



20 July 2022

[Redacted]

Ref: OIA-2021/22-1477

Dear [Redacted]

**Official Information Act request relating to legal staff**

Thank you for your Official Information Act 1982 (the Act) request received on 4 July 2022. You requested:

*“Please provide the following information relating to salary for legal staff. I define legal staff as a role where a current practising certificate is required.*

*Salary steps or bands*

*Please provide all salary figures excluding the employer’s Kiwisaver contribution.*

- 1. Salary or salary bands/ranges for legal staff with 0 – 8 years of relevant legal experience. Please provide as much detail as possible.
  - a. If there is a salary step or band for each year of experience, please provide the relevant salary amount to the respective level of experience. Please provide this in as much detail as possible.*
  - b. If there is a salary band for a range of experience levels, please provide the full range of the band and the experience range it applies to, broken down into as much detail as possible.*
  - c. If there are salary steps or bands for graduate, junior, and senior legal staff (or equivalent or similar titles), please provide the definition and applicable years of a experience for each level, and the salary steps or bands for each level. Please include any steps or bands within each role if applicable.*
  - d. Please indicate whether there is a set increase in salary each year, if so what this increase is, or, if progression is not automatic, what is considered when deciding salary progression.**

*Other financial benefits*

- 2. Do advertised salaries at your organisation include the employer’s kiwisaver contribution?*
- 3.*
- 4. Please provide details on any other financial remuneration applicable to legal staff. For example, if your organisation provides a wellness subsidy, please provide a description of the payment, how frequently it is paid, and the amount.*
- 4. Does your organisation pay legal staff monetary bonuses? If so, please provide the relevant policies around how any when bonuses are paid.*
- 5. Does your organisation have an overtime policy for legal staff? If so, please provide this policy.*

6. Does your organisation have a time off in lieu policy for legal staff? If so, please provide this policy.

*Demographic details*

7. How many legal staff does your organisation employ?

8. What are the titles of your legal staff and how many employees hold each title?"

The National Emergency Management Agency (NEMA) is a departmental agency hosted by the Department of the Prime Minister and Cabinet (DPMC). NEMA receives its legal services from DPMC legal, therefore the following responses, while only referring to DPMC, also include legal staff who support NEMA.

I respond to each of your questions in turn.

1) Please provide all salary figures excluding the employer's Kiwisaver contribution.

The salary band (base salary) for our legal roles are outlined in the table enclosed as Appendix One. Note this table includes salary bands and the experience required for each salary level.

There are no automatic salary increases for legal staff working at DPMC. Remuneration decisions, including progression within a salary band, are determined annually based on guidance from the Public Service Commission and other considerations including available budget, staff band range and position in the band and performance. A copy of DPMC's staff guide; *How Pay Works Around Here* is attached as Appendix Two for your reference.

2) Do advertised salaries at your organisation include the employer's Kiwisaver contribution?

DPMC uses a total remuneration formula, which includes base salary, employer superannuation contributions (ie Kiwisaver) and other benefits if applicable.

3) Please provide details on any other financial remuneration applicable to legal staff. For example, if your organisation provides a wellness subsidy, please provide a description of the payment, how frequently it is paid, and the amount.

DPMC provides a wellbeing allowance for permanent and fixed term employees (that have completed six months of service) of up to \$500 a year which aligns with DPMC's Wellbeing Policy.

4) Does your organisation pay legal staff monetary bonuses? If so, please provide the relevant policies around how any when bonuses are paid.

No monetary bonuses are offered to legal staff employed by DPMC.

5. Does your organisation have an overtime policy for legal staff? If so, please provide this policy.

DPMC does not have an overtime policy for legal staff. This part of your request therefore is refused under section 18(e) of the Act, in that the information requested does not exist.

6. Does your organisation have a time off in lieu policy for legal staff? If so, please provide this policy.

DPMC has a Time Off in Lieu (TOIL) policy for all employees, including legal staff. The TOIL Policy only applies to legal staff working as part of a response to a national security situation or emergency event. It does not apply for work undertaken outside these response situations. The policy is currently being reviewed and a key change proposed requires any TOIL to be used within six weeks of the TOIL being agreed. A copy of the current TOIL policy is enclosed in Appendix Three.

*7 & 8. How many legal staff does your organisation employ and what are the titles of your legal staff and how many employees hold each title?*

For the 2022/23 financial year DPMC currently employs seven lawyers. I refer you to the below table which details the titles of DPMC’s legal staff.

