The PDA's response to the General Pharmaceutical Council's consultation on the draft 2020 fees rules.

March 2020

About the PDA

The PDA (Pharmacists' Defence Association) is a not-for-profit organisation which aims to act upon and support the needs of individual pharmacists and, when necessary, defend their reputation. It currently has more than 30,000 members. The PDA Union was inaugurated in May 2008 and achieved independent certification in 2011. The PDA is the largest pharmacist membership organisation and the PDA Union is the only independent Trade Union exclusively for Pharmacists, in the UK.

The primary aims of the PDA are to:

- Support pharmacists in their legal, practice and employment needs
- Represent the individual or collective concerns of pharmacists in the most appropriate manner
- Proactively seek to influence the professional, practice and employment agenda to support members
- Lead and support initiatives designed to improve the knowledge and skills of pharmacists in managing risk and safe practices, so improving patient care
- Work with like-minded organisations to further improve the membership benefits to individual pharmacists
- Arrange insurance cover for individual pharmacists to safeguard and defend their reputation.

Summary

The General Pharmaceutical Council (GPhC) is consulting on the draft 2020 fees rules.

The GPhC is proposing to increase the registration and renewal fees for pharmacy premises by £103 – from £262 to £365. The consultation seeks views on proposals about whether the fees for pharmacy premises should be charged according to how much it costs to regulate them.

The GPhC states it has no plans to increase fees for pharmacy professionals as part of this consultation. However, as part of this consultation the GPhC is also seeking views on its broader long-term fees strategy.

The consultation runs from 07 January 2020 to 31 March 2020.

Question 1 : Do you agree or disagree that the increase in fees for pharmacy premises should be the difference between the amount they now pay in fees (£262), and the amount they cost to regulate (£365)?

We agree with the principle that pharmacy premises should bear their true cost of regulation. However, we have seen no evidence presented by the GPhC that the figure of £365 will be the true cost of regulating pharmacy premises for 2020-2021.

The wording used in the current Consultation is poor and unclear. On Page 5 it states:

> *"Based on 2018/19 figures, the cost of regulating each pharmacy premises is now £365 a year."*

It is also notable that the GPhC is asking questions and inviting comment without providing the full and comprehensive background information on which an informed answer can be made.

The October 2018 meeting of the GPhC considered a paper, 18.10.C.02, which looked at the Fees Consultation for 2019 and the following observation was made:

> *"6.4. Failure to set fees in an appropriate way, or communicating any recommended changes in an open and transparent way, could create reputational risks for the GPhC."* **(1)**

It is clear that the words do not quite match the actions as in the meeting of December 2019 the GPhC was presented a paper, 19.12.C.07, on this Fees Consultation ***behind closed doors in confidential session.***

There can be no legitimate reason why such a matter should have been presented in private behind closed doors. The GPhC is a body constituted by an Act of Parliament and as such must behave transparently and openly in all its financial decision making.

One of the seven Nolan principles of conduct in public life by which the GPhC should conduct itself is laid out in:

> *"Openness – Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public* ***unless there are clear and lawful reasons for so doing****."* **(2)**

We ask the GPhC on what lawful basis it is legitimate to set fees for registrants with a lack of transparency and behind closed doors ?

Recommendation

We support the principle of an increase so that pharmacy premises bear the true cost of their regulation but cannot support a random figure with no underlying supporting information. We recommend that the GPhC, in line with the Nolan Principle of Openness, presents a full and comprehensive set of financial workings on how it has arrived at the figure £365.

Question 2. What is the reason for your answer?

The purported policy adopted at the inception of the GPhC was that all registrants should pay fees proportionate to the cost of their regulation.

The GPhC was constituted by way of the Pharmacy Order 2010. It was given the power to set Fees to enable it to fulfil its statutory obligations. It's Fees Consultation in 2010 explicitly stated :

> *"In the light of this and to ensure the work of the GPhC is both independent of, and not directed by, government the GPhC will ensure its funding of the regulation of pharmacy premises is provided directly from the fees raised from the registration of premises."* **(3)**

A full decade later it is seeking views on the very same matter having mismanaged the obligations that it itself understood and laid out so clearly in the 2010 consultation.

