guidelines produced by the office of the Controller and Auditor-General.³⁶ Another possibility is to include these issues in a more detailed explanation of “good employer” in the Treasury Guidelines.

The possibility of such a policy was raised with some funders during the course of the research. Some responded in a fairly matter of fact way saying that as long as it was not too prescriptive they could see no problems in its adoption. Others were concerned that the “extras” in the contract were becoming too dominant and that the private sector would be “horrified” at this new demand. A provider representative said that their members would be very resistant to further requirements being introduced through the contracting process in the current funding environment.

Preferred suppliers

Precedents exist for stipulating preferred supplier conditions that are not directly related to the actual service but are linked to other government objectives. When the current Police vehicle contract was tendered, one of the preferred provider clauses concerned the environmental sustainability of the whole of life of the vehicles. In assessing the tenders, this requirement had a 5 percent weighting. ACC have included a similar clause about considering favourably providers who are working towards certification on the safety standard.

In the same way, the Responsible Contractor policy (or a version of it) could form the basis for including employment issues as a preferred employer condition.

³⁶ Part 3 is described as a ‘work in progress’ and it is expected that new sections will be added to keep the guidelines relevant.

Enforcing and supporting statutory minimum standards

While the Responsible Contractor policy (or something like it) would require would-be providers to provide evidence of compliance with relevant legislation, compliance could also be checked through existing DOL inspection mechanisms. If there are concerns that some employers in the three sectors are not complying with statutory minimum requirements such as wage levels, these could be the subject of targeted investigation. In some situations, the possibility of this happening would probably “lift the game”.

The WEB research found that some large and most small contracting companies believed it was appropriate for the state to intervene in order to improve the wages of cleaners and suggested this be done through raising the minimum wage and increasing the effectiveness of the enforcement of the existing statutory obligations with regards to wages, holidays, holiday pay and health and safety.³⁷

It is also important to ensure that employers (especially SMEs) are aware of statutory minimum requirements and be supported through advice and information to comply with these. Ensuring that they are aware of DOL services in this area is important.

Pay and Employment Equity Reviews

Employers in the public service and public health and education sectors have been provided with a review tool to help them assess their pay and employment systems for gender bias. It is mandatory for core government departments to conduct a review of their pay and employment systems. The exercise will be conducted with either union or employee representative involvement. The results will be available to all parties and to the Pay and Employment Equity Unit (P&EE Unit) in DOL.

At the time of writing, training in the use of the review tool is being provided to departments by the P&EE Unit.

In both the public health and education sector some of the most vulnerable female dominated occupations (cleaners and disability support service workers) will be excluded from these reviews because they are not directly employed by the government agencies. One suggestion raised during the course of the research was that service providers employing occupational groups known to be female dominated and in low paid or precarious employment be required to undertake a pay and employment equity review within their own organisation in order to be eligible for the contract.

The review tool would need to be substantially adapted for small organisations to make this feasible.

³⁷ WEB Research, op cit

The outcome of some review exercises may result in the re-evaluation of the 'value' or 'worth' of female dominated work or occupations through the use of the gender neutral job evaluation tool.³⁸ This tool will also be available for use independently of the review process. In low paid female dominated occupations it offers the opportunity for comparison with similarly skilled male dominated work that (often) attracts higher wage rates.

A view was expressed that providing 'leverage' on one part of the sector (e.g. cleaners in state schools) could assist changes for the particular female dominated occupation across all sectors.

Minimum documents

As described earlier in this report, approximately 60 cleaning service providers are party to a minimum employment agreement with the SFWU. The union suggested that these terms become the 'floor' for all cleaning contracts let by government agencies.

The same process could also be used in the residential disability services sector.

The WEB research found that many cleaners do not understand their employment status or their entitlement in law and may have no idea how to access this information. The provision of an automatic minimum could safeguard against the possibility of exploitation through ignorance.

Creating a new policy 'sieve'

One suggestion was to require any changes in contracting policy or practice to be examined for intended or unintended impact on pay and employment equity outcomes for front line staff providing services on behalf of the government. Cost saving at the expense of already low paid workers should not be acceptable in terms of the government's stated commitment to pay and employment equity.

