

# Guidance note

# Fees payable

For professional standards schemes under  
professional standards legislation

# Exposure draft



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## 1. Purpose of this Guidance note

- 1.1 This Guidance note informs and provides guidance to occupational associations about:
- 1.1.1 the fee that must be paid to the Council when applying for approval, amendment, or revocation of a scheme
  - 1.1.2 the annual fees to be paid to the Council by the occupational association for persons to whom the scheme applies
  - 1.1.3 interest on overdue annual fees
  - 1.1.4 applying to the Council for a fee waiver, remission, or determination that a fee and or interest is not payable
  - 1.1.5 annual membership assurance reporting.
- 1.2 This Guidance note is not intended to provide legal advice and should not be read as such. It is the responsibility of an occupational association to understand their individual obligations to meet the requirements of professional standards legislation. An association should obtain their own independent legal advice when and as they see fit.

## 2. The fee that must be paid to the Council when applying for approval, amendment, or revocation of a scheme

- 2.1 The professional standards legislation provides that regulations and/or determinations may make provisions concerning fees.

NSW	WA	Vic	Qld	SA	NT	ACT	Tas
s 53(2)	s 55(2)	s 57(2)	s 71(2)	s 57(2)	s 58(2)	s 222A	s 57

- 2.2 When making an application to the Council for consideration to approve, amend, or revoke a scheme the occupational association must pay the requisite fee to the Council. For example, the fee required in accordance with regulation 5 of the *Professional Standards Regulation 2019* (NSW) is \$5,000 <sup>1</sup>for each jurisdiction in which it is intended that the scheme will operate.
- 2.3 Refer to the [professional standards legislation](#) in your jurisdiction.

## 3. The annual fees to be paid to the Council by the occupational association for members to whom the scheme applies

- 3.1 The annual fee to be paid to the Council by an occupational association whose members are subject to a scheme in force under the Act, is \$50 for each member to whom the scheme applies, who is a member of the association at any time during the relevant annual fee period. This fee payment is for all eligible scheme members as at the scheme commencement/ anniversary date, and for any eligible scheme membership additions within the same calendar quarter.
- 3.2 Professional standards legislation does not provide for members of an association to elect their participation in the scheme (i.e., an 'opt-in' scheme administration). The legislation provides that

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<sup>1</sup> The Councils have self-assessed that all fees payable to the Councils pursuant to professional standards legislation are GST exempt in accordance with s. 81-15.01 *Fees and charges* of the *A New Tax System (Goods and Services Tax) Regulations 2019*. Occupational associations should obtain their own advice regarding whether GST is applicable on payments received from members that fund the annual fees if this is the method used to fund fees payable pursuant to the Regulations.

the scheme applies to the class(es) of member subject to the scheme, except where the member has applied to the occupational association for, and has been granted an exemption (i.e., an 'opt-out' scheme administration).

NSW	WA	Vic	Qld	SA	NT	ACT	Tas
s 17 s 28(4)	s 30 s 41(4)	s 19 s 30(6)	s 19 s 29(6)	s 19 s 30(4)	s 18 s 29(6)	Sch 4 s 4.15 s 4.24(4)	s 20 s 31(6)

3.3 Each following calendar quarter, adjustment fees are payable for new eligible scheme members added during the relevant quarter periods.

3.4 The payment of annual fee periods is prescribed by the legislation. There is no pro-rata reduction for the annual fee payment.

NSW	WA	Vic	Qld	SA	NT	ACT	Tas
reg 6	reg 4	reg 5	reg 4	reg 4	reg 7	det 353	No Reg or Det

3.5 See Appendix A for an example payment calendar.

## 4 Interest on overdue annual scheme fees

4.1 Interest is payable for the whole of the overdue period if the annual fee is not paid within 30 days of the dates on which the fee is due.<sup>2</sup>

NSW	WA	Vic	Qld	SA	NT	ACT	Tas
reg 7	n/a	reg 5	reg 5	reg 4	reg 8	det 353	n/a

4.2 If any amount of the annual fee (including any payment required for additional members) is not paid within 30 days after it is due, simple interest at the rate of 0.05% per day is payable to the Council until that balance is paid.<sup>3</sup>

## 5 Applying to the Council for a fee waiver, remission, or determination that a fee and or interest is not payable

5.1 An occupational association must not self-apply a credit for fees payable to the Councils, regardless of whether an overpayment may appear to have been identified by the association.

