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<b>Intended for</b>	All Ministers All Chief Executives
<b>Copies to</b>	All Senior Private Secretaries All Private Secretaries

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### **Fees framework for members appointed to bodies in which the Crown has an interest**

- 1 Cabinet has recently approved a modified Fees Framework for determining or reassessing the fees paid to members of statutory and other bodies in which the Crown has an interest [*APH Min (09) 9/1 and CAB Min (09) 23/3*].
- 2 This circular, and the attached Framework, replace Cabinet Office Circular CO (06) 08. The modified Framework covers all statutory bodies, non-statutory bodies and committees in which the Crown has an interest, that are outside the Remuneration Authority's or other fee-setting bodies' jurisdiction. The Framework therefore covers most Crown entities (including Crown Agents, Autonomous Crown Entities [ACEs] and tertiary education institutions), trust boards, advisory bodies and committees, Royal Commissions, Commissions of Inquiry and Ministerial Inquiries, statutory tribunals, individuals appointed as statutory bodies that are not covered by the Remuneration Authority and some subsidiary bodies.
- 3 The Framework provides guidance on the classification and remuneration of statutory and other Crown bodies. Since the Framework covers a varied array of bodies, it is not intended to be prescriptive, and judgement will be required to determine best fit.
- 4 The purpose of the Framework is to provide a basis for judgement in setting fees that will:
  - ensure a consistent approach to remuneration across all statutory and other Crown bodies;
  - contain expenditure of public funds within reasonable limits;
  - provide flexibility within clear criteria.
- 5 The main changes to the previous Framework are:
  - amendments to the mechanisms used to measure the complexity of roles for some bodies;
  - the addition of a new category for Ministerial Inquiries, and a requirement for all proposed fees for Royal Commissions, Commissions of Inquiry and Ministerial Inquiries to be referred to the Minister of State Services for consideration as an exception;

- no increases to fee range levels and decreases to fee ranges for Group 4 Level 1, and Group 3d Level 2 and 3 bodies;
  - extension of the criteria which enable the responsible Minister and Minister of State Services to consider exceptional fees between them without reference to APH and Cabinet;
  - clarification of fee levels for independent members of sub-committees;
  - other amendments including amending the format of the document, clarifying that under the Framework 8 hours make up a day, and updating the tax advice.
- 6 Under the previous Framework, proposals to increase fees by 10% or more were regarded as substantial and referred to the responsible Minister and Minister of State Services for consideration as an exception. Cabinet has agreed, given the current economic situation and until further notice, that **any proposed increases to fees** should be referred to the responsible Minister and Minister of State Services for consideration as an exception. You are strongly encouraged to have early discussions with the State Services Commission about any proposed fee increases.
- 7 Where the re-classification of a body results in a lower applicable fee range, Cabinet has agreed that the current fee level may be “grand-parented” until a suitable time arises to pay fees within the range, such as when new appointments are made.
- 8 Ministers and chief executives are asked to ensure that **all staff** involved in appointments to bodies covered by the Framework are familiar with the requirements of this circular. It should be read in conjunction with the Cabinet Office Guide to Cabinet and Cabinet Committee Processes (CabGuide), the SSC Board Appointment and Induction Guidelines, and CO (99) 12 “Guidance for Members of Statutory, Commercial and other Bodies Appointed by the Crown”.
- 9 For advice on the interpretation and application of the framework, please contact the State Services Commission (State Sector Remuneration and Fees Team) at phone (04) 495 6607, fax (04) 495 6699 or email to: fees@ssc.govt.nz.

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**Website reference:**

This circular can be found on the Internet at: <http://www.dpmc.govt.nz/cabinet/circulars/index.html> .

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## Fees framework for members appointed to bodies in which the Crown has an interest

- 1 The Cabinet Fees Framework (the Framework) should be used:
  - *before* an appointment is submitted to the Cabinet Appointments and Honours Committee (APH);
  - when a new body or committee is being established;
  - if there is a proposed significant change in board duties;
  - when the classification of the body or the current fees are being reviewed;
  - for guidance about the administration of fee and other reimbursement payments for bodies covered by the Framework.
- 2 The purpose of the Framework is to provide a basis for judgement in setting fees that will:
  - ensure a consistent approach to remuneration across all statutory and other Crown bodies;
  - contain expenditure of public funds within reasonable limits;
  - provide flexibility within clear criteria.
- 3 The Framework enables fees to be determined by Ministers and other fee-setting authorities who are most familiar with the work of particular bodies. It provides for:
  - responsibility for setting fees for statutory and other bodies in which the Crown has an interest, within clearly defined parameters, to rest with responsible Ministers or another fee-setting authority;
  - a system for the classification of bodies for fee-setting or reviewing purposes (section D);
  - a process for proposing fees outside the Framework (section E);
  - an outline of administrative principles to be followed in applying the Framework (sections C and G);
  - a range of fee levels for each category of body (section D).
- 4 Please refer to section B for a summary flow chart of the process for setting or reviewing fees.

## Section A

### Coverage by the framework

#### Bodies covered by the framework

- 5 The Framework should be used for setting fees for all statutory or other bodies and committees in which the Crown has an interest, and in particular for bodies with responsible Ministers that are outside the Remuneration Authority's or other fee setting bodies' jurisdiction (subject to paragraphs 11 and 12). This includes Crown Agents, Autonomous Crown Entities (ACEs), District Health Boards, Tertiary Education Institutions and some subsidiary bodies, trust boards, statutory tribunals and authorities, advisory bodies and committees set up to advise Ministers and departments, (and Ministerial Inquiries and taskforces). It also applies to appointments of individuals as statutory bodies or to other advisory posts, including tribunals and lay members of courts. Consultation with the Minister of State Services should take place on a case-by-case basis about fees when Trans-Tasman bodies are established.
- 6 Establishment by statute is not the only criterion for coverage by the Framework, nor is it a necessary requirement that there be a responsible Minister. It should also be noted that the Framework covers bodies which are self-funded where a responsible Minister appoints some or all of the members. The Minister should apply the Framework in circumstances where the board has the responsibility for setting fees and the Minister approves them. If there is any doubt about coverage or classification under the Framework, please contact the State Services Commission (SSC) for advice.

#### Exclusions

##### Consultancies

- 7 The Framework does not cover individual consultancies that would fall outside any of the categories listed in Section D, paragraph 77. Such individual consultancies involve contractors appointed by a body in which the Crown has an interest under a contract for services for a specific project, usually within a specified timeframe. A consultant is not a member of a body that engages him or her, and has no ownership or governance role.
- 8 In general, the distinction between a consultancy and a body covered by the Framework will be clear. It is possible, however, that in some cases there may be a judgement involved between using a consultancy on the one hand, or using a body referred to under paragraph 77, Group 4 (All Other Committees and Bodies), notably an advisory committee.
- 9 Where departments are unclear about whether an advisory committee or other Group 4 body would be more appropriate than a consultancy, particularly in cases of high public profile, they are encouraged to contact the SSC for advice in the first instance and then refer the issue to the responsible Minister and Minister of State Services. Where a Group 4 body is appointed, its remuneration would be set under the Framework.
- 10 Refer to paragraph 118 regarding payments to body members where it is proposed that they receive payments as consultants to the same body.

## Other exclusions

- 11 The Framework is not used for bodies where the fees are set by the Remuneration Authority; for School Boards of Trustees, or for local authorities, where the fees are set using a separate mechanism.
- 12 Fees for directors of Crown entity companies and State Owned Enterprises, are subject to separate guidance from the Crown Company Monitoring Advisory Unit.