We fully agree today, just as we did in 2010, with the premise that the cost of regulation of pharmacy premises should be borne by the owner of the pharmacy premises. This is only fair and proportionate.

This fair and proportionate allocation principle was further confirmed in the GPhC Fees Consultation of 2015:

> *"the principle that we want to make sure there is a fair and proportionate allocation of fees to registrant groups, taking into account the costs of regulation"* **(4)**

This was further approved by Council with the identical wording during the Fees Consultation of 2018-2019:

"the principle that we wish to ensure a fair and proportionate allocation of fees to registrant groups, taking into account the burden of costs of regulation" **(1)**

We can see that this has always been a purported GPhC policy, even though it may never have been appropriately applied.

In February 2017, a budget income and expenditure schedule was put to Council which laid out the income from fees **(5)**:

We can clearly see that ***despite*** the purported GPhC policy of fair allocation virtually all the increase in income was going to come from Pharmacist Registrants.

From the Council meeting 9th February 2017

General Pharmaceutical Council

CONSOLIDATION BY INCOME AND EXPENDITURE TYPE
WITH PROJECTIONS

	2016/2017 BUDGET £000's	2016/2017 REFORECAST £000's	2017/2018 BUDGET £000's	2018/2019 PROJECTION £000's	2019/2020 PROJECTION £000's
Income					
- Pharmacist	13,587.5	13,990.2	14,628.8	15,164.5	15,879.6
- Premises	3,718.7	3,703.1	3,734.5	3,734.5	3,734.7
- Pharmacy Technicians	2,886.7	2,896.0	2,942.3	2,965.6	2,998.3
- Pre-Registration	1,224.9	1,095.8	1,178.6	1,194.8	1,201.9
- Other	454.6	881.2	323.4	262.2	262.2
Total Income	21,872.3	22,566.4	22,807.7	23,321.5	24,076.7

It was further put to Council at that 9th February 2017 meeting:

6. Fees and Costs Allocation

6.1 *The cost allocation model has been developed over time with a view to fairly allocating costs to the various classes of registrants. The fees set for 2015/16 were based on this model.*

6.3 *The budget projections do not incorporate a fee increase as it is planned that the service transformation project will result in overall cost savings, which will be used to restrict fee increases in the first instance.* **(5)**

Two questions arise:

Firstly, why did the cost allocation model only increase the share of fees for pharmacists and not for other registrants?

Secondly, what has gone wrong with the service transformation project that instead of savings we are seeing the GPhC demanding extra income year on year? The increase in the 6 year period 2016-217 to 2021-2022 is a huge 17%.

In that same period individual pharmacists and pharmacies have seen drastic cuts to their incomes. As a direct comparison, the Global Sum of payment made to Pharmacies has been cut from £2.8 billion in 2015-2016 and will be £2.5 billion in 2023-2024, effectively a 11% drop in income (excluding any inflation provision) and with extra workload. If we take into account inflation the drop in income would be around a staggering 30%.

Summary income and expenditure

Presented to Council on 13th February 2020

	2019/2020 Budget £000's	2019/2020 Reforecast 3 £000's	2020/2021 Budget £000's	2021/2022 Projection £000's	2022/2023 Projection £000's	2019/2020 Variance £000's	2019/2020 Variance %
Income							
Pharmacist income	15,461	15,144	15,683	15,931	16,114	539	3.6%
Premises income	3,904	3,725	4,221	5,218	5,222	496	13.3%
Pharmacy technician income	3,015	3,000	3,049	3,078	3,107	49	1.6%
Pre-registration income	1,116	1,123	1,126	1,126	1,089	3	0.3%
Other income	157	218	133	134	134	(85)	(39.1%)
Total income	**23,652**	**23,209**	**24,212**	**25,487**	**25,665**	**1,003**	**4.3%**

We have already noted the poor wording used in the Consultation:

> *"Based on 2018/19 figures, the cost of regulating each pharmacy premises is now £365 a year."*

Does the word "now" mean for year 2019-2020? The GPhC needs to clarify this. The GPhC also needs to explain exactly what processes have changed between 2019-2020 and 2021-2022 which now requires an allocation of an extra £1.5 million to premises regulation cost.