5.2 An occupational association can apply to the Council, with supporting evidence, to seek a determination that the Councils may consider that there are special reasons to remit, waive, or determine whole or any part of a fee is not payable, including:

- 5.2.1 fees payable for submitting a scheme application to the Councils for approval
- 5.2.2 annual scheme participant fees
- 5.2.3 interest payable on overdue scheme participant fees.

<sup>2</sup> Interest for overdue scheme fees is prescribed by professional standards regulation(s) in all jurisdictions, except Tasmania and Western Australia.

<sup>3</sup> Simple interest is prescribed by professional standards regulation(s) in all jurisdictions, except Tasmania and Western Australia.

NSW	WA	Vic	Qld	SA	NT	ACT	Tas
reg 8	reg 5	reg 7	reg 6	reg 4	reg 9	det 353	n/a

- 5.3 The application for fee relief to the Council must be supported by evidence to articulate why the association believes that special reasons may exist to be considered for a fee waiver, remission, or determination that a fee and or interest is not payable. This includes circumstances where the association believes they have made an overpayment for the fees payable to the Councils in respect of its scheme members. The Councils have a discretion to determine whether the association has provided sufficient evidence.
- 5.4 Refer to **appendix B** to view Councils' considerations when reviewing applications for fee waivers or remissions, including guidance on what evidence an association should produce. The Councils may request additional information from the occupational association.
- 5.5 If the application is considered complete to meet all requirements as above, it will be presented to the Councils for determination. The Councils retain the discretion to seek further information from the association to determine fees payable.<sup>4</sup>
- 5.6 The occupational association will be advised in writing of the Councils' decision. The timeframe for this determination will be dependent on the complexity of the issue, the amount of the fee and when the Councils are scheduled to meet to consider the application.
- 5.7 Any balance determined as an overpayment will be applied as a credit first to any amount owing to the Councils, and secondly, as a credit up to the amount that may fall due in future.
- 5.8 Occupational associations are responsible for ensuring compliance with the scheme fees payable to the Councils through appropriate governance processes. Associations are encouraged to refer to **appendix C** for a checklist which may assist in improving scheme membership governance processes to mitigate compliance risks of overpayment (or underpayment) relating to scheme fees or interest payable.

## 6 Annual membership assurance reporting

- 6.1 The Councils require occupational associations to provide an Annual Membership Assurance Report to verify the number of members to whom the scheme applied for the annual fee period, the fees payable and the dates and amounts paid to the Councils during the annual fee period (the subject matter).
- 6.2 The subject matter should be prepared annually by the Association and show, for the annual fee period, details of quarterly scheme fees paid, fee due dates and accrued interest if any.
- 6.3 For occupational associations with 100 or more scheme members, the subject matter must be included within an Assurance Report issued by a suitably qualified assurance practitioner. Refer to **appendix D** for the Annual Membership Assurance Report template.
- 6.4 The report must be signed by an assurance practitioner who is a member of a "Professional Accounting Body", which is defined as the CPA Australia (CPAA), the Chartered Accountants Australia and New Zealand (CAANZ) or the Institute of Public Accountants (IPA).
- 6.5 The Assurance Report must be provided within two months from the date the final annual scheme fee was due.

\_\_\_\_ For example:

<sup>4</sup> Exception noted in Professional Standards Regulations 2007 (NT) reg 6: *If the length of a fee period is varied under regulation 5(2)(b), the association and the Council may, by agreement, vary the annual fee payable for each person for that period.*

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*If the Scheme commences on 7 January 2021, then the final annual fee payment for the scheme year would be due on 31 March 2022. The Annual Membership Assurance Report will be due two months from 31 March 2022, by 31 May 2022.*

- 6.6 The assurance practitioner preparing the report should declare if they are a member of that association, or an employee of an employer who is subject to the association's scheme, and if so, that they have adhered to ethical and independence rules in completing the audit work.
- 6.7 For occupational associations with less than 100 scheme members, the report must be signed by the Chief Executive Officer, or equivalent nominee, and the Finance Officer. Refer to **appendix E** for the Annual Membership Assurance Report template.
- 6.8 The Councils, by giving an association an advance notice of 21 days, may inspect an association's accounts to verify numbers of members to whom a scheme applied for each quarter during any annual fee period.

