

Terms of Reference: National Annual CDA Review between Health New Zealand | Te Whatu Ora and Representative Bodies

Combined Dental Agreement

Terms of Reference: National Annual Combined Dental Agreement Review

Introduction

Health New Zealand | Te Whatu Ora (Health NZ) is a crown entity established by section 11 of the Pae Ora (Healthy Futures) Act 2022, and is responsible under that Act for arranging for the provision of health and disability services at a national, regional and local level, and setting requirements and specifications for publicly funded services. Health NZ contracts with providers to provide oral health services for adolescents and special dental services for children and adolescents, through the Combined Dental Agreement (CDA).

Clauses A37 to A39 of the CDA provide for an annual review of the CDA, including a price review and any other issues the parties agree to consider as part of the review. These terms of reference have been developed for the purpose of guiding the parties through an agreed process of annual review of the CDA between Representative Bodies and Health NZ.

The function of the review process under these terms of reference is to assist Health NZ and Providers (who participate in this review process through their nominated Representative Body) to consider issues and proposals for amendment of the CDA, and reach agreement on actions to be taken and/or make recommendations by consensus on matters related to the CDA in accordance with an agreed and timely process consistent with the Relationship Principles set out in clause A6 of the CDA. Providers and/or the Representative body have the right to separately take action in accordance with clauses A37, A38 and A39 of the CDA in the event these terms of reference are not complied with and/or are not fit for purpose for the issue being raised.

Participation in annual review

1. The Participants in the review will consist of:
 - a. Up to six Health NZ representatives; and
 - b. Up to six Representative Bodies

Chair

2. Review meetings will be chaired by a Chair who is acceptable to the Participants in the review. The appointment of the Chair will be considered and confirmed every two years.
3. If the Chair is unable to attend a particular meeting for any reason, an alternative Chair may be agreed to by the Participants at the meeting.
4. The responsibilities of the Chair include:
 - a) ensuring that meetings are run efficiently and effectively, including by providing a summary of agreed action points and recommendations at the end of each meeting; and
 - b) facilitating discussions and ensuring that adequate input has been received from all Participants and that, if possible, recommendations have been arrived at by consensus.

Health NZ representatives

5. Health NZ representatives participating in the review will represent the views of all four regions as well as those responsible for managing the national agreement and Approving Dental Officers (ADOs).

Providers and Provider representatives

6. Providers will participate in the review through a nominated Representative Body in accordance with Clause 1 above.
7. A Representative Body will inform the secretariat about the number and name of Providers they represent, prior to the commencement of each annual review.
8. There is no restriction to the number of Providers that the Representative Body is participating on behalf of.
9. Meetings will be conducted in such a way that balances the need for all Representative Bodies to have an opportunity to contribute that acknowledges who they represent.

Other attendees

10. It is anticipated that other expertise relevant to the discussions will be invited by the Chair on recommendation and agreement by both Health NZ and the Representative Bodies to participate in meetings, as appropriate.

Timeframe and process for annual review

11. Below are indicative timelines for the process of annual review. With reference to clause A36 of the CDA and sections 20 and 21 below, the Participants acknowledge that the timeframes outlined below could be subject to change as a result of government decision-making outside of Health NZ's control, including:
 - a. Any Ministerial direction or requirement,
 - b. To give effect to the requirements of section 10 of the Public Finance Act 1989, or
 - c. Any change in law.
12. Notwithstanding the parties' right under clause A37 to raise issues at any time, Health NZ will in any case initiate the annual review prior to 31 December 2024 and prior to 30 November for each year thereafter, with a view to meetings taking place between December and April of the next calendar year, with the objective of having any recommendations agreed by 30 April each year. Any agreed recommendations will be subject to confirmation of the government and Health NZ's budget for each financial year.
13. Health NZ will initiate the annual review by written notification to providers and Representative Bodies inviting them to suggest topics to be considered in the review and notifying providers and/or Representative Bodies of any topics Health NZ wishes to raise as part of the annual review. Topics suggested in any other relevant fora will also be considered by the Participants for inclusion in the review by consensus.
14. It is expected that each proposal for amendment or issue to consider will be supported by appropriate documentation and rationale by the party that raises it.
15. At a meeting in January 2025 and in December of each year thereafter, the Representative

Bodies and Health NZ will:

- a. Discuss the proposals received, including whether they should be considered as part of the review and the priority that should be given to each proposal accepted for consideration.
 - b. Discuss arrangements for the review, including for meetings that should be scheduled to enable recommendations to be finalised (subject to Budget confirmation if required) by 30 April of the following year.
 - c. If Health NZ considers an issue or proposal for amendment is outside the relevant delegated authority within Health NZ, Health NZ will provide written confirmation of this, the reasons for this, and identify who has the relevant authority to consider the issue or proposal for amendment.
16. The objective will be for the Participants to consider issues and proposals for amendment, and reach agreement on actions to be taken and/or make recommendations by consensus on the proposals raised for consideration.
17. The Participants commit to the following principles of engagement as underpinning the annual review:
- a. resolving disagreements co-operatively and, wherever possible, achieving consensus;
 - b. honesty and integrity, and developing a high degree of trust;
 - c. adopting and fostering an open and transparent approach to sharing information;
 - d. professional behaviour and leadership; and
 - e. remaining flexible and responsive in order to support an evolving health environment.
18. These principles reflect the Relationship Principles under clause A6 of the CDA, and support long term co-operation and collaboration between the Participants to support Providers to deliver the Services, remaining cognisant of the strategic environment in which oral health services are delivered, and also emerging issues related to oral health service delivery to children and adolescents in New Zealand.
19. Working groups may be established to carry out detailed work on topics suggested by the Participants and any other relevant fora to produce information to be considered in forming recommendations on matters for the annual review.

Timeframe and process for annual price uplift review

20. As soon as reasonably practicable when Cabinet announces its annual Budget decision, Health NZ will notify Representative Bodies of any proposed price changes to the CDA. Proposed price changes are automatically considered part of the review process.
21. At a meeting to take place before the date that is 10 working days prior to 30 June each year, the Participants will meet to discuss and meaningfully engage on how to apply any proposed price changes to the CDA, with the objective of having the price uplift review completed by 30 June each year.

Meetings

General requirements for meetings

22. Meetings will be scheduled within ordinary working hours, having regard to the availability of Participants, so that as many Participants as reasonably practicable can attend.
23. Agendas for the meetings, meeting papers and other documentation will be circulated by the secretariat a reasonable time before a meeting.
24. Participants in the review will advise the secretariat as to who will attend a meeting a reasonable time in advance of the relevant meeting.
25. Minutes of each meeting will be prepared by the secretariat, including a record of any agreed action points or decisions. The secretariat will circulate the minutes to Participants who attended the meeting as soon as practicable after that meeting. The secretariat will also publish the minutes on the Health NZ website as soon as practicable after a meeting, excluding any part of the minutes containing confidential information, as referred to in paragraph 26.

Meeting attendances

26. It is intended that the Representative Bodies who attend each meeting will be broadly representative of all Providers that they represent.
27. If for whatever reason, Representative Bodies at a meeting are not broadly representative of all Providers that they represent, the meeting may proceed. The minutes of the meeting will record the attendees and the extent to which all Providers were represented.

Outcome of annual review

28. The recommendations resulting from each review, including recommended amendments to the Agreement, will be submitted to the relevant delegated authority within Health NZ.
29. The objective of each review is for the Participants to arrive at recommendations by consensus.
30. If the Participants are unable to reach a consensus after having made all reasonable efforts to do so within the review schedule:
 - a. Representative Bodies may make separate recommendations to the relevant delegated authority of Health NZ; and/or
 - b. Representative Bodies have the right to refer any unresolved issues to mediation with Health NZ or take any other action in accordance with clause A38 of the CDA.

Meetings outside of annual review cycle

31. Participants will meet outside the annual review cycle whenever agreed to consider issues that may arise and require attention outside of that cycle. In that case, these terms of reference will not apply to that process, except to the extent Health NZ and the Representative Bodies remain committed to following the principles set out in clause 17 of these terms of reference.

Resourcing

32. The Health NZ team who has delegated authority for managing the CDA will provide secretariat and administrative services to support the review. This will be done in

accordance with the instructions of the Chair, including ensuring that an accurate record of recommendations and actions are documented and kept.

Confidentiality and public statements

33. Participants and attendees at meetings may inform persons they represent, other members of their organisation and any professional advisers about the progress and outcomes of the review. However, from time-to-time certain information (e.g. commercially sensitive information) may not be able to be disclosed in this way. Participants and attendees at meetings will keep the relevant information confidential to themselves only. Minutes of meetings containing reference to such information will not be published.
34. If it is desirable to make public statements about a review while it is in progress, the statement will be agreed by the Participants at the relevant meeting. Consent to issue public statements will not be unreasonably withheld and will be granted in accordance with the principles of good faith and the principles listed above, including honesty, integrity and open and transparent sharing of information as appropriate and in the interests of the New Zealand public.

Changes to these terms of reference

35. Any change to these terms of reference will be discussed as part of a National Annual Agreement Review