## Summary

- 13 A summary of bodies covered and not covered by the Framework is outlined below:

<b>Type of bodies covered by the framework</b>	<b>Type of bodies not covered by the framework</b>
<p>All statutory bodies, non-statutory bodies and committees in which the Crown has an interest:</p> <ul style="list-style-type: none"> <li>• Most Crown entities including Crown Agents, ACEs and Tertiary Education Institutions</li> <li>• Trust boards</li> <li>• Bodies and committees set up to advise, departments, Crown entities, and Ministers (including Ministerial inquiries and taskforces)</li> <li>• Royal Commissions and Commissions of Inquiry</li> <li>• Statutory Tribunals and Authorities</li> <li>• Individuals appointed as statutory bodies that are not covered by Remuneration Authority</li> <li>• Subsidiary bodies of statutory entities</li> </ul>	<ul style="list-style-type: none"> <li>• Those Crown entities whose fees and allowances are specifically exempted through legislation</li> <li>• Crown bodies (including ICEs) with fees set by the Remuneration Authority</li> <li>• School Boards of Trustees</li> <li>• Individual consultancies</li> <li>• Local authorities (where fees are set using a separate mechanism)</li> <li>• Crown entity companies (including Crown Research Institutes) and their subsidiaries</li> <li>• State Owned Enterprises and their subsidiaries</li> </ul>

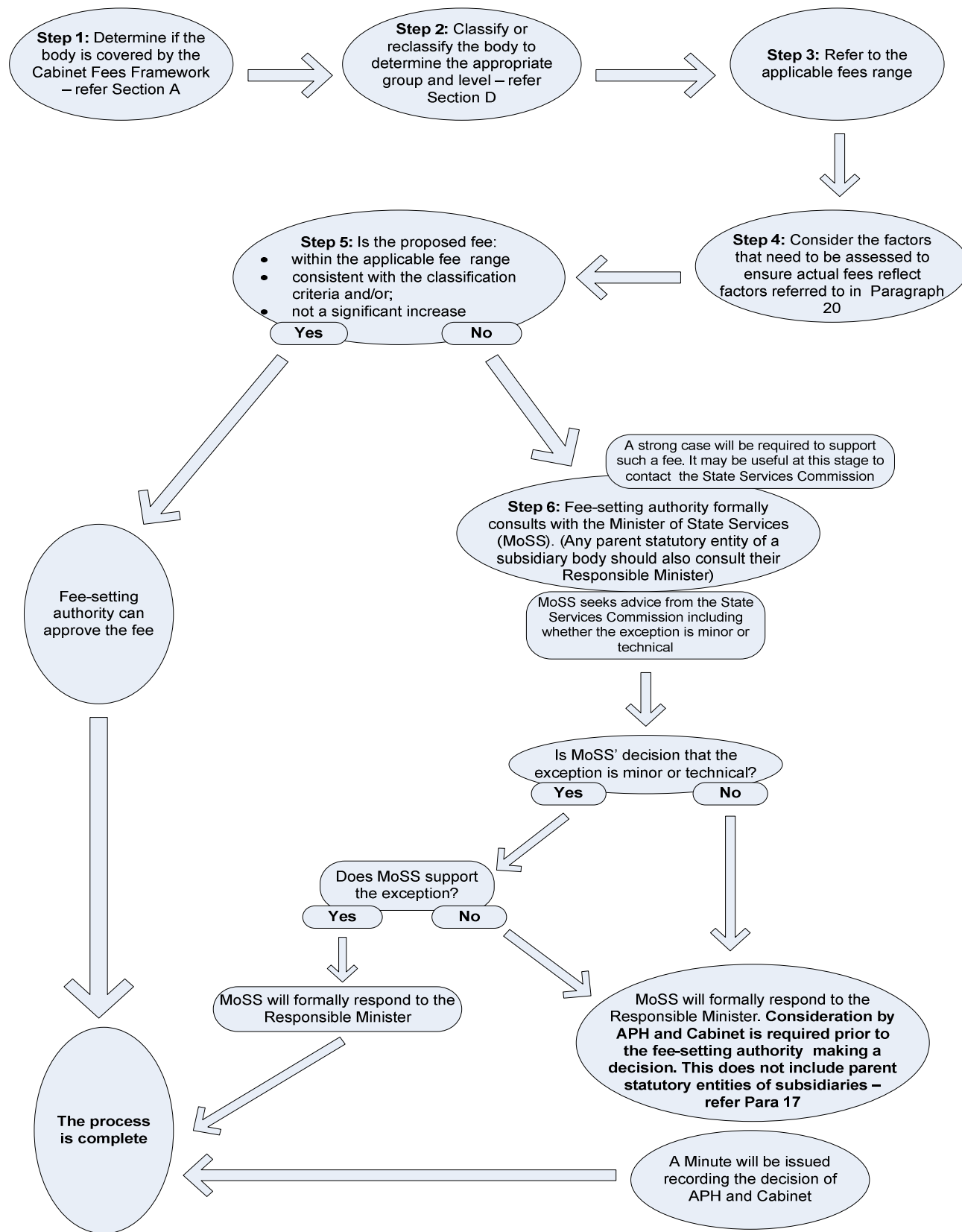
## Section B

### Process for setting or reviewing fees

- 14 The steps to be taken in order to set or review fees under the Framework are:
- Determine whether the body is covered by the Framework (see section A).
  - Decide or re-assess which group the body fits into (see section D).
  - Determine which level within the group is most appropriate by “scoring” the body according to the factors listed (see section D).
  - Decide on the appropriate fee (see section D) referring particularly to paragraph 20 regarding factors to be considered in setting fees.
  - The fee setting authority approves the fee within the applicable framework fee range (note section F regarding reviewing fees), and within other guidance contained in the Framework. Otherwise an exception must be sought. Please refer to section E for guidance on setting fees outside the Framework.

It is strongly recommended that when existing fees are being reviewed, the above steps be undertaken to re-assess the classification and level of the body.

The following flow chart summarises the process to use when setting or reviewing fees. Other sections of the Framework should be read *in addition* to the summary chart as they provide more detailed advice about the process the fee setting authority should follow when setting or reviewing fees:



## Section C

### Guidance about fees

#### Who sets the fees

- 15 Responsible Ministers set fees within the applicable framework range. (Refer also to section E regarding Ministers' roles in setting fees outside the parameters of the Framework and section F regarding reviewing fees.)
- 16 For Tertiary Education Institutions, the responsible Minister sets the maximum fee for each institution or group of institutions within the range that applies to the classification. The individual institutions then set the fees for their Council members up to the Minister's prescribed limit.
- 17 For members of subsidiary bodies of statutory entities, (i.e. of Crown Agents, ACEs, Independent Crown Entities [ICEs]) the board of the parent entity sets the fees within the applicable framework range. Exceptions to the Framework (see Section E) for subsidiary bodies require *prior* consultation with the parent entity's responsible Minister, and the Minister of State Services (with advice from the SSC). It is advisable to discuss proposed exceptional fees with the SSC in the first instance.
- 18 The default process for bodies for which there is no responsible Minister under legislation (e.g. some trusts or bodies where departments set fees) is that the fee-setting authority should apply the Framework in order to determine the fee. If the proposed fee is outside the parameters of the Framework, it must be treated as an exception under the Framework (see section E).
- 19 For those bodies covered by the Fees and Travelling Allowances Act 1951, the Minister of State Services has delegated responsibility for setting fees within this Framework to Ministers responsible for the particular appointments and/or setting the remuneration levels. If the proposed fee is outside the parameters of the Framework, the agreement of the Minister of State Services is required, and the matter may need to be considered by APH and Cabinet (see section E).

#### Factors to be considered in setting or reviewing fees

- 20 Ministers, departments or other fee setting authorities should refer to section D to classify the body under the Framework and then ensure the actual fees reflect:
  - the complexity of the functions and the expertise required;
  - recruitment and retention issues;
  - the extent to which an individual member needs to insure against personal liability;
  - the potential risk to reputation;
  - the degree to which the role is in the public eye;

- affordability;
- period since the fees were last reviewed;

balanced by an element of public service and community commitment, the personal contribution and recognition of the intangible benefits to the member.

- 21 Fees will continue to be set on a fair but conservative basis to reflect a discount for the element of public service involved.
- 22 Where the fee is paid as an annual rate, it should also reflect the time involved (see paragraph 28).
- 23 Members occupying identical positions on the same body should be paid the same fee rate. The fee rate is varied only to reflect additional responsibility such as chairpersons (and deputies and the chair of a substantial sub-committee where appropriate) who may receive an extra margin for additional responsibilities that go with the role.
- 24 In cases where it is necessary to secure people with scarce specialist skills, consideration may be given to paying a fee higher than the applicable range. Please refer to section E.
- 25 It is possible to pay fees which are below the range, provided they reflect the factors noted in paragraph 20.

### **Payment basis**

- 26 There are two approaches to expressing fee levels - annual rates, and daily rates. Any other variations, including fees for full time roles, are regarded as exceptions to the Framework and require prior consultation at Ministerial level (see section E).

### **Annual rate**

- 27 For Group 3 bodies, the fee is usually expressed as an annual rate. This is consistent with the approach taken in the private sector and is most appropriate where the workload is predictable and/or substantial.
- 28 The annual fee is set on the following assumptions:
- the work is such that the chair and members are required on a part-time basis<sup>1</sup>;
  - for General Governance Boards, the assumed annual workload for meetings and other responsibilities associated with the role is that:
    - a member works around 30 days a year, which is in line with the amount of time spent by board directors in private sector companies;
    - chairs have a higher workload than members, with the assumption that a chair works around 50 days per year. Therefore the fee for chairs is set at twice the rate of the members to take account of both the differences in responsibility and in workload;

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<sup>1</sup> For those situations where a greater workload is expected, please seek advice from the State Services Commission.

