

Chair

Cabinet Social Policy Committee

Policing Cost Recovery: Policy Decisions for the Regulations to Implement Cost Recovery for the Police Vetting Service


Proposal

1. This paper seeks Cabinet's approval for the policy content of regulations to set fees for the use of the New Zealand Police Vetting Service.

Executive Summary

2. The Policing (Cost Recovery) Amendment Bill (the Bill) amends the Policing Act 2008 to enable cost recovery for certain policing services that fall within the definition of a "demand service".¹ The Bill was reported back to the House on 29 June 2015. The Bill passed its Second Reading on 15 September 2016 and consideration by the Committee of the whole House was completed on 12 October 2016.
3. Under the Bill, the Minister of Police (the Minister) can recommend regulations prescribing fees or charges for certain policing services. The service must be a demand service, the fee or charge must be consistent with certain cost recovery criteria, and everything reasonable must have been done to consult persons or organisations affected. The Bill lists the provision of vetting services by Police as an example of a demand service.
4. Regulations may also be made prescribing when the fee or charge is payable, providing for exemptions, waivers, and refunds, and authorising the Commissioner of Police (the Commissioner) to waive fees or charges in certain circumstances.
5. The proposed regulations will recover costs from users of the Police Vetting Service and will:
 - a. set a fixed fee of \$8.50 (GST exclusive) payable per vetting request
 - b. provide for agencies making 20 vetting requests or fewer per annum to have their fees waived

¹ A demand service is a policing service requested by an individual or organisation that is of direct benefit to that individual or organisation (even though there may also be some indirect benefit to the public). It does not include responding to 111 calls, conducting criminal investigations, or prosecuting criminal offences.

- c. provide for charitable entities² as defined in section 4 of the Charities Act 2005 (registered charities) making more than 20 vetting requests per annum to have their fees waived
 - d. provide the Commissioner with the discretion to waive fees for agencies facing extreme hardship and in cases where there are exceptional circumstances.
- 6. Skewed demand for Police vetting means that the cost of providing these waivers can be recovered from the agencies that make the vast bulk of the vetting requests by some minor reappportioning of costs. Based on 2016/17 forecasts, this would add \$1.47 per vetting check (onto the \$7 per vetting check it would cost if all agencies paid) for those agencies that make 83 percent of the vetting requests.
 - 7. This would enable the cost of these waivers to be met within a proposed fee of \$8.50 (GST exclusive) per vetting request.
 - 8. The cost of some vetting requests will continue to be funded by Police. This includes vetting checks of Police staff and vetting checks for private security personnel and private investigators, secondhand dealers and pawnbrokers, and special events (such as next year's World Masters Games and British and Irish Lions Tour). This will require Crown funding of \$240,278 (GST exclusive).
 - 9. 

Background

Current position

- 10. Currently the Policing Act does not explicitly provide for cost recovery by Police.
- 11. Under the status quo, the vast majority of users of the Police Vetting Service receive Police vetting results at no cost. This is inequitable to the taxpayer given that the service generates a predominantly private benefit.
- 12. The Police Vetting Service is funded through Vote Police under General Crime Prevention Services (\$3,947,000³ in 2015/16). Revenue for this appropriation comes from Revenue from the Crown and Revenue from Others, including fees from the NZ

² A charitable entity means a society, an institution, or the trustees of a trust that is or are registered as a charitable entity under the Charities Act 2005.

³ This includes \$722,000 to support the operating expenses of the Vulnerable Children's legislation [CAB Min (14) 25/17 refers].

Transport Agency (NZTA) for commercial vehicle driver licensing (\$28.80 per vetting request), and fees for criminal history checks from overseas approved agencies.⁴

13. The Police Vetting Service is facing significant growth. In 2012/13 Police received 443,797 vetting requests (a 12.4 percent increase on the previous year), in 2013/14 there were 468,249 vetting requests (a 5.5 percent increase), in 2014/15 there were 504,506 requests (a 7.7 percent increase), and in 2015/16 there were 549,346 requests (an 8.9 percent increase). This growth is forecast to continue, particularly now that workforce safety checks under the Vulnerable Children Act 2014 are being phased in (beginning 1 July 2015). The growth from 2015/16 to 2016/17 has been forecast at 8.9 percent, which would increase the vetting volume to 603,171⁵.

