



Serco Psychologists Pay Up 18% - 53%

Psychologists employed by Serco at Auckland South Corrections Facility voted in their first collective agreement under APEX at the end of May.

Serco Psychologists joined APEX to negotiate a psychologist specific collective agreement in July last year after deciding to leave the PSA and Corrections Association collective agreement for all prison employees.

Serco went through three separate Australian based negotiators during bargaining, before calling in an Auckland employment relations specialist once APEX gave notice of a weeklong partial strike which would have banned work on Parole Board reports. All Serco psychologists are members of APEX, meaning if the strike went ahead it would have brought parole processes to a complete halt.

Two weeks after the strike notice was issued APEX and Serco settled our first collective agreement together.



The new two-year collective agreement moves them off pay bands and onto nine automatic annual steps and two senior psychologist rates. The top rate for psychologists moves from \$93,453 to \$119,158 by 1 May next year, an increase of 27% over the next year.

The pay rates for senior psychologists increase 18% from a top band rate of \$109,944 to a top step of \$130,124 by 1 May 2024.

Intern psychologists move from the minimum wage of \$42,500 to \$64,914 over the next year, a 53% increase in salaries.

Employment Relations Authority Confirms Intern Psychologists are Employees

In April 2023 the Employment Relations Authority issued a decision on a case we took on behalf of a former intern psychologist, Melanie Govender, at the Ministry of Education. Melanie is now a psychologist and APEX delegate at the Ministry.

You can read the decision [here](#).

However in 2019 when Melanie was completing her nine month internship at the Ministry. In common with most intern psychologists at the Ministry, she was not offered employment by the Ministry of Education. Rather she was said to be on a scholarship. The scholarship was less than the printed rate for intern psychologists in the collective agreement, and of course Melanie did not accrue holiday or Kiwisaver entitlements.

We challenged the practice at the Ministry of not recognising interns as employees in bargaining unsuccessfully and then took the case to the Authority. In April 2022 we won a preliminary decision that confirmed the ERA does have jurisdiction to investigate employment status of interns, and an investigation meeting into the substantive matter was convened in June 2022.

Real Nature of the Relationship

The substantive Authority decision

confirmed that Melanie should have been recognised as an employee and noted that Melanie was expected to:

- Work at least 37.5 hours per week;
- Arrive at work between 8.30 and 9.00 am and leave between 4.00 and 4.30 pm;
- Discuss any absences with her manager; and
- Take on ten cases throughout the duration of her placement, mostly involving primary school boys with extreme behaviours.

The ERA considered that the "real nature" of the relationship between Melanie and the Ministry of Education was that of an employee and an employer. In particular, the ERA considered that the following factors swayed the case in favour of APEX and Melanie:

- Throughout the duration of her internship, there were constraints placed on the freedom Melanie otherwise had to do as she pleased;
- The nature and extent of responsibilities placed on Melanie were significant;
- The Ministry received benefit from Melanie performing her role; and
- Melanie's role required her to do more than simply observe her peers and "gather data or other material for use in a university assignment."

The final determination from the ERA was that Melanie should have been covered as an intern psychologist under the APEX Psychologists' Collective Agreement

for the period of her internship. She is now entitled to arrears (less the amount of her scholarship) including the full-time worker salary set out in the 2019 Collective Agreement, holiday pay, KiwiSaver contributions, leave, and all other entitlements she would have had as a fixed-term psychologist intern employed by the Ministry of Education.

When are Students also Employees?

The decision could have broader implications for other groups of workers previously classified as students, unpaid interns or trainees. The Authority signals as much in their decision:

Concluding that intern psychologists are employees as well as students completing their studies may disrupt assumptions that have operated about those practicum arrangements for some time. It is, however, consistent with the direction of travel apparent in many employment law cases in recent years where assumptions about what is work, what is employment and what it is worth have been unpicked and overturned.

What makes the decision particularly interesting is that the Authority decided in Melanie's case that the supervision she was provided by the employer, and the promise to be considered for employment at the end of her internship were "rewards". And that although there was no offer of employment, "the relationship in practice operated with expectations of attendance and compliance with directions that were more like an employment relationship." The decision also departs from the longstanding

assumption in employment law that where work is done primarily for training, it is less likely to be an employment relationship.

...the notion that an activity that is primarily for training purposes therefore, inherently, is not employment is based on a false dichotomy. The distinction is no longer sustainable, if it ever was, with the evolution of a more sophisticated analysis of what work is and how it is valued. The reality of many workplace relationships is that they may be both training and employment at the same time, particularly in situations where an initially time-heavy commitment to training is designed to lead to a 'tipping point' where the worker develops their skills and capabilities to work more autonomously and with less supervision. In the case of intern psychologists all witnesses appeared to agree that, at least by second half of their practicum year, interns would be operating at or close to the level expected of a first year educational psychologist, albeit still subject to the supervision expected for the registration process.

Further Decision on Wages Owed

The Authority's decision directed the parties to resolve amongst themselves how much the Ministry of Education has to pay Melanie and if they are unable to return for a further determination. We have been unable to agree this with the Authority and have now asked the Authority for a further determination on the amount owed.

We will update members on the outcome of the ERA decision on quantum of unpaid wages due, as it will affect other APEX members who were MoE interns.

Oranga Tamariki Psychologists and Therapists Launch Three Month Strike

Over forty psychologists and therapists at Oranga Tamariki began strike action at the start of May, after negotiations reached an impasse. The dispute centres over the employer's offer of increases of just \$4000 and 3% for a two and a half year collective agreement, as well as a failure to properly place employees within the current scale.