Where it is anticipated that a chair or members will have a lesser workload than above, it is expected that this be reflected in the fee level;

- for District Health Boards, the workload is around 60 days a year for members and 100 days a year for chairs;
- for Tertiary Education Institutions, the workload is around 50 days a year for chairs (the time input for members varies considerably and a daily rate is therefore most appropriate);
- the workload expectation covers all authorised work undertaken by members including subcommittee work, and preparation time. This excludes work for the three District Health Board statutory advisory committees established under sections 34, 35, and 36 of the New Zealand Public Health and Disability Act 2000 (see paragraph 93 regarding fees that apply to these three committees).

- 29 Where significant additional work is required, it may be appropriate to negotiate additional payments.
- 30 ***Payment for additional work should be agreed by the fee-setting authority before*** the work is undertaken. The key objectives for the additional work must be clearly specified, and evaluated on completion. A higher annual rate for a fixed period, and based on defined goals, may also be appropriate where chairs are required to undertake significant additional work (for example, where they are required to guide the reorientation or restructuring of a Crown entity, or where the situation of a Crown entity requires the chair to act more in the nature of an executive director). However, such additional work should otherwise relate to the governance role of the board, and should not cover activities that are more properly within the role of management.
- 31 The fee-setting authority is required to consult with the Minister of State Services ***before*** committing to payments for additional work and is responsible for monitoring progress against the negotiated objectives.
- 32 For members of Group 3d subsidiary bodies of statutory entities (i.e. of Crown Agents, ACEs, and ICEs) who receive an annual fee, there is no assumed annual workload specified for the members. Time is one of the factors to be considered by the parent entity when setting the fees, with reference to paragraph 20, factors to be considered.
- 33 Where it is possible to predict the workload of bodies other than governance boards, the annual fee should be calculated by multiplying the daily rate by the number of days that will be worked during the year. Proposals for an annual fee for a group 1, 2 or 4 body should be treated as a technical exception, and referred to the responsible Minister and Minister of State Services. In making submissions to Ministers or reporting to the SSC, it will be necessary to specify the annual fee if this has been agreed, and provide the daily rate on which the proposal is based, and the number of days that will be worked per annum.

**Daily rate**

- 34 For Group 1, 2 and 4 bodies, fee levels are generally expressed as a daily rate, as this works best for those bodies that have an unpredictable workload.
- 35 For governance boards that pay a daily rate due to an unpredictable workload, the maximum annual rate provided in the range that applies to the classification must not be exceeded unless an exception to the Framework is sought.
- 36 It is expected that a working day is about 8 hours, and the daily fee is calculated on this basis. Work for longer than 8 hours in one day must not attract an extra payment.
- 37 Hourly pro-rata rates should be calculated by dividing the daily rate by 8 and multiplying by the number of hours worked.
- 38 The daily fee applies to all work, including that performed outside of meetings (e.g. preparation, representing the board at other forums, or administrative work) that is required for the body to carry out its role. All work that is required to be performed for the body by the member should be paid at the approved daily rate.
- 39 Where a total of 6 hours is worked in one day, a daily fee *may* be paid. It is accepted that it *may* not be possible for a member having worked 6 hours in one day on body business to return to other paid work. Where a member spends time, for example one evening, preparing for a meeting the next day, if the preparation and meeting time combined were between 6 and 8 hours, then one daily fee would be paid for the combined preparation and meeting time.
- 40 Work other than preparation for meetings/sittings must be approved and minuted by the body *before* it is undertaken. Individual members should not be in a position where they could be considered to be setting their own work programmes without the endorsement of the body.

**Other fee payment methods/other types of payments**

- 41 Other fee payment methods such as a base honorarium and/or a fee for additional services, or Crown bodies setting their own fees from a total pool, are regarded as exceptions to the Framework. If such fee payment methods are proposed, refer to section E. Early discussion with SSC is recommended.
- 42 Where a member is a self-employed professional, locum fees are not to be paid unless an exception has been approved. The self-employed professional receives payment for body business only and reimbursement of travel expenses where relevant to body business. Additional payments are not provided to pay for the use of a locum or the business overheads since the body is not responsible for funding members' own business costs. Issues such as the potential loss of income and maintenance of a professional practice (including business overheads) need to be considered by the individual prior to accepting appointment to a body.
- 43 Payment of compensation or any benefit for loss of office must not take place.

- 44 Ex gratia payments and other benefits or rewards, in addition to fees must not be paid to members of statutory boards, subsidiary bodies of statutory entities, statutory tribunals, authorities other Crown bodies or committees.

### **Rates for sub-committees**

- 45 Depending on its enabling legislation, a body may set up a sub-committee or sub-committees to carry out part of the body's business. (For Office of the Auditor-General advice on audit committees, please refer to [www.oag.govt.nz/2008/audit-committees](http://www.oag.govt.nz/2008/audit-committees) )
- 46 Members who receive an annual fee for membership do not receive any additional payment for membership of sub-committees. The only exception is that members of the three District Health Board statutory advisory committees established under sections 34, 35, and 36 of the New Zealand Public Health and Disability Act 2000 receive an additional fee as provided for in section E (see paragraph 93).
- 47 Members who receive a daily fee can receive payment for additional days spent on sub-committee work. If the sub-committee has been set up to consider an issue and report to the main body, then a lesser daily fee may be appropriate. Sub-committees must be properly constituted under the authorising legislation or terms of reference for the body before a meeting fee is paid.

### **Independent members of sub-committees**

- 48 Independent members of sub-committees may be paid *up to* a maximum of the daily equivalent of the full member fee, depending on the assessment by the main body of the skills required for the independent sub-committee member/s to perform their role. The daily fee for bodies whose members are paid an annual fee should be calculated by dividing the annual fee by the appropriate number of days worked, e.g. 30 for a general governance board (refer to paragraph 28 regarding assumption about workload for members paid an annual fee). The total annual fee paid to an independent member of a sub-committee should not exceed 50% of the total annual fee paid to a member of the main body. Any proposal to pay higher daily fees or total annual fees outside this guidance should be treated as an exception (see section E).

### **Rates for deputy chairs and sub-committee chairs**

- 49 Where the legislation provides for the appointment of a deputy chair and/or where the work of the body is such that the appointment of a deputy chair is required due to the complex nature or size of the responsibilities, then a fee additional to the member's rate may be paid to the deputy chair.
- 50 The fee for the responsibilities of a deputy chair is an additional 25% of the members' rate. This is consistent with the rates paid to deputy chairs in Crown companies and in the private sector.
- 51 Where there is no deputy appointed, and a member is required to chair a meeting, then the member should be paid a daily rate equivalent to that of the chair.

- 52 Where an annual fee is paid, it is usual practice for the chair, and the deputy chair, where one is appointed, to have responsibility for chairing one or more sub-committees. No additional fee is payable to the chair and deputy chair for chairing sub-committees. Where there are sub-committees that are not chaired by either the chair or deputy chair, then an additional 10% of the member's rate may be paid to one other member with responsibility for chairing a sub-committee. This does not apply to the three District Health Board statutory advisory committees because additional fees are paid to members of those committees (paragraphs 28 and 93 refer). Any case for further additional payments for chairing sub-committees must be treated as an exception to the Framework (see section E).

### **One person committees**

- 53 Where an individual member constitutes a committee and there are decision-making or recommendatory powers, that member should receive the rate applicable to the chair of a body at that level.

### **Payments to public servants/State servants/employees of Crown bodies appointed to bodies**

- 54 Public servants are not generally appointed to statutory boards and other public bodies, although Cabinet has recognised that there may be circumstances in which such appointments, properly managed, can be justified. Cabinet Office Circular CO (02) 5 provides advice about the appointment of Public Servants to statutory boards.
- 55 The following paragraphs provide advice about the payment of fees to public servants, state servants and employees of Crown bodies in the special circumstances where they are appointed to a Crown body. They may be appointed in their own right, they may be ex officio (someone who has a right because of an office held) or they may be otherwise appointed as representatives of their department.
- 56 An underlying principle is that public and state servants and employees of Crown bodies are able to do their primary job unhindered and without detriment to the public interest. They must not be double-paid for their job and their appointment to a Crown body.

### **Public servants/State servants as ex officio members of bodies**

- 57 Public Servants may be appointed to statutory bodies in an ex officio capacity. Cabinet has agreed, however, that as a general policy, public servants will not be appointed as ex officio members of Crown entity boards.
- 58 Where any such exceptional appointments are permitted by a body's enabling Act, the representative continues to receive his/her ordinary pay (or may represent the department or Crown body on a voluntary basis), and is not paid a daily or annualised fee for participating. Where there are out of pocket expenses such as airfares or accommodation, these should be reimbursed on the same basis as for other members of the board. Public and state servants must not profit financially from their involvement as an ex officio member of a board.

