



BRIEFING

Review of the MIQ Fees System

Date:	26 February 2021	Priority:	Medium
Security classification:		Tracking number:	2021-2360

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	Note the contents of this briefing Agree to the inclusion of the proposed amendments in the Ministry of Health's COVID-19 Public Health Response Amendment Bill Cabinet paper	4 March 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Kara Isaac	GM - MIQ Policy	Privacy of natural persons	
Privacy of natural persons	Policy Manager, System and Strategy, MIQ		✓
	Principal Policy Advisor, System and Strategy		

The following departments/agencies have been consulted

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

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Purpose

To provide you with advice on the performance of the Managed Isolation and Quarantine (MIQ) fees system to date, recommend areas for immediate improvement, and seek your direction on aspects of the system that could be examined further in the next phase of the fees review.

Executive summary

The MIQ fees system was introduced at pace in August 2020 in order to make the public health response to COVID-19 more financially sustainable. The regime has a secondary objective of lowering demand for MIQ services related to short-term travel.

To date, the system has recovered more in fees than originally expected (approximately \$12 million in invoices have been paid, compared to initial estimates that the regime would recover \$8 million by 30 June 2021). However it is a complex system compared to other jurisdictions that has been and remains challenging to operationalise. We estimate that the fees system has cost at least \$1.325 million to implement to date, with approximate ongoing staffing costs of \$100,000 per month, excluding debt recovery (this aspect of the system is still being developed).

Six months into the MIQ charges regime, and nearly a year since the borders closed, the MIQ model has evolved considerably. However the primary objective of ensuring the economic sustainability of MIQ services has remained fundamental. As more time has passed the international environment suggests MIQ will be needed for the foreseeable future. There is an argument to be made that more people entering New Zealand should contribute to more of the costs of their MIQ stay.

This briefing recommends making some immediate amendments to the COVID-19 Public Health Response Act 2020 (the COVID-19 Act) so that the default setting is that everyone is liable for fees, and to include information sharing provisions to support invoicing and cost recovery. If you agree to these changes, we will continue to input into the amendment bill being progressed. These changes were included in the package of options presented to you on 16 February 2021 [HR 20210266 refers].

In addition to these changes, we have identified a number of other issues and opportunities for improvement. This briefing seeks your direction as to aspects of the fees system that could be examined in the next phase of the review.

We will also provide you with a briefing on fees collection and debt recovery by the end of March 2021, and advice on recommended improvements to the wider fees regime in April 2021.

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Agree** to include amendments to the MIQ charges provisions in the proposed content of the COVID-19 Public Health Response Amendment Bill, to enable the MIQ Charges Regulations to be designed so that the default setting is that everyone is liable for MIQ fees, unless they are exempt.

Agree Disagree Discuss

b **Agree** to include provisions for information sharing in the COVID-19 Public Health Response Amendment Bill, to support MIQ fees invoicing and recovery of costs.

Agree/Disagree/Discuss

c **Note** that MBIE officials will further develop the proposals in recommendations (a) and (b) and work closely with the Ministry of Health to prepare a draft Cabinet paper and progress the Amendment Bill.

Noted

d **Note** that we will be considering the following aspects of the fees regime as part of the next phase of the fees review:

- who should be liable for fees, including fee waiver provisions and eligibility
- what the fee rate (or rates) should be, including an examination of the latest data on average weighted MIQ costs, reviewing the rationale for current differentiated fee settings, and exploring alternatives to how the fee is structured
- the payment terms for fees and when invoices should be issued
- how the fees system has worked for Māori, including whether the system has been responsive to familial and financial structures of whānau, and whether it has mitigated the impacts of financial hardship
- what is needed to future-proof the fees system and ensure it can respond to (e.g.) quarantine-free travel zones, bespoke MIF arrangements, and different lengths of MIQ stays
- what legislative and regulatory changes are needed to give effect to identified improvements and/or streamline the operating of the fees system.

Noted

e **Note** that we will provide you with further advice on the issues above in April 2021.

Noted

f **Note** that we will provide you with a separate briefing by the end of March 2021 on fees collection and debt recovery.