Bargaining had made some progress through late 2022 with offers to increase CPD from \$1500 to \$2000 per annum, and to increase external supervision payments from \$150 per month to \$200 per month.

However the employer's offer, based on the Public Service Pay Adjustment (PSPA) is well below inflation for members and well below our expectations.

The strike, which is due to run for three months until August, sees psychologists, psychotherapists and play therapists refuse to take on new cases onto their caseload.

Discussions between APEX and OT continue, to try and settle the dispute.

Te Whatu Ora Psychologists Voting on First Offer

From today Te Whatu Ora Psychologists are voting in an indicative ballot on their offer from Te Whatu Ora. The offer made on the fifth day of negotiations would take the starting step for psychologists to \$85,000 and the top automatic step to \$115,000. The offer also proposes three additional automatic steps for psychologists who are assessed as "Consultant" level, up to \$130,000.

One of the major improvements of the offer, is a sabbaticals provision for 28 psychologists to take up to 10 weeks as extended professional development leave or a secondment in another organisation. The leave will be granted by a regional panel of three including a Te Whatu Ora nominated professional lead, a Te Whatu Ora nominated Allied Health director and an APEX nominated psychologist.

MoE Offer APEX Psychologists 20% Pay Bump

The Ministry of Education, which has a 25% psychology vacancy rate, has made a new offer to APEX psychologists which will move the pay rates by around 20% from a starting step of \$71,010 to \$85,416 and the top automatic rate from \$97,000 to \$116,316 for a 2.5 year deal.

The offer will also change the value of the step based increases to a minimum of \$5000 from the current increases which can be as little as \$921. The offer also provides for new senior practitioner steps up to \$126,000 and fixes an issue whereby previous experience as a psychologist was not always recognised by the employer.

Mediation Requested with ACC

APEX has requested mediation with ACC after members turned down the pay proposal which would have seen most members only increase pay by 4.4% for a one year deal. Psychology and psychotherapy advisors at ACC began joining APEX last year and one of their main issues has been improving pay after wage increases slowed to a halt because of the 2020-22 pay freeze.

Bargaining Initiated for Explore and Gains Psychologists

Collective bargaining for psychologists and interns employed at Healthcare New Zealand in Explore and Gains was initiated at the beginning of May. A claims meeting for members is due to be scheduled soon. The current contract expires at the end of June 2023.

DELEGATE INTERVIEW

"Bargaining was a Breeze"



Ninad Patel is a psychologist at Auckland South Corrections Facility and one of two APEX delegates there.

Where do you work and what do you do?

I work at Auckland South Corrections Facility, which is a high-security adult male prison. We hold about 950 men, and our services are predominantly related to providing psychological assessments to the New Zealand Parole Board and

psychological treatment to high-risk offenders. I work alongside intern psychologists, senior psychologists, and a team of programme facilitators.

What does a typical day at work involve for you?

Each psychologist has a portfolio, and that could entail sitting on a panel that could be related to a high-risk panel with various stakeholders. Those stakeholders could include the New Zealand Police, the Department of Corrections, the Prison Director, managers across each department—this is Case Management, Psychological Services, and Custodial staff—and they'll make a decision on certain individuals, whether it be related to managing their risk internally or being released to work.

A big part of our work also revolves around writing parole board reports for the New Zealand Parole Board. This is predominantly risk assessments. We will assess based on a request from the Parole Board around the risk of reoffending, and we will identify treatment needs and a reintegration pathway.

What do you enjoy the most about your work?

Working in a prison environment as a psychologist presents complex and diverse cases. You have to carry out a

myriad of risk assessments for sexual and violent offending. We also do mental health work, which involves dealing with responsivity issues, whether they be trauma, anxiety, or depression. It's a variety of work in one place, as you have the opportunity to apply your knowledge and skills in a dynamic setting while dealing with various mental health issues and working with individuals from diverse backgrounds.

You also have the opportunity to work as part of a wider multidisciplinary team that includes custodial officers, medical staff, cultural advisors, and other professionals. Collaborating with different experts allows for a holistic understanding of an individual's needs and the development of comprehensive treatment plans.

One of the things you've achieved as a part of that negotiation is lifting the intern salary off minimum wage—you've got to be happy about that?

Absolutely! Interns drive a lot of our treatment because we're so busy with our NZPB psychological assessments. They're doing a lot of groundwork and are providing the men with the help that they need to safely reintegrate into the community. They're greatly appreciated.

You had to, as part of the bargaining, put in a notice for a one-week strike. What was the response from the employer when you did that?

The strike notice did its job very effectively. Within a week, it was lifted because we chose a critical task that would have a huge impact on the organisation and other stakeholders.

What did you find was the difference between your experience negotiating under your previous union and your experience negotiating as a psychologist group under APEX?

Our previous union was a general union representing Custodial staff, Case Management, and psychologists, among other groups. If we had an issue from a psychologist's point of view, we'd get drowned out in the noise. The majority of the prison is made up of Custodial Officers, and the union is also led by Custodial Officers, so most of their issues were at the forefront and everyone else took a back seat.

With APEX, we got an idea of what other psychologists were doing in their organisations and figured out the processes that they'd implemented to further develop their practice etc. Because we're so desensitised to the high-pressure environment, it was really helpful to get an outside perspective and receive guidance from those who actually know what psychologists do and how specialised the role is.

The bargaining was a breeze from a delegate's perspective; however, I acknowledge a lot of hard work was done in the background.

What do you enjoy doing when you're not at work?

I'm really into photography, so when I do get a chance, I head out on a hike. I love photographing nature; my favourite spots to photograph would be Piha or Mercer Bay Loop.