<b>Job Title</b>	<b>Number of Employees</b>
Chief Legal Advisor, Corporate	1 (permanent position)
Senior Solicitor	5 (3 permanent positions and 2 fixed term)_
Senior Legal Advisor – Constitutional/Honours	1 (permanent position)
<b>TOTAL</b>	<b>7</b>

In addition to the above roles within the Corporate Legal Services team and Cabinet Office, the Policy Advisory Group includes a legal advisor (PAG Legal Advisor). Given the unique nature and seniority of this role, it is not included in the legal staff numbers provided above.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

This response may be published on the Department of the Prime Minister and Cabinet’s website during our regular publication cycle. Typically, information is released monthly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

Yours sincerely



Catherine Delore  
**Acting Executive Director**  
**Strategy, Governance and Engagement**



### Appendix One - Salary Bands (base salary) for DPMC's Legal roles

<b>Grade</b>	<b>Public Sector 85% of Range</b>	<b>Public Sector Median</b>	<b>Public Sector 115% of Range</b>	<b>Role</b>	<b>Years of experience</b>
<b>18</b>	112,837	132,749	152,661	Senior Solicitor	We generally require applicants to have at least 6 years post qualification experience (PQE). Placement within the band depends on relevant skills and experience.
<b>17</b>	94,716	111,431	128,126	Senior Advisor Constitutional Honours	We generally require applicants to have at least 4 – 5 years PQE (depending on other skills and experience). Placement in the band depends on relevant skills and experience.
<b>16</b>	78,069	91,986	105,623	Solicitor	We generally require applicants to have at least 3 years PQE. Placement in the band depends on relevant skills and experience.



## Time off in Lieu (TOIL) Policy

Version	1.0	Contact	Human Resources
Status	Draft <input type="checkbox"/> Final <input checked="" type="checkbox"/>	Approved by	Anneliese Parkin
Date for review	1/05/2023	iManage	4245661

Name	Role	Signature	Date
Anneliese Parkin	Acting Chief Executive		28/05/2020

### Objective

The purpose of this policy is to set out guidance on when it is appropriate to use Time off in Lieu (TOIL) within the Department of the Prime Minister and Cabinet (DPMC).

### Principles

The overarching principle is that DPMC wants to take as flexible an approach as possible to employees' working arrangements, while also ensuring sufficient capacity is available to undertake the required range of tasks. Where employees need to work additional hours in the course of their work, this will be managed using flexible work practices.

### Applies to

This policy applies to all employees in DPMC including seconded and fixed term staff.

This policy does not apply to staff in the National Emergency Management Agency (NEMA). The use of TOIL is set out for those within NEMA in the On-Call and Call-Back Policy (iManage #4142370).

### Limited TOIL availability

Generally, TOIL is not used as DPMC wants to take a flexible approach to employees' working arrangements. This means that managers and staff will work together to meet fluctuations in the delivery of work in a flexible way that meets both DPMC outputs and employee needs

There are three exceptions to this:

1. Government House, where staff are operating in a similar environment to the hospitality industry with peaks in service delivery and large scale event management;
2. Staff in the National Security Systems Directorate who are on-call when they are called back in; and

- Any DPMC staff who are required by a manager to work hours in excess of their normal work hours when DPMC is in the early stages of a response to a national security situation or emergency.

TOIL is only used when staff **are required** to work additional hours by a manager and the hours of work exceed their normal hours of work in a fortnightly pay cycle.

## Payment of TOIL

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In the three circumstances above, staff will be eligible for TOIL or overtime. The TOIL or overtime payment is dependent on the level the staff member is within DPMC. There are three levels.

	Overtime	TOIL
<b>Broadband grades 11.12 and 13.14</b>	Paid at time and a half after the first 24 hours are taken as rest	For first 24 hours only.
<b>Grades 15-17</b>	Not paid	Available. The amount is determined in discussion with the manager
<b>Grades 18 and above</b>	Not paid	Not available. Managers and staff to manage using flexible working – with a focus on rest and recovery.

## Management of accrued TOIL

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Any TOIL accrued under this policy will be compensated in accord with the table above.

In all cases, to support employee rest and recovery, the first 24 hours of TOIL or overtime should be taken as time off (rather than paid out).

TOIL should be taken as close to when it is earned as possible, and within six weeks of accruing.

Where the TOIL balance gets high and it is impracticable to take time off (perhaps combined with other high leave balances) then, with the exception of the first 24 hours, which must be taken as rest, an employee can request that the agreed TOIL hours be paid out at their normal hourly rate. This request cannot be made until at least six weeks has elapsed since the TOIL was accrued and every effort has been made to use the TOIL.



