

24 January 2025

Clare Greasley  
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Sent via email to: [Clare.Greasley@cdhb.health.nz](mailto:Clare.Greasley@cdhb.health.nz)

Dear Clare

### **Consultation on disciplinary levy and APC fee increases for 2025/26**

Thank you for your feedback to the consultation document for the 2025/26 disciplinary levy and APC fee and the questions raised by the New Zealand Hospital Pharmacists Association for this consultation. We trust that this information is helpful to support your further understanding and that of your members.

*1. Seeking assurance around fiscal responsibility: by that we mean to ensure that the money is not being spent on unnecessary resources. There is an expectation from pharmacists that you are operating as efficiently as possible.*

Council is committed to operating in a cost-effective and fiscally responsible way, while balancing our obligations to protect the public. The work undertaken to fulfil the 13 regulatory functions as laid out in the Health Practitioners Competence Assurance Act is continually balanced with mindfulness of cost, and consideration of the most efficient and effective way to achieve the outcome(s) being sought.

You will have noted from the consultation document our proposal included not increasing the combined total of the disciplinary levy and APC fee in 2026/27 to provide the profession with greater financial certainty over a longer timeframe.

*2. With regard to the disciplinary levy our members raised concerns that the majority of registered pharmacists are bearing the brunt of these additional costs in cases where a pharmacist has clearly and intentionally done something illegal for their own gain. It would be helpful to understand why the pharmacist involved does not pay for or contribute toward the costs of the investigation.*

Some in the profession hold strong views that those practitioners directly involved in a disciplinary process should ultimately bear the burden of cost. The principle of natural justice will always prevail when a notification is received, or a complaint is investigated (i.e., innocent until proven guilty through a fair and equitable process). Requiring a practitioner who is the subject of a notification or complaint to pay all the costs for an initial inquiry by Council, a possible investigation by the PCC and any subsequent prosecution by the HPDT

would be almost impossible to administer and hold true to that principle.

Referring a matter to a PCC for an investigation is never a frivolous decision by Council, it is always predicated on there being a prima facie case to investigate and resolve. If a PCC investigation ultimately concludes there is no case to be managed by the HPDT should the practitioner be refunded for the PCC costs incurred? The costs incurred in investigating a complaint or concern raised must be funded from somewhere no matter the outcome, hence the application of a universal disciplinary levy to the profession.

Practitioners are required to contribute to costs incurred where they are ordered by the outcome of an HPDT process. The Council has no control over the final cost incurred by PCCs and HPDT (these are external bodies who operate independently of the Council), or their judgement on how much the practitioner may be ordered to pay.

Generally, HPDT may order a practitioner to pay investigation and prosecution costs beginning at around 50 percent of the total. The practitioner's personal circumstances may then lead to a further reduction in the percentage of costs to be repaid.

The Council takes a principled approach to the outcomes of disciplinary processes and will make all attempts at the collection of these legally binding awards. Nonpayment by practitioners in a large proportion of cases requires the services of either lawyers or a specialist debt collection agency. Debt collection processes are not always successful, and of course even more cost is incurred in the attempts to collect.

*3. It is well recognised that understaffing and increased workload increase the risk of errors. Our members would like to see efforts directed towards addressing some of the likely root causes of the increase in the number of complaints as a proactive rather than reactive measure by Council.*

The increase in the number of notifications and complaints being received mirrors what other Regulatory Authorities and the HDC are experiencing. This is not confined to pharmacy practitioners, but across all health professions, including medical, nursing, and dental. HDC has reported a 40 percent rise in complaints in the last three to four years, attributing this rise to multiple factors: a pressured health system, health reforms, and the COVID pandemic.

We fully appreciate that understaffing and increased workload can increase the risk of error, and following investigation, this is often cited by the HDC in their reports.

Our proactive regulatory tools such as accreditation, registration and recertification are among the measures Council employs to assure itself that practitioner competence is achieved and regularly maintained. Through our regular communications with the profession, we highlight key learnings and insights from HDC and HPDT cases to help mitigate unsafe practice for the future.

Aiming to reduce notifications and complaints is not solely an issue for Council; it is a sector wide challenge for the pharmacy profession. We welcome ongoing discussion with professional associations to look at how each of our respective organisations can work

together to meet this challenge head on. We believe pharmacy practitioners should voluntarily subscribe to a professional association to gain access to the professional support they need along with other benefits such as professional advocacy.

*4. Underlying reasons for the increase in disciplinary processes and what you see as the role of professional organisations in supporting addressing these issues.*

In our communications series to the profession, we referred to the reasons provided by the HDC for the rise in complaints and disciplinary processes, such as workforce pressures and the pharmacy funding model. We are not aware of any specific piece of research exploring the reasons for the increase and can only surmise that a key factor is the financial challenge facing the health sector.

We believe there does need to be a high-level discussion with all the professional associations to better understand the respective roles of Council as the regulator of the profession, and professional associations as the advocacy and support bodies for the profession. If there is an information gap that undermines adherence to professional standards, who needs to fill this gap, and how will it be resourced?

Council's view is that the responsibility for filling these gaps is better aligned to the role of professional associations, however we welcome discussion on how the clarity and understanding of practice standards could be improved. Our regular Council / professional associations hui may be a good platform to hold an initial discussion on this. The next hui is being organised for late February / early March 2025.

Thank you again for your considered feedback Clare, it is very much appreciated.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M A Pead', enclosed within a hand-drawn oval shape.

M A Pead  
**Chief Executive**