## Appendix A – Example payment calendar



Occupational association name

NSW scheme commences 1 July

This guidance is not intended to provide legal advice and should not be read as such. It is the responsibility of an occupational association to understand their individual obligations to meet the requirements of Professional Standards Legislation. An occupational association should obtain their own independent legal advice when and as they see fit.

This schedule is not a standalone document, the scheme instrument, the relevant Legislation, Regulations and the Professional Standards Councils' guidance statements should also be considered.

### Actions:

- Become familiar with the dates and periods for annual fee payments and Annual Membership Assurance Report are required.
- Send EFT payments to <STATE> Professional Standards Council (ABN XX XXX XXX XXX), BSB XXX-XXX and Account XXXXXX.
- Ensure that the 'Payment reference' and the name of your occupational association are included in the EFT payment.
- Please send a copy of the remittance advice to [finance@psa.gov.au](mailto:finance@psa.gov.au).
- Per NSW Regulation, interest at the prescribed rate of 0.05% per day is payable in cases where payments are received after 30 days past the due date.

Table 1: Annual fee payments dates

Reg.	Annual membership assurance report reference	Description	Scheme year		2021/22	2021/22	2021/22	Scheme year		2022/23	2022/23	2022/23	2022/23
			From	To				From	To				
6 (1)(c)	1st payment, being opening statement	Number of members to whom the scheme applies at the commencement/anniversary of the scheme	01/Jul/21	n/a	30/Sep/21	30/Oct/21	30/Oct/21	01/Jul/22	n/a	30/Sep/22	30/Oct/22	30/Oct/22	30/Oct/22
6 (2)(c)	2nd payment, being first adjustment	Number of additional members to whom the scheme applies between the dates	02/Jul/21	30/Sep/21	30/Sep/21	30/Oct/21	30/Oct/21	02/Jul/22	30/Sep/22	30/Sep/22	30/Oct/22	30/Oct/22	30/Oct/22
6 (2)(d)	3rd payment, being second adjustment	Number of additional members to whom the scheme applies between the dates	01/Oct/21	31/Dec/21	31/Jan/22	02/Mar/22	02/Mar/22	01/Oct/22	31/Dec/22	31/Jan/23	02/Mar/23	02/Mar/23	02/Mar/23
6 (2)(a)	4th payment, being third adjustment	Number of additional members to whom the scheme applies between the dates	01/Jan/22	31/Mar/22	31/Mar/22	30/Apr/22	30/Apr/22	01/Jan/23	31/Mar/23	31/Mar/23	30/Apr/23	30/Apr/23	30/Apr/23
6 (2)(b)	5th payment, being fourth adjustment	Number of additional members to whom the scheme applies between the dates	01/Apr/22	30/Jun/22	30/Jun/22	30/Jul/22	30/Jul/22	01/Apr/23	30/Jun/23	30/Jun/23	30/Jul/23	30/Jul/23	30/Jul/23

Table 2: Annual Membership Assurance Report due dates

Event	Description	2021/22	2022/23
		Assurance report due	Assurance report due
Annual Membership Assurance Report	Assurance report of the number of members to whom the scheme applies at any time during the scheme year, and payment to the Council.	30/Nov/22	30/Nov/23

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## Appendix B – Councils' considerations for fee waiver and remission

The Councils will consider an application and its supporting evidence for a fee waiver or remission on a case-by-case basis. Applications will only be granted where the Councils find there are special reasons for doing so. When determining an application, matters the Councils may consider include, but are not limited to:

- the effect of fee relief on the association fulfilling requirements to improve the professional standards of its members implementing robust professional integrity systems and risk management strategies
- the effect of fee relief on improving consumer protection
- the association compliance with the professional standards legislation in its administration of the scheme which included member participation and payment of annual fees
- other applications the association has made to other jurisdictions for approval, amendment, or revocation of a scheme
- the actual cost to the Councils in determining the application and budgetary impacts
- any financial hardship the payment of the fee may cause the association, however, the association must demonstrate to the Councils its obligations and capacity to administer its professional standards scheme if payment of a fee will cause financial hardship
- varying the annual (including additional member) fee payable by waiver or remission where the length of a particular fee period is varied to give effect to the variation of the date on which the annual fee period commences<sup>5</sup>
- any other hardship the payment of the fee may cause the association as a result of factors not caused by, and beyond the reasonable control of, the association, which are widespread and whose effects are prolonged in nature. Examples of such factors are an epidemic, pandemic, financial crisis, military action, natural disaster, and indefinite industrial action that cause the hardship.

