



<b>Report Title:</b>	<b>Cabinet Fee Exception request: Health New Zealand</b>		
<b>Report No:</b>	<b>2024-0161</b>		
<b>Date:</b>	<b>23 May 2024</b>		
<b>To:</b>	<b>Hon Nicola Willis, Minister for the Public Service</b>		
<b>Action Sought:</b>	<b>Sign</b> the attached letter to the Minister of Health outlining your feedback on the proposed fee exception sought for Health New Zealand.	<b>Due Date</b>	27 May 2024
<b>Contact:</b>	<b>Robert Anderson, Director, System and Agency Performance</b> <span>9(2)(a) privacy</span>		
<b>Encl:</b>	Yes	<b>Priority:</b>	High
<b>Security Level:</b>	<b>IN CONFIDENCE</b>		

## Executive Summary

1. The Minister of Health, Hon Shane Reti (the Minister) seeks your approval for a proposal to annualise fees for Health New Zealand (Health NZ) Board members at new exceptional fee levels rate as follows:
  - Chair: \$287,500 per annum (based on 115 days per annum)
  - Deputy Chair: \$140,000 per annum (based on 70 days per annum)
  - Members: \$70,000 per annum (based on 40 days per annum).
2. The proposed annualised fees are based on 115 days work per annum for the Chair, 70 days for a Deputy Chair and 40 days for members.
3. In August 2021, Cabinet agreed to pay the following exceptional daily fees to the interim Health NZ Board:
  - Chair \$2,500
  - Deputy Chair \$2,000 (if appointed)
  - members \$1,750 [CAB-21-MIN-0345].
4. In June 2022, APH noted that the fee levels agreed by Cabinet for the Interim Board would be carried over to the permanent Health NZ Board [APH-22-MIN-0098] The above fees were based on an estimated annual workload of 50 days for the Chair, and 30 days for board members.
5. Cabinet also agreed to move to an annualised rate for the Chair, Deputy Chair and Board members from 2024/25 (to be informed by a review of the necessary time requirements of members)
6. Health NZ found the above day caps insufficient to cover the time required of the Chair and members during the establishment phase.

**IN CONFIDENCE**

7. Under Cabinet Fees Framework (the Framework), the assumed annual workload for meetings and other responsibilities associated with Board roles is 50 days for a chair and 30 days for members. The Commission can find no examples of private or public sector boards whose chairs or board members are expected to work for 115 days.
8. Under the current exceptional fee arrangements, Health NZ Board members can currently claim up to 40 days and the Chair can claim up to 70 days per financial year for work undertaken in their governance roles. Under the exception, the Chair can seek 65 additional (contingency) days, if required, for themselves and 30 days contingency for members, subject to the Minister of Health's approval. Health NZ meets all board costs from within its operating budget.
9. In line with the Framework, the Minister proposes the Board fees move from a daily rate to an annualised rate for 2024/25 and 2025/26. However, the Minister proposes a chair fee based on the incoming Chair's expectation of 115 days' work per annum.
10. The Commission recommends a more measured approach that balances the expectation of days worked on Health NZ Board business between private sector board good practice and the likely extraordinary demands of overseeing New Zealand's public health system transformation as follows:
  - the Chair be expected to work for 80 days per annum with an additional 35 day contingency subject to the Minister of Health's approval
  - the Deputy Chair - 50 days per annum
  - board members - 40 days per annum.
11. The Commission's recommended approach would ensure additional workload by the board is accounted for, while ensure there are some controls in place to ensure any additional effort and cost is appropriate and justified.
12. The Commission also recommends that the proposed exceptional fees be time-limited to 18 months (rather than the proposed two years) and then reviewed with the objective of bringing the Health NZ Board fees more in line with the Framework which may still require Ministers to approve an exception
13. The Public Service Commission (the Commission) recommends you sign the attached letter proposing changes to the Minister of Health's exception. If these are accepted, the Commission recommends that you support the revised proposal when it is referred to Cabinet's Appointments and Honours Committee (APH).

## **Purpose of Report**

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1. The Minister of Health, Hon Shane Reti (the Minister) seeks your approval for a proposal to renew fees for members of the Health New Zealand (Health NZ) Board (the Board).