Table 1: Growth in demand for Police vetting

Year	Number of vetting requests	Annual growth
2012/13	443,797	+12.4%
2013/14	468,249	+5.5%
2014/15	504,506	+7.7%
2015/16	549,346	+8.9%
2016/17 ⁶	603,171	+8.9%

14. With demand for vetting services increasing there is a need for additional resourcing for the Police Vetting Service. Without further resourcing, the current quality and timeliness of the Police Vetting Service is at risk.
15. Police was allocated \$3,186,000 for 2014/15 under Output 2.3 Vetting Services. The actual cost of running the Police Vetting Service was \$3,240,000 for 2014/15. This figure covers direct and indirect costs. The Police Vetting Service was therefore underfunded during this period and as a result did not meet the performance standard of 90 percent of vetting requests processed within the Service Level Agreement timeframe of 20 working days.⁷ In 2015/16 Police was allocated

⁴ In April 2014, the Cabinet Legislation Committee agreed that the vetting fee set in the Transport Services Licensing Regulations 1989 "be consequentially amended to align with the fees for providing a Police vetting check set in Policing regulations" [LEG Min (14) 7/3 refers].

⁵ This figure includes an additional 5,000 vetting checks for secondhand dealers (these vetting checks were not included in vetting volumes for previous years).

⁶ Forecast.

⁷ This is the same period in which agencies must respond to Official Information Act requests.

\$3,947,000. Again, this level of funding was insufficient to adequately resource the service, meaning that in 2015/16 the performance standard was not met for 9 out of 12 months. In 2016/17 Police has been allocated \$4,079,000 for vetting services.⁸ Forecasted costs of the Police Vetting Service, involving both direct and indirect costs, for the 2016/17 financial year are \$4,220,454 (see Table 2 below).

Table 2: Forecasted costs of Police Vetting Service 2016/17

ONGOING COSTS	
Application and infrastructure costs	558,745
Employee related costs	3,146,167
Banking costs	30,000
Training costs	37,234
TOTAL ONGOING COSTS	3,772,146

DEPRECIATION AND CAPITAL CHARGE	
Depreciation – Application	320,220
Capital Charge – Application	128,088
TOTAL DEPRECIATION AND CAPITAL CHARGE	448,308

TOTAL EXPENDITURE (including depreciation and capital charge)	4,220,454
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16. Cost recovery manages the risk of increasing demand for vetting requests by ensuring that adequate resourcing is available for the service. This will, in turn, help protect the reputation of Police as well as ensure funds do not need to be reallocated from priority frontline and preventative policing services.
17. The Police Vetting Service is the only policing service currently being considered for cost recovery.

⁸ This includes \$722,000 to support the operating expenses of the Vulnerable Children's legislation [CAB Min (14) 25/17 refers].

Legislative process to date

18. In October 2013, the Cabinet Social Policy Committee (SOC) agreed to the Policing (Cost Recovery) Amendment Bill (the Bill). It also agreed in-principle to cost recovery for the Police Vetting Service, subject to final approval by Cabinet of regulations setting fees for vetting, which would be submitted following the passage of the Bill. SOC noted that cost recovery for certain policing services will contribute to improving the way that Police resources are used, enhancing service delivery and providing better value for money within Police [SOC Min (13) 23/2) refers].
19. The Bill was introduced in May 2014. In November 2014 the Bill received its First Reading and was referred to the Law and Order Committee. The Committee reported back on 29 June 2015. The Committee recommended the Bill be passed with amendments (these were of a technical nature). The Labour Party, Green Party and New Zealand First Party opposed the Bill and had minority views recorded. The Bill passed its Second Reading on 15 September 2016 and consideration by the Committee of the whole House was completed on 12 October 2016.

The Policing (Cost Recovery) Amendment Bill

20. The Bill provides that the Governor-General may, by Order in Council, and on the recommendation of the Minister, make regulations prescribing fees or charges for certain policing services that fall within the definition of a “demand service”.
21. Under the Bill, the Minister can recommend regulations prescribing fees or charges for certain policing services, if the Minister is satisfied:
 - a. the policing service is a demand service; and
 - b. the fee or charge is consistent with specified cost recovery criteria; and
 - c. the Commissioner has done everything reasonable to consult the persons or organisations affected or likely to be affected by the fee or charge.