Councils may also consider other special reasons such as:

- to readdress unintended consequences arising from the construction of the scheme instrument
- varying the initial annual fee payable for those members included in an existing scheme when that scheme commences operation in another jurisdiction for a reduced period
- the number of fee waiver or remission requests that the association has previously made, including those for schemes that operate in other jurisdictions.

Special reasons for fee waiver or remission applications will generally **not** include:

- business as usual matters, including but not limited to scheme participant and scheme

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<sup>5</sup> NT Professional Standards Regulations 2007 (NT) reg 6, "The Council may, by agreement, vary the annual fee payable for each person for that period."



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administrator education

- promotion or marketing of an “opt-out” scheme
- financial hardship on members for payment of membership fees because the associations have the capacity to grant its members relief from paying the scheme member fees and/or associated costs.

For consistency, as a matter of guidance associations should comply with the applicable requirements in the Australian Capital Territory, New South Wales, Queensland, South Australia, Victoria, and Western Australia demonstrating that in their particular case there exist special reasons for waiver or remission of fees payable. That said, in an appropriate case, the Council retains under s. 47(2) the discretion to depart from this guidance intent.

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## Appendix C – Checklist to mitigate scheme fee non-compliance risks

### Association Constitution:

- ☐ Review your Constitution's policy and relevant procedures which govern scheme members.
- ☐ Apply your Constitution's determination of scheme members to your membership administration systems.  
*(This includes but is not limited to systems which: administer new member applications, renewal applications, member audit activities and disciplinary actions taken in response to noncompliance).*
- ☐ Develop and implement risk measures to detect noncompliance, particularly for associations with scheme instruments which apply to different classes of members.

### Scheme membership systems:

- ☐ Ensure your scheme administration systems have policies and processes in place to record scheme members who may have multiple employers that are subject to the scheme over a reporting year.
- ☐ Incorporate measures to obtain accurate and timely data from employer scheme members regarding their employees' scheme status.  
*(This includes but is not limited to timely notification requirements on employer members and auditing activities specific to employer members reporting changes to their employees' status).*
- ☐ Implement policies and procedures to periodically verify information provided by employer scheme members about their employees' scheme status.
- ☐ Implement linkages across your scheme membership administration systems with auditing activities to accurately calculate members subject to the scheme.  
*(This includes but is not limited to: audits relating to member compliance with CPD requirements and professional indemnity insurance obligations).*
- ☐ Ensure your scheme administration systems allow for sufficient notice periods to preclude noncompliant or exempt scheme members from your association's quarterly scheme fee payment due dates.
- ☐ When implementing the above policies or procedures, or making changes to existing protocols, disseminate member communication/education programs to improve awareness and transparency on scheme requirements.

### Scheme exemptions:

- ☐ Implement governance and record-keeping processes which track fee remittances to members as a result of scheme exemptions.

### Membership audits:

- ☐ Ensure your member administration processes, including member audits, which govern scheme exemptions align with annual scheme fee periods and relevant fee due dates.
- ☐ Implement linkages or communications across departments within your associations to raise transparency on scheme membership processes and payment due dates.  
*(This includes but is not limited to departments such as: member applications, finance, relevant committees, audit, and compliance).*

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## Appendix D - Annual Membership Assurance Report (100 or more members)

### ANNUAL MEMBERSHIP ASSURANCE REPORT<sup>6</sup>

#### Independent Assurance Report

To the [name of governing body] of [name of occupational association]

#### Opinion

We have undertaken a reasonable assurance engagement on (name of occupational association)'s compliance, in all material respects, in its preparation of the subject matter information ("the Return") as evaluated against the Guidance Note on Fees Payable dated XXXX 2021 issued by the Professional Standards Council ("the Guidance").

