

For Decision

Meeting Date:	7 December 2023
Subject:	SWRB Fees and Levy Review Consultation document
Prepared by:	Lynley Hutton, Project Lead, Social Workers Registration Board Blair McCarthy, Director, Strategy and Crown Delivery

Purpose

This paper provides an overview of the attached *SWRB Fees and Disciplinary Levy consultation on Change Proposals* document which is planned to be undertaken in the 2023/24 financial year. It seeks approval for the release of this document, the timeframes for consultation with the public, and next steps for Board decision making.

Action

NOTE the content of this paper.

AGREE to approve, subject to feedback, the *SWRB Fees and Disciplinary Levy consultation on Change Proposals* document.

DELEGATE sign off to the Chair any amendments following feedback from the Board.

AGREE to the preferred timeline Option 1, for consultation to start 14 December.

Background

1. SWRB is funded predominantly by fees and a disciplinary levy (fees and the levy) charged for regulatory activities related to our legislation on a cost recovery basis. These include fees charged to all practising social workers such as the Practising Certificate fee, fees charges to those seeking to register (either from study or from overseas), the Disciplinary Levy covering complaint activities, and fees charged to educational institutions.
2. SWRB undertook its first comprehensive fees and levy review including public consultation in the 2020/21 year. Consultation was undertaken in November 2021, followed by a Board decision in December, which resulted in amendments to the fees and levy structure. Implementation of the changes occurred over March to June, to align with the new practising certificate year. As part of the decisions made in relation to the proposed changes the Board agreed that it would require consultation for fee and levy CPI movement as part of future reviews.
3. The level set for current fees and levy was costed in 2021. Since that time SWRB has faced increasing costs attributed largely to the higher-than-usual increases in inflation and staff salaries (as we have progressively benchmarked roles to be consistent with the market).
4. In June 2022, the Board agreed an updated Financial Reserves Policy for SWRB. This policy set sustainable levels of Reserves held by SWRB to protect from any unforeseen events or significant and sudden drops in revenue streams for the Board. This must be taken into account when setting SWRB fees and levies.
5. Current projections show SWRB is at the bottom of the Reserves range. This is not sustainable in the medium to longer term.

6. It should be noted that since the last fees and levy review a Pay Equity agreement for social workers has been rolled out for those in the government funded sector (NGOs). This covers registration and practise costs for social workers, meaning it will be easier for non-government organisations to manage costs, and enable payment or reimbursement for individual social workers.
7. We acknowledge that since the previous fee and levy review the external environment has changed, with Ministers signalling expectations of fiscal prudence. SWRB operate consistently with a cost effectiveness lens, and this is reflected in the modelling upon which the fee review is based. It is useful to note that the cost recovery model ensures that figures are tested for scale and appropriateness.

Cost pressures on operations and current staffing are the main driver of the proposal, rather than new roles

8. Since the last fee review (March 2021), SWRB has increased the number of staff to support the organisation to move into the mandatory environment. Also included in the increased staff numbers are those associated with the time limited Crown funding (projects), and baseline Crown funding for workforce planning and costs associated with our Crown obligations.
9. Roles which have been established and which are still required to respond to the regulatory workload for 2024/25 and outyears) are:
 - 3 additional legal advice roles to support PCCs/disciplinary matters/regulatory implementation
 - 2 complaints advisory roles (including Deputy Registrar Complaints)
 - 1 additional social work advisor (advice and assessment)
 - 1 Registration officer
 - 1 regulatory quality assurance role (focus on current and future process and system improvement)
 - 1 Tribunal hearing officer (leverage from Board executive co-ordinator)
 - 1 Communications advisor (part-contribution)
 - HR specialist expertise (part-contribution)
 - Te Ringa Rehe (Kāhui) (part-contribution)
10. Costs for these roles have been managed within increases in the size of the register and efficiency gains (such as bringing legal advice in house, the use of social work advisors to undertake assessments where possible).
11. In 2023/24 SWRB adopted the Government's Public Sector Pay Agreement which enabled a salary adjustment across the Board (responding to the previous pay restraint). SWRB have received one off funding to support the implementation which will be included in the forecast which will be undertaken in January 2024. This equates to around \$200k and will be reflected in the revised end of year result.
12. Areas where SWRB have experienced direct cost increases include:
 - a. Software licenses: volume and level for staff, database access, cybersecurity & other IT
 - b. Office equipment, including laptops, monitors, phones, chairs etc
 - c. Office amenities (power, cleaning costs etc)
 - d. Rent

A thorough analysis of regulatory costs forms the basis for the changes

13. We have analysed the costs of implementing SWRB's regulatory activity as well as the costs associated with the strategic priorities, including our journey to becoming a modern regulator, as expressed through the Statement of Intent (2022-2026). These have informed the changes proposed in the consultation.
14. It is part of best practice to ensure SWRB is setting fees and levy that cover the costs incurred to maintain regulatory services set out in the Social Workers Registration Act, while also maintaining the Reserves policy set by the Board.