We would like to see a clear table, for the last 5 years, the current year and the next 2 years showing the allocation of cost per registrant group.

The GPhC has admitted in the consultation document that it has undercharged pharmacy premises over the past few years, how does the GPhC propose to clawback this money?

> *"The fees paid by the owners of pharmacy premises have not kept pace with the costs of regulating pharmacies. Instead, we have covered these costs using our reserves."*

The GPhC, simply cannot carry on spending in this manner with the default being that any shortfall will have to be made up by registrants because it is vested with the draconian power of the right of removal of anyone who fails to pay the fees it sets.

A regulator is obligated to treat all registrants fairly.

Recommendation

We recommend that the GPhC provides a full factual explanation as to the exact changes in the regulation of pharmacy premises that now requires an increase of £103 to cover the cost of regulating pharmacies.

Over the next two years, as part of our long term fees strategy, we will be exploring changes to our fees for all our registrant groups. This will include looking at:

• setting fees for all registrant groups over a longer period; for example, by linking to inflation over a three-year period or setting fees to increase each year by a certain, fixed percentage over a three-year period

• whether we could have more flexible fee options, including considering the cases for and against different fees for some registrants – for example, those on parental leave

• different fees for premises based on their type, turnover or other size measures

• the possibility of charging for additional regulatory activities – for example, reinspection

Q3. Do you think these are the right areas to look at in the future?

We need to look at each of the bullet points in turn as a separate question. It would be inappropriate and misleading to give an answer of Yes or No in toto to question 3 when there are actually four distinct questions and each question has its own distinct nuance.

Q3a	***• setting fees for all registrant groups over a longer period; for example, by linking to inflation over a three-year period or setting fees <u>to increase</u> each year by a certain, fixed percentage over a three-year period***

We note that only increases are mentioned. This is very revealing in the approach of setting fees on registrants that have no choice but to pay.

We suggest that to demonstrate that "we are all in it together" the GPhC exercises restraint and makes a genuine effort to identify operational efficiencies.

Since 2010, the UK has been living in austerity and many have seen their incomes cut over the last decade. Businesses have worked hard to introduce efficiencies and modernise their ways of working.

The GPhC should not consider increasing fees until it has built in significant levels of working efficiencies.

We note that following the last fees increase, the GPhC at the meeting of March 2019 presented some ameliorating words:

4.4. We will continue to challenge our costs and improve efficiency and effectiveness. Our annual plan for 2019-20 makes clear some of the measures that we intend to consider to achieve this goal.

Now included within our work for next year is the initiation of a review of our current accommodation and future options. We are also intending to continue to make improvements to our systems to improve service experience and improve efficiency and effectiveness.

And we will continue to challenge our costs more generally and our 2019-20 budget includes a further £720,000 efficiency saving. **(7)**

We would like to see the specific steps the GPhC has taken in furtherance of these words.

In particular we believe that the issue of property costs and especially the offices located in the prime banking district of Canary Wharf should be closely scrutinised

We do not claim to be property experts, but we do note that the General Dental Council relocated a significant portion of its operations to Birmingham to make efficiency savings of £50 million in the next 15 years.

> *"We continued to consolidate the improved financial discipline implemented by the Chief Executive and his team and overseen by Council and its committees.*
>
> *And against this background we moved a significant proportion of our operational activity to a new hub in Birmingham and laid the groundwork for the majority of our staff to be based outside London by the end of 2019.*
>
> *This will enhance our effectiveness by, for example, giving us access to the large and vibrant skills market offered out of London and* ***it will save at least £50m over the next 15 years."*** **(8)**

There is no reason for the GPhC not to consider similar steps in order to make similar operational savings. The GPhC needs to consider the ***totality of costs*** including Canary Wharf as a matter of urgency.