Noted



Kara Isaac
GM - MIQ Policy
MBIE

26 / 2 / 21



Hon Chris Hipkins
Minister for COVID-19 Response

2 / 4 / 21

Background

Legislative authority for the MIQ fees regime

1. The COVID-19 Public Health Response Act 2020 (the COVID-19 Act) was amended in August 2020, to provide the legal authority for MBIE to recover costs relating to MIQ. The Act provides a framework empowering the relevant Minister to prescribe charges through regulations for people arriving in New Zealand who enter MIQ (unless they are exempt or have their fees waived).
2. The COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations) came into force on 11 August 2020. The Regulations set out the detail of the fees system including who is liable, what the fees are, and the manner of payment. This is supported by operational processes to collect information about liability and exemption status from people as they enter MIQ, issue invoices, process waivers and manage payment plans and collections.
3. The Regulations were developed and introduced at pace, and with limited consultation. At the time, border settings were tighter than present and the majority of people entering the country were New Zealanders returning home, with only a few critical purpose visa holders (e.g. critical workers) being permitted entry. It was also uncertain at that time how long MIQ would be required for and what the ongoing cost to government would be. The fees settings reflect the travel environment of the time they were established.

Changes to the Regulations to date

4. Due to the volatile nature of the COVID-19 pandemic, Cabinet intended that all aspects of the MIQ system, including the fees regime, would be kept under regular review to ensure that any restriction on New Zealand Bill of Rights Act 1990 (BORA) rights posed by the fees are proportionate and necessary, and that the Regulations remain appropriate in light of changes to circumstances domestically or globally [LEG-20-MIN-0141].
5. To date, one significant change has been made to the Regulations to set a higher fee for 'other critical workers', to make employers or supporting agencies liable for critical workers' MIQ costs where appropriate, and remove the ability of critical workers to apply for a fees waiver [CBC-20-MIN-0136]. These amendments came into effect on 1 January 2021. Cabinet has also recently agreed on further amendments to ensure that temporary visa holders (including international students) are liable to pay fees, and that this group be charged the higher fee [CAB-21-MIN-0016]. Parliamentary Counsel Office (PCO) is currently drafting regulations to give effect to Cabinet's decisions, and it is intended that these amendments will come into force on 25 March 2021.

Purpose of review

6. In addition to these changes, we have identified a number of other issues and opportunities for improvement, both policy and operational. Rather than continue to engage in ad-hoc fixes of discrete aspects of the fees settings, we consider that now is an appropriate time to take a broader look at the system and explore how these aspects could be cohesively addressed.
7. This briefing considers the objectives and performance of the fees system and seeks your agreement to amend the COVID-19 Act to make the starting point that everyone who enters MIQ is liable for charges as prescribed in the Regulations, unless they are an exempt person. It also identifies areas of the fees system that could be examined further in the next phase of the review.

Objectives of the fees regime

8. The cost of accommodating people travelling to New Zealand while maintaining critical border defences is significant. On December 7 2020, Cabinet agreed to \$1.74 billion in funding to enable the MIQ system to operate through to June 2022, including \$1.481 billion for MBIE MIQ costs, \$191.1 million for the estimated cost of health care services to support MIQ, and \$24.6 million for transport sector costs [CAB-20-MIN-0511].
9. The MIQ fees system was introduced because it was not equitable or sustainable for taxpayers to continue to bear the costs of MIQ in their entirety.
10. The primary objective of the fees system is to recover some of the costs associated with MIQ in order to make the public health response to COVID-19 more financially sustainable [LEG-20-MIN-0141]. The charges aim to share the costs of MIQ in a way that fairly reflects the benefits to both the New Zealand public of having a robust border system, and to those who enter the country.
11. The settings also attempt to strike an appropriate balance between the protected rights of New Zealanders to enter New Zealand, and the economic viability of the COVID-19 response. When the fees regime was introduced there was a high level of public interest in which New Zealanders, if any, should be required to pay for MIQ. Ministers described the fees as a way of ensuring that taxpayers would not be liable for MIQ costs of people wanting to come or go for holidays or business, whilst still allowing New Zealanders wanting to return and contribute to the economic recovery to do so without an unreasonable limitation.¹
12. As such, the fees system has a secondary, albeit less explicit objective of lowering demand for MIQ services related to short-term travel. This is implicit in the fact that the only classes of New Zealand citizens and residents who are liable for charges are those who left the country after the fees regime was introduced, and those who are returning on a temporary basis (currently, up to 90 days).

Current settings

Paying for an MIQ stay

13. People who are required to pay MIQ fees receive an invoice after their departure from MIQ and have 90 days to pay after the date of issue (30 days in the case of employers of critical workers). Invoices are issued per room, on the basis of data provided by MIQ returnees at the Managed Isolation Facility (MIF) during the MIQ stay, with the adults in a room jointly liable for fees.

