



12 June 2020

Tēnā koutou katoa

Consultation on the Practising Certificate Fee and Disciplinary Levy 2020/2021

Executive summary

This consultation document is seeking stakeholder feedback on the Medical Council of New Zealand’s (Council) proposal to gazette an increase to the practising certificate (PC) fee and disciplinary levy, to be effective from 1 September 2020. Feedback is welcome and will be carefully considered by Council before a final decision is made. This needs to reach us by close of business **Friday 10 July 2020**.

The current proposed increases are:

- PC fee increase of \$34.28 to \$605.67 (GST exclusive).
- Disciplinary levy increase of \$15.44 to \$169.80 (GST exclusive).

Council is very mindful of the impact to the profession and stakeholders in these unprecedented and challenging times, with significant disruptions from COVID-19, but considers these increases necessary to ensure financial sustainability.

Components of the PC fee and disciplinary levy¹

Doctors’ PC fees and disciplinary levies are set by Council under s130 and s131 of the Health Practitioners Competence Assurance Act 2003 (HPCAA).

The components making up the combined PC fee and disciplinary levy are set out in the following table.

PC fee and disciplinary levy	2019/20	2020/21	\$ Change	% Change²
	Current Fee	Proposed Fee		
Practising certificate fee	\$571.39	\$605.67	+ \$34.28	+ 6.00 %
Disciplinary levy	\$154.36	\$169.80	+ \$15.44	+ 10.00 %
Total PC fee and disciplinary levy	\$725.75	\$775.47	+ \$49.72	+ 6.85 %

The proposed PC fee and disciplinary levy is based on:

- Council’s strategic objectives as outlined in the Strategic Plan;
- Council’s budgets and projections for the 2019/2020 and 2020/21 financial years; and
- the actual general, disciplinary and examination fund reserves as at 31 May 2020.

¹ All figures are GST exclusive unless otherwise stated.

² These percentages have been rounded to two decimal points.

Council abides by the good practice guidelines established by the Office of the Auditor-General and by Treasury. In doing so, Council adheres to the principles of authority, efficiency and accountability when setting fees.

In preparing the draft 2020/2021 budget, Council is committed to operating in a cost effective manner and strives to maintain a balance between the efficient and effective discharge of its public safety obligations and practitioner affordability. The increases proposed, will provide a modest budget surplus of approximately \$0.5m. The Council must consider its cash reserves to ensure financial sustainability.

Rationale for proposed changes to the PC fee

The PC fee is a reflection of the ongoing operational costs for Council to continue to fulfil its statutory obligations and strategic objectives.

Council's fee structure is based on an activity-based costing methodology. The framework was introduced in 2015, following extensive consultation with the profession, and is designed to ensure that there is transparency and equity across all fees charged by Council. The methodology also ensures that cross-subsidisation amongst fees is minimised.

Council adopts a conservative approach to increases of its fees; continuing to apply the activity-based costing methodology to newly-identified fees but otherwise limiting increases to the current year's inflation rate. An inflationary adjustment has been achievable in recent financial years, however the Council continues to face extraordinary circumstances, and regrettably this is not possible for the coming financial year.

In addition to incorporating an inflationary adjustment of 2.5 percent³ (\$14.28) increase, an additional 3.5 percent (\$20.00) increase is factored to replenish cash reserves over time.

After factoring in all of the above considerations, the PC fee is proposed to increase by \$34.28, or 6 percent, to \$605.67.

Rationale for proposed changes to the disciplinary levy

Under s131 of the HPCAA, Council is empowered to impose on every doctor registered with it, a disciplinary levy for the purposes of funding the costs arising out of Professional Conduct Committee (PCC) investigations and the proceedings of the Health Practitioners Disciplinary Tribunal (the Tribunal).

Both the number and complexity of disciplinary cases is increasing. This is reflected in the number of referrals to a PCC and to the Tribunal. There were 15 charges filed in the Tribunal over the last financial year and 24 cases were referred to a PCC.

We are expecting a similar number of cases to be set down in the Tribunal over the 2020/2021 financial year and are anticipating having a similar or greater number of cases referred to a PCC. A number of these cases are highly complex, involve a number of witnesses, and some will be fully defended hearings. On occasions where a practitioner does not appear at the Tribunal (as they may have left

³ <https://www.stats.govt.nz/indicators/consumers-price-index-cpi> (Annual CPI for the year ended 31 March 2020)

New Zealand) a PCC is still required to investigate and prove the charge, meaning additional costs are incurred.

In setting the proposed levy, Council has taken a prudent approach to ensure disciplinary costs are adequately recovered while remaining cognisant that specific one-off cases can result in extraordinary costs. By its nature these costs are difficult to budget as Council has no control over disciplinary matters and must act in the public interest at all times.

The Council is responsible for all costs associated with an investigation and prosecution of unethical conduct from any doctor. These costs may include:

- PCC investigation costs of a notification
- prosecution costs when charges are laid before the Tribunal
- appeal costs
- the risk of bad debts and collection costs for any costs awarded.

The Council actively seeks recovery of any costs awarded to ensure that these are not passed onto the profession. However, in some situations recovery is not possible due to the practitioner leaving New Zealand.