Any employment equity impacts identified in the course of such an analysis need to be made transparent and subjected to a cost benefit analysis.

Guaranteed core hours of work

One of the predictors of precarious work is having work hours that are either irregular or unpredictable or insufficient to earn a living wage. This is a complex policy area because the literature does suggest that some workers are attracted to occupations such as cleaning or disability support work because of the flexibility while others suffer greatly because these conditions make their work lives and incomes precarious. For example, the MOH Uniservices research³⁹ found that in the home based support area:

³⁸ This tool is currently being developed by the Pay and Employment Equity Unit, DOL

³⁹ Auckland University, op cit.

“A few coordinators mentioned that their staff were highly resistant to a rostered system because they wanted flexibility and they wanted to choose their own hours. Some managers said that their workers were always eager to take on extra shifts because they wanted to make more money and the coordinators had to ‘try and stop them doing maximum hours’. One coordinator mentioned that individual contracts were important for her agency because they were more flexible and responsive to the needs of the workers; this agency served a rural area where the cost of living was relatively high. Individual contracts allowed them to pay these rural workers at a slightly higher rate. Most of the home-based workers seemed to work part-time with no guarantee about the number of hours they worked in a week. The coordinators chose this system because of the highly variable client base and the funding constraints of the organisation; the clients’ needs were always changing and the agency could not afford to pay the workers for hours unless they were assured of receiving government funding for that time. Some coordinators said they had to fight the funding providers to get funding when clients cancelled their services on short notice. Coordinators often did not understand why the current contract system was used, but only that this was the system the agency had always used and it seemed to work. “

The new approach to contracting and the Community First model being piloted (discussed earlier in this paper) both assume that some guarantee of hours is vital to quality service delivery and sector sustainability.

Conclusion

This research found that there is little or no disagreement about the negative impact of low paid and precarious work in the homecare, residential and cleaning sectors on both the quality and viability of the service purchased and the lives of the providers’ employees. The level and nature of government funding and contracting processes is acknowledged as one of the key drivers of this.

Changes to the funder/provider relationship, the way in which the services are purchased and the nature of the services provided are all crucial. However, fundamental to the success of these changes will be the raising of funding levels and contract prices specifically targeted at improving the wage rates and job security of those actually providing the services.

Appendix 1

Labour market statistics

The New Zealand Standard Occupational Classification (1999) classifies support workers (residential and home-based) and cleaners as part of the Service and Sales Workers occupation. Statistics New Zealand's Household Labour Force Survey (2004) shows:

% of people in Service and Sales occupational group by sex

	Male	Female	Total
1994	8%	20%	13.2%
2004	9.8%	23.6%	16.1%

The Australian and New Zealand Standard Industrial Classification classifies support workers and cleaners as part of the Health and Community Services industry group. Statistics New Zealand's Household Labour Force Survey (2004) shows:

% of people in Health and Community Services industry group by sex

	Male	Female	Total
1998	2.2%	13%	7%
2004	2.8%	16.4%	9%

Further analysis could be undertaken by requesting tables from Statistics New Zealand at a lower digit level e.g. Groups 512, 51212 and 51316 of the occupation classification.

Relevant information from research commissioned by the Ministry of Health undertaken by Auckland University in 2004 – support workers in the disability sector.

Table 1: Type of employment agreement

	Residential	Home-based	Mixed	Total
Permanent employment, no guarantee of hours	231 (49.5%)	329 (24.9%)	56 (40.0%)	616 (32.0%)
Permanent employment with fixed hours	51 (10.9%)	460 (34.9%)	33 (23.6%)	544 (28.2%)
Fixed term with fixed hours	11 (2.4%)	43 (3.3%)	4 (2.9%)	58 (3.0%)
Fixed term with varying hours	11 (2.4%)	109 (8.3%)	4 (2.9%)	124 (6.4%)
Verbal agreement	6 (1.3%)	15 (1.1%)	3 (2.1%)	24 (1.2%)
Casual agreement	35 (7.5%)	143 (10.8%)	13 (9.3%)	191 (9.9%)
Collective agreement	101 (21.6%)	112 (8.5%)	22 (15.7%)	235 (12.2%)
No agreement	5 (1.1%)	13 (1.0%)	1 (0.7%)	19 (1.0%)
Other sort of agreement	7 (1.5%)	18 (1.4%)	1 (0.7%)	26 (1.3%)
Don't know sort of agreement	9 (1.9%)	77 (5.8%)	3 (2.1%)	89 (4.6%)
Total	467 (100.0%)	1,319 (100%)	140 (100%)	1,926 (100%)