**Public servants/State servants/employees of Crown bodies appointed in their own right**

- 59 If a person is an employee of a government department or Crown body, and is to be appointed to a body in his/her own right, the employee must obtain the agreement of his/her employer before accepting the appointment. Such appointments are treated like secondary employment. Please refer to the explanation about Trustworthy State Servants in the Code of Conduct Guidance material, “Understanding the Code of Conduct – Guidance for State Servants”. This is to ensure there is no conflict of interest and that financial and leave arrangements can be considered. Reference should also be made to the employment agreement of the individual and any specific provisions in this covering such appointments and the payment arrangements.
- 60 If agreement is given by the employer, it will be necessary to decide whether the person will undertake the involvement in his/her own time (for example taking annual leave or leave without pay) or in the employer’s time. A public servant/state servant/employee of a Crown body must not retain both the fee and his/her ordinary pay where the duties of the outside organisation are undertaken during ordinary department or Crown body working hours.
- 61 Any reimbursement of expenses incurred in participation in a body is the responsibility of the body and should be paid to the member.
- 62 Full-time, salaried judges who are appointed to bodies covered by the Framework, and who continue to receive their usual salary should not receive an additional fee.

**Payment for time spent in travel to meetings/sittings or on board business (daily fees only)**

- 63 Members are not paid for time spent in travel to and from meetings or on body business, except in instances where a daily fee is paid and the member has to travel for more than a total of three hours in the course of a normal business day. The purpose of paying for travel time that is greater than three hours is to compensate for lost income during the business day. For example a member may spend several hours at a meeting but in doing so spends all day away from normal business activity due to time spent in travel.
- 64 In extreme circumstances where considerable time is involved in travel, this can be recognised by the chair, with the agreement of the servicing/accountable organisation. In these cases (and particularly where air travel is involved) the preparation and travelling time need to be considered together for payment purposes.
- 65 In considering payments for travelling time, the chair and servicing department need to consider issues of equity, the government’s intention for geographical representation, and ensure that attendance at meetings does not result in undue personal hardship.

## Childcare expenses

- 66 Under exceptional circumstances a contribution may be made to childcare expenses with the agreement of the chair (or another member if the chair is claiming expenses) and the servicing department. However it is generally expected that the daily fee paid is adequate to meet out of pocket expenses of individual members as well as reimbursing them for their time spent. An example where a contribution to childcare expenses may be made is where an additional meeting is called at short notice (e.g. less than 48 hours). In determining whether payment is warranted, consideration should be given to issues of equity and ensuring that attendance at meetings does not result in undue personal hardship.

## Payment of a fee for a cancelled meeting/sitting

- 67 Where a meeting or other activity of a statutory or other body is cancelled or takes fewer days than planned, in exceptional cases payment of the fee to certain members may be approved.
- 68 Each case would need to be considered on its merits and this should only occur where:
- the cancellation was unforeseeable;
  - the member was unable to reschedule other work to take advantage of the time made available;
  - the member suffered real loss of income as a result of the cancellation.
- 69 An affected member would need to make a case to the body on each separate occasion. Payment should not be approved if it is believed the member had not tried to reschedule other work. Partial payment might be appropriate if rescheduled appointment fees do not fully compensate a member for the lost fee from the meeting.
- 70 If appropriate and the body did, on application from a member for a specific instance, resolve to pay the fee for part or all of the time a meeting was cancelled by, that resolution would need to be noted in the minutes.

## Absence

- 71 Where an individual receives an annual fee and is absent from body business for a period of greater than two months, then the annualised fee should be pro-rated to take account of this absence (e.g. an absence of 2 months would result in payment of 10/12 of the annual fee). Where there are frequent absences over the period of a year, the annual fee should also be pro-rated to take account of those absences.
- 72 Where a member fails to attend a significant number of meetings, or otherwise perform the duties as a member, the chair needs to raise the issue of expectations about performance with the member and if necessary with the responsible Minister. Consideration should be given at the time of reappointment of members to the issue of continued absences from body business.

## Reimbursing allowances

- 73 Members travelling to meetings, or on the business of the Crown body (where the members are required to be away from their normal places of residence) are entitled to reimbursement of out of pocket travelling, meal and accommodation expenses actually and reasonably incurred. The expectation is that standards of travel, accommodation, meals and other expenses are modest and appropriate to reflect public sector norms.
- 74 Standard meal, incidental and private stay allowances that apply across the public sector have been abolished, except for bodies under the Fees and Travelling Allowances Act 1951. Departments now set their own rates.
- 75 The rate of reimbursing allowance to be paid to members is to be on the same basis as that paid to the employees of the servicing department. Generally this is on an actual and reasonable basis and receipts are required.
- 76 Where the departmental rate is not appropriate, the allowances, including motor vehicle expenses, are to be reimbursed at the rates outlined in Annex 1.

## Section D

### Classification of bodies and fee scales

- 77 The Framework provides for the classification of bodies into one of the following groups:
- Group 1: Royal Commissions, Commissions of Inquiry and Ministerial Inquiries
  - Group 2: Statutory Tribunals and Authorities
  - Group 3: Governance Boards:
    - Group 3a: General Governance Boards
    - Group 3b: District Health Boards
    - Group 3c: Tertiary Education Institution Councils
    - Group 3d: Subsidiary bodies of statutory entities (i.e. of Crown Agents, ACEs, ICEs)
  - Group 4: All other committees and other bodies.
- 78 Cabinet has agreed to a schedule of fees for all categories that reflects the nature of their business environment and the role requirements.
- 79 Once a decision has been made on which group the organisation best fits into, establish the level within the group (see classification process below for each group), and then find the fee range for that level in the appropriate table. A decision is then required on what amount, within (or below) the ranges provided, is most appropriate. Section C, particularly paragraph 20, provides guidance on how to make these decisions. Further assistance is available from the SSC, if necessary.
- 80 Refer to section E if the proposed fee is above the ranges provided, or an alternative method of payment is proposed.

#### Group 1: Royal Commissions, Commissions of Inquiry and Ministerial Inquiries

- 81 Royal Commissions, Commissions of Inquiry and Ministerial Inquiries are time-limited bodies established to inquire into and report on specific matters. Royal Commissions, and Commissions of Inquiry are generally chaired by a judge or a retired judge.

The key distinction between a Royal Commission and Commission of Inquiry lies in the form of the instrument of appointment and the nature of the authority under which it is established:

- Royal Commissions are appointed by the Governor-General, pursuant to the Letters Patent 1983. Royal Commissions are, therefore, generally regarded as having greater prestige and standing than Commissions of Inquiry appointed under the Commissions of Inquiry Act 1908 alone. A Royal Commission is generally appointed when the subject matter to be investigated is one of particular public importance.

- Commissions of Inquiry are established by the Governor-General by order in Council pursuant to the Commissions of Inquiry Act 1908.

Ministerial Inquiries are non-statutory inquiries established by a Minister. The Prime Minister's agreement must be sought on all matters to do with the establishment of a Ministerial Inquiry.

If a Royal Commission, Commission of Inquiry or Ministerial Inquiry is proposed, the SSC should be contacted for advice about the proposed fee, prior to the appointment being considered by APH and Cabinet. All fees for Royal Commissions, Commissions of Inquiry and Ministerial Inquiries must be referred to the Minister of State Services for consideration as an exception.

## Group 2: Statutory Tribunals and Authorities

**Factors – choose one score from each of the following categories.**

### 82 Expertise required

Skills, knowledge and experience may vary between members on a particular tribunal. The score below should reflect the level of skill *required by the majority* of members, and should not be based on any particular individual. This factor has a higher weighting than others, to reflect that it is the *application* of the skills, knowledge and experience in carrying out their responsibilities that is a major contributor to the successful operation of the tribunal or authority.

If a member is a sole member, the Chair fee range may be used, but in setting the actual fee level, the factors to be considered in setting or reviewing fees (paragraph 20) should be taken into account.

<b>Expertise required</b>	<b>Score</b>
Expert and highly regarded in a particular field or discipline.	9
Senior Professional providing expertise in a particular field or discipline.	7
Broad general or professional experience. May include community leadership.	5

### 83 Complexity

This dimension measures the problems typically faced by the Tribunal and the mental processes required to arrive at the solution.