Demand service

22. Section 79B(2) of the Bill defines a demand service as:
 - a. a service that:
 - constitutes policing; and
 - is provided only on the request of an individual or organisation; and
 - is provided to the individual or organisation requesting it and is of direct benefit to that individual or organisation (even though provision of the service may also be of indirect benefit to the public as a whole); but
 - b. does not include:
 - the response of the Police to calls for service relating to potential offending;
 - the conduct of criminal investigations;

- the prosecution of criminal offences.
23. Section 79B(3) of the Bill lists the provision of vetting services by Police as an example of a demand service.
 24. Only approved agencies that are registered with Police can use the Police Vetting Service. To become approved, agencies must meet one or more specified criteria. One criteria is that the agency has functions that involve community safety and security, for example, the care, protection, education or training of vulnerable members of society such as children, young persons, elderly, disabled, and animals. Other criteria include national security, legislative obligations, and New Zealand immigration purposes. Agencies registered with Police include government departments, schools, District Health Boards, non-government organisations (for example IHC New Zealand), and private sector organisations (for example rest homes and retirement villages).
 25. Approved agencies can request information Police holds on a specific individual, with the authorisation of that individual. Information released may include conviction history as well as further information considered relevant to the position of the person being vetted (for example information about violent or sexual behaviour that did not result in a conviction).
 26. The primary benefit of the Police Vetting Service is to the users of the service. Agencies requesting a vetting check on an individual benefit because the information supplied allows them to make informed decisions about the suitability of that individual for employment in the agency, to act as a volunteer, to gain citizenship etc. It also contributes to the reputation of the agency, for example by providing some assurance that people the agency cares for will be safe.

Cost recovery criteria

27. Section 79C of the Bill sets out the criteria cost recovery should comply with. These criteria are:
 - a. Justifiability – the fee or charge recovers no more than the actual and reasonable costs (including both direct and indirect costs) of the service to which the fee or charge relates; and
 - b. Equity – the fee or charge for the service is generally obtained from the users or beneficiaries of the service at a level commensurate with their use of the service; and
 - c. Efficiency – costs of the service are efficiently incurred (the service delivers maximum benefit at minimum cost); and
 - d. Transparency – the relationship between the costs of the service and the nature and duration of the service is clear.
28. These criteria are drawn from the framework for cost recovery set out in the Treasury's and Auditor General's guidelines for setting charges in the public sector and from current New Zealand legislation that provides for cost recovery by other agencies.

29. The proposal to recover costs from the Police Vetting Service complies with the cost recovery criteria:
- a. Justifiability – The costs being recovered for the Police Vetting Service are the costs that are directly attributable to providing the Police Vetting Service and administering the cost recovery system. These include direct costs such as staff salaries, training and operating costs (e.g. support, maintenance and development of computer systems and billing) as well as indirect costs such as overheads. The overall cost has been calculated by identifying the resources, systems and procedures required to provide the Police Vetting Service for the volumes predicted.
 - b. Equity – Police will recover the fee from agencies that are registered with them to use the Police Vetting Service. The fee will either be absorbed by the requesting agency or passed on to the individual being vetted. The fee is considered to be modest and will be set at a level that is not prohibitive for an agency needing to access the service.
 - c. Efficiency – Police will actively monitor the ongoing operation of the Police Vetting Service against service standards for quantity, quality, timeliness and cost throughout the year as part of regular business monitoring and corporate reporting. This will help ensure that a good standard of vetting services is being delivered to agencies making vetting requests, at the minimum cost possible. The level of the fixed fee will be reviewed annually so that adjustments can be made when necessary. The costs of providing services are likely to vary over time due to the number of requests made, changing staff costs, new process improvements and technology changes.
 - d. Transparency – Police will publish Technical Guidelines to show how the fixed fee has been calculated and how the extreme hardship and exceptional circumstances waivers will be applied. The guidelines will be reviewed after 18 months operation. A memorandum account will be used to address any under or over recovery of the cost of providing vetting services by Police and will be published in Police's Annual Report.