DEPARTMENT OF THE  
PRIME MINISTER AND CABINET  
TE TARI O TE PIRIMIA ME TE KOMITI MATUA



National Emergency  
Management Agency  
Te Rākau Whakamarumarū

# How pay works around here

Advancing an ambitious, resilient and well  
governed New Zealand

# Guide - How pay works around here

## Introduction

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1. The Department of the Prime Minister and Cabinet (DPMC) and the National Emergency Management Agency (NEMA) operate a pay system based on principles and performance informed by market pay data, government guidance and organisational requirements. This guide sets out how your pay is determined and adjusted.
2. This guide should be read in conjunction with the following policies and guidelines:
  - [Performance Development and Growth policy](#)
  - [Performer Expectations document](#)
  - [Remuneration Policy](#)
  - [Job map](#)
  - [Recognition and reward page on Kāinga](#)

## Overview

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3. Key elements of the DPMC/NEMA approach to remuneration are set out in the table below.

Pay components	Description
<b>Principles</b>	We use a principles-based approach for all our remuneration decisions. These are contained in our <a href="#">Remuneration Policy</a> and are summarised in <a href="#">Appendix A</a> .
<b>Total Remuneration</b>	We pay Total Remuneration (TR) which includes base salary, employer superannuation contribution and other benefits if applicable. We also provide a wide range of benefits.
<b>Job sized</b>	All roles in DPMC and NEMA are sized and placed in a grade based on the expectations, responsibilities and tasks of a role. To ensure consistency and transparency we work with an independent remuneration company KornFerry Group, using their system to evaluate, size and map roles
<b>Pay grades</b>	Each grade has a remuneration range associated with it ranging from 85% to 115%. The range for grades 11.12, 13.14 and 15 is 90% to 115% and for grades 16 and above it is 85% to 115%. Where people sit (in the grade) is expressed as a percentage of that remuneration grade based on their Total Remuneration. We refer to this as Position in Range (PIR)
<b>Benchmarking</b>	Each remuneration grade is benchmarked against data from the external job market to indicate the salary range appropriate for roles in that grade. We benchmark our remuneration to the 'average public sector total remuneration midpoint' for all roles.
<b>Annual review</b>	DPMC/NEMA regularly review an employee's remuneration to ensure it reflects current levels of performance and is realistic in the current market. The annual review process is predominantly based on assessed performance during the previous performance year combined with the employee's position in the remuneration range for the role. An overview of the steps in the review process and timeline are on <a href="#">page 6</a>



## When remuneration decisions are made

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4. Remuneration decisions are made at a number of times:
  - On appointment to DPMC/NEMA, or a new role such as promotion or secondment. Appointments are made at the level that is comparable with other staff with the same skills and experience, regardless of gender or ethnicity. HR assist people leaders with this step in the process. People leaders also have access to a dashboard of information for all of their direct reports and can use this to inform remuneration decisions. On appointment new starters are placed on at, or above, the minimum of the grade in which their role is situated.
  - During the annual remuneration review process. More detail on this process is provided below.
  - If a fixed term agreement is being extended, varied or a new agreement is made.
5. Outside of the above, situations may arise where it is appropriate to review an individual's remuneration – this is an exception rather than the rule and is signed off at Chief Executive level.

## Who makes remuneration decisions?

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6. On a day-to-day basis (including on appointment) and consistent with the Delegations Policy:

Who	On what
People leaders with HR	Recommend and support remuneration decisions
Relevant DPMC people leader (one up) as per delegations	Signs off remuneration decisions, commencing salaries on appointment. If commencement salary is above 100% of the range for the grade, then it requires sign off by an ELT/SLT member. If above the range for the grade, then it requires CE sign-off.

7. At a strategic level

Who	On what
DPMC ELT Team (includes NEMA's Chief Executive)	Strategic decisions such as external market benchmarks, budgets and parameters
Chief Executives of DPMC and NEMA	Sign off annual remuneration reviews after moderation by business groups the NEMA SLT, and the DPMC ELT.

## Annual remuneration review process

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8. All permanent DPMC and NEMA staff (subject to the criteria in paragraph 9) are entitled to an annual review of their remuneration. This is set out in your individual employment agreement. Remuneration decisions during the annual review are based on our remuneration principles, with employees meeting DPMC/NEMA Performance Expectations (results, behaviours and development) being a critical decision driver. Refer to "Assessing Performance" information below for more details.