<b>Complexity</b>	<b>Score</b>
Very complex issues with no past decisions for guidance. Each situation will be significantly different to others and the solution required is often unique. Decisions may affect the application of multiple statutes.	5
Some issues will be very complex with few previous decisions for guidance. Decisions will usually be limited to a single statute but may involve the application of international conventions and covenants.	4

Complex issues requiring analysis and consideration of potential alternative solutions. While each case will be treated on its merits there will often be previous decisions for guidance.	3
Some issues will be complex requiring analysis and careful judgement but other issues will be straightforward and may be resolved quickly through consistent application of established decisions.	2
Situations require consideration and judgement, but usually under one statute and established guidelines.	1

84 **Decision making**

<b>Decision making</b>	<b>Score</b>
Prime function is as an appellate body. Decisions will usually be published. May have the power to fine, award costs etc.	5
Prime function is as a determining body. Decisions will be usually be published. No penalty provisions. Judicial review of decisions may exist.	4
Power to make decisions – appeal processes available. Has power to fine, award costs etc.	3
Power to make decisions – appeal processes available. No penalty or fining authority.	2
Recommendatory powers only.	1

85 **Impact of decisions**

<b>Impact of decisions</b>	<b>Score</b>
An immediate impact on groups of people or sector/s of society.	5
An immediate, critical impact on an individual or small number of people.	4
Decisions have an immediate, but not critical effect on a small number of individuals or a single Corporate entity.	3
Decisions have a longer term impact on groups of people or sector/s of society.	2
Decisions affect internal policies within a Department/Ministry.	1

86 **Public profile**

<b>Public profile</b>	<b>Score</b>
High profile; broad public interest and scrutiny likely. May involve challenging status of legislation. Potential impact on New Zealand's international reputation.	5
Moderate profile; strong interest likely from large sectors of the public. Decisions of the Tribunal may have a major effect on the supervising Government Department.	4
Medium profile; public interest likely to be localised to area, sector or discipline.	3

Limited profile; usually non- controversial determinations but of interest to small pressure groups.	2
Low profile; generally non-controversial findings or recommendations.	1

**Add the scores for each factor together to give a total score. Then refer to the table below for the ranges of fees payable for Group 2 bodies.**

#### Group 2 bodies - daily fees:

Total score	Level	Fees range - chair	Fees range - members
26-29	1	\$640 - \$800	\$410 - \$510
22-25	2	\$580 - \$730	\$380 - \$475
17-21	3	\$530 - \$660	\$340 - \$430
13-16	4	\$450 - \$540	\$290 - \$350
12 or less	5	\$340 - \$490	\$270 - \$320

#### Group 3: governance boards

- 87 These are boards that are primarily responsible for the governance of a Crown body or organisation (most Crown entities fall into this category).
- 88 Governance boards have responsibility for the strategic direction of the organisation, the determination of business objectives and formulation of policies to achieve these, and funding policy. A large number will also have the task to recruit, appoint and monitor the Chief Executive. Where the board is overseeing an interest owned by the Crown, the board is usually the link between the shareholder/owner (the Crown) and management, and its members are either appointed by a Minister/the government or the Governor-General. In some cases, boards have elected members, or members appointed by stakeholders other than the Minister. The organisation the board is overseeing may or may not be a company.
- 89 A number of trusts also fit into this category.

#### Group 3a: general governance boards

**Factors - choose one score from each of the following categories (noting paragraph 87).**

##### 90 Size

Select *either* the appropriate budget/turnover *or* asset magnitude figure that best represents the size of the organisation. Lower weighting is given for asset management than budget controlled as assets have been accumulated over time, are retained by the organisation and the Board's responsibility is the safe guardianship and the most effective and sustainable deployment of assets. Budgets on the other hand are expended over a twelve month period and the Board's accountability for this spend, or revenue earned is more direct.

Please note that funding disbursements and purchases on behalf of the Crown are treated in the same manner as operating budgets.

<b>Budget/turnover</b>	<b>Assets</b>	<b>Score</b>
\$0-\$10m	\$0-\$100m	2
\$10m-\$50m	\$100m-\$500m	4
\$50m-\$100m	\$500m-\$1.0b	6
\$100m-\$300m	\$1.0b-\$3b	8
\$300m-\$600m	\$3b-\$6b	10
\$600m-\$1.2b	\$6b-\$12b	12
\$1.2b+	\$12b+	14

## 91 **Business complexity/functionality**

Select the prime function and then consider and assess the complexity of the prime function in accordance with the following tables. Where the organisation clearly has *more than one prime function* and the board is actively involved in decisions relating to both functions, the scores of the two functions may be added, but consultation with the SSC is required.

<b>Option</b>	<b>Prime Function</b>
<b>Devolved Purchaser</b>	An entity that specialises in making purchase decisions on behalf of the Crown. There will almost certainly be a contractual relationship between the entity and the provider of services.
<b>Funding Disbursement</b>	An entity established to distribute grants or funding.
<b>Investment and Management of Funds</b>	An entity involved in the investment and management of funds on behalf of the Crown or for beneficiaries.
<b>Advisory to Crown</b>	An entity advisory to the Crown at a significant level.
<b>Regulatory</b>	The entity will exercise regulatory and/or quasi-judicial power in an independent and objective manner.
<b>Provider of Services and Environment</b>	An entity established to provide services. The level of competition for the services will vary, and there may be limits on competition prescribed by statute or otherwise.
<b>Holder of Ownership Interest</b>	The holder of the Crown's ownership interest.
<b>Social Influence</b>	The entity is established to improve a social outcome or outcomes through encouraging behaviour change (e.g. healthy lifestyle choices) by promotion of activities and increasing public awareness.

<b>Devolved purchaser</b>	
<b>Prime function</b>	<b>Score</b>
Devolved purchaser of goods and services (\$10b+)	5
Devolved purchaser (\$1b-\$10b)	4
Devolved purchaser (\$100m-\$1b)	3
Devolved purchaser (\$20m-\$100m)	2
Devolved purchaser (under \$20m)	1

**OR:**

<b>Funding disbursement</b>	
<b>Prime function</b>	<b>Score</b>
Funding disbursement (\$10b+)	5
Funding disbursement (\$1b-\$10b)	4
Funding disbursement (\$100m-\$1b)	3
Funding disbursement (\$20m-\$100m)	2
Funding disbursement (under \$20m)	1

**OR:**

<b>Investment and management of funds</b>	
<b>Prime function</b>	<b>Score</b>
Investment management of funds (over \$5b)	5
Investment management of funds (over \$1b)	4
Investment management of funds (over \$500m)	3
Investment management of funds (over \$100m)	2
Investment management of funds (under \$100m)	1

**OR:**

<b>Advisory to Crown</b>	
<b>Prime function</b>	<b>Score</b>
Critical level with a comprehensive effect on most/all aspects of government activity, strategy and New Zealand society	5
Significant level with a widespread impact across many aspects of government activity, planning and strategy	4
Important level with generalised impact across major sectors	3
Generalised impact across several sectors	2
Local or single sector impact	1

OR:

<b>Regulatory</b>	
<b>Prime function</b>	<b>Score</b>
National safety regulatory function for a commercial trading environment where significant international dimensions can impact on operating capability	5
National safety regulatory function for a commercial trading environment	4
National safety regulatory function for a non-commercial trading environment	3
Regulatory	2
Minor regulations required	1

OR:

<b>Provider of services and environment</b>	
<b>Prime function</b>	<b>Score</b>
The lead provider of services in a commercial trading environment, where market leadership is important	5
A provider of services in a commercial trading environment	4
The major provider of services where there is limited competition	3
A provider of services where there is limited competition	2
Provider of services (not in a competitive environment or protected by statute)	1

OR:

<b>Holder of ownership interest</b>	
<b>Prime function</b>	<b>Score</b>
The holder of the Crown's ownership interest	1

OR:

<b>Social influence</b>	
<b>Prime function</b>	<b>Score</b>
Promote behaviour change and increase public awareness for all or most of the population, <b>and</b> have a measurable, beneficial, influence on a substantial segment of the population	5
Promote behaviour change and increase public awareness for all or most of the population, <b>or</b> have a significant influence on a more limited but still substantial segment of the population	4
Promote behaviour change and increase public awareness in a substantial segment of the population, <b>and</b> have a significant influence on a limited segment of the population	3

Promote behaviour change and increase public awareness in a substantial segment of the population	2
Promote behaviour change and increase public awareness in a limited segment of the population	1

**Add the scores for “size” and one (unless you have consulted the SSC about having more than one prime function) “business complexity/functionality” factor together to give a total score. Then refer to the guidance in section C and the table below for ranges of fees payable for Group 3a bodies.**

**Group 3a bodies - annual fees:**

<b>Total score</b>	<b>Level</b>	<b>Fees range - chair</b>	<b>Fees range - members</b>
22-24	1	\$34,000–\$68,000	\$17,000–\$34,000
15-19	2	\$29,000–\$56,000	\$14,500–\$28,000
11-14	3	\$26,000–\$42,000	\$13,000–\$21,000
7-10	4	\$24,000–\$32,000	\$12,000–\$16,000
6 or less	5	\$12,000–\$24,000	\$6,000–\$12,000

### Group 3b: District Health Boards

- 92 The District Health Boards are classified into four levels to give a fair differentiation for fees purposes taking into account the overall factors relevant to the size of the board members' responsibility:

<b>Level One</b>	Auckland
	Canterbury
	Capital and Coast
	Counties Manukau
	Waikato
	Waitemata

<b>Level Two</b>	Bay of Plenty
	MidCentral
	Otago

<b>Level Three</b>	Hawke's Bay
	Hutt
	Lakes
	Nelson Marlborough
	Northland
	Southland
	Taranaki

<b>Level Four</b>	South Canterbury
	Tairāwhiti
	Wairarapa
	Whanganui
	West Coast

**See the table below for the ranges of fees payable for Group 3b bodies.**

#### Group 3b bodies - annual fees:

Level	Chair	Member
1	\$39,000-\$54,500	\$19,500-\$27,200
2	\$33,000-\$50,000	\$16,500-\$25,000
3	\$32,000-\$43,000	\$16,000-\$21,600
4	\$30,000-\$37,400	\$15,000-\$18,700

#### District Health Boards statutory committees

- 93 An additional \$2,500 a year is paid to each member of the three statutory DHB committees: Community and Public Health Advisory Committee, Hospital Advisory Committee and Disability Support Advisory Committee. If a member attends less than 10 meetings per annum, the fee is pro-rated.