Exemptions and waivers

14. Certain groups of people, such as diplomats, medical air transfers, refugees, caregivers entering MIQ to care for an excepted person, are exempt from fees.
15. Family members (as defined in the Regulations) are generally exempt from MIQ charges if they are sharing a room with a person who is exempt from charges.
16. A person can also apply to the Chief Executive of MBIE for a waiver from paying the fee due to undue financial hardship and other special circumstances. Applications to waive charges are considered on a case-by-case basis and can be applied for at any point (before/during/after) the MIQ stay or at invoicing. The Chief Executive can also defer payment due dates and allow for payment by instalment if financial hardship would otherwise result.

¹ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansD_20200729_20200729

Liability and fee levels

17. The following table sets out the current MIQ fees settings, including liability and fee levels. **Annex 1** provides you with further detail about the operationalisation of the system to date.

Table 1 – current fees settings

	NZ citizens and residents	Critical health workers	Temporary entry class visa holders ²	Other critical workers
Includes	NZ citizens in the Cook Islands, Niue and Tokelau, and residence class visa holders. Also includes Australian citizens and permanent residents who are ordinarily resident in NZ.	Health workers in a variety of clinical and non-clinical roles, ranging from medical practitioners to medical technicians to home care and support workers.	International students, visitor visa holders (including tourists and family members visiting NZ), work visa holders, air and maritime crew.	People determined to have unique experience and technical or specialist skills that are not readily obtainable in NZ, or who are undertaking a time-critical role – eg RSE workers, shearers.
Not liable?³	NZ citizens and residents who left NZ before the Regulations came into force and return to NZ for more than 90 ⁴ days	n/a	Temporary visa holders who left were ordinarily resident in NZ on or before 19 March 2020 and left on or before that date	n/a
Fee level	<p>\$2,696 + GST for the first/only person in a room</p> <p>\$826+ GST for an additional adult in the room</p> <p>\$413 + GST for a child (3-17 years) in the same room</p>	<p>\$2,696 + GST for the first/only person in a room</p> <p>\$826+ GST for an additional adult in the room</p> <p>\$413 + GST for a child (3-17 years) in the same room</p>	<p>\$2,696 + GST for the first/only person in a room</p> <p>\$826+ GST for an additional adult in the room</p> <p>\$413 + GST for a child (3-17 years) in the same room</p>	<p>\$4,800 + GST for the first/only person in a room⁵</p> <p>\$2,600 + GST for an additional adult in the room</p> <p>\$1,400 + GST for a child (3-17 years) in the same room</p>
Charged to	Individual (Legal guardian(s) where a child is staying alone)	Individual	Individual (Legal guardian(s) where a child is staying alone)	Employer or supporting agency or individual where there is no employer or supporting agency
When invoiced	On or after the day a person leaves MIQ	On or after the day a person leaves MIQ	On or after the day a person leaves MIQ	Can be issued before a person enters MIQ.
Fee waivers?	Full and partial waivers available in cases of undue financial hardship and special circumstances	Full and partial waivers available in cases of undue financial hardship and special circumstances	Full and partial waivers available in cases of undue financial hardship and special circumstances	n/a
Payment period	90 days from issue	90 days from issue	90 days from issue	30 days from issue

² On 15 February 2021, Cabinet agreed to remove the exception for temporary visa holders who were ordinarily resident at 19 March 2020, and to increase the fee for this group to \$4,800 + GST [CAB-21-MIN-0016]. Not yet legislated.

³ Also exempt from charges are people in section 32E of the Act and regulation 8 of the Regulations, e.g. diplomats

⁴ On 15 February 2021, Cabinet approved in principle to extend the liability period to 180 days, pending further policy and legal advice [CAB-21-MIN-0016].

⁵ The operational default is for critical workers to be allocated to a single room, however, where a Ministry of Health and MIQ risk assessment determines it is safe, critical workers may be permitted to share rooms.

Collecting fees

18. The Regulations do not specify an approach to fee collection or debt recovery, nor do they contain any interest or penalty provisions for unpaid invoices. MIQ currently has a principle-based approach to debt managed based mainly on trust and depends on people to be honest and meeting their commitments of paying their MIQ fee.

Performance of the fees system to date

19. The fees regime has now been in place for just over six months. Although the regime has recovered more in MIQ costs than originally anticipated, it can be complex to navigate and remains administratively burdensome.