In our opinion, (name of occupational association) has complied, in all material respects in the preparation of the Return as evaluated against the Guidance.

#### Basis for Opinion

We conducted our engagement in accordance with the Standard on Assurance Engagements ASAE 3100 *Compliance Engagements* issued by the Australian Auditing and Assurance Standards Board.

We believe that the evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

#### (Name of occupational association) responsibility

(Name of occupational association) is responsible for:

- (a) The compliance activity undertaken to meet the preparation of the Return
- (b) Identification of risks that threaten the preparation of the Return identified above being met and controls which will mitigate those risks and monitor ongoing compliance.

#### Our Independence and Quality Control

We have complied with the independence and other relevant ethical requirements relating to assurance engagements and apply Auditing Standard ASQC 1 Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements in undertaking this assurance engagement.

#### Assurance Practitioner's Responsibilities

Our responsibility is to express an opinion on (name of occupational association)'s compliance, in all material respects, with the preparation of the Return as evaluated against the Guidance ASAE 3100 requires that we plan and perform our procedures to obtain reasonable assurance about whether, (name of occupational association) has complied, in all material respects, with the with the preparation of the Return as evaluated against the Guidance.

An assurance engagement to report on (name of occupational association)'s compliance with the preparation of the Return involves performing procedures to obtain evidence about the compliance activity and controls implemented to meet that requirement. The procedures selected depend on our judgement, including the identification and assessment of risks of material non-compliance as evaluated against the Guidance.

#### Inherent Limitations

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<sup>6</sup> The Councils' reserve the right to inspect the relevant accounts of an association providing the *Annual Membership Assurance Report*.

Because of the inherent limitations of an assurance engagement, together with the internal control structure it is possible that fraud, error, or non-compliance with compliance requirements may occur and not be detected.

A reasonable assurance engagement does not provide assurance on whether compliance will continue in the future.

### Restricted Use

This report has been prepared for use by (name of occupational association) and the Professional Standards Council(s) for the purpose of confirming (name of occupational association)'s compliance with the Guidelines in its preparation of the Return. We disclaim any assumption of responsibility for any reliance on this report to any person other than [intended users], or for any other purpose other than that for which it was prepared.

### Return

	Cumulative no. of eligible scheme members	Amount due to PSC (per quarter)	Amount paid	Date paid	Interest due to PSC (if any) as at certification date <sup>73</sup>	Interest paid	Date paid
Opening statement							
1 <sup>st</sup> adjustment							
2 <sup>nd</sup> adjustment							
3 <sup>rd</sup> adjustment							
4 <sup>th</sup> adjustment							

### Name of Assurance Practitioner

[Assurance practitioner's signature]

[Date of the assurance practitioner's assurance report] [Assurance practitioner's location]

Association Membership (circle as appropriate)	CPAA	CA ANZ	IPA

### Declaration:

I am not a member of the occupational association for which this opinion is expressed.

OR

I am a member of the occupational association and declare I have adhered to ethical and independence rules in completing this audit work.

Signature of Assurance Practitioner \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_

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## Appendix E - Annual Membership Assurance Report (less than 100 members)

### Associations with less than 100 members

For associations with a membership of less than 100 eligible scheme members in any annual fee period, the Chief Executive Officer, or equivalent nominee, and the Finance Officer must complete the signatory section below.

### ANNUAL MEMBERSHIP ASSURANCE REPORT<sup>8</sup>

#### Return

	Cumulative no. of eligible scheme members	Amount due to PSC (per quarter)	Amount paid	Date paid	Interest due to PSC (if any) as at certification date <sup>93</sup>	Interest paid	Date paid
Opening statement							
1 <sup>st</sup> adjustment							
2 <sup>nd</sup> adjustment							
3 <sup>rd</sup> adjustment							
4 <sup>th</sup> adjustment							

In our opinion, the Return has been prepared in accordance with Guidance note on Fees Payable dated **XXXX 2021**, issued by the Professional Standards Councils.

NAME OF CEO/NOMINEE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

and

NAME OF FINANCE OFFICER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

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<sup>8</sup> The Councils' reserve the right to inspect the relevant accounts of an association providing the *Annual Membership Assurance Report*.