



NEW ZEALAND COUNCIL OF TRADE UNIONS  
*Te Kauae Kaimahi*

by

**New Zealand Council of Trade Unions  
Te Kauae Kaimahi**

Interim Submission on

**Selective Indicative Case for Change  
Facilities Management and Support  
Services: Food Services, and Linen and  
Laundry Services  
(Combined Submission)**

**Health Benefits Limited**

3 May 2013

### **Summary of NZCTU Recommendations:**

- This is as an interim submission due to insufficient information which has inhibited our ability to provide a substantive and well-informed submission.
- This submission is focused on the recommended options for a national outsourced approach in the Food, and Linen and Laundry Indicative Cases for Change. This does not denote our agreement that these are not the best options, rather, we recommend other options should continue to be considered.
- All processes undertaken by HBL must be open, accountable and transparent.
- The consultation process must be genuine and unions must have access to all available information including decision-making and evaluative processes. Without this information it is impossible for unions to provide well-informed and quality responses to proposals.
- HBL and unions continue to engage but engagement forums such as union advisory groups must be meaningful, allow for the sharing of information otherwise the engagement process risks looking like a “tick box” approach.
- Information be provided in confidence to unions and that confidence will be respected. Communication without meaningful information is a pointless exercise.
- Worker input is essential in understanding the scope of services and activities, identify problems in the Food and Laundry Services and generating the best solutions. Unions are willing to help establish discussion forums between members who work on the “shop floor” and HBL. This process should occur separately to the union advisory groups
- Greater consistency and clear communications on processes, development of the work programmes and alignment with the agreed Change and Communications Framework is needed.
- NBAG and HBL should revisit the Change and Communications Framework and identify areas for improvement including providing clarity of steps in the Change and Communications Framework.
- We oppose options based on a national outsourcing approach to contract out services for Food and Linen and Laundry. The CTU does not support any proposal that risks creating a monopoly base in the sector.
- Every avenue should be explored to enable the retention of all in-house workers at DHBs.
- The development of any proposal must have reference to good employer obligations e.g. Key Performance Indicators. We also propose that benefits for workers arising from proposals are clearly outlined.

- We support proposals which promote dissemination of best practice initiatives across DHBs; implementation of common linen products and national food standards; improve effectiveness of current infrastructures; and promote stronger monitoring and accountability mechanisms of current contract arrangements.
- HBL conduct an analysis and evaluation of capital requirements across the sector and expected capital costs to replace aging equipment.
- We believe greater effort should be put into building existing alliances in the sector.
- It is vital for unions to have input into decision-making and governance relating to implementation of initiatives and procurement processes.
- Further consideration and analysis of the problem, available options and impacts is required before Business Cases are developed. The Business Cases must provide evidence and rationale for what is proposed and how it will work in practice.
- A robust risk analysis must be undertaken which identifies potential risks, mitigation of those risks and contingency plans for all proposals.
- The Business Cases must draw upon international and local examples and identify experiences and learnings from these systems in the development of options.
- Any proposal must give careful consideration to changes regarding:
  - terms and conditions of current collective employment agreements and the employment protection processes of workers covered by Part 6A of the Employment Relations Act 2000 and the Code of Good Faith for Public Health Sector
  - a commitment to maintaining good pay and employment conditions and that this will be a key criterion
  - patient safety, quality of care and delivery of services are not adversely affected in pursuit of cost savings. The proposal should also have aspirational aims for improving health outcomes
  - the impact of potential changes on job losses and loss of trade for small and medium sized businesses in smaller communities
  - the long-term sustainability of the health sector must be a key criterion including investment in capital resources and the workforce
- Any proposal for a national procurement model should carefully consider potential impacts of international agreements to which New Zealand is a party.

- There must be assurances that funding in the health sector will not be affected or reduced due to savings that may be made through the Food and Linen and Laundry reviews.
- Health practitioners and union representatives must be part of a structured and participatory process for governance. This will help ensure solutions are fit for purpose and patient safety maintained.
- Consideration must be given to the environmental impact and sustainability of purchase agreements, and responsible contracting principles in any proposal.
- The Business Case must provide an evaluation programme examining the implementation and effectiveness of the proposed changes. This programme should be built into the agreed model from the start of the change process.
- Unions are keen to participate and play a part in initiatives that improve the overall function of the health sector and promote sustainability.