Performance of the system against cost recovery objectives (primary objective)

20. When the fees system was introduced in August 2020 it was estimated that it would recover approximately \$8 million in MIQ costs by 30 June 2021 (excluding bad debts) [briefing 2021-0424 refers]. The underlying assumptions were that:
 - a) 200 invoices would be issued per month (a very rough estimate of who would be liable based on immigration data on people leaving and returning between April and July 2020, did not take into account potential waivers)
 - b) Of the 200 invoices, 40% would require debt collection services and enforcement, and of these, 30% would be unable to be collected and need to be written-off.
21. Actual numbers have proven to be much higher than initial estimates, likely due to both the gradual opening up of the border, and the increase in demand for MIQ. During the period from 11 August 2020 to mid-February 2021, over 8,000 invoices had been issued (with an approximate value of over \$31 million including GST), and approximately \$12 million in fees (including GST) had been paid. These figures include sports teams and other large groups that have been invoiced to date.
22. There is also a backlog of approximately 8,000 returnees that are still to be issued invoices. These unresolved invoices are discussed in more detail in paragraphs 30-35.
23. To date, approximately 22% of returnees have been found to be liable for MIQ fees, with most invoices having been paid just before the 90 day due date. As at mid-February 2021, 34% of the invoices issued over 90 days ago (totalling \$2.9 million, excluding the backlog of unresolved invoices), remain outstanding and are now overdue.

Compared to other jurisdictions, New Zealand has a complex fees system

24. As set out in Table 1, the current fees system is complex, with different fee levels and exception provisions applying depending on citizenship, visa status, and length of stay in the country.
25. On 15 February 2021, Cabinet agreed that temporary entry visa holders will be liable to pay the same fee as other critical workers [cab-min-21-0016]. It also agreed in principle to extend the minimum period of time that a New Zealand citizen and permanent resident must be in the country to not be liable to pay the fee from 90 days to 180 days. As a result of these decisions, the system will have evolved into effectively having four 'tiers' of fees—
 - a) **'Tier 1' – No liability to pay fee.** Applies to New Zealand citizens and residents who left before the fees system was introduced and who are returning for at least 180 days. Also includes groups exempt from charges in section 32E of the Act and regulation 8 of the Regulations, such as diplomats, medical air transfers, refugees, and caregivers entering MIQ to care for an exempted person.

- b) **'Tier 2' - Standard MIQ fee of \$2,696 + GST** (for the first/only person in the room, with reduced rates for additional adults and children in the same room). Applies to New Zealand citizens and residents who left the country after the fees system was introduced, those who left before but return for less than 180 days, and critical health workers. **Fee waivers available.**
 - c) **'Tier 3' - Higher MIQ fee of \$4,800 + GST** (for the first/only person in the room, with reduced rates for additional adults and children in the same room). Applies to temporary entry class visa holders (except for critical workers). This is due to come into effect on 25 March 2021. **Fee waivers available.**
 - d) **'Tier 4' - Higher MIQ fee of \$4,800 + GST** (for the first/only person in the room, with reduced rates for additional adults and children in the same room). Applies to critical workers from 1 January 2021. **No fee waivers available.**
26. This complexity is in strong contrast to the much simpler charging models being implemented in Australian states. Although each Australian state has its own fee system, they are all running on a single fee model (with reduced rates for additional adults and children sharing a room). Australian states do not differentiate between citizens/residents and non-citizens for the rate of the fee itself, no do their charging models have an interest in the permanence of a traveller's return. Most states do however require evidence of citizenship or residency to be eligible for fee waiver or instalment arrangements.

This complexity is evident in the challenges we have faced in operationalising the system

- 27. The rapid implementation of the fees regime in August 2020 presented a range of operational challenges. New invoicing, waivers and customer services functions had to be stood up immediately, and like other aspects of the MIQ operating model, we have had to 'build the plane while flying'.
- 28. Confirmation of ongoing funding for MIQ in December 2020 means that we are now able to resource our fees and waivers teams to required levels and develop system improvements to support more efficient waiver processing and fees collection arrangements.
- 29. Six months into the fees regime, the system remains largely manual, and significant information sharing limitations remain which inhibit our ability to accurately determine who is liable for fees, and issue invoices accordingly.
- 30. As a result of these challenges, there is currently a backlog of returnees – estimated to be over 8,000 - that have not yet been issued invoices. These 'unresolved invoices' may be invoices that are pending the outcome of a fee waiver application, duplicates, or not able to be finalised due to a lack of data about a person's liability on onwards contact address. It is currently unclear what proportion of these unresolved invoices would be liable for fees.
- 31. MBIE has recently made significant changes in relation to fees invoicing processes and is working through the backlog of unresolved invoices. We expect that the number of unresolved invoices will decrease over the next month.
- 32. Additionally, MBIE is undertaking work to improve the invoicing system and clearing the current backlog of unresolved invoices, including:
 - a) a complete reconciliation of the of the unresolved invoices against MIQ population data
 - b) validating and verifying the volume and amount of invoices that need to be written off
 - c) standing up new invoicing process which uses the Financial Management Information Systems to issue future invoices
 - d) centralising the MIQ debt management to the central MBIE finance function.