General Pharmaceutical Council

CONSOLIDATION BY INCOME AND EXPENDITURE TYPE WITH PROJECTIONS

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Income					
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- Other	454.6	881.2	323.4	262.2	262.2
Total Income	**21,872.3**	**22,566.4**	**22,807.7**	**23,321.5**	**24,076.7**
Costs					
- Employee Costs: Payroll	(11,218.2)	(10,889.4)	(11,859.0)	(12,296.8)	(12,385.7)
- Other Employee Costs	(2,534.1)	(2,416.3)	(2,561.8)	(2,512.6)	(2,482.6)
- Property Costs	(275.5)	(265.6)	(263.2)	(286.6)	(303.4)
- Office Costs	(456.8)	(383.5)	(378.1)	(388.9)	(399.0)
- Professional Costs	(1,671.9)	(2,256.5)	(2,686.2)	(2,339.6)	(2,163.6)
- Event Costs	(605.2)	(533.9)	(527.7)	(496.1)	(469.9)
- Marketing Costs	(164.7)	(116.3)	(133.3)	(124.2)	(124.4)
- Research Costs	(140.0)	(106.0)	(80.0)	(100.0)	(100.0)
- IT Costs	(2,415.7)	(1,638.3)	(1,950.3)	(2,165.4)	(1,842.1)
- Other Costs	(270.3)	(175.3)	(375.5)	(254.6)	24.9
- Occupancy & Building Costs	(2,042.5)	(2,031.9)	(2,125.1)	(2,157.3)	(2,184.9)
- Depreciation	(1,023.5)	(1,594.8)	(724.0)	(673.9)	(680.4)
-PSA Levy	(198.0)	(189.7)	(196.0)	(207.9)	(214.2)
Total Costs	**(23,016.4)**	**(22,597.4)**	**(23,860.1)**	**(24,004.0)**	**(23,325.4)**
Net Operating Surplus/(Deficit) before Interest & Tax	(1,144.0)	(30.9)	(1,052.4)	(682.4)	751.4

Q3b • whether we could have more flexible fee options, including considering the cases for and against different fees for some registrants – for example, those on parental leave

In 2010, at the very inception of the GPhC, Council decided (and has maintained this position ever since):

> *The low income fee is not necessarily a reliable means of helping those most in need. Monitoring the information provided by pharmacy professionals who pay the low income together with the cost of administration results in increased costs in addition to the reduced income.*
>
> *A recent review of a sample of those pharmacists claiming a low income fee by the RPSGB resulted in nearly 50% of those claiming, admitting that they did not meet the criteria required. Writing to each applicant and requesting evidence of income is an expensive exercise.*
>
> *Our principal function is to protect, promote and maintain the health, safety and wellbeing of members of the public, and in particular those members of the public who use or need the services of pharmacy professionals, or the services provided at a registered pharmacy.*
>
> *This principal function applies to all pharmacy professionals and therefore we believe that the fee charged should be the same regardless of whether they work full or part time and whatever their total income.* **(3)**

We would like to see evidence that registrants working full time do not end up subsidising other registrants (as seems to be the case that individual pharmacists have been subsidising premises).

The GPhC has worded this subsection very ambiguously, so whilst it seems very reasonable to reduce fees during parental leave we have no information as to which other groups of registrants the GPhC would then apply this discount.

The GPhC needs to clarify its thinking and put forward fully costed models for consultation.

Q3c• different fees for premises based on their type, turnover or other size measures

We would support differential fee setting for premises based on the true cost of regulation. So, a large corporate multiple, with many layers of management and which offer many ancillary services should be charged more than a small independent pharmacy.

Corporations using corporation wide "systems" present a systemic risk, and the Chief Medical Officer Sir Liam Donaldson in ***"Good doctors, safer patients"*** recognised this following the plethora of Inquiries in the early 2000's (including the seminal Shipman Inquiry):

> *"Indeed, the level of harm arising from error in unsafe systems versus unsafe doctors is several orders of magnitude higher"* **(9)**

This is presumably why the GPhC already has costly relationship managers for the large corporate pharmacy chains. To properly assess corporate systems, see them in practice and evaluate them, if done thoroughly will be very expensive. It is only fair that these large chains bear the cost for the magnitude of risk they pose in terms of regulation.