15. SWRB have drawn on external subject matter expertise to lead the review. In addition, we have undertaken a time and motion study of regulatory functions to ascertain the cost of running this work, as well as cost breakdowns for each fee and levy. The increases in costs, in most cases, are broadly in line with inflation increases from the last three years.
16. This provides certainty and degree of comfort that the fees and levy we set are fair and reasonable. Note: We have not included a specific reserve fund for Disciplinary matters. A designated fund could cover unanticipated costs such as substantial court costs. It is management's view that we will need to look at this in the future but suggest that we can continue to operate with the combined reserves for the time being. This is primarily because of the costs involved in establishing a stand-alone Disciplinary reserve. Modelling suggests that establishing a ring-fenced levy of \$300k would have further raised the Disciplinary Levy by around \$33. In our view this is not a priority area for the current fee and levy review.

Summary of changes proposed: most changes in line with inflation, with the exception of Disciplinary levy and Overseas Registration fees

17. The consultation document is attached for the Board's approval, subject to feedback.
18. Overall, this review is smaller in size and scope than the 2021 review, we are not proposing any new fees and other than the disciplinary levy and the overseas registration, adjustments are generally held to CPI.
19. To summarise, the majority of the proposed changes are consistent with the Consumer Price Index (inflation) (calculated as 17.4% in total since the last review of fees in the 2020/21 year). This has aligned with the analysis of our regulatory costs (mentioned in the previous section).
20. The proposal is for increases to the practising certificate and most other registration fees. These are broadly in line with CPI. Two fees are proposed to be reduced, and two fees to be increased above CPI. See the table below for the full summary.

Disciplinary Levy

21. The proposal includes a higher than CPI increase to the Disciplinary levy, to take into account the increasing numbers of complaints, PCCs and the Tribunal costs coming in-house which has added to the overall regulatory costs.
22. When undertaking the analysis we took a pragmatic approach and sought to benchmark against other regulators. What became apparent was that SWRB receives a higher proportion of complaints against social workers than most of the other regulators we benchmarked against. The table below provides an overview of other regulators and their disciplinary complaints:

Professional occupation	Register Size	Complaints	Ratio of complaints to Register
		2022/23	
Registered social worker (Practising)	8,707	196	1 : 44
Practising	2021/22	2021/22	
Registered social worker (Practising)	8,680	159	1 : 55
Chiropractor	973	5	1 : 195
Dental practitioner (Practising)	4,925	213	1 : 23
Dietitian	854	0	-

Professional occupation	Register Size	Complaints 2021/22	Ratio of complaints to Register
Medical practitioner (practising)	18,784	237	1 : 79
Midwife	3,450	35	1 : 99
Nurse	65,419	355	1 : 184
Pharmacist	4,231	54	1 : 78
Psychologist	4,786	66	1 : 73
Physiotherapist	6,353	27	1 : 235
Optometrist	1,051	7	1 : 150
Teacher	109,441	638	1 : 172

23. The information above highlights that when compared to a number of other regulators, social workers have a higher proportion of complaints made as a proportion of the size of the register. It is interesting to note for example that teachers and nurses are only .5% of the register, compared to 2.2% for social workers. By contrast, lawyers are 7.3% of their register.
24. In terms of the perception of the profession, there is a likelihood that social workers will perceive the disciplinary levy as high in comparison to other professions. However, because the levy is set on a cost recovery basis from the table above, we can see that social workers will have higher disciplinary costs, due to volume.
25. This highlights the importance of employers having a clear process for handling complaints and clarity between what are employment and regulatory matters.

Overseas Registration

26. Assessment of the costs relating to Overseas Registration Fees has determined that the fee is currently under-recovering for the cost of undertaking the activity, beyond that which would be addressed by a CPI adjustment. Therefore an increase higher than CPI is proposed for the Overseas Registration Fees. This better reflects the time taken to assess overseas registrations, including the education qualification and competencies.

No change is proposed for education fees

27. There are currently two education fees. One relates to the process for prescribing a new programme, and the other is an annual fee which is used to fund our education visits and some of the interaction with the sector, including responding to queries.
28. As previously noted by the Board, it is expected that the next phase of the education standards work will include the development of the monitoring framework which is necessary in order to estimate the costs of undertaking the function. A separate process for any changes to the fee is anticipated.
29. While no changes are currently proposed to education fees charges to institutions, this consultation does present an opportunity to seek feedback from the sector on their view on whether institutions should meet the costs of undertaking the education function or should this be offset by social worker fees. This is not a question we have asked of the sector previously.