## Eligibility

9. You must meet the following criteria to be eligible for a review:
  - You are a permanent employee
  - You are currently employed and have not resigned as at 30 June of the performance year
  - You have worked for at least six months in the performance year (i.e. you started before 1 January)
10. Employees seconded to other agencies who met the above criteria will also be eligible. Staff on secondment to DPMC/NEMA are covered by the remuneration review processes of their home agency.
11. Fixed term employees are not eligible for a remuneration review unless it is specified in their individual employment agreement. DPMC and NEMA ensure that those on fixed term agreements are treated fairly through the review of remuneration if agreements are extended or varied. Fixed term agreements that are for longer than two years will have a review process included in their agreement. If this is not the case, please discuss this with HR.

## Key steps in process

12. The key steps in the process are:
  - Setting benchmarks
  - Assessing performance
  - The remuneration matrix
  - People leaders make recommendations
  - Moderation process to check for consistency
  - Decisions finalised and communicated

## Setting benchmarks

13. During the annual remuneration review process the latest external market data is evaluated for each remuneration grade; however, this does not necessarily mean that the remuneration grade will change on an annual basis.

## Assessing performance

14. Performance is one of the eligibility criteria that must be met to be considered for a remuneration review i.e. is the individual meeting the DPMC/NEMA Performance Expectations? In other words, does the person deliver consistent results, behave in accordance with our values and seek to actively develop their skills and experience as expected given the individual's role and experience?
15. The Performance, Development and Growth Policy and Performance Expectations provide guidance to understand how to identify when an individual is meeting performance expectations. The framework is intended to be used when setting and assessing performance, development and behavioural goals and to guide performance conversations.

## **The remuneration matrix**

16. We use a matrix to provide guidance to people leaders making remuneration decisions. The two dimensions of the matrix are employee performance and position in range.
17. We use two matrices, one for grades 11.12, 13.14 and 15 and one for grades 16 and above. The matrix for the lower grades is modelled to move staff in these grades up through their pay band more quickly than the matrix for the higher grades. These matrices are modelled using current market data and position in range information. The exception to this is the Policy Advisory Group, where there is flexibility on remuneration outcomes using performance, the agreed remuneration principles and budget.
18. We also use one-off payments to recognise exceptional achievement and contribution, over and above the ongoing requirements for the role. Recommendations are guided by the following criteria:
  - the achievement should be exceptional for what we would expect from someone who is at their remuneration level, given their experience and role
  - the achievement is not being recognised in any other way (e.g. a remuneration increase)

## **People leaders make recommendations**

19. Taking the KornFerry market data, our remuneration principles, an individual's performance, position in range (PIR) and current remuneration into consideration, a people leader will propose remuneration increase recommendations for their team using the remuneration matrix as a guide.
20. Increases need to be affordable within the annual remuneration budget. Any changes need to come within the overall budget. In the 2020/2021 year all the movement must be within a framework approved by PSC in accordance with the Pay Restraint Guidance.
21. Consideration is given to whether a person is currently sitting in the right part of the pay grade for their role according to their performance and experience. Position in range is also reviewed to ensure there is no obvious bias based on gender or ethnicity. Getting to the desired position in a grade is based on sustained performance levels over several years (not just one-off achievements).
22. In most circumstances, it would be expected that:
  - Individuals new in a role would usually be placed between 87-95% position in range and for roles in bands 11.12, 13.14 and 15 employees are to be placed at a minimum 90%
  - Individuals consistently demonstrating DPMC performance expectations of the role should be moving up the range over time.

## **Moderation process to check for consistency**

23. Business group leadership teams and NEMA SLT moderate the proposed outcomes to ensure consistency within each group and NEMA. The DPMC ELT then discusses those recommendations and takes an overall DPMC and NEMA perspective (in line with agreed principles and budget) before final sign off is made by the Chief Executive DPMC. In this process, the ELT analyses the remuneration data during the moderation to ensure no anomalies occur in like-for-like roles. If anomalies are identified that appear to exist for no other reason than gender or ethnicity these will be corrected. Our aim is to reduce our gender and ethnic pay gap (GPG) year on year, noting that the measure

is a 'snapshot' of our people at a given time, and may change based on a small number of roles.

### Decisions are finalised and communicated

24. Once the moderation process is complete, the Chief Executives sign off the final remuneration changes for their organisation.
25. These decisions are then communicated to staff individually through a letter which includes the following details:
  - Confirmation on demonstrating DPMC/NEMA performance expectations (unless not applicable)
  - Your new total remuneration
  - The \$ amount approved and/or the \$ amount for a one-off recognition payment (if applicable)
  - Details of when you will receive your increase (if applicable) which is backdated to 1 July of the new remuneration year
26. Information on the grade your position falls into is in your job description and on the [job map](#). The job map also includes the midpoint of the remuneration grade.