## **Introduction**

- 1.1 The New Zealand Council of Trade Unions - Te Kauae Kaimahi (CTU) is the internationally recognised trade union body in New Zealand. The CTU represents 37 affiliated unions with a membership of over 340,000 workers.
- 1.2 The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 1.3 The CTU has an active role in health sector forums including the Health Sector Relationship Agreement (HSRA) and the National Bi-Partite Action Group (NBAG). The CTU and health sector affiliated unions have been engaging with Health Benefits Limited (HBL) on work programmes, the development of Employment Protection Processes and the Change and Communications Framework (CCF) which has been agreed to by District Health Boards (DHBs) and unions.
- 1.4 The health sector employs over 100,000 people and has a strongly unionised workforce ranging from doctors, nurses and allied health professionals to clerical, cleaning, trades people, kitchen, store and laundry workers.
- 1.5 The CTU would welcome the opportunity to make a full submission on the Sector Indicative Cases for Change – Food Services and Linen and Laundry Services (the ICCs). However, this is an incomplete and interim submission due to insufficient information. Upon receiving baseline information from HBL we will be in a position to provide more substantive and informed submissions.
- 1.6 In preparing this response, the CTU has consulted with its health sector union affiliates and supports their submissions.

## **2. Indicative Case for Change - Laundry and Linen: CTU response**

- 2.1 The lack of transparency, information and evidence throughout the process has been a source of frustration and has inhibited unions' ability to provide quality feedback. The inability to share information from the ICCs has impeded on our ability to communicate and seek feedback from members.
- 2.2 It is unclear what the ICCs were intending to achieve when the documents are based largely on assumptions that lack rationale and evidence and lack meaningful information or robust analysis of problems, options, risks and impact. In the absence of such information, the ICCs have created unnecessary speculation and heightened anxiety for workers and the public.

- 2.3 Concerns regarding the lack of transparency around information and HBL's processes have also been raised in the Auditor General's report (16 April 2013). These concerns reinforce similar views held by unions and repeated several times to HBL.
- 2.4 The ICCs raise serious concerns regarding the Non-Binding Indicative Offer (NBIO) process and the decision to use this approach in preference to other approaches such as a Request For Proposal (RFP). The decision to use the NBIO process is questionable given the high level influence of respondents on the outcomes and the constraints it poses on information sharing and consultation processes.
- 2.5 Although HBL has indicated no firm decisions have been made and all options are still on the table, the ICCs seem to suggest otherwise. The ICCs do not explore fully all the available options, instead leaning towards the preferred national provider approach. To this effect, we have based our responses on the recommended approaches in the ICCs but this does not exclude our interests in exploring other options.
- 2.6 The CTU does not support the preferred proposal outlined in the ICCs. There are significant risks to the sector if a proposal promoting privatisation of services and infrastructure goes ahead.
- 2.7 A number of DHBs have in-house staff. The CTU considers that every avenue should be explored to enable the retention of all in-house workers. The CTU also supports adopting national standards and processes across the sector (with union input into the development of initiatives); dissemination of best practice initiatives; and strengthening contract monitoring practices. Savings gained from these initiatives could be similar (if not more) to those identified in the ICCs. Transformational change is not required to implement these initiatives.
- 2.8 The CTU will not be responding via the submission template provided by HBL. The template does not assist in the consultation process due to insufficient information being provided, and themes in the template which do not help in shaping the submissions.

### **3. Issues**

#### **Consultation process and access to information**

- 3.1 Key concerns throughout the consultation process have been the lack of transparency, lack of access to information and decision making processes which together have inhibited the unions' ability to provide well-informed feedback.
- 3.2 The agreed process for sharing information is through the steps laid out in the CCF. HBL have communicated that once baseline cost data has been analysed and validated this would be shared as per step 6 of the CCF.

- 3.3 Access to the baseline information is vital to understanding how HBL have come to its conclusions or benefits such as efficiencies and cost savings. Over several months unions have sought this information from HBL, only to be informed a month ago during the consultation process that request for information should be referred to individual DHBs. The request for baseline information was made to DHBs by the CTU, inevitably adding pressure to the consultation timeframe.
- 3.4 We were then informed at a meeting with HBL on 26 April 2013 that DHBs do not have this information and that, HBL are the “only ones with this information”. However, we were told the information could not be disclosed due to “commercial sensitivity” and the potential impact on negotiations if the information were released. At no stage of the CCF development had it been communicated to unions that this data would not be disclosed to unions due to “commercial sensitivity”.
- 3.5 If the information cannot be provided to the unions, the whole basis of the CCF is undermined. Information can be provided in confidence, and that confidence will be respected, but communication without meaningful information is a pointless exercise.
- 3.6 It is difficult to understand why HBL would refer unions to DHBs to request this information if it knew that DHBs do not hold this information and in fact HBL are the only holders of DHB baseline information. We find it difficult to believe that HBL are the only holders of this information as some of it would have had to come from DHBs themselves and other information from current providers.
- 3.7 There are several contradictions in what has been communicated by HBL on this matter and it is still unclear whether we will get access to this information during consultation on the Business Cases. We have been informed there is robust data available e.g. Executive Summary from both ICCs, *“The ICC demonstrates....A robust analysis through extensive baseline validation and indicative Respondent proposals”*. However, on the other hand we have also been informed that baseline data requires *further* validation. The contradictions are confusing and misleading. We understand there will be some level of variability, but would expect - at the very least - access to data that is available.
- 3.8 The lack of information and clarity around communications has been a source of constant frustration for unions and raises serious concerns about the genuine nature of the process going forward. Similar concerns apply to the NBIO process which is discussed further in this submission. Without access to robust detailed information including decision-making and evaluative processes and receiving unclear messages, unions are constrained in the consultation process and unable to provide well-informed feedback. The inability of union representatives to share the ICC with union members during consultation meetings has also proven to be difficult.