Consultation

30. Section 79D of the Bill sets out the expectation that consultation will precede any regulations providing for cost recovery. Everything reasonable should be done to consult the persons or organisations that appear to be affected, or likely to be affected, by the fee or charge.
31. Police has publicly consulted on the proposal to charge for the Police Vetting Service and on the type of fee waivers that could be applied. A public consultation paper, *Cost Recovery for Certain Police Services*, was released in 2012. This included a discussion of cost recovery for the Police Vetting Service. A follow-up discussion paper on *Options for Exemptions in a Cost Recovery Regime for the Police Vetting Service* was sent in 2013 to those who made submissions on the public consultation paper. A Regulatory Impact Statement, which included a summary of previous public and agency consultation, was made publicly available with the Bill. Select committee consideration of the Bill provided further opportunity for public submissions.

32. Objections to, or concerns about, cost recovery for the Police Vetting Service were raised by a number of submitters during both the initial consultation process and subsequent select committee process.
33. A summary of the main issues raised by submitters and Police's views are provided in the attached Regulatory Impact Statement accompanying this paper.

Comment

Proposals for regulations

34. Under section 102A of the Bill, regulations may be made:
 - a. prescribing fees or charges for specified demand services:
 - b. prescribing the time when a fee or charge becomes payable:
 - c. providing for exemptions from, or waivers or refunds of, any fee or charge:
 - d. authorising the Commissioner to exempt, waive, or refund fees or charges in certain specified circumstances.

Fee

35. I propose that the regulations set a fixed fee of \$8.50 (GST exclusive) per vetting request to cover the actual and reasonable costs of the Police Vetting Service. Fixed fees or charges are provided for in section 79E(1)(a) of the Bill.
36. Police has based this fee on the forecasted costs of the Police Vetting Service, involving both direct and indirect costs, for the 2016/17 financial year⁹, averaged by the forecasted number of vetting applications for that year¹⁰. The \$8.50 fee (GST exclusive) is expected to include the cost of any proposed waivers.
37. As the fee has been set on the basis of forecasted costs and volumes for 2016/17, there is likely to be some under or over recovery of costs in any given year. A memorandum account will be used to report any surpluses or deficits incurred in running the Police Vetting Service each year.
38. A fee of around \$7 per check was suggested during the First Reading of the Bill in 2014. The significant increase in demand for vetting services year on year means that this fee is no longer realistic if the Police Vetting Service is to meet performance standards and be largely self-sustaining. One area in which costs have increased markedly is staffing costs. This includes employing additional specialist and supervisory staff (for example file review officers, a continuous improvement advisor, a liaison officer, and a team leader) as well as increased remuneration for all vetting staff.

⁹ \$4,220,454.

¹⁰ 603,171.

