

**TERMS OF REFERENCE
FOR THE
CONSUMER
ADVISORY
COMMITTEE (CAC)**

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GLOSSARY

The following words are used in the Terms of Reference and have the following meanings:

“Act” means the New Zealand Public Health and Disability Act 2000 and includes any regulations, amendments, re-enactments and replacements.

“Board” means the PHARMAC Board.

“CAC” means the Consumer Advisory Committee.

“CAC Secretary” means the secretary of CAC (see section 8).

“Chairperson” means the Chairperson of CAC (see section 11).

“Terms of Reference” means the Terms of Reference for CAC.

“Member” or **“Members”** means a member of CAC.

“PHARMAC” means the Pharmaceutical Management Agency.

“pharmaceutical(s)” means a medicine, therapeutic medical device or related product or related thing.

“Pharmaceutical Schedule” means the list of pharmaceuticals for the time being in force that states, in respect of each pharmaceutical, the subsidy that the Crown intends to provide for the supply of that pharmaceutical to a person who is eligible for the subsidy.

“supplier” means the supplier of a pharmaceutical, usually a pharmaceutical company.

1. Primary Purpose

CAC is a committee representing the interests of health consumers. The primary purpose of CAC is to provide the Board with input from a consumer or patient point of view (see section 50(1)(b) of the Act).

2. Functions

To fulfil its primary purpose CAC is to provide PHARMAC, when requested by PHARMAC, with a consumer or patient perspective on:

- (a) initiatives to promote the responsible use of pharmaceuticals;
- (b) information to assist patients, particularly educational information;
- (c) where appropriate, implementation of PHARMAC's decisions;
- (d) how access to pharmaceuticals could be improved for specific patient groups in terms of specific disease states within existing listed pharmaceuticals;
- (e) the use of pharmaceuticals by Maori, Pacific Peoples or other groups experiencing inequalities in relation to existing listed pharmaceuticals;
- (f) the prioritisation of pharmaceuticals by PHARMAC; and
- (g) any other matters relating to the management of the Pharmaceutical Schedule.

CAC may also, subject to the confidentiality provisions in section 13:

- (a) engage and consult with the community and/or relevant consumer groups;
- (b) work with special focus/interest groups that may be required from time to time for specific issues and problem solving;

CAC's functions do not include, unless expressly requested by PHARMAC, providing input on, or otherwise being involved with:

- (a) the clinical evaluation of pharmaceuticals;
- (b) any consultation process PHARMAC conducts; or
- (c) PHARMAC's contracting processes.

3. PHARMAC's objectives and functions

In performing its functions, CAC must have regard to PHARMAC's objectives and functions as outlined respectively in sections 47 and 48 of the Act.

4. Relationship with PHARMAC

- 4.1 CAC is an advisory committee to the Board.
- 4.2 CAC will provide written reports to the Board outlining any issues relevant to the matters specified in section 2, and setting out its views in relation to those issues, taking into account its responsibilities under sections 1, 2 and 3 of these Terms of Reference.
- 4.3 The Board will take into account the reports provided by CAC and seek any clarification required from CAC.

5. Appointment

- 5.1 PHARMAC staff will advertise publicly for nominations for Members and draw up a short-list of nominated people for consideration by the Board, who will appoint the Members as required by Section 50(3) of the Act.
- 5.2 CAC will consist of up to eight Members, including two Maori and one Pacific People's representatives. Where no suitable Maori or Pacific People's candidates are nominated, the Board will actively seek to identify a member with appropriate skills and experience from those communities. In making appointments to CAC, the Board will endeavour to ensure that CAC has an appropriate mix of people:
 - of different age groups and genders;
 - from different locations (urban and rural);
 - from different cultures;
 - who can represent interests broader than those of a specific group and;
 - who can demonstrate a connection to a particular community of consumers.

In general, the focus will be on appointing members who represent consumers and communities, not health professionals or commercial enterprises.

- 5.3 Except as set out in section 5.4, Members will serve a term of three years with a right of renewal for a further three-year or shorter term by mutual agreement.
- 5.4 The Board will stagger the terms of the initial Members, in the following manner:
 - (a) three Members will initially be appointed for a term of two years;
 - (b) three Members will initially be appointed for a term of three years; and
 - (c) two Members will initially be appointed for a term of four years,with a right of renewal by mutual agreement for a three-year or shorter term as set out in section 5.3 above. The Board will notify the initial Members of the length of their term at the time of appointment.
- 5.5 The Board will appoint the Chairperson of CAC, in consultation with the other Members.

6. Removal and resignation of Members

- 6.1 Members may resign at any time by notice in writing to the Board
- 6.2 A Member may be removed by the Board by notice in writing to that Member, stating the Board's reasons for the removal and the date on which the removal takes effect. The Board may exercise this power only if it has first consulted the Member about the removal.

7. Remuneration

- 7.1 Members are to be paid for their attendance at meetings and, with PHARMAC's approval, any reasonable time spent preparing for meetings. The Board will set the level of payment that it considers appropriate, having regard to any public sector or other relevant guidelines.
- 7.2 PHARMAC will reimburse Members for all reasonable costs incurred in travelling to and from any CAC meeting.