The fee for the chair of each of these committees is \$3,125 a year.

### Group 3c: Tertiary Education Institutions

- 94 Tertiary Education Institutions (TEIs) are NOT strictly categorised on the basis of turnover, assets etc. Rather, TEIs require a similar consistent type of skills, have similar recruitment and retention issues and have similar complexity not necessarily related to “size”.
- 95 Nevertheless, the various factors affecting governance of TEIs indicate that income (as noted in the institution’s annual report) can be used to determine two separate groups:
- those TEIs having income of \$60 million or more per annum;
  - those TEIs having income less than \$60 million per annum.

**See the table below for the ranges of fees payable for Group 3c bodies.**

- 96 Tertiary Education Institution councils set the fees for the chair and members up to the maximum levels approved by the responsible Minister. As with other bodies, the responsible Minister sets the fee within the range for each institution or group of institutions.

#### Group 3c bodies - annual fees:

Level	Chair	Member
1	\$18,000-\$31,700 per annum	\$240-\$410 per day (up to a maximum of 45 days per annum)
2	\$15,000-\$27,220 per annum	\$210-\$320 per day (up to a maximum of 45 days per annum)

### Group 3d: subsidiary bodies of statutory entities

- 97 The boards of statutory entities (i.e. the parent boards) set the fees for their subsidiary board members. The statutory entities are Crown Agents, ACEs and ICEs listed in Schedule 1 of the Crown Entities Act 2004.

#### Size

- 98 The following two size criteria are consistent with the same protocol for General Governance Boards (Group 3a) above (see paragraph 91).
- 99 Select *either* the appropriate budget/turnover *or* asset magnitude figure that best represents the size of the organisation. Lower weighting is given for asset management than budget controlled as assets have been accumulated over time, are retained by the organisation and the body’s responsibility is the safe guardianship and the most effective and sustainable deployment of assets. Budgets on the other hand are expended over a twelve month period and the body’s accountability for this spend, or revenue earned is more direct.

Please note that funding disbursements and purchases on behalf of the Crown are treated in the same manner as operating budgets.

<b>Budget/turnover</b>	<b>Assets</b>	<b>Score</b>
\$0-\$10m	\$0-\$100m	2
\$10m-\$50m	\$100m-\$500m	4
\$50m-\$100m	\$500m-\$1.0b	6
\$100m-\$300m	\$1.0b-\$3b	8
\$300m-\$600m	\$3b-\$6b	10
\$600m-\$1.2b	\$6b-\$12b	12
\$1.2b+	\$12b+	14

**Refer to the guidance in section C and the table below for the ranges of fees payable for Group 3d bodies.**

**Group 3d bodies - annual fees:**

<b>Total score</b>	<b>Level</b>	<b>Fees range - chair</b>	<b>Fees range - members</b>
10-14	1	\$23,000-\$36,000	\$11,500-\$18,000
6-9	2	\$21,500-\$33,750	\$10,750-\$16,875
5 or less	3	\$18,500-\$30,250	\$9,250-\$15,125

**Group 4: all other committees and other bodies**

100 This category covers a vast array of bodies from advisory committees, to technical review committees to professional regulatory bodies. These bodies may have their functions described in statute, or alternatively have been established by a Minister under a general statutory power to establish advisory committees or by the Cabinet. In other cases, the bodies will have been established by chief executives of departments to provide advice on the department's functions and responsibilities on a general basis or on specific areas or issues.

101 The levels within this category are determined by:

- skills, knowledge and experience required for members;
- function, level and scope of authority;
- complexity of issues;
- public interest and profile.

**Factors - choose one score from each of the following categories.**

102 **Skills, knowledge and experience**

Skills, knowledge and experience will vary between members on a particular body. The score below should reflect the level of skill *required by the majority* of members, and should not be based on any particular individual. This factor has a higher weighting than others, to reflect that it is the *application* of the skills, knowledge and experience in carrying out their responsibilities that is a major contributor to the successful operation of the committee or body.

<b>Skills knowledge and experience</b>	<b>Definition</b>	<b>Score</b>
<b>Pre-eminent</b>	Outstanding and authoritative knowledge, recognised nationally and internationally for expertise in a particular field.	12
<b>Distinguished</b>	Deep and broad knowledge in a specific area or as a leader. Widely respected as a subject matter expert or authority in their field.	10
<b>Substantive</b>	Substantial range of knowledge experience in a field or professional discipline sometimes associated with senior level functional or technical leadership, executive management or governance roles. May include widely respected people with broad community support.	8
<b>Technical</b>	A number of years experience in a technical, professional field or in a leadership role is a pre-requisite.	6
<b>Specialised experience</b>	No specific experience is required but members would have broad general knowledge and may represent a body of opinion.	4

103 **Function, level and scope of authority**

<b>Function, level and scope of authority</b>	<b>Score</b>
Sets policy or work programme for a major area of economic activity or policy area of importance to the Government's strategic priorities.	6
Sets policy or work programme and/or exercises regulatory/disciplinary powers at an industry level.	5

Provides expert counsel and advice direct to Ministers, Government Department CEO's and/or multi-agency task forces on technical or major policy issues, where issues are of strategic importance. At this level the body would be expected to be proactive in identifying emerging issues and contributing to policy direction and to inform the Government's agenda	4
Exercises regulatory/disciplinary powers at the individual/professional level. This will include the power to impose fines and suspend or prohibit professional practice by the individual. (NB: This would include an individual corporate member.)	3
Provides a broad range of advice on technical and/or policy issues (multi outputs) to a Department/CEO where issues affect Government policy.	2
Provides ad hoc advice to a Department/Minister on minor matters. Generally a limited focus at a single output level.	1

104 **Complexity of issues**

<b>Complexity of issues</b>	<b>Definition</b>	<b>Score</b>
<b>Innovative</b>	The development of new concepts is required to find innovative and pathfinding solutions. There will be little or no external guidance (NZ or internationally) to aid resolution of these issues.	5
<b>Constructive</b>	The development of new policy or advice is required where the issues are complex, multi-dimensional and involve substantial research, consideration of possible alternatives and their consequences. The body may commission research or utilise the findings to inform their policy development or advice.	4
<b>Evaluative</b>	Issues will include circumstances, facts and concepts different to those that have been experienced in the past. Analytical thinking and evaluative judgement will be required to identify realistic alternatives and apply/recommend a solution.	3

<b>Judgement</b>	Solutions will be found from application of professional or personal judgement and generally guided by previous decisions. Circumstances may be different from those previously experienced but there will be a sufficient frame of reference to make a considered decision/recommendation.	2
<b>Operational</b>	Issues to be resolved are generally within existing policy and prior decisions. Decisions can generally be made quickly and with reasonable certainty.	1

### 105 Public interest and profile

<b>Public interest and profile</b>	<b>Score</b>
Widespread public interest in outcomes would be expected. Member/s will attract strong media interest. Potential risk to personal and/or the body's reputation is high.	5
Strong public and stakeholder interest and importance would be associated with these issues. Media interest would also be expected, but potential risk to personal or the body's reputation is unlikely.	4
Moderate but widespread public interest is likely. Reputational risk is minimal.	3
Public interest is likely to be limited, but the issues would be of interest to other members of the particular profession or sector.	2
There is likely to be little or no wider public interest in the decisions.	1

**Add the scores for each factor together to give a total score. Then refer to the guidance in section C and the table below for the ranges of fees payable for Group 4 bodies.**

#### Group 4 bodies - daily fees:

<b>Total score</b>	<b>Level</b>	<b>Fees range - chair</b>	<b>Fees range - members</b>
24-28	1	\$500-\$850	\$375-\$640
20-23	2	\$360-\$655	\$270-\$415
15-19	3	\$260-\$435	\$190-\$325
10-14	4	\$230-\$320	\$175-\$240
9 or less	5	\$190-\$240	\$140-\$180

