

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-A -TARA ROHE**

[2025] NZERA
Recommendation 1

BETWEEN	THE ASSOCIATION OF PROFESSIONAL AND EXECUTIVE EMPLOYEES (APEX) Applicant
AND	CANTERBURY SCL LIMITED, SOUTHERN COMMUNITY LABORATORIES LIMITED, MEDLAB SOUTH LIMITED, SCL OTAGO SOUTHLAND CODE SERVICES LIMITED, SCL OTAGO SOUTHLAND SERVICES LIMITED, WELLINGTON SCL LIMITED, SOUTHERN COMMUNITY LABORATORIES HAWKE'S BAY LIMITED, TARANAKI PATHOLOGY SERVICES LIMITED, NORTHLAND PATHOLOGY LABORATORY LIMITED Respondents

Members of Authority: Sarah Kennedy-Martin, Facilitator with Shane Kinley

Representatives: Omar Hamed, advocate for the Applicant
Diana Hudson, counsel for the Respondents

Date: 7 April 2025

RECOMMENDATION OF THE AUTHORITY

[1] The Association of Professionals and Executive Employees (APEX) are a union representing medical laboratory workers in New Zealand. APEX's members include medical laboratory scientists, medical laboratory technicians, pre-analytical technicians, medical laboratory assistants and associated laboratory staff including information technology and courier drivers.

[2] The Respondents are a group of private sector employers providing laboratory services in the health sector in various locations across New Zealand. Collectively they are referred to as the Awanui Group (Awanui). Awanui and Health New Zealand:Te Whatu Ora (HNZ) have a contracting relationship for the laboratory services provided by Awanui.

[3] The parties have been engaged in bargaining to renew their collective agreement. On 10 March 2025, APEX was successful with its application under s 50(1)(c) of the Employment Relations Act 2000 (the Act) to have bargaining referred to facilitation by the Authority.¹

[4] Urgency was also granted. At that time there had been two days of strikes on 5 and 7 February 2025 and three more days of strike action were planned for 25, 26 and 27 March 2025. This was six months after bargaining had been initiated and the referral for facilitation was accepted on the basis the parties were having serious difficulty concluding a collective agreement.

[5] In referring the matter for facilitation the Authority accepted the strike action to be such that it would likely endanger the life, safety or health of persons. The Authority noted the laboratory workers covered by the bargaining deliver medical laboratory services to both community and public hospital health services.

[6] Facilitated bargaining took place in person on 17 March 2025. This led to two offers being placed before APEX that were taken to its members for an indication of whether they could be accepted. The indication was both offers were voted down overwhelmingly. Further facilitation was requested ahead of the strike action due to commence at midnight on 24 March 2025.

[7] A further Authority led facilitation by AVL was held on 24 March 2025 where Awanui tabled a final offer. APEX rejected that offer on the day noting it was still below the level APEX could put out to a members' ballot. Following the impasse both parties asked the Authority to proceed to make a recommendation and provided submissions on 28 March 2025.

¹ *Association of Professional and Executive Employees (APEX) v Canterbury SCL Limited and others* [2025] NZERA 146.

[8] The significant and ongoing impediment to settlement is the parties' inability to agree on the level and composition of a general pay increase and the term of the eventual renewed collective agreement, including backpay. They also disagree on the claim for a multi-employer collective agreement (MECA). Currently there are three separate documents.

[9] A significant part of the impediment to settlement is the difference in wages for directly comparable positions in the public sector for laboratory workers employed by HNZ. A pay equity settlement in 2023 delivered pay increases to public sector laboratory workers of between 25 to 30 per-cent from 1 June 2023. APEX's members do the same work as their public sector counterparts.

[10] This issue was also an impediment to settlement during the last bargaining round resulting in the Authority's recommendation recording agreement between the parties to work together to measure the pay gap created by the pay equity settlement with a view to seeking additional government funding. The parties advised they recorded their commitment to work together on the funding issue in their Terms of Settlement dated 13 February 2024.

A way forward

[11] Both parties acknowledge there is a significant gap between them in their bargaining positions on wages but agree the underlying cause of that is the difference between public and private sector wages for employees doing the same work. They both agree that a pathway to close the gap is desirable but have not taken steps together to achieve what they both agree is a common goal.

[12] APEX members have already taken five days of strike action in 2025 and the Authority is advised APEX members are currently balloting for a further three days of strike action to take place on 22, 23 and 24 April 2025. The ongoing disruption to the public and private health care system is inevitable if the dispute remains unresolved.

[13] In light of that being the position, and the bargaining impasse reached by the parties, the Authority has resolved to make a recommendation under s 50H of the Act to assist the parties in concluding the collective employment agreement in dispute and to assist with settlement of the expired collective agreement.