- 3.9 The Food and Laundry Union Advisory Groups present an opportunity for information sharing, discussion on issues and input into solutions. Unfortunately the union advisory groups have not been utilised as often as anticipated. The CTU strongly encourages greater engagement through these forums, and consistent and clear communications by HBL to unions.
- 3.10 The appendices in both ICCs contain a summary of sector engagement on the reviews. We note engagement with DHBs included identifying problems and solutions and the benefits that could be delivered. The same discussions have not been held with unions and their members who undertake the work day in day out, have a wealth of knowledge and experience and could make valuable contributions to the review process.
- 3.11 Worker input is essential in understanding the scope of services and activities in the Food and Linen and Laundry Services and generating the best solutions. Unions are willing to help establish discussion forums between members who work on the “shop floor” and HBL. Note: This proposal has been suggested previously by unions and should occur separately to the union advisory groups.

#### *Duty of Good Faith*

- 3.12 A critical issue has been the relationship of HBL and DHBs with unions in the change process and the duty to act in good faith. HBL is the agent of DHBs in the change process therefore HBL must act in good faith with unions through any change process. If HBL’s processes do not comply with legislative requirements, then DHBs may be liable.
- 3.13 The duty of good faith requires employers, workers and unions to be open and communicative. This duty is particularly strong where “an employer is proposing to make a decision that will, or is likely to, have an adverse effect on the continuation of employment” of one or more workers (section 4(1A)(c) of the Employment Relations Act 2000).
- 3.14 Where a worker’s job may be affected then an employer must provide the worker with the information they need to fully comment before a decision is made. The employer can refuse to provide this information only if there is a good reason to do so. Good reasons include legal requirements of confidentiality, protecting the employer’s commercial position and protecting the privacy of natural persons.
- 3.15 In an important decision *Vice-Chancellor of Massey University v Wrigley* [2011] NZEmpC 37, the Employment Court found that, while much of the information being sought by employees in the context of redundancy dismissal was confidential, a good reason for withholding had to be more than an assertion of confidentiality. Giving workers the



best possible opportunity to have meaningful input leads to better decisions. As the Court said (at paragraphs [48], and [56]):

*“When a business is restructured, the employer will, in most cases, have almost total power over the outcome. To the extent that affected employees may influence the employer’s final decision, they can do so only if they have knowledge and understanding of the relevant issues and a real opportunity to express their thoughts about those issues.... Power does not confer insight or wisdom. Fully informed employees may have ideas of equal or greater merit than those of their employers.”*

- 3.16 The Employment Court found that much of the information being sought by the two employees on the decision to make them redundant should have been released by the employer. The Employment Court noted (at para [47]):

*“More informed employee involvement will promote better decision making by employers and greater understanding by employees of the decisions finally made. That will avoid or reduce the sense of grievance which may otherwise result and thereby reduce the incidence of personal grievances and other employment relationship problems.”*

- 3.17 Without disclosure of information to unions, HBL’s work is likely to lead to poor decision-making, ill-informed solutions and raises the potential for disputes.
- 3.18 The consultation process must be genuine and unions have access to all available information including decision-making and evaluative processes. Without this information it is impossible for unions to provide well-informed and quality responses to proposals.

#### *Alignment of CCF and Project milestones*

- 3.19 Information provided around timeframes and project milestones has become increasingly confusing and is of considerable concern to unions. In NBIO briefing material provided to unions, we were informed that the process around consultation and contract negotiations would be that no binding offers would be negotiated before the sharing of the ICC and consultation on final design. However, the project milestones outlined in the ICCs would suggest otherwise.
- 3.20 If this is the case, it is extremely concerning as it would indicate that there is indeed a pre-determined and rushed process underway and that the consultation process with unions is not being conducted in a genuine manner.
- 3.21 The lack of alignment and consistency between the CCF and project milestones, misinterpretation of steps in the CCF and what these steps mean in practice has been the source of much frustration and

confusion. We request the CCF is revisited and clarification of how the steps in the CCF align with project milestones.

- 3.22 We express caution in rushing HBL work programmes. Without a full understanding of the current state of play and analysis of issues and solutions, HBL risks making similar mistakes to those experienced under another ill-informed and poorly developed solution – Novopay.

