

## **Terms of Reference: National Annual CDA Review between Health New Zealand | Te Whatu Ora and the New Zealand Dental Association (NZDA)**

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### Combined Dental Agreement

#### *Terms of Reference: National Annual Combined Dental Agreement Review between Health New Zealand Te Whatu Ora and the New Zealand Dental Association*

#### 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).

The NZDA is the peak professional association for dentists and dental specialists and the nominated Representative Body under the CDA. The NZDA represents the collective interests of:

- all NZDA members that deliver CDA services including those members that are CDA contract holders; and
- other providers of CDA services and CDA contract holders who have formally nominated the NZDA as its Representative Body, including some dental and oral health therapists, and some large corporate clinic and mobile dental providers.

Clauses A37 to A39 of the Combined Dental Agreement (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 NZDA as the Representative Body 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 the NZDA as 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 represented by the NZDA and/or the NZDA 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 NZDA representatives.

#### *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 the NZDA as the nominated Representative Body in accordance with Clause 1 above.
7. The NZDA will inform the secretariat about the number and name of Providers that are represented by the NZDA prior to the commencement of each annual review.
8. There is no restriction to the number of Providers that the NZDA is participating on behalf of.
9. NZDA representatives participating in the review will represent the views of the diverse make-up of the NZDA's members, dental and oral health therapists, and large corporate clinic and mobile dental providers, who have formally nominated the NZDA as its representative body under the CDA.

#### *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 NZDA 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 with NZDA 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 the 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 NZDA inviting the NZDA to suggest topics to be considered in the review and notifying NZDA 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 NZDA 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 the NZDA with 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 NZDA and Health NZ 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. Health NZ and the NZDA 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.

These principles reflect the Relationship Principles under clause A6 of the CDA, and support long term co-operation and collaboration between Health NZ and the NZDA as a Representative Body 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.

18. 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*

19. As soon as reasonably practicable when Cabinet announces its annual Budget decision, Health NZ will notify the NZDA of any proposed price changes to the CDA. Proposed price changes are automatically considered part of the review process.
20. At a meeting to take place before the date that is 10 working days prior to 30 June of each year, the NZDA and Health NZ 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*

21. 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.
22. Agendas for the meetings, meeting papers and other documentation will be circulated by the secretariat a reasonable time before a meeting.
23. Participants in the review will advise the secretariat as to who will attend a meeting a reasonable time in advance of the relevant meeting.
24. 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*

25. It is intended that the attendees on behalf of the NZDA who attend each meeting will be broadly representative of all Providers.
26. If for whatever reason, the attendees at a meeting are not broadly representative of all Providers, 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*

27. The recommendations resulting from each review, including recommended amendments to the Agreement, will be submitted to the relevant delegated authority within Health NZ.
28. The objective of each review is for the Participants to arrive at recommendations by consensus.
29. If the Participants are unable to reach a consensus after having made all reasonable efforts to do so within the review schedule:
  - a. the NZDA may make separate recommendations to the relevant delegated authority of Health NZ; and/or
  - b. the NZDA 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*

30. 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 NZDA remain committed to following the principles set out at clause 17 of these terms of reference.

### *Resourcing*

31. 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*

32. 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.
33. 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*

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