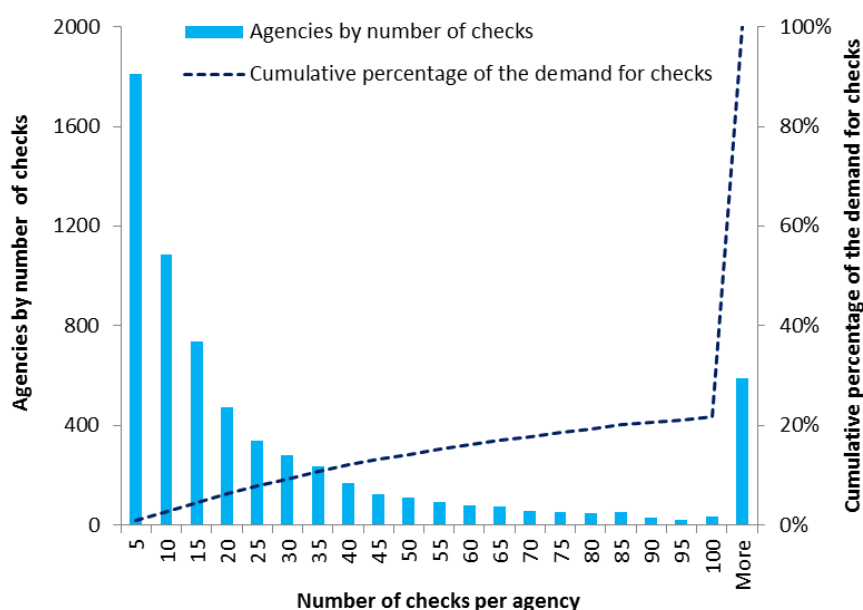
Fee waivers

39. There is no perfect solution to the design of a fee waiver regime. The challenge is to come up with a regime that strikes a balance between ensuring that agencies with limited income streams continue to use the Police Vetting Service and Police being able to cover the costs of providing a quality and timely vetting service. Keeping compliance costs to a minimum, reducing administrative complexity, and increasing community acceptability of cost recovery are further challenges.
40. I propose a combination of four waivers:
- a. provision in regulations for agencies making 20 vetting requests or fewer per annum to have their fees waived, as provided for in new section 102A(c) of the Bill
 - b. provision in regulations for charitable entities as defined in section 4 of the Charities Act 2005 (registered charities) making more than 20 vetting requests per annum to have their fees waived, as provided for in new section 102A(c) of the Bill
 - c. an extreme hardship waiver at the Commissioner's discretion, as provided for in new section 102A(d) of the Bill
 - d. an exceptional circumstances waiver at the Commissioner's discretion, as provided for in new section 102A(d) of the Bill.
41. The above approach combines administrative waivers and a policy waiver for registered charities.

Waiver for agencies making 20 vetting requests or fewer per annum

42. The distribution of the demand for vetting services by Police is skewed as shown in Figure 1. A small number of agencies make the vast majority of vetting requests, and a large group of agencies make very few vetting requests. In 2015/16 the top six agencies generated 34 percent of the vetting requests, while 4,850 (of the 7,673 agencies who submitted at least one request in 2015/16) had 20 or fewer requests and generated 7 percent of total vetting requests. In 2015/16 the largest number of vetting requests came from Immigration New Zealand, New Zealand Teachers Council (now the Education Council), NZTA, Department of Internal Affairs, Real Estate Agents Authority, and the Private Security Personnel Licensing Authority. Many of the other high use agencies were from within government or publically-funded services such as health and education.

Figure 1: Police vetting requests by agency size in 2014/15¹¹



43. The low user agency waiver would provide for agencies making 20 vetting requests or fewer per annum to have their fees waived. Under the proposed waiver, 63 percent of agencies would have their fees waived in 2016/17.
44. I propose that the cost of the waived vetting requests be recovered from the agencies that make the vast bulk of the vetting requests. The cost of providing a waiver for low user agencies making 20 vetting requests or fewer per annum would add 50 cents per vetting request to the remaining vetting checks. This cost has been included in the proposed fee of \$8.50 (GST exclusive).
45. The low user agency waiver can be justified on the basis that it keeps costs to a minimum for a large number of agencies. There would be no vetting fees and little, if any, change from the status quo in terms of administrative compliance costs. The waiver would also make the cost recovery scheme less expensive to administer as the Police Vetting Service would not be collecting fees from the many agencies who only make a few vetting requests per year. Setting an agency based free check threshold of 20 vetting checks per annum is likely to increase the acceptability of charging for Police vetting. It may also reduce the need for low user agencies to apply for an extreme hardship waiver.
46. Agencies making more than 20 vetting requests per annum will have to pay for their vetting requests unless they are eligible for another type of waiver. To ensure that agencies are aware they are approaching the top of the threshold for free vetting requests, Police's automated billing system will generate a warning. Once agencies exceed the 20 vetting requests they will be billed retrospectively for the first 20 requests as well as any subsequent vetting requests.

¹¹ Although this figure is based on 2014/15 data, the distribution shown is very similar to 2015/16.

Waiver for registered charities making more than 20 vetting requests per annum

47. Under the proposed waiver regime registered charities making more than 20 vetting requests per annum would have their fees waived. Only charitable entities as defined in section 4 of the Charities Act 2005 would be eligible for this waiver. This waiver in combination with the low user agency waiver would mean that registered charities are not required to use their resources to pay for vetting requests.
48. Analysis by the New Zealand Institute of Economic Research (NZIER), on contract to Police, identified 419 agencies as registered charities requesting more than 20 vetting checks per annum in 2014/15. The total number of vetting checks above the 20 request threshold by these charities was 54,289. This figure was estimated to be 59,114 in 2015/16. Based on forecasted growth, registered charities are expected to account for 64,368 vetting checks above the 20 request threshold in 2016/17 (11 percent of all vetting requests).
49. The cost of the charities exemption would be borne by other agencies making more than 20 vetting requests per annum. Based on 2016/17 forecasts, this would increase the cost per vetting check by 97 cents to \$8.47 (see Table 3 below).

