

Food Act Fees

Statement of Proposal

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Statement of Proposal

Food Act Fees

Introduction

This Statement of Proposal has been drafted to fulfil Local Government Act 2002 (LGA) and Food Act 2014 (the Act) requirements.

Background

The Food Act 2014 was passed into law in June 2014, replacing the Food Act 1981. A three year transition starts on 1 March 2016.

The purpose of the Act is to:

- restate and reform the law relating to how persons trade in food
- achieve the safety and suitability of food for sale
- maintain confidence in New Zealand's food safety regime
- provide for risk-based measures that—
 - minimise and manage risks to public health
 - protect and promote public health
- provide certainty for food businesses in relation to how the requirements of this Act will affect their activities
- require persons who trade in food to take responsibility for the safety and suitability of that food.

High risk food service businesses with an alcohol on-license (such as hotels, restaurants, bars and cafes) will be among the first to transition to the new Act.

Businesses affected

As at mid-February 2016, there were 1775 businesses in Wellington that will be subject to either a Food Control plan or national programme, with the split between these business estimated as follows¹:

Category	Number of businesses
Food control plan	1408
National programme level 3	254
National programme level 2	19
National programme level 1	27
Total number of businesses	1775

An additional number of premises may be required to register with the Council which were not previously required to register, the most significant sector of this market being early childhood education centres (ECEs). There are approximately 100 ECEs in Wellington (these will be subject to national programmes level 2).

Council may collect fees under the Act

Territorial authorities may, by resolution, fix fees to cover direct and indirect costs for any registration, verification and/or compliance and monitoring activities. A council may not recover more than the reasonable cost incurred by the Council to perform that function.

Territorial authorities are permitted to recover costs when performing the following functions:

Registration

¹ It should be noted that this is an estimated split based on previous knowledge. It will not be possible to determine an actual split until the scope of operation of each business is explored further.

This includes administration costs, including providing advice to new businesses, recording food premises details, providing licences and certificates.

Verification

This includes the auditing of food premises, including preparation (booking appointments, checking resource and building consents, checking prior history), travel time, actual on-site time, completing reports and recording system entries. Travel time has been averaged across all premises and will be set at 30 minutes per verification. There may occasionally be a need to increase this charge for some verifications, as some may take significantly more than 2.5 hours to complete due to the size and scale of the premises. The time spent above the standard fixed verification charge will be charged on an hourly rate basis.

Compliance and monitoring activity

This will be charged on a per hour basis, however no charge will apply for investigation of complaints that do not result in an improvement notice being issued. This recognises that the investigation of complaints is a public good, and unless justified by the issuing of an improvement notice, should not penalise the food operator.

As part of the compliance and monitoring activity there will be a fixed fee for the first visit to a business, which is the opening inspection. This inspection will ensure that the business has complied with all building consents and resource consents and the business is ready to open to the public. At this inspection the health officer will also introduce the Food Control Plan or National Programme, dependent on the nature and scope of operations of the business.

Proposal to set fees

The Council is required under the Local Government Act 2002 to adopt a Revenue and Financing Policy that provides detail on the funding of operational and capital expenditure. During its development, analysis was undertaken regarding which parts of the community contribute to paying for activities.

Food businesses will transition to the new Food Act over a three year period. During this transitional period a portion of businesses will be charged under the Food Act 2014 and the remaining businesses will continue to be charged under the existing fees set pursuant to the Health Act 1956 and the Food Hygiene Regulations 1974.

Wellington City Council is proposing to sets fees in the fee structure contained in this paper to ensure the recovery of direct and indirect costs incurred by the Council in performing their functions under the Act from 1 March 2016.

The Council must not recover fees above what it spends.

Proposed fee structure

Under this proposal, the model for cost recovery is different than under the previous legislation. Operators will be required to pay an annual registration fee payable on the anniversary of their date of registration. Additionally, there will be a set fee for both registration and verification activities. An additional fee, calculated at an hourly rate, will be charged for all additional visits for opening inspections, education and compliance.

The Council has undertaken a process to estimate the volumes of registrations, verification and compliance visits it will carry out. This process was undertaken by reviewing data and performance from previous years in terms of compliance and monitoring activities and linking them to the proposed fee model. The Council then aligned the prices per hour with Ministry of Primary Industries, Auckland City Council and Christchurch City Council pricing which are comparable sized operations with similar direct, indirect and corporate support charges. Charges reflect an analysis of direct costs such as salary and operational expenditure, as well as indirect costs such as support functions, IT and property cost.