### **Non-Binding Indicative Offer process**

- 3.23 We hold serious concerns regarding the intent of the Non-Binding Indicative Offer (NBIO) introduced into the agreed CCF last year as a means of identifying possible solutions for the sector. If there is change to the CCF then unions ought to have been consulted on whether the NBIO process was necessary. Unions were briefed on the introduction of the NBIO process into the CCF but were not consulted. Briefing unions on changes to the agreed process is not consultation.
- 3.24 The ICCs note its reason for the decision to use the NBIO process in preference to an RFP process, *“An NBIO process was used rather than the traditional Request For Proposal (RFP) due to its ability to move into due diligence and negotiation with potential providers faster than an RFP. This was endorsed by the HBL Board due to urgent requirements of some DHBs to contract for a solution”*. We question whether this is a valid enough reason to use the NBIO process given the critical infrastructure, complex nature and scale of change that could occur in the sector. We strongly advise against rushing processes and decisions in pursuit of ill-informed solutions and unsubstantiated cost savings.
- 3.25 An EOI process preceded the NBIO process. Unions received a briefing on the EOI process and ICC timeframes but during this stage of the process there was no mention of the use of NBIO. We have not received any detailed information on the analysis of the EOI process or evaluation. We did not have any input into the assessment of options.
- 3.26 The use of the NBIO process raises the perception that providers have a vested interest in over-inflating projected benefits, cost savings and input into solutions that would give them preference. Without a strong understanding of the current state of play (i.e. scope of services, activities and costs), any option or solution is likely to look innovative, cost effective and attractive.
- 3.27 Although HBL has stated that no decisions have been made, it appears that it has a strong preference for the streamlined national outsource approach in the ICCs. Disappointingly it does not appear that all available options have been fully explored. Given the efforts to progress the NBIO process which supports a proposal for a national outsourced approach for both Food and Laundry reviews this would indeed suggest that other options are not open for consideration.

- 3.28 The NBIO process for Linen and Laundry Services received interest from five respondents which were shortlisted to three. We understand that of the shortlisted three, one provider has withdrawn its interest in a national outsourcing model leaving two (Spotless and Compass) as the remaining respondents. For the Food Services review HBL recommended one respondent enter into due diligence and enable a best and final offer to be presented. The proposal by the respondent (Compass) is for a national service located at two food production plants - Auckland and Christchurch. A third plant could also be located in the North Island.
- 3.29 Inevitably, it would make sense for either Compass or Spotless to go further into the Laundry Services process as they would have a commercial interest in the contract opportunity. However, given Compass is a respondent for both reviews it would appear that they would have the "front-running" as the national provider for Food and Linen and Laundry Services. The NBIO process appears to have been geared for this scenario to occur eliminating other options including status quo and regionally based options. Overseas experiences of similar processes have resulted in respondents to an NBIO process being awarded the contract down the track.
- 3.30 The Government's procurement guidelines state, "*An agency **should not** purchase procurement advice from a supplier that has a commercial interest in the contract opportunity, and to do so would prejudice fair competition (e.g. a supplier is asked to write the contract requirements and then bids for the contract opportunity).*" We are interested in HBL's view on the procurement guidelines.
- 3.31 The NBIO process is constrained by confidentiality and information which is difficult to obtain. We note the Government's guidelines on procurement processes, "*It is good practice to include instructions to suppliers (in your Notice of Procurement) to mark their responses, or the relevant parts of their responses, 'commercial in confidence'.*" The CTU requests a copy of the Notice of Procurement produced by HBL in respect of the NBIO process.
- 3.32 It is concerning to see the level of influence potential providers have played in the development of the ICCs and going forward with the Business Cases. Of particular concern is the lack of transparency, lack of access to information and opportunity to scrutinise decisions that are likely to have a significant impact on the sector. Processes undertaken by HBL must be open, accountable and transparent. Transparency should not and cannot be undermined in pursuit of commercial interests and cost savings.
- 3.33 The ICCs do not provide any background information on the shortlisted respondents Compass or Spotless. Unions are familiar with Spotless as they have a background in Food Services and Linen and Laundry

Services in several sectors throughout New Zealand including health and hospitality. Spotless undertake services for DHBs already, employing many workers and have an established relationship with unions.

- 3.34 Little information is known of Compass' background in Laundry services however unions are familiar with Compass subsidiaries in Food Services in New Zealand. We are concerned by recent food safety issues experienced in the hospitality sector, schools and hospitals in the United Kingdom which involved Compass.

