

## Summary of rationale for 2025/26 disciplinary levy and APC fee increase

### Background

On 18 September 2024 Council launched a series of direct communications to the profession and other stakeholders to promote a better understanding of Council's statutory role (i.e., its legal obligations) to protect public health and safety, and the financial costs of fulfilling this role as the Responsible Authority (regulatory body) for self-regulation of pharmacists in Aotearoa New Zealand. At the same Council signalled its intention to consult on proposed disciplinary levy/APC fee increases for 2025/26. Following our communications series we released a consultation document on 31 October 2024 outlining the proposed increases and the rationale for these. The consultation closed on 9 December 2024. Council carefully considered all submissions received from individual pharmacists (eight in total) and professional associations (three in total), ahead of making its decision.

Council is legally required to consult when proposing changes to fees. In practical terms, this provides the profession with the opportunity to challenge either the extent of Council's workload and priorities and/or question any inefficiencies that Council may need to consider addressing before making any decision to proceed with an increase.

### Council decision

Council's decision on the disciplinary levy and APC fee for 2025/26 is detailed in the table below. The overall increase of \$95 from 2024/25 comprises \$83 for the disciplinary levy and \$12 for the APC fee, bringing the total disciplinary levy and APC fee for most pharmacists to \$1,020 (inclusive of GST). The combined increase is just over 10 percent. As outlined in our consultation document **to provide greater certainty to the profession on fee costs for the next two recertification years, the total overall fee for the 2025/26 APC year was proposed to remain in place for the following 2026/27 APC year.**

We fully understand that any increase is not welcome, however Council members have a primary responsibility to ensure the model of professional self-regulation is sustainable to uphold public safety. This means Council must cover the costs of delivering its 13 regulatory functions to ensure we have competent, safe pharmacists.

Council's decision is based on several cost factors, including:

- a rise in the number and complexity of notifications we are receiving regarding pharmacists' conduct and competence to practise which has increased our operating costs. This rising trend is not confined to pharmacists, but across all health professions, including medical, nursing and dental.
- the need to replenish our disciplinary and general reserves so that they meet our reserve policy minimums.
- the government's programme of legislative review which we must respond to.
- general inflationary pressures.

Scope of Practice	APC fee	Disciplinary levy	TOTAL fee and disciplinary levy	TOTAL GST Inclusive
	\$	\$	\$	\$
Pharmacist	684.79	202.17	886.96	1,020.00
Pharmacist prescriber	771.74	202.17	973.91	1,120.00
Intern pharmacist	379.57	202.17	581.74	669.00

### Explaining the separate components – the disciplinary levy and APC fee

The largest component change of the overall increase has been to the disciplinary levy. There has been a substantial rise in the number of inquiries/notifications/complaints that Council receives which it is legally obligated to ‘triage’ and make inquiries into. Some inquiries can be resolved quickly and are not escalated, however some of these (based on the level of public risk) may be referred to a Professional Conduct Committee (PCC) to investigate, which could then also lead to a Health Practitioners Disciplinary Tribunal (HPDT) prosecution – both PCC and HPDT processes incur additional costs for Council.

*Disciplinary management:* The disciplinary functions of the Health Practitioners Competence Assurance Act 2003 (HPCAA) are managed independently of Council and are imposed by the legislation, however the costs must be met by Council from its disciplinary reserve. The reserve balance is maintained through a disciplinary levy borne by the profession. The Council must inquire into matters of a disciplinary nature and triages these for the independent bodies that have investigative and prosecutorial powers, i.e., PCCs and the HPDT. The disciplinary levy meets the costs of Council’s disciplinary-related inquiries and the costs of the PCCs and the HPDT.

*General regulatory management:* The APC fee component covers general regulatory management functions. The costs of running the organisation (meeting all the required functions under section 118 of the HPCAA) are met by the APC fee revenue and/or the general reserve (which is replenished only if a surplus is achieved).

### Reasons for increase to disciplinary levy and APC fee

- a) **Disciplinary levy:** The most significant component of the total APC fee increase is to pay for disciplinary management activity (i.e., \$83 of the \$95 total increase). The reasons for the increase are:
  - *Growing case numbers and complexity:* The number of cases has grown, including a steady increase in the number of referrals from the Health and Disability Commissioner (HDC) which includes a sizeable backlog. There has also been growth in the complexity of issues being considered in relation to pharmacists’ fitness to practise (competence, conduct and/or health). Council must ensure all legal obligations are properly met while preserving the principle of natural justice. In the first 10 years of Council’s existence, the external costs alone for PCC and HPDT proceedings amounted to ~\$1.08m. In the second 10 years (to March 2024) these external costs more than doubled to ~\$.26m (total \$3.35m).
  - *Costs of resources involved:* The cost of the various parties has increased, particularly lawyers’ fees, and the facilities and technology to support the HPDT. In addition, any costs awarded to Council by the HPDT are usually less than 50 percent of total costs and Council must bear the onus of collection of any awarded costs. Council takes a principled approach to collection of these debts

which often involves the use (and further costs) of court processes and/or debt collection agencies.

- *Disciplinary reserve replenishment:* In recent years, cost increases have been absorbed by the reserve to smooth out expenses year on year rather than increasing the total disciplinary levy. The reserve has been depleted and needs to be replenished. The reserve minimum per Council's policy is \$200k to cope with any unexpected spikes in caseload and compliance costs. We have adopted an incremental approach to rebuilding the reserve over a three-to-five-year period.
- b) **APC fee:** The APC fee covers costs associated with the general activities of Council such as registration, qualifications and competence assurance, policy and practice advice, capability and capacity, and those compliance and notification management costs that are not directly attributable to dealing with disciplinary cases. The key reasons for the increase are:
- *Information Technology:* A comprehensive analysis of Council's IT functions and applications was undertaken in 2023, which found that overall Council's core digital systems are in good health. However, the analysis highlighted the need for ongoing investment to manage obsolescence, mitigate risks, and keep pace with technology trends e.g., rapid adoption of artificial intelligence, increasing cybersecurity threats, and more functionality in the digital workspace. Council's 2025/26 budget includes provision for our third-year digital investment initiatives to be delivered e.g., enhanced functionality of the pharmacist portal, optimisation of data collection, and application of business intelligence to inform the use of 'right touch' regulatory tools.
  - *Compliance team's triage and case management work:* Council has seen a steady increase in informal inquiries (i.e., the information Council receives, assesses and triages which does not reach the threshold for escalation to active case management). This work is funded by the APC fee. As explained above, if a notification is referred to a PCC/HPDT then those additional costs are covered by the disciplinary levy.

### Consultation feedback

We received eight individual submissions from pharmacists and three submissions from professional associations. We have responded to the points raised in these submissions, including a response to each professional association's submission. We also met with two of the professional associations ahead of our written responses to discuss the points and questions they raised. All feedback, and our responses can be read on our consultation page <https://pharmacycouncil.org.nz/public/consultation>

We appreciate that the professional associations sought the views of their members to help inform their submissions to represent the profession.

### Closing comments

The Council wishes to express its sincere gratitude for all who took the time to provide their views and questions. We know the increase is not welcome, but we believe we have struck the right balance in a difficult environment, whilst also being able to continue to deliver robust regulation to help achieve better patient outcomes and ensure public safety.