8. CAC Secretary

- 8.1 The CAC Secretary, who is to be a PHARMAC staff member and appointed by PHARMAC's Chief Executive in consultation with the Chairperson of CAC, will support CAC and assist the Chairperson in performing his or her role. In particular, the CAC Secretary is to provide the services necessary for the smooth operation of CAC, including (without limitation):
- (a) determining a programme of meetings (see section 9.1);
 - (b) preparing a draft agenda for meetings in accordance with section 8.3 below;
 - (c) ensuring that papers for meetings are sent to Members; and
 - (d) providing regular and ongoing communications to CAC members in relation to PHARMAC's activities.
- 8.2 The CAC's Secretary will be responsible for keeping minutes of each meeting of CAC. The process for finalising the minutes is to be as follows:
- (a) minutes are to be prepared and sent to Members as soon as possible after a CAC meeting;
 - (b) Members are to peruse the minutes and return comments to the CAC Secretary promptly;
 - (c) the CAC Secretary will produce a final draft of the minutes in light of the suggested changes. The final draft will then be sent to Members for review. Once any further changes are made to the final draft, the Chairperson will sign the minutes as finalised;
 - (d) a copy of the signed minutes will be sent to each Member and will be included for final ratification as part of the agenda of the next meeting of CAC; and
 - (e) a copy of the signed minutes will be forwarded to the Board.
- 8.3 The agenda for each meeting is to be agreed by the Chairperson and PHARMAC staff. Members may forward items to the Chairperson for inclusion on the agenda with at least two weeks' notice prior to the meeting. The agreed agenda and related papers are to be sent to Members by the CAC Secretary, if possible, two weekends before the relevant meeting.

- 8.4 The CAC Secretary is responsible for managing communications between Members and members of the general public and other interest groups.
- 8.5 The CAC Secretary stands apart from CAC recommendations and does not have voting rights at any CAC meeting.
- 8.6 Once the minutes of a CAC meeting are signed they will be made publicly available by PHARMAC, by publishing them on the PHARMAC website (www.pharmac.govt.nz), provided that PHARMAC reserves the right to withhold any element(s) of the minutes that it considers appropriate on grounds of commercial confidentiality. In doing so PHARMAC will be guided by the principles and withholding grounds of the Official Information Act 1982.

9. Meetings of CAC

- 9.1 CAC is to meet as and when required by the Board and no less than twice a year. Meetings are to be held in Wellington at PHARMAC's offices, or as provided in section 10 (electronic conferences), unless the Chairperson, in agreement with PHARMAC, directs otherwise. The CAC Secretary and Chairperson will select the dates for CAC meetings, taking into account the dates of Board meetings. They will present the dates to Members, who will confirm the dates, subject to their availability.
- 9.2 The quorum for meetings of CAC is 5 Members, of whom one member (subject to section 9.5 below) must be either the Chairperson or a deputy nominated by the Chairperson. In exceptional circumstances (for example where time is of the essence) the Chairperson may direct that the quorum for a particular meeting is to be 4 Members.
- 9.3 Members can request leave of absence from any particular CAC meeting.
- 9.4 Members will receive prior written notice of each CAC meeting, which will either be delivered by hand or sent to the Members by post, facsimile or other written or electronic mail message.
- 9.5 The Chairperson is to preside at each meeting of CAC unless he or she is absent or is unwilling or unable to preside. In this case the Chairperson will nominate a Member to preside as a Deputy Chairperson. If neither the Chairperson nor the nominated Deputy Chairperson can preside, then the Members present at the meeting must elect a Member who is present to be the Chairperson.
- 9.6 Members are to endeavour, at all times, to reach a consensus on the matters to be reported to the Board. If the Members are unable to reach a consensus then there is to be a vote, with a majority prevailing. If a vote is tied, the Chairperson (or other presiding Member) is to have a second or casting vote. Members who disagree with, or dissent from, a recommendation/decision of CAC are able to register their dissent or disagreement, and the grounds for it, in the report to the Board. However, Members are bound by each recommendation/decision and will not take any steps outside the meeting to undermine a consensus or majority recommendation/decision.
- 9.7 PHARMAC staff may attend each meeting of CAC and participate in discussions at the meeting, but may not vote on any matter at that meeting. The Chairperson may invite PHARMAC Board members to attend meetings of CAC from time to time.
- 9.8 Subject to compliance with the above procedures, CAC may regulate its internal meeting procedures in such manner as it thinks fit.

10. Electronic conferences

- 10.1 CAC can, if the Chairperson agrees (and the meeting has a quorum, see section 9.2), have a meeting by contemporaneous linking together by telephone, or other means of communication (an electronic conference). To the extent applicable, the rules and procedures relating to CAC meetings set out in section 9 will apply to a meeting held under this section. In addition, the following rules are to apply:
- (a) notice must have been given by telephone, or by other means of communication, to every Member entitled to receive notice of a meeting of CAC; and
 - (b) each Member taking part in a electronic conference must:
 - (i) at the start of the electronic conference, acknowledge the Member's participation in the electronic conference, to the other Members taking part;
 - (ii) be able to hear the other Members taking part at all times throughout the electronic conference; and
 - (iii) on any vote, individually express his or her vote at the electronic conference.
- 10.2 A Member may not leave a meeting held under this section by disconnecting his or her telephone or other means of communication unless he or she has first obtained the permission of the Chairperson. A Member is to be presumed to have continued to be present, and to have formed part of the quorum, at all times during an electronic conference unless he or she has been expressly permitted to leave.