Submissions from APEX

[14] APEX takes the position that a wage increase for its members must be at a level that addresses the gap between the public and private sector workers and provides a clear pathway to parity between the two groups. In order to achieve that “pathway to parity” an above inflation increase with back pay is sought for a one-year term.

[15] APEX seeks a recommendation from the Authority for salary increases of 5.0 per-cent from 1 January 2025 with a further 5.0 per-cent increase from 1 July 2025 and the term of the agreement to end on 1 January 2026.

[16] While APEX had previously agreed to work with Awanui and HNZ on measuring the pay gap created by the pay equity settlement with a view to seeking additional government funding, APEX says it is no longer prepared to do that. APEX says the 12 month term would allow Awanui to seek further funding from HNZ to address pay parity.

[17] APEX says its members want to see a clear pathway to closing the gap with their public sector counterparts over a maximum of three years. Without that pathway the difficulties with retention and recruitment caused by the current situation will only increase. It was noted some of APEX’s members have not received salary increases since July 2023. Currently there are three separate agreements and APEX also seeks one single MECA.

Submissions from Awanui

[18] Awanui’s position is that without a funding uplift from HNZ it is not in a position to settle the claim at the level APEX is expecting for its members. No pay equity claim has been made against it under the Equal Pay Act 1972 and it is not in a position to fund pay equity rates.

[19] Awanui notes it has made an offer regarding remuneration at a level above current CPI of 2.2 per-cent and that it has been consistent throughout that without a funding uplift from HNZ it is unable to meet APEX’s claims and the offer it has made is at the upper limit of funds available. Awanui also says while it would be comfortable with a recommendation that repeats the ongoing commitment to working together it considers cooperation to be difficult at this point in time.

[20] Awanui’s final offer included an increase of 3.0 per-cent to all salary rates payable from the date of ratification to those members employed on 24 March 2025

with a further increase of 2.5 per-cent to all salary rates payable on 1 October 2025. This offer included a one off payment of \$500.00 to those employed on 24 March 2025, payable in the second pay period post ratification with no back pay. Awanui submitted its offer should form the basis of the Authority's recommendation.

[21] The term proposed based on retaining the three separate documents is to 30 June 2026 meaning the term for Southern Communities Laboratories Limited (SCL) would be 21 months, for Taranaki Pathology Services 19 months and for Northland Pathology Laboratory Limited 18 months. Awanui has offered to provide one pay scale based on the SCL agreement and seeks to maintain the status quo with regard to the three separate documents rather than a MECA.

Assessment

[22] Having considered the parties positions the recommendation is structured with two increases one on ratification and a second one on 1 October 2025 with a lump sum payment payable on ratification.

[23] It will also be important for further work to be done by both APEX and Awanui in addressing the gap between the public and private sector pay rates. Without that being achieved it appears to the Authority that there are risks to the continuity of what has otherwise been a functioning public/private sector partnership delivering a key public service.

[24] The parties previously agreed to pursue the pay gap issue in a separate forum and it was not clear to the Authority that this had happened. It will be recommended they commence this work together using an interest-based approach to resolving the pay gap issue and a MECA, ahead of bargaining for the next collective agreements.

[25] The pay increase offered by Awanui is above current CPI of 2.2 per-cent (depending on the term of the collective) but falls short of an increase that would address the difference in wages that has opened up between the public and private sectors following the pay equity settlement in the public sector in 2023 that informs what APEX is seeking. The overall gap of approximately 25 to 30 per-cent is not insignificant and both parties acknowledge further work needs to be done to address this. With the underlying cause being pay equity the parties can progress this in other forums. To allow time for the parties to progress those interest-based discussions and bargaining, the term of the agreement will be recommended to be to 31 March 2026.

[26] The Authority is of the view there is a public interest in this recommendation given the context of the dispute and will be making it publicly available under s 50H(2) of the Act three working days after the recommendation is issued.

Recommendation

[27] Under s 50H of the Act the Authority recommends that the renewal of the existing collective agreements on a full and final basis provide for:

- (a) Terms up to 31 March 2026;
- (b) An increase of 3.0 per-cent to all salary rates payable from 1 April 2025 to those members employed on that date;
- (c) A further increase of 3.0 per-cent to all salary rates payable on 1 October 2025; and
- (d) Payment of a lump sum of \$500.00 (pro rata on FTE) payable on ratification to all members employed on 1 April 2025;
- (e) Common pay scales in each separate collective.

[28] The Authority also recommends the parties take an interest-based approach before collective bargaining commences to working together to address the identified pay gap between the public and private sectors for employees doing the same work and whether it is practical and reasonable to conclude a MECA.

Sarah Kennedy-Martin
Member of the Employment Relations Authority/Facilitator

with

Shane Kinley
Member of the Employment Relations Authority