The PCC legal costs and associated Tribunal costs are now directly allocated to the disciplinary fund. Previously these costs were recognised as part of the general operational fund. Council acknowledges this is a more equitable allocation of the drivers of these costs, and reflects its ongoing commitment to activity-based costing methodology.

After factoring these considerations the disciplinary levy is proposed to increase by \$15.44 (excl GST), or 10 percent, to \$169.80 (excl GST).

Council's 2019/20 Forecast Financial Results

The forecast financial results for 2019/20 are reported in Table 1 below and forecast a deficit of \$0.5m against a near break-even budget. The forecast is based on actual results for the 11 months (ended 31 May 2020) and a forecast for the June 2020 month. The adverse forecast result is primarily attributable to:

- The one-off receipt of insurance claim proceeds during the year in relations to a business interruption claim associated with the November 2016 Kaikōura earthquake.
- Reduction in other registration income related to planned accreditations and examinations disrupted by COVID-19.
- Reduction in disciplinary recoveries and higher than anticipated disciplinary costs; and
- Adjustment to the onerous lease provision relating to office space at 80 The Terrace which was damaged by the 2016 Kaikōura earthquake. This adjustment was unbudgeted.

2020/21 Budget

With prudent financial management and discipline, an overall surplus of \$445,000 is budgeted as shown in Table 1 below. This reflects the ongoing operational costs for Council to continue to fulfil its statutory obligations and strategic objectives, efficiently and effectively. In recognition of the challenging circumstances, no remuneration increases are budgeted during this period, and Council has been through the budget line by line to ensure all expenditure is justified and necessary.

Table 1: 2019/20 Forecast Financial and 2020/21 Draft Budget

Financial Performance	30 Jun 20 Forecast⁴ (000's)	2019/20 Budget (000's)	2020/21 Draft Budget (000's)
Income			
Practitioner Fees	10,201	10,280	10,745
Disciplinary Levies / Recoveries	3,147	3,267	3,731
Other Registration Income ⁵	2,570	2,810	2,663
Other Income	713	122	70
Total Income	16,631	16,479	17,209
Expenditure			
Administration	9,577	10,728	9,287
Council and Profession	3,454	3,631	3,320
Disciplinary	3,450	3,374	3,688
Examination	280	378	344
Other expenses	333	-	125
Total Expenditure	17,094	16,486	16,764
Net Surplus / (Deficit)	(463)	(7)	445

Reserves

Unlike commercial entities Council does not have recourse to lending and overdraft facilities and cannot borrow. Therefore, Council must carefully manage cash flows generated through the PC renewal process and other registration activities.

In determining what is an appropriate fee or levy to charge Council reviews its operating and capital expenditure budgets and also the level of cash reserves to provide contingency for unexpected events and budget shortfalls. In recent years Council has faced significant disciplinary costs and continues to be affected by unexpected events, namely the Kaikōura earthquake impacting premises and more recently COVID-19.

Council operates three specific reserves – a general reserve, disciplinary reserve and examination reserve:

- The General reserve fund maintains reserves for:
 - the cost of Council activities and overheads
 - the cost of profession specific activities
 - capital replacement.
- The Disciplinary Reserve fund maintains reserves for:
 - the cost of Council disciplinary overheads
 - the cost of Professional Conduct Committees and Health Practitioner Disciplinary Tribunal work.
- The Examination Reserve fund maintains reserves for examination activities (NZRex).

⁴ All forecast amounts are estimates and subject to change. It is expected audit financial statements for the year ended 30 June 2020 will be available in late September / early October 2020.

⁵ All other Gazetted fees are intended to be inflation adjusted by 2.5% from 1 September 2020.

Council's minimum reserve level is 25 percent of annual budgeted operating expenses, or approximately \$4.2m, for the 2020/21 financial year. The current level of cash reserves are below this level and Council is mindful of the extraordinary circumstances we all operate in. The budgeted surplus is reasonable and has been determined within a responsible budgeting framework which seeks to replenish cash reserves in a managed way, over time.

Consultation proposal

Council invites all stakeholders to provide feedback on the proposed 2020/2021 PC fee and disciplinary levy to be effective from 1 September 2020 as follows:

1. To increase the annual practising certificate fee by \$34.28 to \$605.67 (GST exclusive).
2. To increase the disciplinary levy by \$15.44 to \$169.80 (GST exclusive).

Conclusion

The objective of this consultation is to seek input from stakeholders before Council makes a final decision. Council therefore seeks any comments on the proposal by close of business **Friday 10 July 2020**. Council will consider all submissions at an extraordinary meeting to be scheduled in July, prior to placing a notice of the fee and levy in the New Zealand Gazette for an effective date of 1 September 2020.

In accordance with s130 and s131 of the HPCAA and Council's consultation guidelines, copies of this consultation document have been sent to all doctors, the Ministry of Health, District Health Boards and other organisations with an interest.

This document has also been published on the Council's website, with an invitation to comment.

Responses should be sent to:

Fee Consultation

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Nāku noa nā,



Dr Curtis Walker
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