## Section E

### Operating outside the parameters of the framework/exceptions to the framework

- 106 Operating outside the parameters of the Framework includes situations where it is proposed to:
- pay fees above the levels set in the fee scales;
  - significantly increase existing fees (even within the applicable fee range);
  - use alternative methods for paying or setting fees (for example, payment of a base honorarium plus a fee for additional services, Crown bodies setting their own fees from a total pool, a full time fee);
  - make additional payments for work in excess of the ordinary demands on body members;
  - make additional payments to chairs of sub-committees (see paragraphs 49 – 52).
- 107 Department or parent statutory entity advisers should contact the SSC prior to preparing papers for Ministers for advice on the consultation process and the necessary information required for a proposed exception.
- 108 Where Ministers, departments or other fee-setting authorities believe there is a case to operate outside the parameters of the Framework set out in this circular (except where proposed fees are below the Framework fee ranges), they must consult with the Minister of State Services. Proposals to pay fees outside the parameters of the Framework range should first be discussed with the SSC.
- 109 The details required to justify an exception to the Framework include the classification of the body, the existing fee levels (if applicable), the fee setting authority, and the reason for seeking an exception.
- 110 A compelling case is required to support the payment of fees above the levels set in the fee scales. Justification should include evidence of an adequate, robust and appropriate selection process and consideration of potential candidates, any difficulties in recruitment or retention, and/or particular skills and expertise that are required for a specific task. Further advice is available from the SSC.
- 111 Where the responsible Minister and the Minister of State Services agree that a proposed exception is:
- minor (including but not limited to):
    - where an additional payment is indicated for specified additional work;
    - or where the additional cost involved in an exception is small;

or:

- technical (including but not limited to):
  - where a change from a daily payment to an annual fee is proposed because of predictability of workload, or where a change from an annual fee to a daily payment is proposed;

or where:

- the proposed daily fees for Group 1, 2 and 4 bodies are above the Framework range but the rationale for the proposed fee is strong and does not exceed the daily fee payable to a High Court Judge;
- or a proposed increase is substantial (see section F) but within the Framework range and is warranted because of reclassification under the Framework and/or the period of time since the fee was last reviewed;

the Minister of State Services *may* recommend to the responsible Minister that the fee can be decided between them without referral to APH and Cabinet.

- 112 Where an exception is more substantial, the responsible Minister will refer the proposal for consideration by APH and Cabinet, after consultation with the Minister of State Services.
- 113 For exceptions for departmental bodies or committees the department consults the responsible Minister and the Minister of State Services. For exceptions for subsidiary bodies, the parent entity consults the responsible Minister and the Minister of State Services (with advice from the SSC).
- 114 If the fee setting authority is a statutory entity (i.e. Crown Agent, ACE or ICE) then it should consult its responsible Minister and the Minister of State Services (with advice from the SSC).
- 115 If there is a difference of view between the responsible Minister and the Minister of State Services about the appropriate fee levels, the options should be presented to APH.

### **Grandparenting of existing fees**

- 116 Fees approved at a higher level than the fee scale of this Framework for an individual may remain at the higher level provided the basis for justifying the exception is still valid. Where possible, a time limit should be set when grandparenting occurs (e.g. a specified period or when positions are vacated). Departments or Ministers' offices need to notify the SSC about any grandparenting arrangements including changes to or extensions to existing arrangements.
- 117 Grandparenting applies to the individual appointed and not to the position. A newly appointed member must not receive the grandparented fee of the outgoing member unless an exception has been approved.

## Payment for Consulting

- 118 The practice of members or other appointees receiving payments as consultants from bodies to which they are appointed must not take place. If, however, the responsible Minister agrees that there are overriding reasons for members and other appointees to carry out consulting assignments, any proposal to do so should be submitted to APH and Cabinet for consideration. Where the arrangement results in the risk of a conflict of interest, the Minister should identify the conflict in the submission to APH, and propose a suitable regime for managing the conflict. (See the SSC Board Appointment and Induction Guidelines, sections 31 and 62 of the Crown Entities Act 2004, and the appointments section of the CabGuide for further guidance on conflicts of interest).

## Section F

### Reviewing existing fee levels

- 119 Fee-setting authorities should review fees at regular, reasonable intervals, such as after a review of the Framework or when an appointment or reappointment is pending. There is no obligation to automatically increase the fee as a result of the review.
- 120 Changes to existing fee levels should be made by the fee-setting authority only if it is necessary to address recruitment and retention problems, where the current fee levels do not adequately reflect levels of responsibility, or where fees have not been reviewed for a number of years. Changes also need to reflect the government's expectation that increases in State sector remuneration will be modest.
- 121 This may mean that increases to reflect levels of responsibility are done incrementally (rather than in one step). Where a proposed increase is substantial, it must be referred to the responsible Minister and Minister of State Services for consideration as an exception (see section E). For further advice please contact the SSC.
- 122 When existing fees are being reviewed, the steps required to classify the body (see section D) should be undertaken to confirm the classification and level of the body.
- 123 Backdating of increases should also be avoided. For guidance in particular cases please consult the SSC. Refer also to paragraphs 116 and 117 on "Grandparenting of Existing Fees".

## Section G

### Other

#### Indemnity and insurance

- 124 The legislation establishing some Crown bodies provides board members with explicit protection from liability in some circumstances. The nature of the protection varies according to the body and reference should be made to the appropriate legislation.
- 125 The Crown Entities Act 2004 contains standard provisions on immunity from liability, indemnity and insurance in relation to board members, employees, office holders, and committee members of statutory entities. Statutory entities are Crown Agents, ACEs and ICEs listed in Schedule 1 of the Crown Entities Act 2004.
- 126 The extent to which a Crown body may indemnify or purchase insurance for its personnel to meet their legal expenses while working for the body may be dealt with specifically in the body's enabling Act or document. Where it is not, then the general powers of the body must be checked to determine whether it has the power to indemnify or purchase insurance for its members.
- 127 The Crown Entities Act requirements for statutory entity indemnities and insurance provide a good yardstick for other bodies, subject to their own particular enabling Acts. The Crown Entities Act provides that entities may only indemnify their members for acts or omissions in good faith and in performance or intended performance of the entity's functions. Any such indemnity is limited to liability for conduct, and costs incurred in defending or settling any claim or proceeding relating to that liability. An entity may purchase insurance cover for its members in relation to acts or omissions unless they are in bad faith or not in performance or intended performance of the entity's functions.
- 128 In the event that insurance is not provided, the body must ensure that the individual is made aware that he or she is not covered, as well as of any relevant statutory protection from liability, so they can consider whether to make their own provision for such insurance.

#### Employment status

- 129 Members of boards of statutory bodies, subsidiary bodies of statutory entities (i.e. of Crown Agents, ACEs, ICEs), statutory tribunals, authorities or other bodies are generally appointed by the Crown or elected by voters. Members are not employees of the body or the Crown. The appointment as a member does not alter the individual's employment status prior to the appointment (e.g. self employed, employee, not employed).

#### Tax on fees

- 130 Taxation matters depend on the personal circumstances of the individual member. Payments made for board membership are generally derived by the member.
- 131 Board members should be advised by the servicing department or parent statutory entity to clarify their taxation status by reference to professional advice or Inland Revenue. Inland Revenue does not have a fixed view on every single category of entity established under statute.

- 132 Payment of fees to board members may be classified as scheduler payments. The appropriate tax rate for these payments is 33 cents in the dollar unless Inland Revenue has issued an exemption certificate or a special tax rate certificate. This does not apply to contractual arrangements existing in addition to the appointment.
- 133 Payments to board members, in respect of their capacity as a board member, are not subject to GST, though other arrangements additional to the appointment may be subject to GST.
- 134 Inland Revenue advises that the fee payments are derived for tax purposes by the appointed member unless the member is performing the service (to which this fee relates) as an agent or representative of another entity which has agreed to perform services and that the fees are to be paid or reimbursed to that entity.
- 135 If the fee payments are derived by the appointed member then the payments should be made to that member, as opposed to being paid to any other entity (such as a company). An exception to this is if:
- a deduction of withholding tax has been made; and
  - written direction by the board member has been given that fee payments are to be paid to that entity.
- 136 Inland Revenue does have the ability to grant exemption determinations where part of a scheduler payment is regarded as reimbursement of expenditure incurred in production of income, and determinations can be sought from the Commissioner of Inland Revenue accordingly.
- 137 The fee should include any tax payable. Servicing departments or parent statutory entities should ensure that total payment to the member (before deduction of any tax) does not exceed the maximum of the fee range that applies to the body's classification under the Framework, unless an exception has been approved.