### **ICCs Recommended Way Forward - National Outsourcing Approach**

- 3.35 The ICC indicates that a national outsourced arrangement is the recommended way forward in achieving economies of scale for the Food Services and Linen and Laundry Services sector. The approach is reflective of the Government's Infrastructure Policy around Public Private Partnerships (PPPs) – essentially privatisation of public infrastructure and services.
- 3.36 At a high level, there are many aspects of the recommended approach which underline the negative effects of a national outsourcing approach. We note the lack of detail in the ICCs regarding the rationale and evidence for the recommended way forward.
- 3.37 The ICCs provide a high level overview of the preferred national outsourced approach but lack details on how the process would work in practice. We need to see further information on how a national outsourced approach would work in practice.
- 3.38 It is unclear if the intention of the preferred approach is to acquire current equipment, machinery and facilities or build new facilities. Nor is it clear whether facilities in DHBs would be retained or what the location of these facilities would be or how the preferred approach would operate in practice - alone or in partnership with DHBs. It is also unclear whether a national proposal would be undertaken by a single provider. We have been informed a proposal around a single provider has not been considered, however, given the recommendations outlined in the ICCs - we can only presume the approach is based on a single provider model.
- 3.39 If there is a sale or acquisition of current DHB equipment/facilities by a provider, will this acquisition be a part of contract negotiations? What will be the value or market price of the sale? Will there be consultation or opportunity for input by unions and public? Historically, there have been several examples where public assets are sold at a low price (often to the detriment of taxpayers) then purchased back by government a later date to salvage critical services/ infrastructure.

- 3.40 The ICCs indicate that a 15 year term is preferred as it is most likely to achieve the greatest benefits and remove any end of term exit costs associated with capital investment. The ICCs note there are considerable risks with a long term contract e.g. changing technologies and market dynamics. We note there are additional risks including bankruptcy, changes in needs, changes in the international and political landscape, and natural disasters (such as earthquakes) to consider.
- 3.41 Long term contracts increase the risk that the contract will need to be renegotiated during its life. This may mean the renegotiation of the contract is conducted in a non-competitive environment. These issues are likely to constrain DHBs, reduce flexibility and limit their ability to redistribute resources. For example, the provisions of international agreements such as the Trans-Pacific Partnership Agreement may affect the ability of the government to change or modify the contract. Any proposal for a national procurement model should carefully consider potential impacts of international agreements to which New Zealand is a party.
- 3.42 We understand safeguards are being explored but we hold serious concerns around several aspects of risk mitigation including disaster recovery, termination, governance, health and safety and industrial relations risks. Safeguards which in effect insure against change could be costly. A robust risk analysis must be undertaken which identifies potential risks, risk mitigation and contingency plan for all proposals.
- 3.43 The ICCs are unclear on the extent of costs for the buy-out of current contracts and/or how these contracts would be managed in the event a national outsourcing approach were undertaken. We believe further work is required on the legal, employment and cost implications for buying-out current contracts.
- 3.44 An attraction of a national outsourcing approach is that it enables the transfer of risk regarding delivery failure to the private sector. The weak analysis of the risks in the ICCs appear to lead to this way of thinking. The ICCs fail to provide any assurances or information on contingency plans i.e. what if the contracts were to fall over? What is the role of the State in such an event - would the State be looking to underwrite and essentially act as an insurer as has been the case in the past? How can it avoid carrying the cost when the public will expect these services to continue without break and will have little interest in the legal niceties of the contract relationships?
- 3.45 It is of considerable concern to the CTU if a national outsourced approach is progressed (highly likely), this could result in a monopoly and dominance over the local market. The risk of a monopoly base occurring is increased if an NBIO respondent were to undertake both Food and Laundry services in the sector. We view this as highly disadvantageous to New Zealand's economy and public health system.

We believe that greater risk of private sector monopolistic behaviour will seriously weaken and undermine the public health sector and affect the ethos of the wider public sector.

- 3.46 It is unsurprising large multinational firms have been involved in the NBIO process. We believe that outsourcing and increased wholesale use of PPPs will allow the private sector undue influence over services in the public health system. In Britain this approach has been hugely controversial and fiscally there are more and more questions emerging about the financial viability of contracted out services and PPPs.
- 3.47 The ICCs imply that a national outsourcing approach would provide greater efficiencies yet there is little evidence to justify this position. Examples (international and local) similar to those proposed in the ICCs preferred approach have had a negative impact on job quality and decent working conditions.
- 3.48 There is a real risk of mass job losses if a national outsourcing approach is undertaken given the opportunity to reduce labour costs through casualization and contracting out of jobs resulting in increased market share and profits for shareholders. The CTU is concerned many workers will be directly affected by this approach through unemployment and losses in wages, security and conditions.
- 3.49 It is unclear to what extent staff would be DHB employees or contractors. We hold serious concerns regarding the nature of work if a national outsourcing approach were to progress e.g. prevalence of contractors and a casualised workforce. In addition, there is a strong likelihood that there may be a large number of subcontractors on site at hospitals who may not necessarily be familiar with hospital environments and may pose as a risk to patients or other staff by making issues such as privacy and infection control more difficult to manage.
- 3.50 Accountability is inevitably affected where private sector involvement increases in the delivery of public services and infrastructure. The lack of accountability mechanisms and impact on transparency if the recommended approaches are undertaken is of considerable concern to the CTU. Under the preferred approach, public spending is more difficult to scrutinise as private sector providers are not covered by information requests. There is also a risk of hollowing out the expertise and capability of the Health sector, so that monitoring of the services cannot be effectively carried out, and the ability to resume provision of the services is lost.
- 3.51 Nationally outsourcing the provision of services and infrastructure encourages a commercial profit-driven approach. Given the nature of the shareholders of HBL there will be a vested interest to pursue an approach that does not create undue pressure on Treasury books.