33. Data sharing arrangements are being established with Immigration New Zealand (INZ), Customs and Health, which will enable identifiable personal data to be shared (the Customs agreement was signed 21 January 2021, and the INZ agreement is expected to be finalised in the coming days). We also intend to include a formal legislative authority for information sharing in the omnibus COVID-19 Public Health Act 2020 Amendment Bill (No 2) as described in paragraphs 55 - 56 below.
34. These information sharing arrangements will support the identification of visa status of individuals, compel the provision of onward contact details for invoicing, and in the case of New Zealanders, verify whether they are returning temporarily or not (to determine whether they are liable).
35. We will provide you with further advice in late March 2021 with an update on the unresolved invoices issue, including the estimated monetary value of the unresolved invoices and options to address the issue. The briefing will also propose improvements that could be made to the fees collection and debt management aspects of the fees regime to change payment behaviours.

Feedback received from returnees suggests particular issues with waivers

36. In terms of the stakeholder experience of the MIQ fees system, feedback received through our resolutions team, and via Ministerial channels, identifies that waivers are a pain point.
37. A lot of the feedback relates to differing interpretations of the waivers provisions in the Regulations which are currently not well defined, with applicants often holding a different view as to the sort of circumstances that should be seen as causing 'undue financial hardship' or other special circumstances.
38. To date there have been 32 complaints to the Ombudsman regarding declined fee waiver applications. MBIE is meeting with the Office of the Ombudsmen on 5 March 2021 to discuss their provisional opinion on MBIE's assessment of undue financial hardship applications.
39. Another recurring theme from stakeholders is the misconception that MIQ costs only include food and hotel charges, which appear expensive for 14 days. We field a number of complaints from returnees dissatisfied with the level of accommodation and/or food at their managed isolation facility, who believe they should be entitled to a fee waiver on this basis.

Performance of the system against the short-term travel objective (secondary objective)

40. It is difficult to isolate the impact of the fees regime on lowering demand for MIQ services related to discretionary short-term travel. Certainly the border settings as a suite (14 day MIQ requirement, MIAS booking system with limited places, MIQ fees), combined with the price of flights and insurance in the COVID-19 environment, are functioning as an effective disincentive or outright barrier to many travellers. Anecdotal information from MFAT suggests that for many travellers, the greatest impediment to travelling is the two week managed isolation period itself.
41. The nature of waiver applications received would still suggest that a portion of people coming through MIQ are returning from more discretionary travel. We receive and decline a number of requests for waivers under 'compassionate grounds' for occasions such as a family wedding, birth of a child, visiting elderly parents that live abroad etc.
42. This is supported by Immigration New Zealand data, which indicates that since the introduction of the MIQ fees system on 11 August 2020 (as at 22 January 2021), 51,569 New Zealand citizens and residents and Australians normally resident in New Zealand had arrived in the country. Of these, 5,119 (10%) left within 90 days of arrival (and were therefore liable to pay the fee), and a further 1458 (3%) left after more than 90 days.

43. There are however a range of reasons why a person may depart New Zealand soon after completing MIQ, including within a short period of time. Some circumstances are outside of the traveller's control, such as an unexpected change in personal or family circumstances.

Costs of running the fees system

44. When the fees system was introduced it was estimated that it would cost at least \$50,000 per month (or \$600,000 per year) to support the financial administration and management of the system, including the creation of invoices and debt enforcement processes. This estimate excluded the cost of identifying who is liable to pay, processing waivers and write offs.
45. We estimate that the fees system has cost at least \$1.325 million to date (including establishment costs), with approximate ongoing staffing costs of \$100,000 per month. This figure excludes debt recovery costs and expected write-offs as this process is still being developed, and the costs of group/sports invoicing which is currently managed separately. Any changes to the fee structure that result in additional complexity and differentiation between groups of liable persons are expected to increase costs, due to the manual nature of the process and lack of robust data.