Q3d• the possibility of charging for additional regulatory activities – for example, reinspection

We cannot support such an additional fee. The GPhC has far reaching powers and to challenge potentially inappropriate re-inspections would be very costly for small pharmacy owners.

We would want to see some meaningful costings and evidence on where the burden of the cost of re-inspection would fall and what rights of appeal individual pharmacy owners would have if they did not "pass" the initial Inspection. We cannot just assume that all Inspections are exemplary.

Overarching Recommendation for Q3

The GPhC should not raise fees until it can detail and demonstrate independently verifiable efficiency gains on an annual basis before coming back to registrants for any increase in fees.

The GPhC must not expect year on year increases in its income as matter of right and we cannot support a guarantee of 3 years in fixed increase in fee income for the GPhC.

Variations in fees for whatever reason must be fully costed and consulted upon before being implemented.

Re-inspection is not an "additional" activity , it is integral to the function of the GPhC in ensuring that pharmacies have help and guidance to deliver safe services.

Q4. Please explain your answer and tell us about any other areas you think we should look at as part of our long-term fees strategy.

The first and most important thing the GPhC has to consider in its long term fees strategy is operating efficiency. We have already noted that other regulators such as the GDC have made really significant changes to their operations resulting in substantial savings for their registrants.

The second most important thing the GPhC must consider is properly allocating costs. We have previously made the case about technician registration fees and will not repeat these. However, there is a cost allocation that is manifestly unfair and which must be addressed.

We note that the GPhC believes that the cost of accrediting MPharm degrees is charged as a cost allocation to pharmacists.

This is from the February 2015 GPhC meeting:

> *The cost of the Board of Assessors and the accreditation of the MPharm degree, are considered parts of the quality control process applicable to pharmacists entering the register and as such are allocated to pharmacists.* **(10)**

There is no justification for not allocating costs appropriately and fairly. Institutions that offer the MPharm degree are now run on commercial terms and we would like the GPhC explain why it has failed to charge fairly and proportionately as the workload of this accreditation has grown.

The number of Institutions offering MPharm degrees has grown exponentially in the last decade. Accreditation must be a thorough process and which does not lead to variances in outcome of the magnitude where some graduates of some schools achieve a Pre-Reg pass rate of 90% or more and graduates of similar schools achieve a pass rate of less than 50%.

We would contend that the robustness of the accreditation process must be strengthened and that this will need resourcing and that this resourcing must come from the Institutions that provide the courses.

We would like a full and frank discussion from the GPhC with pharmacists as to why the GPhC clearly thinks it should only be already registered pharmacists that should bear the cost through their annual fees for the accreditation of Institutions.

Recommendation for Q 4

The GPhC must start planning for efficiency gains of the same magnitude as the GDC or explain why it cannot do so.

The GPhC must provide full working models on fees showing cost allocations according to registrant type.

The GPhC must provide data if it was to introduce variable fees, to show how the variances would impact different groups of registrants (pharmacists/technicians/premises)

Fees for accreditation MPharm courses must properly be charged to Institutions and not allocated as a cost when determining pharmacist registration fees.

Equality impact. We want to understand whether our proposals may have a positive or negative impact on any individuals or groups sharing any of the protected characteristics in the Equality Act 2010. The protected characteristics are:

• age • disability • gender reassignment • marriage and civil partnership • pregnancy and maternity • race/ethnicity • religion or belief • sex • sexual orientation

5. What type of impact do you think our proposals will have on individuals or groups who share any of the protected characteristics?

We note that with the Fees Increase in 2019, the GPhC did an ***equality impact assessment*** on groups that would be affected.

We can find no public record of this ***equality impact assessment*** and ask the GPhC to publish this document. This is what was said at the GPhC meeting on 7th March 2019.