- 3.52 A streamlined national outsourcing approach raises serious concerns for other areas of the health sector e.g. aged care, wider public services and infrastructure. It is disappointing to see the lack of in-depth examination of available options. We do not accept a handful of bullet pointed advantages and disadvantages as being a robust analysis of all available options. We recommend canvassing all available options and a robust analysis conducted before proceeding further.
- 3.53 There are opportunities for less disruptive incremental changes to be made which contribute to cost savings, add value, improve efficiencies and minimise disruption to the sector which would otherwise occur through more significant “transformational” changes.
- 3.54 For example, under the current system, there are several issues relating to contract management which could be addressed through stronger Key Performance Indicators, performance measures, monitoring and penalties. These solutions do not appear to have been considered in relation to other options such as the status quo.
- 3.55 We support the ICCs proposal around implementing/dissemination of best practice initiatives e.g. bed making and implementation of common linen products and national food standards across the sector. However, we note that a national outsourcing approach does not need to be undertaken to achieve these initiatives – this can also occur through other options.
- 3.56 Whilst we support initiatives around rationalisation and adopting national standards and processes we are concerned solutions may become too rigid, have an adverse effect on costs and compliance, compromise patient safety and not necessarily be fit for purpose. The CTU recommends union and health practitioner input into decision-making processes and governance on development and implementation of the initiatives and procurement processes. This will help ensure solutions are fit for purpose and patient safety maintained.
- 3.57 The CTU opposes any contracting-out of services under a national outsourcing arrangement. We believe that greater private health involvement will seriously weaken the public health sector and undermines the public system.
- 3.58 We support greater investment in quality infrastructure to underpin the longevity and sustainability of support services in the health sector and we encourage a strong public sector role in terms of funding, design and delivery of services. We believe greater effort should be put into building existing alliances in the sector.
- 3.59 There are effective ways to address problems currently affecting Food Services and Linen and Laundry Services which do not lead to the disadvantages that a national outsourcing approach could bring. The

desire to shift to such an approach introduces competition and profit-driven motives into the delivery of public services, which is in stark contrast to the collaborative and service orientated approach of the public sector. The proposed approach inevitably leads to the health sector being increasingly privatised, posing major risks that threaten patient safety, equity, quality of care, services and capacity of the health sector.

- 3.60 Maintaining and building the capacity and capability of DHBs to provide services should be the long-term strategy of government and DHBs. Use of the private sector as a short-term solution for “quick wins” is short sighted, irresponsible and not a sustainable approach to addressing problems. We believe the focus should be on improving the effectiveness of current infrastructures and contract management and monitoring processes.
- 3.61 Health sector unions have played a strong collaborative role in helping to create high performing workplaces. This role has included working in partnership with DHBs to facilitate change and identify better ways of working *together*. There are opportunities for improvement through the HBL reviews on Food Service and Linen and Laundry Service and unions are keen to participate and play a part in initiatives that improve the overall function of the health sector and promote sustainability.

#### *Problem*

- 3.62 In our opinion the ICCs do not state clearly the problem they are intending to overcome in order to achieve proposed savings. There are references to what the problems may be in parts of the ICCs but there is no coherent explanation of the extent of the problems, their effects on the current state of play or evidence to support these findings.
- 3.63 Whilst there are problems affecting the sector in Food Services and Linen and Laundry Services what is not clear is the scale and depth of these issues. We are concerned that without a full understanding of the current scope of services and costs, the sector risks developing solutions which may not be fit for purpose, risks patient safety and undermines the health system.
- 3.64 We understand urgent remedial action is required in some DHBs to upgrade aging or broken machinery and equipment, however, the extent of capital requirements across the sector remains unclear. It would be useful for HBL to conduct an analysis and evaluation of capital requirements across the sector and expected capital costs to replace aging equipment. This will help establish an understanding of the state of infrastructure and capital requirements across the sector.
- 3.65 The NBIO process was introduced to offer ideas around solutions. It is difficult to understand how a process could be undertaken with



prospective providers including getting offers on pricing, methodology relevant assumptions etc if the current state of play was not known. The full picture of the current state of play remains unknown.

