



Sleepover Settlement Proposal

Following some very intensive negotiations with IHC and the Government a proposal has been drawn up that will form the basis of legislation to be passed by the New Zealand Parliament prior to implementation.

In order to be finalised into legislation it will need to be ratified by a vote of SFWU members who are employees or ex-employees of the IHC Group by 13 September.

If other disability support and mental health organisations are to be part of the settlement they will need to agree to its terms and SFWU members who are employees or ex-employees of these organisations will need to vote in support of it.

The details of the Settlement Proposal are:

1. Minimum Wage Implementation

As soon as this proposal is ratified the sleepover payment will move up from \$34.00 a sleepover (IHC rate) to a rate of \$6.50 an hour (about \$60.00 a sleepover), which is 50% of the minimum wage. This will be backpaid from 1 July 2011 for all sleepover hours worked during that time.

If there is an increase to the minimum wage next April (the usual date for movement) this will go on top of \$6.50 an hour.

From 1 July 2012 the sleepover payment will move to \$9.75 an hour (if there is no April minimum wage movement), which is 75% of the minimum wage or about \$88.00 a sleepover.

No later than Christmas 2012 the sleepover payment will move to \$13.00 an hour (if there is no April minimum wage movement), which is 100% of the minimum wage and \$117.00 a sleepover.

2. Minimum Wage Backpay

Backpay will be paid to all those SFWU members who have filed claims and have worked sleepovers between 1 July 2005 and 30 June 2011 on the basis of a nine-hour sleepover and 50% of the difference between the minimum wage applying at the time and what was actually paid by way of the sleepover allowance.

Those members who have filed claims for the period 1 July 2004 and 30 June 2005 and who ceased their employment during that period will be paid backpay for that period on the same basis as the paragraph above.

Backpay will be paid out no later than 8 weeks following the passing of legislation.

3. Government Obligations

The Government has acknowledged the need to pass legislation to settle this matter and both IHC and the Government have agreed that the ongoing payments and backpay will be made within 8 weeks of the passing of such legislation, which we expect to be done before Parliament rises at the end of October.

The Government will also fund increases to the minimum wage, although will not fully fund IHC to pay the 100% minimum wage figure until 1 July 2013 (IHC will fund this out of its own reserves from Christmas 2012). It will fund ongoing increases in the minimum wage to keep the minimum wage current

The Government will also fund 50% of the backpay, with the remainder funded by IHC or the relevant employer.

4. IHC Collective Agreement

The Union and IHC have agreed to vary the collective agreement to ensure that as from 1 July 2011 those hours that are paid the minimum wage (or steps towards it) for sleeping over are not calculated for the purposes of overtime.

Sleepover hours in which the ordinary hourly rate is paid (incidents in the night) will still count towards overtime hours.

5. IHC Legal Action

If this settlement proposal is ratified the Union and IHC will approach the Supreme Court and ask them to adjourn the appeal proceedings. Once legislation is passed IHC will withdraw their appeal and the payment of the minimum wage for sleeping over will be the law of the land.

Recommendation

The Union Negotiators are recommending to members that they vote for the following resolution:

That the Sleepover Settlement Proposal as set out in this paper be ratified.

John Ryall

SFWU National Secretary and SFWU Chief Negotiator

5 September 2011

Comparison of Settlement Proposal with Previous Government Offer

Previous Offer	Settlement Proposal
Phase in of the Minimum Wage over a four year period from date of ratification	Phase in of the Minimum Wage over a 18 month period commencing from 1 July 2011
25% of the backpay owed to be paid, but only from the date of the new claim (open only to current staff) and capped at \$45 million	50% of the backpay for the period between 1 July 2005 and 30 June 2011 for all SFWU members both current and ex-members. Period 1 July 2004 until 30 June 2005 to be paid on same basis to those who ceased employment during this period.