Table 3: Low user agency waiver plus waiver for registered charities

The effect of low user agency waiver <u>plus</u> waiver for registered charities			
Waiver	No waivers	Low user agency waiver (20 or fewer requests p.a.)	Low user agency waiver <u>plus</u> waiver for registered charities making more than 20 requests p.a.
2016/17			
Waivered checks	0	40,571	104,939 (40,571+64,368)
Paid checks	603,171 ¹²	562,601	498,232
Cost per check	\$7.00	\$7.50	\$8.47
Percentage of checks waived	0%	7%	17%

50. This waiver acknowledges the concerns the public have about charging registered charities (as evidenced during the consultation process). Not being required to pay for vetting requests will mean that registered charities will potentially have more funds available for charitable purposes. The waiver is also partially in line with a Supplementary Order Paper submitted by a member of the Labour Party (the SOP seeks to exempt charitable entities from all cost recovery measures).

¹² Variance in totals is due to rounding.

Extreme hardship waiver

51. Agencies with limited income streams (and making more than 20 vetting requests per annum) would be eligible to apply for an extreme hardship waiver. The waiver would be limited to agencies who can demonstrate that the cost of vetting requests would create a barrier to their use of the Police Vetting Service. This could occur, for example, if paying vetting fees came at the expense of maintaining some of their key services or being able to employ the minimum number of staff. The extreme hardship waiver would be granted at the Commissioner's discretion.

Exceptional circumstances waiver

52. An exceptional circumstances waiver would give the Commissioner the ability to waive vetting fees in response to extreme events like national security emergencies or natural disasters and pandemics.
53. The extreme hardship and exceptional circumstances waivers are likely to be needed relatively rarely. As such their costs should be able to be absorbed by Police.

Crown funding

54. The cost of some vetting requests will continue to be funded by Police. This includes vetting checks initiated by Police for its own recruitment purposes, and workforce safety checks of Police staff under the Vulnerable Children Act. Also excluded from cost recovery measures would be vetting checks required by Police for national security purposes (such as next year's World Masters Games and British and Irish Lions Tour), and vetting checks that enable Police to object to licences or certificates being issued for private security personnel and private investigators, and secondhand dealers and pawnbrokers. These latter requests are initially processed by the Police Vetting Service and then forwarded on to district staff for a response, if required. None of the above vetting requests involve results being released to external agencies.
55. The number of vetting requests requiring Crown funding is forecast to be 28,268 in 2016/17. At \$8.50 (GST exclusive) per vetting request, the cost to the Crown would be \$240,278 (GST exclusive).

Rationale

56. The proposed waiver regime demonstrates that the Government has responded to the concerns of agencies, and the public in general. In particular, the regime:
- keeps costs to a minimum for the large number of low user agencies (no vetting fees and therefore minimal administrative compliance costs)
 - reduces the cost to Police of administering the scheme
 - alleviates concerns about charging registered charities
 - increases the public acceptability of cost recovery for vetting services

- provides a targeted means of dealing with financial hardship caused by the cost of vetting requests.

57. The regime also:

- ensures Police has sufficient resources to deliver a quality and timely Police Vetting Service to meet increased customer demand
- enables the Police Vetting Service to be largely self-sustaining
- potentially frees up resources for frontline policing services
- reduces the potential for reputational damage to Police
- contributes to the state sector goal of delivering better public services (Result 9: Better for Business).

58. Further detail on the rationale for the proposed waivers is provided in the Regulatory Impact Statement.

Other waiver options considered

59. In developing its preferred approach Police also considered further waivers on policy grounds, including waivers for:

- a. volunteers
- b. defined activities (such as the protection of vulnerable people)
- c. a limited time period (for example to allow agencies to implement the new children's worker safety checking requirements in the Vulnerable Children Act).