## **Disclosure**

- 138 Any statutory requirements for the disclosure of fees and other benefits must be met. Crown entities, other than Tertiary Education Institutions or schools, must meet the disclosure requirements of section 152 of the Crown Entities Act 2004. Where there are no statutory or other specified requirements, a level of disclosure consistent with public accountability should apply.

## **Fiscal implications**

- 139 Any proposed fees or payments for bodies covered by the Framework should be met within existing baselines or appropriations unless approval for the additional expenditure has been appropriated or otherwise authorised.

## **Reviewing the framework**

- 140 The SSC reviews the Framework, including fee levels, through regular surveys and through ongoing contact with departments. The SSC reports to the Minister of State Services about the results of the reviews.

- 141 Servicing departments and parent statutory entities of subsidiary bodies are requested to provide advice to the SSC about fee levels in response to the SSC Framework review survey.
- 142 Departments are advised of detailed information requirements at the time surveys are carried out.

### **Cabinet committee submissions**

- 143 In general all but the most minor appointments made by Ministers or by the Governor-General on the recommendation of Ministers should first be considered by APH. Even where an appointment is the responsibility of a particular Minister, it is important that it is raised with colleagues to ensure the widest possible input into the appointment process (Please refer to the CabGuide).
- 144 Section E “Operating outside the Parameters of the Framework” refers to the circumstances in which exceptions to this Framework are referred to APH and Cabinet before final decisions are made. In those cases:
- where the responsible Minister is responsible for setting fees, and where the proposed fee is outside the parameters of the Framework, the submission should note that consultation with the Minister of State Services has taken place, and should outline the basis for going outside the parameters of the Framework.
- 145 If there is a difference of view between the responsible Minister and the Minister of State Services about the appropriate fee levels, the options should be presented to APH.
- 146 In these cases, appointments should not be made until fee levels have been agreed. Please also refer to the CabGuide.

### **Further information**

- 147 For advice on the application and interpretation of the fees framework, contact the State Sector Remuneration and Fees team at the State Services Commission, phone (04) 495 6607, fax (04) 495 6699 or email: [fees@ssc.govt.nz](mailto:fees@ssc.govt.nz).

## Annex 1

### Allowances under the Fees and Travelling Allowances Act 1951

- 1 Members travelling to meetings, or on board business (where the members are required to be away from their normal home town) are entitled to reimbursement of out of pocket travelling, meal and accommodation expenses actually and reasonably incurred. The rate of reimbursing allowance is to be paid to members of a board on the same basis as that paid to employees of the servicing department (or to employees of the entity). Where this is not applicable, the following rates for bodies covered by the Fees and Travelling Allowances Act 1951 are outlined below.

#### Travelling on Official Business

- 2 Where a statutory body is serviced by a government department or Crown body, and that department/Crown body has clear provisions for payment for travelling on official business, then those provisions apply. Otherwise the following provisions apply.
- 3 An allowance is paid for periods under 24 hours where the member is required by their duties to be away from their usual workplace during the time that they would normally eat. An allowance is not paid if a meal is provided.

Dinner \$20.00

Lunch \$5.00

- 4 The following allowances apply where the member is travelling away from home for periods greater than 24 hours. For hotel accommodation, and meals taken at that hotel, actual and reasonable reimbursement should be made, and no meal allowance paid.

Meals, per day	\$62.80
Meals, additional periods up to 10 hours	\$26.50
Staying privately, per day	\$68.15 (includes meals)
Staying privately, additional periods	\$31.30
Incidentals	\$7.90 per day

- 5 When paying “actual and reasonable”, the payment is for the cost of the meal, and would not include any tip for service, bar tabs or mini bars.

#### Use of motor vehicles

- 6 Where the provisions of the servicing department are not applicable, the motor vehicle rates published by a reputable New Zealand source, representing a reasonable estimate (e.g. the New Zealand Automobile Association Inc mileage rates) may also be used to reimburse members using their private vehicle. Alternately, the following are mileage rates for employers and employees for the purpose of calculating motor vehicle reimbursing allowances for members of statutory bodies and local authorities covered by the Fees and Travelling Allowances Act 1951.

- 7 Where it would not be reasonable to travel by public transport, and the member uses their own motor vehicle to travel on official business, a mileage rate is payable. The schedule of motor vehicle mileage follows.
- 8 The motor vehicle reimbursing rates reflect the rates currently used by Inland Revenue. There are three methods of calculating the allowance. These are:

#### The standard rates

- 9 It is anticipated that this formula will be the most appropriate for most members of statutory bodies. It should be used where:
- it **is not** possible to estimate annual average total running;
  - where the vehicle **is not** used almost exclusively for work purposes; and
  - where the total work-related travel is **relatively small**.

#### Motor vehicles annual work-related kms

1 to 3,000 km	62 cents per km
3,001 km and over	19 cents for each km over 3,000

#### Motorcycles annual work-related kms

1 to 3,000km	31 cents per km
3,001 km and over	10 cents for each km over 3,000

#### The flat rate formula

- 10 This method should be used where:
- it is possible to estimate an annual average total running;
  - where the vehicle is not used almost exclusively for work purposes; and
  - where the total work-related travel is relatively small.

Motor vehicles - flat rate	28 cents per km
Motorcycles - flat rate	14.5 cents per km

- 11 The flat rate for motor cars is based on an annual average total running of 15,000 kilometres per annum (12,000 private running and 3,000 kms work related). The flat rate of 28 cents per kilometre has been calculated as follows:

$$\begin{aligned}
 3,000 \text{ kms} \times 62 \text{ cents} &= \$1,860.00 \\
 12,000 \text{ kms} \times 19 \text{ cents} &= \$2,280.00 \\
 & \$4,140.00 \div 15,000 \text{ kms} \\
 &= 27.6 \text{ cents} \\
 & \text{Rounded to 28 cents per kilometre}
 \end{aligned}$$

- 12 The flat rate formula can remove the need to keep individual records for each employee, and should be amended to suit the particular circumstances. If the annual average total running is less than 15,000 kms for example:

**Example**

All members of the statutory body travel close to 10,000 work-related kilometres per year on average. The flat rate the administering body could use for all those members would be:

$$\begin{aligned}
 3,000 \text{ kms} \times 62 \text{ cents} &= \$1,860 \\
 7,000 \text{ kms} \times 19 \text{ cents} &= \$1,330 \\
 &= \$3,190 \div 10,000 \text{ kms} \\
 &= 31.90 \text{ cents} \\
 &\text{Rounded to 32 cents per kilometre}
 \end{aligned}$$

**Individual special rates**

- 13 It is expected that it will be unusual for this method to apply to members of statutory or other bodies. The rates should be used where:
- the vehicle is **almost exclusively** used for work purposes; or
  - the work-related travel covers **considerable distances** each year.
- 14 The method allows fixed costs such as depreciation, interest, insurance and registration to be better apportioned to work-related travel. The data used to calculate the standard rates was split into the Automobile Association's cc rating bands in order to calculate the individual special rate. The appropriate average fixed costs will be divided by the total estimated annual travel (both work-related and private) and the result added to the running costs.
- 15 The fixed and running costs are as follows:

CC rating	Up to 1,300 cc	1,301-1,600 cc	1,601-2,000 cc	Over 2,000 cc
<b>Fixed cost (Total)</b>	\$4,214	\$4,507	\$5,475	\$6,308
<b>Running costs (cents per km)</b>	16.7¢	17.2¢	19.1¢	22.2¢

- 16 The calculation of an individual special rate would be as follows. In the example the employee uses an over 2,000 cc car and travels on average 52,000 kms per annum for both work-related and private running.

$$\begin{aligned}
 \text{Annual running} &= \$6,308 \text{ (fixed costs for over 2,000cc vehicle) divided by} \\
 &= 52,000 \text{ km} \\
 &= 12.13 \text{ cents per km} \\
 \text{Plus running costs} &= 22.20 \text{ cents per km} \\
 \text{Individual special rate} &= 34.33 \text{ cents per km} \\
 &\text{Round up to 35 cents for each kilometre of work related travel.}
 \end{aligned}$$

- 17 The advantage of using this method is that you only use the flat rate for related travel. It also benefits those members who use a vehicle almost exclusively for work purposes.

**Example**

The member's car is used entirely for the job. The only private running, from the member's home to the place of work, amounts to 1,000 km per year. Work-related travel is estimated at 12,000 km for the year. The car comes within the 1,301 to 1,600 cc rating band. The calculation of the individual rate is:

Annual running =	13,000 divided by fixed costs for cc class (\$4,507)
	= 34.66 cents per km
Plus running costs =	17.02 cents per km
Individual special rate =	51.68 cents per km

The member can be reimbursed at a rate of up to 52 cents for each work-related kilometre.

- 18 Where all members of a body use their vehicles almost solely for work purposes, or travel considerable distances, you can calculate average individual special rates to suit groups of members rather than calculating a special rate for each person. The special rates can be different for each statutory body.