11. Responsibilities of the Chairperson

- 11.1 Subject to the requirements set out in section 9, the Chairperson is free to conduct CAC meetings as he or she sees fit. The Chairperson will endeavour to ensure all CAC meetings start and finish on time and that, where possible, all agenda items are covered. The Chairperson is responsible for setting the agenda for the meetings (subject to section 8.3). The Chairperson is also responsible for signing off the final version of the minutes of any meetings of CAC in accordance with section 8.2.
- 11.2 The Chairperson should be aware of the range of perspectives across CAC and PHARMAC and is to manage discussion of those differing perspectives.
- 11.3 The Chairperson may, at PHARMAC's request, attend Board meetings to express CAC's views on issues to be considered by the Board, but is not entitled to vote at these meetings. The Chairperson is also responsible for liaising with the Board regarding the resources to be allocated to CAC and its Members.

12. Conflicts of interest

- 12.1 Members are to be aware of potential direct or indirect conflicts of interest as they arise in their daily professional life or otherwise and declare any such conflicts at the next CAC meeting.
- 12.2 Members are to avoid, to the greatest extent possible, any direct or indirect conflict between the performance of their duties and obligations as Members, and any obligations and interests they may have as a result of their professional duties and any obligations or interests they may have as a result of any agreement, arrangement, understanding or other connection or interaction (whether legally enforceable or not) with a pharmaceutical supplier. In particular,

if a Member wishes to accept supplier-funded travel, accommodation or other benefits, that Member must first discuss this with the CAC Chairperson and then declare this conflict at the next CAC meeting.

- 12.3 A Member who is directly or indirectly interested in any matter that is under consideration by CAC, is to disclose the nature of that interest to CAC immediately after he or she becomes aware of it. A Member who discloses an interest to CAC in accordance with this section will not be disqualified from discussing or voting on the matter concerned and is to be counted in the quorum for that meeting, unless the Chairperson of that meeting, in his or her discretion, decides that the particular interest is likely to affect the Member's ability to properly discharge his or her duties. If, as a result of the disqualification of a Member under this section, a quorum cannot be maintained, then the relevant matter is to be referred to the next meeting.
- 12.4 Where a Member declares or discloses a conflict of interest, this shall be recorded in a Conflict of Interest Register, which is to be attached to each CAC meeting agenda.

13. Confidentiality

- 13.1 Subject to section 13.3, all information, documents and other material relating to matters on CAC's agenda, as well as the proceedings of CAC, are confidential to CAC and PHARMAC. Members must comply with any statements of confidentiality obligations issued by PHARMAC from time to time and will, if required, sign confidentiality undertakings in the form required by PHARMAC.
- 13.2 Members must store all material relating to a pharmaceutical in a secure place until the matter has been considered by PHARMAC, after which time Members must either destroy the material or return it to PHARMAC.
- 13.3 Members are prohibited from speaking to the media in relation to the activities of CAC and any matters discussed at, or considered by, CAC at its meetings, unless they have the prior agreement of the Chairperson and the Chief Executive of PHARMAC.

14. Observers

- 14.1 At the discretion of the Chairperson and PHARMAC's Chief Executive, observers including invited experts may attend meetings of CAC. These observers are not, however, and are not to be deemed to be, Members and, unless the Chairperson of the particular meeting otherwise agrees, these observers will not have any right to speak at the meeting.
- 14.2 Observers will be required to sign confidentiality undertakings, prior to attending any meeting of CAC, in the form required by PHARMAC.
- 14.3 Observers should not, in the view of the Chairperson, by their presence affect any Member of CAC, either by influencing or constraining discussion at any CAC meeting. The Chairperson must endeavour to ensure that observers do not act in a manner that influences or constrains discussions at a CAC meeting and may require an observer to leave a CAC meeting if the Chairperson considers that observer's presence could otherwise influence or constrain discussion.

15. Variation of Terms of Reference and disputes

- 15.1 These Terms of Reference provide direction on CAC's functions and processes, but are not intended to cover every eventuality. They are to be interpreted flexibly and pragmatically, to allow CAC the scope, with PHARMAC's approval, to adapt its functions and processes as the need arises. These Terms of Reference may also be varied or revoked at any time (which may, where PHARMAC considers it appropriate, involve consultation) by the Board.
- 15.2 Any dispute or disagreement as to the meaning or application of any section in these Terms of Reference (except for the appointment process referred to in section 5 and 6 of the Terms of Reference) is to be determined by the Board, whose decision is final.
- 15.3 Irrespective of section 15.1, it is intended that these Terms of Reference will be reviewed once CAC has been operational for 18 months.