60. These waivers were dismissed due to factors including administrative complexity, potential unfairness and lower levels of community acceptability. More detailed analysis of these options features in the Regulatory Impact Statement.

Police Technical Guidelines

61. Technical Guidelines will be published on the Police website. Amongst other things, the guidelines will outline how the fixed fee has been calculated, and how the extreme hardship and exceptional circumstances waivers will be applied.

62. A formative review, focused on the adequacy of the Technical Guidelines, will occur after the cost recovery regime has been operating for 18 months. The results of this review will be made publicly available.

Consultation

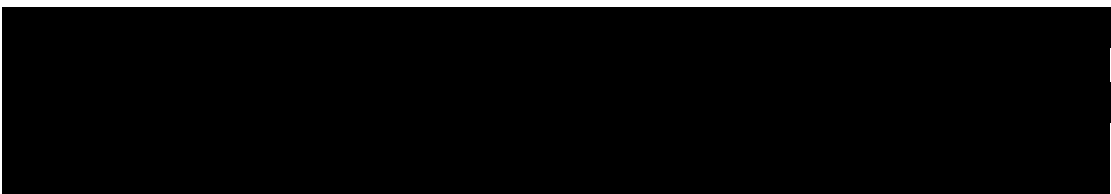
Public consultation

63. Police has publicly consulted on the proposal to charge for the Police Vetting Service and on the type of fee waivers that could be applied (see paragraphs 31 to 33 above).

Consultation with government agencies

64. The following government agencies were consulted on this Cabinet paper: Treasury; State Services Commission; Ministry of Education; Ministry of Justice; Ministry of Social Development (including Child, Youth and Family); Ministry of Health; Ministry of Business, Innovation and Employment; Ministry for Women; Department of Corrections; Department of Internal Affairs; NZTA; Te Puni Kōkiri; New Zealand Security Intelligence Service; Office of the Privacy Commissioner; Parliamentary Counsel Office; New Zealand Defence Force; Sport New Zealand; Education Council; Real Estate Agents Authority; and the Independent Police Conduct Authority. The Department of the Prime Minister and Cabinet has been informed.

Financial Implications

65. The original policy intent behind cost recovery for the provision of vetting services by Police was to contribute to the funding of 'Policing Excellence'¹³, Police's change programme to manage future demands on resources.
66. The current baselines for Vote Police do not include the impact of cost recovery for the Police Vetting Service.
67. 
68. The cost of some vetting requests will continue to be funded by Police. The number of vetting requests requiring Crown funding is forecast to be 28,268 in 2016/17. At \$8.50 (GST exclusive) per vetting request, the cost to the Crown would be \$240,278 (GST exclusive).
69. A memorandum account will be used to address any under or over recovery of the cost of providing the Police Vetting Service. The level of the fixed fee will be reviewed annually before the start of the financial year as part of the March Baseline Update. This review will enable the memorandum account to trend towards a zero balance over time.

¹³ 'Policing Excellence' ended on 30 June 2014, and has been followed by 'Policing Excellence: the Future'.

Human Rights

70. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

71. Regulations are required to implement the proposals in this paper. If agreed, the proposals in this paper will form the basis of instructions to the Parliamentary Counsel Office to prepare regulations under the Policing (Cost Recovery) Amendment Bill.
72. The regulations will be available to be considered by the Cabinet Legislation Committee once the Bill comes into force.
73. In April 2014, the Cabinet Legislation Committee agreed that the vetting fee set in the Transport Services Licensing Regulations 1989 (\$28.20) “be consequentially amended to align with the fees for providing a Police vetting check set in Policing regulations” [LEG Min (14) 7/3 refers].

Regulatory Impact Analysis

74. The Regulatory Impact Analysis requirements apply to the proposals in this paper. A Regulatory Impact Statement has been prepared and is attached.
75. The Regulatory Impact Statement has been reviewed via Police’s internal review process and meets the quality assurance criteria.

Gender Implications

76. The proposed regulations have no specific gender implications.

Disability Perspective

77. The proposed regulations have no direct disability implications. Some agencies who use the Police Vetting Service provide disability services.

Publicity

78. I propose to issue a press statement if Cabinet agrees to proceed with the regulations, advising that the regulations will prescribe fees and waivers for the Police Vetting Service.
79. I also propose that this Cabinet paper be published as soon as practicable on Police’s website. This will show stakeholders that the regulation development process is on-track and provide further clarity for service users about the likely final shape of the regulations.