> *6. Equality and diversity implications*
>
> *6.1.* ***An equality impact analysis*** *has been published alongside this paper. This highlighted the potential impacts of increases to fees on individuals or groups with protected characteristics.*
>
> *6.2. The analysis also considered the respondent profile to the consultation on draft 2019 fees rules.*
>
> *6.3. The outcomes of the analysis will be carried forward into the comprehensive review of costs and fees with a commitment to explore fee options to help mitigate against disproportionate impacts for individuals or groups with protected characteristics.* **(12)**

It is incumbent upon the GPhC to publish the results of the ***equality impact assessment*** as part of this consultation so that we can make an informed comment on this question.

We know that many independent pharmacies are owned by registrants with protected characteristics. The reason for this are complex but include the discrimination faced in employment in the NHS managed sector and also in private companies.

There is significant data that shows a larger percentage of registrants with protected characteristics work on a self-employed basis and thus pay their own fees whereas most employers usually pay the registration fee for employees.

As an example of how complex this area is a recent paper, one of many that exist in peer reviewed literature, published in 2017 by Hassall et al found:

> Pharmacy is also segmented along ethnic lines, with BAME groups, particularly Indian pharmacists, over-represented in the community sector and as self-employed contractors
>
> In community pharmacy, Black and Chinese women (irrespective of dependent status) are significantly more likely to occupy management positions than White and Asian women.
>
> Asian and White women pharmacists are similarly likely to work part-time, indicating that the polarised employment positions of women in community pharmacy are linked to the hours they work rather than ethnic origin.
>
> In the hospital sector, BAME women are less likely than White women to occupy management positions and are almost three times as likely to be self-employed locums. **(13)**

So, there could be complex impacts on how fees are structured as self-employed pharmacists pay their won fees, employed hospital pharmacists usually have their fees paid and so on.

The GPhC must publish its assessment of potential equality impact of its proposals as part of any consultation ***before*** asking for comments.

Given the fact that an ***equality impact analysis*** exists from the 2019 Fees Consultation we would want to see what analytical modelling was done prior to this 2020 proposed fees increase and how it tested for equality and diversity.

It is unfair of the GPhC to ask a question without providing the full underlying information on which an informed answer can be given.

Recommendation for Q 5

The GPhC must publish the equality impact analysis that exist from the recent 2019 fees increase and also the fees increase from prior years.

The GPhC must publish its equality impact assessment of how its proposals would impact on registrants with various protected characteristics as part of this and any future consultation document.

6. Do you think our proposals will have a positive or negative impact on any other individuals or groups?

Please give comments explaining your answers to questions 5 and 6 above. Please describe the individuals or groups concerned and the impact you think our proposals will have.

Please see our reply to question 5.

(1) https://www.pharmacyregulation.org/sites/default/files/document/2018-10-11_combined_papers_for_website_2_0.pdf

(2) https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2

(3) default/files/May%202010%202011%20Fess%20Rules%20consultation%20document.pdf"

(4) https://www.pharmacyregulation.org/sites/default/files/consultation_on_the_draft_2015_fees_rules.pdf

(5) https://www.pharmacyregulation.org/sites/default/files/2017-02-09_-_council_papers_for_website_2.pdf

(6) https://www.pharmacyregulation.org/council-meeting-13-february-2020

(7) https://www.pharmacyregulation.org/sites/default/files/document/gphc-council-meeting-papers-07-03-2019.pdf

(8) https://www.gdc-uk.org/docs/default-source/annual-reports/annual-report-and-accounts-2018-final.pdf?sfvrsn=7b0e96c3_4

(9) https://webarchive.nationalarchives.gov.uk/20120503224921/http:/www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4137276.pdf

(10) https://www.pharmacyregulation.org/sites/default/files/2015-02-05_gphc_council_papers_public_-_web_05-02-2015.pdf

(11) https://www.rpharms.com/Portals/0/Documents/Old%20consultations/consdoc110512.pdf

(12) https://www.pharmacyregulation.org/sites/default/files/document/gphc-council-meeting-papers-07-03-2019.pdf

(13) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6282559/

All accessed on 23.03.2020

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