Adjusting for CPI without requiring full consultation

30. It is proposed that an annual CPI increases to fees and the disciplinary levy be able to gazetted without full consultation be introduced. This was consulted on as part of the fees review in 2021, but not agreed to by the Board.
31. Doing annual CPI adjustments reduces the need for large increases which play catch up to shifts over time. This is especially relevant when CPI is high.
32. The Board may choose to undertake consultation on CPI adjustments in future on a case-by-case basis. The proposal creates more flexibility for the Board on when they want to consult regarding CPI changes.
33. It is useful to note that the SWR Act does not require SWRB to consult on changes, although it is good practice, especially where a proposal relates to the fees and levy for significant change projects or much higher assessment/new fees. The costs in undertaking consultation are included as a cost recovery exercise (ie met by registered social workers or their employers).

Two fees where there is a proposal to decrease

34. There are two cases (Return to practise, Certificate of Good Standing) where fees are proposed be reduced. This is after assessing actual costs to determine the fee, and costs as processes have improved allowing greater efficiency than when first assessed.

Table of proposed changes

35. The consultation document outlines the main changes proposed to SWRB fees and the disciplinary levy.
36. The table below outline the current fees and levy levels and proposed changes:

	Fee/Levy proposed changes	Current fee/levy level (\$ incl GST)		Proposed fee/levy (\$ incl GST) 2024/25
1	Practising certificate fee (annual)	470	CPI only	\$552
2	Disciplinary levy (annual)	135	CPI + 38%	\$219
3	Registration Application fee	360	CPI only	\$423
4	Provisional to Full Registration Application fee from	60	CPI only	\$70
5	Overseas qualification assessment application	540	CPI only	\$635
6	Overseas applicant registration			
	a. Overseas applicant provisional registration competence assessment application fee	345	CPI +57%	635
	b. Overseas applicant full registration competence assessment application fee	345	CPI + 171%	\$1012
7	Certificate of Good Standing or replacement hard copy registration certificate fee (<i>reduction</i>)	70	Reduction	60
8	Return to practise application fee (<i>reduction</i>)	345	Reduction	\$224
	Change in approach			

1	Annual CPI (inflation) adjustments to the fees and disciplinary levy	n/a		n/a
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Financial implications of proposed changes

37. With the changes to the fees and levy outlined above, projections show an improving financial picture for SWRB, with sustainable surpluses over 2024/25 and 2025/26.
38. This will mean that core regulatory functions, as described in the SWR Act and Statement of Intent, can be undertaken, and reserves can return to above midpoint of the Reserves Policy approved by the Board in 2022
39. The table below outlines how these proposed changes will impact the SWRB financial accounts.

SWRB financial position						
*Figure includes: Workforce planning Government funding and expenses		2021/22 Actual	2022/23 Actual	2023/24 Forecast revenue as at September 2023	2024/25 Indicative	2025/26 Indicative
Revenue (GST exclusive)		\$5,103,694	\$7,965,044	\$5,338,000	\$7,675,436	\$7,835,581
From fees, Disciplinary Levy, Crown funding, and interest & sundry						
Expenses (including staff salaries)		\$5,224,690	\$6,649,194	\$6,722,669	\$7,242,920	\$7,273,136
Revenue less expenses		-\$120,997	\$1,315,850	-\$1,384,669	\$432,516	\$562,445
Reserves (To cover short-term variations in revenue and economic shocks)		\$566,193	\$1,882,042	\$497,373	\$929,889	\$1,492,334

Note: The changes from 2022/23 in surplus and reserves are because of time limited Crown funded projects (Social work-like and Social Worker Capability Building project). These have created artificially high surpluses which are not sustainable, reflecting the timing of expenses to be paid for these projects and noting that funding comes to an end.

How consultation will be undertaken

40. A process for consultation will be run similar to the one undertaken in 2021. We will encourage the public to submit via an online survey and email, either individually or by a group. SWRB will also run Zoom sessions to take any questions on the consultation proposals.