Table 2: Reimbursed for time spent travelling between clients

	Residential	Home-based	Mixed	Total
Always	12 (16.4%)	48 (6.2%)	4 (4.6%)	64 (6.8%)
Sometimes	5 (6.8%)	70 (9.0%)	10 (11.5%)	85 (9.1%)
Never	56 (76.7%)	657 (84.8%)	73 (83.9%)	786 (84.1%)
Total	73 (100.0%)	775 (100.0%)	87 (100.0%)	935 (100.0%)

Table 3: Potential reasons for leaving current support work job

	Residential	Home-based	Mixed	Total
Better pay	29 (29.6%)	119 (35.5%)	16 (55.2%)	164 (35.5%)
Want a change	12 (12.2%)	46 (13.7%)	3 (10.3%)	61 (13.2%)
Worker getting older	8 (8.2%)	35 (10.5%)	1 (3.5%)	44 (9.5%)
Change in situation/ family	7 (7.1%)	25 (7.5%)	2 (6.9%)	34 (7.4%)
Change in situation/ client	6 (6.1%)	22 (6.6%)	0 (0.0%)	28 (6%)
Own health reasons	9 (9.2%)	25 (7.5%)	0 (0.0%)	34 (7.4%)
Job stress	15 (15.3%)	24 (7.2%)	4 (13.8%)	43 (9.3%)
Study	3 (3%)	15 (4.5%)	3 (10.3%)	21 (4.6%)
Leaving area	5 (5.1%)	9 (2.7%)	0 (0.0%)	14 (3%)
Don't know	4 (4%)	15 (4.5%)	0 (0.0%)	19 (4.1%)
Total	98 (100.0%)	335 (100.0%)	29 (100.0%)	462 (100.0%)