- 3.66 HBL have informed unions that another data request will be undertaken in preparation for the Business Cases as further work is required on understanding baseline costings and activities at each stage of the Food and Linen and Laundry processes. We would have expected that this would already have been done in preparation for the ICCs.
- 3.67 An analysis of the current costs and scope of services should have been conducted before the NBIO process and released as part of the consultation process on the ICC. It is inappropriate and risky to have sought solutions from potential providers during the EOI and NBIO processes when comparative information on actual costs at each stage of Food and Laundry processes was not available. Running parallel processes e.g. NBIO and analysis of current scope of services and costs simply confuses the matter.
- 3.68 The ICC needs to specify in greater detail what the problem is, where the need for greater efficiencies lies, how efficiencies will be met and provide supporting evidence. This information is vital in identifying areas for possible improvements, cost savings and efficiencies, and for the unions to be able to evaluate the proposals.

#### *Cost-benefit Analysis*

- 3.69 The ICCs state that if a national outsourcing approach were undertaken for Linen and Laundry Services, the sector would benefit from savings of \$50-98 million over a 15 year period. This would mean savings of \$3-6 million per year across the sector. Similarly, for Food Services, it is suggested the sector would benefit from savings of \$100-175 million over 15 years which is \$6-12 million per year. We note that the ICCs are silent on consequences if proposed changes do not achieve the anticipated savings.
- 3.70 We understand the savings have been sourced from information provided by NBIO respondents and largely assumptions at this stage. Without knowing the full extent of changes that might occur and associated implementation costs, it is difficult to understand how respondents to the NBIO process would have arrived at their conclusions for cost savings and what risks or changes to services they entail.
- 3.71 It is unclear what the cost savings will be when offset against the implementation and change costs (which are unknown). The CTU considers it is likely there will be many hidden costs associated with national proposals based on outsourcing, particularly when taking into account costs such as legal fees, contract negotiations and administration, training and redundancy.

- 3.72 We note the assertions made in the Food Services ICC on cost savings e.g. reductions in cost of meals. However, there is little evidence to justify the savings. We are concerned at the level of emphasis put on cost reductions for meals but little analysis of the impact of changes on the patient safety, quality of food/nutritional value. Quality of food plays an important role in managing patient recovery and this role should not be compromised in pursuit of cost savings.
- 3.73 It is likely that the contribution to savings will be minimal and outweighed by implementation and design costs or losses in quality of services if they are not adequately identified and validated. The savings purported to have been achieved by HBL do not take account of the costs required to achieve them. The Auditor General notes similar concerns in her report Health Sector: Results of 2011/12 audits (16 April 2013).
- 3.74 We understand the consultation process on ICCs and Business Cases with DHBs undergo a critical analysis of the figures, benefits and risks and review of the validating information. Unions should have the same ability to review and provide analysis and have access to information which supports quality feedback.
- 3.75 The failure to be open and transparent with information has caused the Auditor General to raise concerns in her report, *“The associated work programme will mean significant change for the sector and on-going risk, including risks to the maintenance of service delivery and the delivery of planned savings and efficiencies...I will continue to watch that the reporting of savings is transparent and reflects actual savings.”*
- 3.76 The Auditor General’s report and recommendations to improve transparency reinforces our concerns around the breakdown of savings and costs incurred in achieving savings. There have been no checks in place to verify the reported savings by HBL. We understand HBL is looking to introduce a new financial management information system for greater transparency. We are interested in understanding further the measures being undertaken in addressing the Auditor General’s concerns.
- 3.77 We also note the absence of information on benefits for workers of the proposals in both a qualitative and quantitative way. Consideration of the impact and benefits for workers is an important step in creating an effective proposal and ensuring buy-in from workers.
- 3.78 Finally, it is unclear as to where the cost savings will go, how the savings will be distributed and by whom, and whether health sector funding will be affected by any savings incurred. There must be assurances that funding in the health sector will not be reduced due to savings that may be achieved through the ICCs.

### *Workforce Implications and Impact on Local Communities*

- 3.79 The ICCs preferred approach for national outsourcing is likely to have a negative impact on job quality and decent working conditions. We believe any proposal to outsource through a national model will result in mass redundancies and have a major effect on the workforce. With the unemployment rate at 6.9 per cent, the effect of outsourcing will simply exacerbate the unemployment rate and increase hardship in communities.
- 3.80 Consideration will need to be given to areas of cost savings where potential changes could have an impact on terms and conditions of current collective employment agreements and processes of workers covered by Part 6A of the Employment Relations Act 2000 (Part 6A) and the Code of Good Faith for the Public Health Sector.
- 3.81 We would be very concerned if any changes were to lead to deterioration in pay and conditions for employees affected. It is not acceptable for employees to effectively subsidise savings which are ministerial driven (\$700 million over a five year period). A commitment to maintaining good pay and employment conditions should be a key criterion of any proposal.
- 3.82 Those employees whose work falls within Schedule 1A of the Employment Relations Act 2000 must also retain rights under Part 6A including the right to transfer to the new employer on existing terms and conditions.
- 3.83 Discussions are continuing with DHBs on the legal implications of national changes and implementation processes, however, due to the complexity of issues the process needs to be worked through carefully. Any attempt to rush this process will result in costly and litigious consequences if not done properly.
- 3.84 We note the lack of reference to employer obligations throughout the ICCs and lack of information on the implications of any proposal on the workforce. For example, in the Laundry and Linen ICC there is one paragraph that refers to workers on page 38 of the ICC but provides no further information on the impact of changes for them. There must be reference to good employer obligations in any proposal e.g. KPIs.
- 3.85 Any proposal designed to outsource and monopolise services will have a significant effect on smaller communities. Any job losses in smaller DHBs as a result of the change process will have a significant adverse effect on their communities. Smaller and medium sized businesses may miss out on business opportunities if there is a national outsourced approach undertaken.
- 3.86 The CTU encourages HBL to consider the effect job losses and loss of trade on smaller and medium sized businesses will have on smaller