PROPOSED FEE SCHEDULE	Time included	Fixed cost
Template or Model Food Control Plan		
Registration	1 hour	\$ 155.00
Renewal/re register	half hour	\$ 77.50
Amendment		
Significant	1 hour	\$ 155.00
Minor	half hour	\$ 77.50

Change of circumstances	half hour	\$ 77.50
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Voluntary suspension	half hour	\$ 77.50
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Verification

1st verification	2.5 hours	\$ 387.50
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2nd verification	2.5 hours	\$ 387.50
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Compliance

Notice	1 hour	\$ 155.00
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Application for review	1 hour	\$ 155.00
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Statement of compliance	half hour	\$ 77.50
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Opening inspections	1 hour	\$ 155.00
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Additional hours	per hour	\$ 155.00
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National Programme

Registration	1 hour	\$ 155.00
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Renewal/re register	half hour	\$ 77.50
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Amendment

Change of circumstances	half hour	\$ 77.50
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Voluntary suspension	half hour	\$ 77.50
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Verification

1st verification	1 hour	\$ 155.00
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2nd verification	1 hour	\$ 155.00
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Compliance

Notice	1 hour	\$ 155.00
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Application for review	1 hour	\$ 155.00
Statement of compliance	half hour	\$ 77.50
Opening inspections	1 hour	\$ 155.00
Additional hours	per hour	\$ 155.00

Options considered

In determining the proposal Council considered the following options:

Option 1

Adopt the Statement of Proposal to fix fees to recover the full direct and indirect costs of the Council's functions under the Food Act 2014.

This is considered to be the most equitable option ensuring that funding for the Council's functions under the Act are from users or beneficiaries of these functions and not from rates and other general funding sources. This also aligns with the Council's Revenue and Financing policy.

This is the preferred option.

Option 2

Adopt an amended statement of fees to partially recover the direct and indirect costs of the Council's functions under the Food Act 2014.

The option is not in accordance with the Councils revenue and financing policy. The option would mean the full cost of the Council's functions under the Food Act 2014 would have to be recovered from rates or other funding sources.

This is not the preferred option.

Option 3

Adopt an amended statement of fees that charged all activity on an hourly rate basis with no upfront fixed fee.

The option wouldn't provide any certainty or estimate of the expected charges for the customer and would also have high administrative costs.

This is not the preferred option.

The table below sets out the advantages and the disadvantages of the reasonably practical options that have been identified:

Option	Positives	Negatives
<p>Option 1: Minimum fixed fee based on average time, with the ability to recover additional costs as required.</p> <p>Preferred option</p>	<p>Rewards good compliance and behaviour</p> <p>Recovers costs for actual work performed</p> <p>Minimum charge removes risk of not recovering full costs</p> <p>Consistent with MPI charging methodology</p> <p>Provides customer guidance on total fees</p>	<p>Some averaging for some operators</p> <p>More invoicing than current approach</p>
<p>Option 2: Subsidising cost recovery with rates funding to lower the hourly rate</p>	<p>Keeps costs for operators lower</p> <p>Encourages use of Council as preferred verifier when competition is introduced</p>	<p>Increases costs to ratepayers</p> <p>Inconsistent with Food Act principle of equity in that although users of food premises are beneficiaries, the real beneficiaries of safe food premises are the business owners</p>
<p>Option 3 Charging by the hour (no fixed,</p>	<p>Possible perceived lower charges for customers</p>	<p>High administration costs which haven't been factored into fees.</p>

upfront fee)		High transaction volume Uncertainty for operators as to likely total charges
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Option 1 is the preferred method

The methodology for calculating fees has been amended to align with the Food Act 2014 requiring businesses to register annually and undergo verifications, the frequency of which is dependent on their performance with high performers being verified (audited) less frequently. The cost of verification will be on charged to businesses. Compliance visits will be charged to the business at an hourly rate.

Have your say

There are several ways you can have your say on this proposal, from 29 March to 29 April 2016. You can complete a submission form online as part of the Annual Plan feedback process:

wellington.govt.nz/ap2016-17

Or post it to us: Wellington City Council, PO Box 2199, Wellington 6140

Drop it off: Wellington City Council, 101 Wakefield Street, Wellington

Or email us: BUSAnnualPlan@wcc.govt.nz