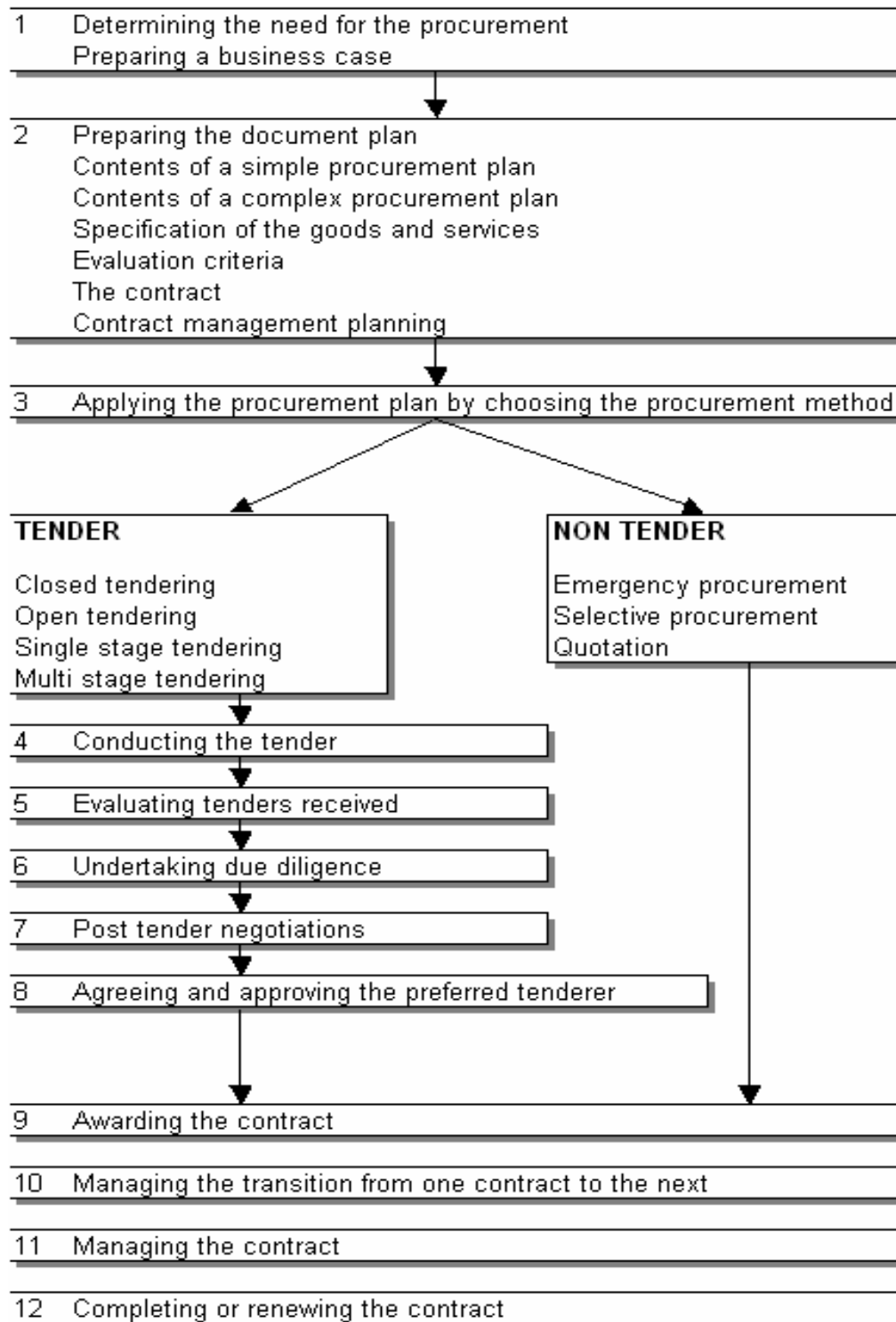
* Eight individuals chose not to provide a reason for why they may leave their current support work

Table 4: Mean and median salary ranges for staff

	Number of Responses	from mean	to mean \$ per	Median salary
Home-based support service support				
❖ home help/household management	112	\$9.96	\$11.17	\$10.00
❖ personal care	114	\$10.31	\$11.84	\$10.82
❖ care for client with high needs	87	\$11.03	\$12.64	\$11.00
Residential service support workers				
Coordinator standard day rate	308	\$16.49	\$18.92	\$18.00
Coordinator standard night rate	95	\$15.96	\$18.35	\$18.00
Coordinator on call night rate	69	\$14.86	\$21.23	\$16.00

The Procurement Process

Source: Procurement. A Statement of Good Practice, Office of Controller and Auditor General, June 2001



Appendix 3

New Zealand Cleaning Contractors Multi-Employer Collective Employment Agreement (2004-2005)

Brief summary:

Commercial and School Cleaners

Note: minimum annual wage is \$9.50

First 2 months of employment \$10.43 an hour

After 2 months of employment \$10.60 an hour

There are also additional payments for ITO qualifications (this is beyond legal requirements):

Stage 1 – 15 cents an hour

Stage 2 – 25 cents an hour

There are also additional payments – operating high pressure water or steam devices, operating boilers, maintaining the chlorination of school swimming pools – generally male jobs!

Overtime 1.25 (again above legal requirements)

Covered by Holiday Act

Where a worker is directed in writing to use his/her car and if the worker is willing, they will be paid 57 cents per kilometre and shall be responsible for paying appropriate insurance.

Long service leave

“All electrical polishing and scrubbing machines and vacuum cleaners with their leads shall be checked at intervals not exceeding six months by a registered electrician.”

“The employers will ensure that all employees are provided with adequate training in the safe use and handling of cleaning materials and equipment prior to any such employee being required to use cleaning materials and equipment.”

School Caretakers and Cleaners – Collective Agreement 2004-2005

Cleaners – Current hourly rate \$ 11.11

Includes: Allowances for – unusually dirty work; broken shift allowance of \$3.71 a day; and holding ITO qualifications.

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