The objectives of the system remain pertinent, but the settings could be re-examined to reflect global travel realities

46. Six months into the MIQ charges regime, and nearly a year since the borders closed, the MIQ model has evolved considerably. Changes have been made to strengthen existing practices and new functions and processes have been added to respond to the emerging demands of the dynamic COVID-19 environment.
47. In New Zealand, the threat of community transmission has not been eliminated. With respect to COVID-19, the greatest threat to the health of New Zealanders continues to be from the introduction of COVID-19 cases at the border. That risk is now elevated with the emergence of new COVID-19 variants. The significant public health, social and economic benefits in maintaining the effectiveness of the MIQ system that were identified when the regime was established remain a critical concern for the Government
48. The primary objective of ensuring the economic sustainability of MIQ services has remained fundamental. And as more time has passed the international environment suggests MIQ will be needed for the foreseeable future, and with the whole-of-life cost of providing MIQ facilities increasing, there is an argument to be made that more people entering New Zealand should contribute to more of the costs of their MIQ stay.
49. The nature of travel has continually shifted since the beginning of the global pandemic and as countries around the world implement measures against the spread of COVID-19, including restricting entry at the border, travelling has become, for many people, a significant commitment. The secondary objective of lowering demand for MIQ services related to short-term travel remains a pressing concern for Government given the demand for MIQ is high and the pressures on Government to manage the return of repatriating New Zealanders which might be regarded as a priority.
50. In the six month period since the fees regime was established, we have identified a number of issues and potential areas for improvement. These are set out in the next section.

Recommended immediate changes to the fees legislative framework

Amending the COVID-19 Act so that the default setting is that everyone is liable for fees

51. Currently, the COVID-19 Act and the Regulations are designed so that groups of people have to be specified in the Regulations for charges to apply. Border exceptions not envisioned at the time the fees were introduced (e.g Australian citizens and permanent residents transiting through New Zealand and entering MIQ under a quarantine-free travel arrangement) are not liable for fees.
52. We recommend that the COVID-19 Act is amended to make the starting point that everyone who enters MIQ is liable for charges as prescribed in the Regulations, unless they are an exempt person.
53. Amending the Act would remove the need to review and in many cases amend the Regulations every time a new border exception is proposed to ensure the new group is liable for MIQ charges.
54. The Act and Regulations would still allow the ability to exempt groups from fees (including those groups of returning New Zealanders who left before the fees were introduced, or who are returning permanently), but it would mean that the starting point would be that everyone is liable, which will allow for a more enduring charging framework.

Amending the COVID-19 Act to support MIQ fees invoicing and recovery of costs

55. Neither the COVID-19 Act nor the MIQ Charges Regulations provide the legislative authority to support information sharing to enable the effective operation of the MIQ fees regime.
56. As noted in paragraph 33, data sharing agreements are being established with INZ, Health and Customs, which will enable identifiable personal information to be shared.
57. However we recommend that the COVID-19 Act is amended to provide formal legislative authority for information sharing for fees invoicing and recovery in the Act. In particular:
 - a) to ensure we can verify the visa status and therefore fee liability of returnees
 - b) requiring people to provide onwards address information for the purposes of invoicing.
58. Without this, there is a risk that we will be unable to fully and efficiently give effect to the cost recovery provisions of the charges Regulations.

Process to progress these key changes

59. You received advice from the Ministry of Health on 16 February 2021 (Health Report 20210266 refers) on the proposed content and timeline for an amendment bill, which included these changes in the package of options. We chose to signal these recommendations in that report to ensure that any proposed changes could be made through that vehicle (an omnibus Bill) instead of a separate distinct Bill making amendments to the same Act.
60. If you agree to these changes, we will continue to input into the amendment bill process and provide content for the draft Cabinet paper which Health is intending to provide to you by Friday 5 March 2021.
61. If you are not supportive of this approach we will continue to explore alternative methods to address the complexities with the regime, and provide you with other options alongside the next phase of advice on the fees review.