communities as the impact of job losses will be felt more widely and have a direct impact on people and the local economy.

- 3.87 It is important to note the environmental impact of the recommended approaches. The ICCs fail to discuss sustainable and environmental aspects of the proposals in detail including the impact of distribution costs arising from the recommended option or the use of disposable products i.e. plates and cutlery. For example, it is inevitable that there will be high distribution costs if Food and Linen and Laundry Services is delivered through a centralised model to DHBs. Has there been an analysis of associated costs and impact on the environment i.e. carbon footprint if high levels of distribution were required?
- 3.88 The CTU believes it is essential for decisions to consider options which are environmentally friendly, sustainable and adhere to responsible contracting principles.

#### *International and Local Evidence*

- 3.89 The CTU believes the reviews on Food and Laundry services need to include an analysis of what has occurred internationally and locally. There are several examples from the United Kingdom (UK) and Australia and in New Zealand which highlight the risks and failures of outsourcing and privatisation of public services and infrastructure.
- 3.90 Specifically, the experiences of the National Health System (NHS) in the UK have highlighted several issues including fragmentation of the health service, lack of democratic, accountable and transparent processes, changes to services and increased costs.
- 3.91 Similarly, New Zealand has had an appalling experience of privatisations, for example the sale of New Zealand Rail and Air New Zealand went so wrong that renationalisation of the infrastructures and services were required. Among other examples there was the failure of Telecom to develop a telecommunications system despite monopoly profits, most of which went overseas with little reinvestment.
- 3.92 In the Health sector there are examples of where privatisation of services has gone wrong and the cost has inevitably come back to burden the taxpayer. For example, the centralisation of food production is not a new concept and a similar proposal to the Food ICC has previously been trialled in New Zealand e.g. Tempo with negative consequences. In this instance, similar assertions were made around cost efficiencies and quality improvements which were not achieved and instead resulted in poor quality food, problems with equipment and the provider going into liquidation.
- 3.93 Before progressing further, it would be prudent to identify evaluations and experiences from international and local models similar to the recommended approach in the ICCs. This should be instructive on

how, or whether, to undertake a similar exercise here. These examples should identify evaluations or experiences from the systems and processes, the experiences of users, actual impact on efficiencies and cost savings, issues that arose and how they were addressed.

### **Implementation and Evaluation Process**

- 3.94 Depending on the degree of change proposed, there will be significant changes that will require careful management in terms of continuity of services across the sector. A detailed implementation plan with input from unions should be developed including consideration of issues such as workforce and employment implications, roll-out, training and contingency plans. Given the potential for significant changes for Food Services and Linen and Laundry Services in the sector, we cannot afford to have services shut down due to poor planning and risk management.
- 3.95 A detailed evaluation programme examining the implementation phase, effectiveness of the changes and experiences of users should be built into the agreed model from the start of the change process. Evaluation findings will be critical in identifying whether the implementation process was effective, changes have worked, the intentions of the proposal have been achieved and further areas for improvement.

## **4. Conclusion**

- 4.1 The CTU does not support the preferred options outlined in the ICCs.
- 4.2 We have serious concerns regarding the consultation process including lack of access to information regarding the Food and Linen and Laundry Service reviews. Without access to robust detailed information, unions are constrained in the consultation process and unable to provide well-informed feedback. Based on these difficulties union submissions should be treated as interim submissions until we are provided with information that will help in providing more substantive feedback.
- 4.3 Whilst we support initiatives around best practice dissemination and standardisation of products and processes, we are concerned about the negative impacts that are likely to eventuate from the recommended approach in the ICCs. The assumptions made in the ICCs are meaningless unless they can be supported by evidence and rationale.
- 4.4 There are opportunities for improvement through the Food and Laundry Services review and unions are keen to participate and play a part in innovations and initiatives that improve the overall function of the health sector and promote sustainability. The CTU welcomes further opportunities to work productively with HBL on the Food and Laundry work programmes.