Next Steps

80. Subject to the Policing (Cost Recovery) Amendment Bill being passed, I recommend that the Policing (Police Vetting Service Cost Recovery) Regulations come into force no earlier than 1 July 2017. This will allow sufficient time for Police to put in place the necessary business processes. It will also give agencies time to plan for cost recovery. This commencement date will need to be later in the year if the Bill is not passed until November or December 2016.

Recommendations

81. It is recommended that the Committee:
1. **note** that in October 2013, the Cabinet Social Policy Committee agreed to the Policing (Cost Recovery) Amendment Bill. It also agreed in-principle to cost recovery for the Police Vetting Service, subject to final approval by Cabinet of regulations setting fees for vetting, which would be submitted following the passage of the Bill [SOC Min (13) 23/2) refers];
 2. **note** that section 79B(3) of the Policing (Cost Recovery) Amendment Bill lists the provision of vetting services by Police as an example of a demand service for which regulations can be made prescribing fees or charges;
 3. **note** that Police has publicly consulted on the proposal to charge for the Police Vetting Service and on the type of waivers that could be applied, and select committee consideration of the Policing (Cost Recovery) Amendment Bill has given further opportunity for public comment and submissions;
 4. **note** that, objections to, or concerns about, cost recovery for the Police Vetting Service were raised by a number of submitters during both the initial consultation process and subsequent select committee process;
 5. **note** that the Policing (Cost Recovery) Amendment Bill had its Second Reading on 15 September 2016 and consideration by the Committee of the whole House was completed on 12 October 2016;

Regulations

6. **note** that the Policing (Cost Recovery) Amendment Bill provides for regulations to be made under new section 102A prescribing fees or charges for specified demand services, prescribing when the fee or charge is payable, providing for exemptions, waivers, and refunds, and authorising the Commissioner to exempt, waive, or refund fees or charges in certain circumstances;
7. **agree** that regulations set a fee of \$8.50 (GST exclusive) per vetting request to cover the actual and reasonable costs of the Police Vetting Service;
8. **note** that the distribution of the demand for vetting services by Police is skewed - a small number of agencies make the vast majority of requests, and there are a large group of agencies that make very few requests;
9. **agree** that the regulations provide for agencies making 20 vetting requests or fewer per annum to have their fees waived;

10. **agree** that the regulations provide for charitable entities as defined in section 4 of the Charities Act 2005 (registered charities) making more than 20 vetting requests per annum to have their fees waived;
11. **agree** that the regulations provide that the Commissioner has the discretion to waive the cost of vetting requests for agencies where extreme hardship would be a barrier to their use of the Police Vetting Service;
12. **agree** that the regulations provide that the Commissioner has the discretion to waive the cost of vetting requests in exceptional circumstances;
13. **note** that I propose that implementation of the Policing (Police Vetting Service Cost Recovery) Regulations be no earlier than 1 July 2017;
14. **note** that Technical Guidelines will be developed to support the operation of the cost recovery regime, including how the extreme hardship and exceptional circumstances waivers will be applied, and that a review of the guidelines will be undertaken 18 months after the cost recovery regime comes into force;
15. **note** that in April 2014, the Cabinet Legislation Committee agreed that the vetting fee set in the Transport Services Licensing Regulations 1989 (\$28.20) “be consequentially amended to align with the fees for providing a Police vetting check set in Policing regulations” [LEG Min (14) 7/3 refers];

Financial Implications

16. **note** that the current Police baselines do not include the impact of cost recovery for the provision of vetting services by Police;

17. [REDACTED]

[illegible]

18.



19. **note** that a memorandum account will be used to address any over or under-recovery of the cost of running the Police Vetting Service;

Drafting Instructions

20. **invite** the Minister of Police to issue drafting instructions to Parliamentary Counsel Office to give effect to the recommendations above;
21. **authorise** the Minister of Police to make decisions on detail and make changes consistent with the policy intent, on any issues that arise during the drafting process for cost recovery regulations for the Police Vetting Service.

Authorised for lodgement

Hon Judith Collins
Minister of Police

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