### Timing and steps

27. At the end of the financial year the annual remuneration review process is undertaken, usually from July to September. Any increases in remuneration will be back dated to 1 July of the new remuneration year.
28. A timetable is shared all staff each year outlining specific dates and actions required for the remuneration round. General steps are as follows:

Steps	What
<b>One</b>	DPMC Board discussion and approval of how the annual remuneration review works, in particular: <ul style="list-style-type: none"> <li>- Remuneration review focus areas and principles</li> <li>- Government remuneration principles</li> <li>- Consideration of current market information</li> <li>- Budget allocation and administration, and eligibility criteria</li> </ul>
<b>Two</b>	People leaders enter information into SharePoint, including: <ul style="list-style-type: none"> <li>- confirm whether each team member is meeting the DPMC/NEMA performer expectations<sup>1</sup></li> <li>- add a few performance highlights and areas for development</li> </ul>
<b>Three</b>	Information to people leaders on: <ul style="list-style-type: none"> <li>- remuneration principles</li> <li>- annual remuneration review process</li> <li>- the use of the remuneration tool</li> </ul>
<b>Four</b>	Online sessions for people leaders (on an as-required basis)

<sup>1</sup> The [Performance, Development and Growth Policy](#) will be used to support regular quality conversation between people leaders and their staff to understand if the individual is meeting the [DPMC performance Expectations](#). Consistent with the Performance, Development and Growth Policy these conversations will take place on an ongoing basis and not be a point in time assessment.

Steps	What
<b>Five</b>	Remuneration tool open for people leaders to make remuneration review recommendations. Business Group and NEMA leadership teams meet and discuss remuneration recommendations, moderating if required
<b>Six</b>	DPMC Board discussion and approval of final remuneration outcomes and address any anomalies. Consider cost impact.
<b>Seven</b>	DPMC Board members sign-off final remuneration review outcomes and costs for their Business Group and NEMA
<b>Eight</b>	Communications and conversations take place for all employees, letters distributed
<b>Nine</b>	Payday

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## **Appendix A: Our Principles – factors in remuneration decisions**

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### **Performance and Talent**

29. At DPMC and NEMA, consistent high performance and results are recognised and rewarded. We must also be able to attract and retain the right people to realise our vision and deliver our strategic goals. These factors are the main considerations in remuneration decisions. The talent management process is based around the regular performance and development discussions between you and your people leader.

### **Affordability**

30. Remuneration decisions take into consideration our current funding models and future direction. As leaders in the public sector we must model prudent fiscal practice. Our aim is not to lead the employment market. Our remuneration decisions must also be sustainable over time.

### **External Job and Remuneration Information**

31. DPMC and NEMA's remuneration approach is intended to maintain relativity with private and public sector markets. We aim to offer salaries that are competitive with other similar organisations and roles.

### **Internal Relativity of Roles**

32. Fairness and relativity across DPMC and NEMA are important. Recognising the responsibility, complexity and outcomes of roles across the department (DPMC and NEMA) helps to ensure relativity. This cannot be achieved solely through external job and remuneration information.

### **Flexibility and Transparency**

33. An element of flexibility exists to attract and retain the right people, while working within the [Remuneration Policy](#) and without compromising our principles. Our need to be flexible to recruit or retain people is balanced with the needs of the department.
34. Transparency and consistency are important, and staff will be advised of the pay grade aligned to their role. Refer to "Who makes remuneration decisions" section below for clarity on where responsibilities lie. Many factors are considered with regard to remuneration decisions as outlined above i.e. performance, affordability, external and internal relativity of roles along with government expectations. During the annual remuneration cycle a formal moderation process occurs with various checkpoints through people leaders, business units and DPMC Board.

### **Government Principles for Remuneration**

35. DPMC and NEMA align their remuneration approach with Government principles and updated guidance.

### **Lifting lower wages**

36. In looking at remuneration decisions, DPMC and NEMA will look to increase the remuneration of our lowest paid workers.

### **Gender and Ethnic Pay Gaps**

37. DPMC and NEMA are committed to closing their gender and ethnic pay gaps. We will address this in our remuneration practice on getting the remuneration offered on

appointment correct, by considering other staff remunerated in the same or similar roles and in the same grade.