## **Background**

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2. The Board is classified under the Cabinet Fees Framework (the Framework) as a Group 3a Level 1 body. The annual fee range for this classification is as follows:
  - chair: \$40,596 - \$90,123
  - deputy chair (additional 25 percent of the member rate): \$25,368 - \$55,818
  - members: \$20,295 - \$44,655.
3. Under the Framework, the assumed annual workload for meetings and other responsibilities associated with Board roles is 50 days for a chair and 30 days for members.
4. In August 2021, Cabinet agreed to pay the following exceptional daily fees to the interim boards for Health NZ.
  - Chair \$2,500
  - Deputy Chair \$2,000 (if appointed)
  - members \$1,750 [CAB-21-MIN-0345].
5. In June 2022, APH noted that the fee levels agreed by Cabinet for the interim board would be carried over to the permanent Health NZ Board [APH-22-MIN-0098]. The above fees were based on an estimated annual workload consistent with the Framework of 50 days for the Chair, and 30 days for board members.
6. Health NZ found the above day caps were insufficient to cover the time required of the Chair and Board members during the establishment phase. Accordingly in June 2023, APH agreed that Board members could claim up to 40 days and the Chair could claim up to 70 days per financial year for work undertaken in their governance roles. The Chair could seek additional (contingency) days if required, for themselves and for members, subject to the Minister of Health's approval. Health NZ meets all Board costs from within its operating budget [APH-23-MIN-0136].
7. Cabinet also agreed that review of the necessary time requirements and fees for the Health NZ Board would be undertaken in early 2024 and that fees from 2024/25 onwards would be informed by this review and submitted to Cabinet for agreement.

## **Actual days worked and fees paid**

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8. In 2022/23 and 2023/24, Health NZ provided the Ministry of Health (the Ministry) with information on actual days worked per annum for which fees were paid. The Chair worked for an average of 94.61 days and members for an average of 38.42 days.
9. This workload was significantly less than the 2022/23 forecast claimable days (70 for the Chair and 40 for members). Final full year figures are not yet available.

## **Proposal**

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10. In line with the Fees Framework and Cabinet's decision in 2022, the Minister proposes the Board fees move from a daily rate to an annualised rate for 2024/25 and 2025/26 set out in Table 1 below.

*Table 1: Proposed fees for Health NZ Board compared with Framework parameters*

	Chair	Deputy Chair	Member
Maximum annualised fee provided for under the Cabinet Fees Framework (based on 50 days' work per annum work for the Chair and 30 days for members)	\$90,123	\$55,818	\$44,655
Minister of Health's proposed annualised fees for Health NZ (based on 115 days' work per annum for the Chair and 40 days for members)	\$287,500	\$140,000	\$70,000

11. To set the proposed Board annualised rates for 2024/2025 and 2025/26, we understand the Ministry has used the average days worked over the past 20 months (July 2022 – March 2024) to forecast the average number of days that the Chair and members could be expected to work in the 2024/25 and 2025/26 years.
12. The incoming Health NZ Chair considers the Chair role requires 115 days per annum. The Ministry has calculated the midpoint of the preferred Chair's assessment at an annualised fee of \$287,500. We understand that the Minister is supportive of the incoming Chair's assessment of days required (115 days).

### **The original case for exceptional fees**

13. At its establishment, the Commission supported Cabinet's view that fee rates provided by the Framework would be unlikely to attract the necessary suitably experienced candidates to the interim Health NZ board. The Commission accepted the view that the fee levels did not reflect the scale and complexity of the governance role required to stand up the entity.
14. In June 2022, upon appointment of Health NZ's establishment Board, Cabinet noted the case for continuing with higher than usual daily rates remained valid. This was because the new entities would have significant transformation programmes for several years post establishment, and strong management and governance would be required to ensure business continuity and safe provision of health services were maintained.
15. Therefore, the rates previously agreed by Cabinet for the interim boards were carried over to the new board. That is \$2,500 per day for the Chair, \$2,000 per day for the Deputy Chair, and \$1,750 per day for board members [CAB-21-MIN-0345].

### **Public Service Commission's view**

16. In 2023, the Commission advised the former Minister for the Public Service that additional workload and exceptional fees could only be supported while Health NZ was in an establishment phase. With a fully established and executive management in place, it was assumed the Board's workload would drop significantly and function at a level outlined in the Framework (e.g. 50 days per annum for Chairs and 30 days per annum for members).
17. It was envisaged that by the end of 18 months, the Chair should have a clearer picture of the Board workload required to complete the establishment work. Moreover, we expected that Board oversight of executive management would provide the Minister with the assurance needed on operationalising the Board's strategy, risk management, the control environment, and the overall integrity of the financial and service performance information.
18. However, the Commission understands that the incoming Chair considers that a full transformation strategy may take longer than originally expected, exceeding the original three to four years from 2022.