Other areas for potential consideration in the next phase of the review

62. In addition to the substantive changes proposed in the section above, we have identified a number of other issues and opportunities for improvement that would benefit from further examination.
63. These include issues relating to charging fees based on room allocation rather than travel groups, invoicing (only) at the end of a returnee's MIQ stay, the 90 day payment, treatment of critical health workers compared to other similar groups, fee waivers, how 'family member' is defined in the Regulations. These issues are set out in detail in **Annex 2**.
64. The next phase of the review could pick up the issues in Annex 2 as part of a consideration of:
- a) who should be **liable** for fees, including fee waiver provisions and eligibility
 - b) what the **fee rate** (or rates) should be, including an examination of the latest available data on average weighted MIQ costs, reviewing the rationale for current differentiated fee settings, and exploring alternatives to how the fee is structured
 - c) whether the **payment terms** (currently 90 days) for fees should be reduced, and whether invoices should/could be issued in advance of a person's MIQ stay
 - d) **how the fees system has worked for Māori**, including whether the system has been responsive to familial and financial structures of whānau, and whether it has mitigated the impacts of financial hardship
 - e) what is needed to **future-proof** the fees system and ensure it can respond to (e.g.) quarantine-free travel zones, bespoke MIF arrangements, and different lengths of MIQ stays
 - f) **what legislative and regulatory changes are needed** to give effect to identified improvements and/or streamline the operating of the fees system.
65. We propose to consider any changes to the current settings against objectives set out in paragraphs 8-12 and the following considerations. MIQ fees settings should:
- a) be clear and transparent so that travellers and employers have upfront certainty about the costs they will incur
 - b) avoid unjustified limitations on the rights of New Zealanders wishing to return home
 - c) be simple and feasible to implement
 - d) avoid over-recovery or penalising users.

Next steps and timing

66. This briefing seeks your agreement to amend the COVID-19 Act so that the default setting is that everyone is liable for MIQ fees, unless they are subject to any of the exemptions, and to including information sharing provisions in the COVID-19 Act.
67. If you agree to these changes, we will continue to input into Health's Amendment Bill process and provide content for the draft Cabinet paper which Health is intending to provide to you by Friday 5 March 2021. If you are not supportive of this approach we will continue to explore alternative methods to address the complexities with the regime, and provide you with other options alongside the next phase advice on the fees review.

68. Pending your direction, we will provide you with further advice on other recommended improvements to the fees regime in April 2021, including proposals to take to Cabinet in May 2021.
69. We will provide you with separate advice at the end of March 2021 on improving the fees collection and debt recovery systems, including options to change payment behaviours, so that more invoices are paid sooner.

Annexes

Annex 1: Current settings and operationalisation

Annex 2: Known issues and areas for potential improvement

Annex One: Current settings and operationalisation

Since 9 April 2020, all air arrivals to New Zealand have been required to stay in MIQ for 14 days with very limited exceptions. There are 32 MIQ facilities operating across five cities.

MIQ is a complex system of accommodation facilities, personnel, information systems, testing regimes, transport, security and supporting services that enable positive COVID-19 cases to be detected early after arrival to New Zealand and isolated from the community.

The range of services included in the end-to-end running of the MIQ operating model include:

- transport to and from MIQ facilities, including securing the transit of arrivals through air bridges
- facility operations, food, cleaning, pastoral care, site security and enforcement support
- health screening and registration at the border, health services and testing in MIFs, and wellbeing support
- administration and management of the Managed Isolation Allocation System (MIAS), emergency allocation requests, fee waiver applications and customer enquiries.

MIQ charges contribute to the costs of the MBIE provided services in the MIQ operating model. The charges do not attempt to recover Ministry of Health (Health) costs, or costs of services provided by other MIQ partner agencies (e.g. of Defence, AvSec, Police).

How the fees system is currently operationalised

Following the introduction of the fees regime, MBIE ran an awareness campaign in August 2020 to ensure widespread understanding of MIQ fees. The charges are clearly sign-posted on the MIQ website, as part of the MIAS booking process, and by consular staff overseas.

People who are required to pay MIQ charges receive an invoice after their departure from MIQ and have 90 days to pay after the date of issue (30 days in the case of critical workers). Invoices are issued per room, with the adults in the room jointly liable for fees. Anyone travelling or isolating with a family member (as defined in the Regulations) who does not have to pay charges is also exempt from charges, unless they are entering New Zealand as a critical worker.

Invoices are issued on the basis of data provided by MIQ returnees at the MIF during the MIQ stay. This includes information on visa status, planned length of stay, onward contact details and the room configuration.

A person can apply to the Chief Executive of MBIE for a waiver from paying the fee due to undue financial hardship and other special circumstances. Applications to waive charges are considered on a case-by-case basis and can be applied for at any point (before/during/after) the MIQ stay or invoicing. The Chief Executive can also defer payment due dates in appropriate situations and allow for payment by instalment if financial hardship would otherwise result.

Fees debt recovery

The Regulations do not specify an approach to debt recovery, nor do they contain any interest or penalty provisions for unpaid invoices.

MIQ currently has a principle-based approach to debt managed based mainly on trust and depends on people to be honest and meeting their commitments of paying their MIQ fee.