Timelines for next steps

41. At the Board meeting in October the Board asked for options to be provided on the timing of the consultation.
42. The Secretariat has provided two options for consideration and approval by the Board:
 - a. Option 1: Consultation from December 14 until January 28, 2024 (Preferred option)
 - i. If the Board agrees to the consultation being released, it will be made available to the public on December 14. This will run over the Christmas New Years period but with a longer time of 6 weeks, closing on January 28, 2024.
 - ii. This will enable the Secretariat to consider and analyse the consultation for a Board decision in early February.
 - iii. This will provide further time for employers and social workers to plan for potential changes in the Practising Certificate round in June 2024. It will also provide further time for any changes to be gazetted and enacted, which is a minimum of two months prior to the practicing certificate round (1 April).
 - iv. Other regulators have also used this time period in the past, for example the Nursing Council carried out fees related consultation over December and January in 2021/22.
 - v. This is the Secretariat's preferred option.
 - b. Option 2: Consultation from January 15 until February 12
 - i. If the Board agrees to the consultation being released, it will be made available to the public on January 15, after the Christmas and New Years break. This will run for 4 weeks, closing on February 12.
 - ii. This would mean consultation would not be run over the holiday period, and mean a Board decision would be delayed until likely later in February.
 - iii. This would give less time for employers and social workers to plan for potential changes in the Practising Certificate round in June 2024. It will also mean less time for any changes to be gazetted and enacted.
 - iv. This is not the Secretariat's preferred option.
43. While we realise that undertaking such a consultation will include the Christmas break, we would include a longer consultation of six weeks, giving adequate time for feedback to be provided by the public.
44. We would also note that since this consultation is smaller than the previous one, and there will be less information provided for people to provide feedback on.

A review of Crown costs is also planned for this financial year.

45. As a Crown Entity SWRB has associated Crown costs, which are generally required to be funded by the Crown and not regulatory fees and levy.
46. Current Crown funding provided to SWRB for Crown costs is not currently meeting, and as such SWRB was granted funding (in principle, not yet secured) to assess and review Crown costs and funding to provide a business case for potential further Crown funding in the future.
47. Following discussion with MSD, management are redrafting terms for this review and will keep the Board informed of progress.
48. This review is separate to the review for regulatory fees and the levy but relates closely in our total funding.

Risks and Issues

49. Risks and mitigations outlined in the project plan include:

<i>Risk</i>	<i>Mitigation</i>
Consultation is run over Christmas	Ensure consultation is released in December with a longer time for feedback.
A new Minister who is new to the process	Clear and early signalling through the BIM, Annual report, and MSD as our Crown Monitor. Ultimately responsibility for fees and levy sit with the Board
A complaint is taken to Regulatory Review Committee	Follow OAG and Treasury guidance and ensure costing model. Note approach is based on work undertaken in the last review.

Financial Implications

50. Full costings and assumptions are included in the consultation document and will be discussed at the Board meeting on 7 December.

Recommendations

It is recommended that the SWRB Board:

- a) **NOTE** the content of this paper Yes/No
- b) **AGREE** to the approve, subject to feedback, the *SWRB Fees and Disciplinary Levy consultation on Change Proposals* document. Yes/No
- c) **AGREE** to delegate sign off to the Chair any amendments following feedback from the Board. Yes/No
- d) **AGREE** to the preferred timeline Option 1, for consultation to start 14 December. Yes/No

Appendix 1: Comparison of regulator fees, levy and Complaints with other registered professions

Comparison of fees and Disciplinary Levy (\$ incl. GST)						
Professional occupation	Register Size	Current date (Gazetted)	Registration fee (one off)	Practising certificate fee (annual)	Disciplinary Levy (annual)	Total annual (PC & Levy)
Registered social worker			\$360	\$470	\$135	\$605
		Proposed	\$423.00	\$552.00	\$219.00	\$771.00
Chiropractor	973	21 Feb 2023	\$153.00	\$1003.25	0	\$1003.25
Dental Hygienist	415	1 April 2023	\$632.56	\$912.96	\$5.67	\$907.29
Dietitian	854	1 April 2020	\$300.00	\$625.00		\$625.00
Occupational Therapist		31 Jan 2019	\$230.00	\$477.00	\$23.00	\$500.00
Optometrist (dispensing)	1,051	1 April 2023		\$860.00	\$20.00	\$897.00
Pharmacist (non-prescriber)	4,231	27 Feb 2023	\$369.00	\$850.00	\$100.00	\$950.00
Physiotherapists	6,353	1 April 2022	\$500.00	\$500.00	\$70.00	\$570.00

Professional occupation	Register Size	Complaints	Ratio of complaints to Register
		2022/23	
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Practising	2021/22	2021/22	
Registered social worker (Practising)	8,680	159	1 : 55
Chiropractor	973	5	1 : 195
Dental practitioner (Practising)	4,925	213	1 : 23
Dietitian	854	0	-
Lawyer	16,401	638	1 : 26
Medical practitioner (practising)	18,784	237	1 : 79
Midwife	3,450	35	1 : 99
Nurse	65,419	355	1 : 184
Pharmacist	4,231	54	1 : 78
Psychologist	4,786	66	1 : 73
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