19. The Commission considers that while additional days' work may be necessary during the initial stages of the new Chair's term, a board chair requiring three times the day allocation to members (115 days compared with 40 days) is well outside the generally accepted workloads for board chairs in the private and public sector.
20. The Commission can find no examples of private or public sector boards whose chairs or board members are expected to work for more than 54 days per annum at the outer limit.
21. However, the success of Health NZ's transformation of the public health system is of critical importance to the Government. Ministers need assurance that the Board is applying best practice governance in its oversight of executive management and strategic planning.
22. The Commission recommends a more measured approach that balances the expectation of days worked on Health NZ Board business between private sector board good practice and the likely extraordinary public sector governance demands of overseeing New Zealand's public health system transformation as follows. To do this, the Commission recommends a reduction in the number of days members are remunerated for as follows:
  - the Chair be expected to work for 80 days per year with an additional 35 day contingency subject to the Minister's approval
  - the Deputy Chair - 50 days
  - board members - 40 days.
23. The Commission also notes that the Chair must lead Board decision-making as a whole. There is a risk that a workload of 115 days could potentially lead to role confusion between the Chair's and executive management roles, depending on how these days are used.
24. The Commission also recommends that the proposed exceptional annualised fee be time-limited to 18 months and then reviewed with the objective of bringing the fee more in line with the Framework (this may still require Ministers to approve an exception).
25. The Commission considers that once the time limit on the exceptional fees expires, a new exception (if required) should be sought that is more in line with the Framework and comparable Crown entity fee exceptions (if an exception is required).

#### **Fee exceptions as a precedent-setting risk**

26. The Commission remains concerned about the precedent-setting risk with the proposed scale of additional days being sought, which far exceeds the standard claimable days under the Framework e.g. 50 days for a chair and 30 days for members. Furthermore, the proposed annualised rate for the Health NZ Chair, is around 300 percent above the range for a Group 4 Level 1 body (set out earlier in Table 1).
27. There is a risk that approving the basis for this level of exceptional fees could create a precedent for similar exceptions from other portfolios. Our view is that the case for the incoming Chair's proposed level of days' work underpinning this exception will need to be closely monitored to build evidence for this case as an exception and a contribution to the assessment of the Board's future governance needs.
28. Expenditure on the proposed exceptional Board fees, however, exceeds any previously approved fee exception for a Group 3a Crown entity board. By way of comparison, Table 2 below shows the proposed annualised fees compared with current board fees for other significant Crown entities, some of which are exceptions. The Minister of Health's proposed exception, particularly for the Health NZ Chair, would be significantly above that of fees paid to boards of the largest Crown entities.

Table 2: Comparable Crown entity Board fees

Crown entity	Chair current annualised fee	Chair Framework fee range	Exception as a percentage of maximum fee	Member current annualised fee	Member Framework fee range	Exception as a percentage of maximum fee
Proposed Health NZ fee (Crown agent)	\$287,500	\$40,596-\$90,123	+319%	\$70,000	\$20,295-\$44,655	+56%
ACC (Crown agent)	\$100,450	\$34,623-\$73,552	+37%	\$50,225	\$17,309-\$36,773	+36%
Guardians of NZ Superannuation (autonomous Crown entity)	\$98,000	\$40,596-\$90,123	+8.7%	\$49,000	\$20,295-\$44,655	+9.7%
Kainga Ora - Homes and Communities (Crown agent)	\$98,000	\$40,596-\$90,123	+8.7%	\$49,000	\$20,295-\$44,655	+9.7%
New Zealand Transport Agency (Crown agent)	\$71,400	\$40,596 - \$90,123	Within range of the Cabinet Fee Framework	\$35,700	\$20,295-\$44,655	Within range of the Cabinet Fee Framework

## Financial Implications

29. Health NZ has reported total board fee expenditure of \$xxxxx in July – April 2024. Based on annualised fees at the new level, the Ministry forecasts total annual fees expenditure \$847,500.

## Next Steps

30. It is recommended that you sign and send the attached letter to the Minister of Health recommending a revised approach to the proposed fee exception for the Health NZ Board as follows:
- the Chair be provided up to 80 days per year with an additional 35 day contingency subject to the Minister of Health's approval
  - the Deputy Chair be provided 50 days per annum
  - board members be provided 40 days per annum
  - the proposed exceptional fees be time-limited to 18 months and then reviewed with the objective of bringing the fee more in line with the Framework (this may still require Ministers to approve an exception at the time of review).
31. If you agree, the Commission will release this briefing in full once it has been considered by you.

## Recommended Action

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14. The Commission recommends that you:

- a **agree in principle** to annualised exceptional fees payable for the Health NZ Board, subject to a reduction in expected days worked for the Chair based on the previous agreed daily rate:
  - a. Chair: \$2,500
  - b. Deputy Chair: \$2,000
  - c. Members: \$1,750
- b **agree** that the actual workload and the final annualised fee to be based on a lower expectation of days worked annually:
  - a. Chair – 80 days per annum with a 35-day contingency to be approved by the Minister of Health
  - b. Deputy Chair – 50 days per annum
  - c. Members – 40 days per annum.

*Agree/disagree*

- c **agree** that the exceptional fee rate be time limited to 18 months at which time the fee exception, if required, be reduced to a level commensurate with the Cabinet Fees Framework

*Agree/disagree*

- d **note** that Health NZ will report regularly to the Ministry of Health on days worked by the Chair and Board members to better assess governance workloads in future years
- e **sign** the attached letter to the Minister of Health

*Agree/disagree*

- f **release** this briefing under the Official Information Act once it is considered by Cabinet.

*Agree/disagree.*