The process to manage debt is to send reminders 60, 90, 150 and 180 days from the invoice date of issue, where it remains unpaid. MIQ plans to pursue debts that are overdue by more than 180 days by working with MBIE's current external debt collection agency.

Annex Two: Known issues and areas for potential improvement

Charging fees based on room allocations rather than travel groups. Linking fees to room allocations creates a requirement to confirm room allocations before invoices can be issued. This prevents us from being able to invoice in advance as we do not know what the room configurations will be until returnees have arrived at the hotel and completed initial health checks. It also introduces equity and transparency issues, in that it penalises larger families (e.g. when a family of four books a single room but only two double rooms are available at the MIF, the family is charged double what they would have been anticipating). Changes to these settings would enable other processes to be implemented that would enable confirmation of invoice details prior to people leaving MIQ.

Invoicing (only) at the end of stay and 90 day payment period. With the exception of critical workers, the Regulations specify that people can only be charged for MIQ on or after the date of their departure from MIQ, with invoices due no later than 90 days after the date of issue. In operationalising the Regulations, we have allowed the maximum payment period (90 days), in recognition of the strained circumstances of some returnees. At the time the fees were introduced, these measures were seen as important to counter any barriers the fees placed on the rights of New Zealanders to return home. They mean however that once a customer leaves MIQ, we are reliant on the veracity of contact details provided in order to invoice them. The 90 day payment period creates a financial debt that must be reflected in government accounts. The longer payment period also increases the risk of non-payment and debt write-off, as well as enforcement costs and general appropriation management. Although BORA remains a key consideration for Ministers when considering any changes to the MIQ fees, we think it is worth looking at options to invoice in advance, reduce the payment period and allow more immediate payment methods (such as credit cards).

Treatment of critical health workers. There are some inconsistencies within the current settings around how critical health workers are treated as opposed to other similar groups who are also entering the country for economic gain. Other critical workers and temporary entry class visa holders are charged the higher MIQ fee of \$4,800 + GST for the first/only person in a room, compared to \$2,696 + GST for critical health workers. Also, individuals, rather than the employers or supporting agencies of critical health workers, are currently liable for MIQ fees. The next phase of the review provides an opportunity to work through any health workforce considerations and consider the appropriate level of charge and liable body for this group.

Power for the Minister to exempt classes from fees. We think there is value in amending the Regulations to create a new power for Minister to exempt classes of people from charges in certain circumstances. The Act itself allows for such a power, and including this provision in the Regulations would be a useful alternative to amending the Regulations in humanitarian situations (e.g. family members returning for the anniversary of the Christchurch mosque attacks). People in these sorts of situations would likely be eligible for a fees waiver on special circumstances grounds, but giving the responsible Minister the power to exempt from fees would provide upfront clarity for travellers.

There are a number of issues with **fee waivers**, including the fact that they can be applied for at any point in the MIQ stay or invoicing process. This creates significant administration costs to manage, makes it difficult to accurately forecast expected revenue from fees, and results in unnecessary invoicing (as receiving an invoice often functions as a prompt for people to apply for a waiver). Other issues for consideration include the definition of 'undue financial hardship', which is currently not specified in the Regulations, and consequently results in a large volume of queries, complaints and Ombudsman investigations. We think there would also be merit in reconsidering whether critical health workers and temporary visa holders should be eligible to apply for undue financial hardship and special circumstances waivers, given that other critical workers are not eligible for these. We also intend to undertake engagement with Māori to determine whether the waivers settings have mitigated the impacts on financial hardship as intended.

Narrow definition of 'family member' in the Regulations. Currently family members are generally exempt from MIQ charges if they are sharing a room with a person who is exempt from charges. However the definition of family members in the Regulations ("a spouse, partner, guardian, or child of that person") is narrow and is not necessarily responsive to familial and financial structures of whānau. As part of the next phase of the Review, we will undertake Māori engagement on how well the fees regime has functioned in this respect.

In addition, we are aware of **other issues relating to the fees regime that** could be explored. These include:

- what fees should be charged for bespoke arrangements (i.e sports teams)
[briefing 2021-1598 *Enabling cost recovery for bespoke MIQ arrangements* refers]
- the appropriate fee level for Australians transiting through New Zealand as part of a quarantine-free travel arrangement (i.e. should they be charged the standard fee for New Zealanders or the higher fee for temporary visa holders and critical workers)
- consideration of charging people on a pro-rata basis who refuse a COVID-19 test in MIQ for their extended stay
- debt enforcement and penalty provisions.