3 September 2014

The General Dental Council’s Consultation on the Annual Retention Fee (ARF) Level for 2015

Advisory Report for the British Dental Association
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1. Introduction

Introduction

1.1 FTI Consulting LLP (“FTI Consulting”) has been instructed by the British Dental Association (“the BDA”) to prepare an independent advisory report (“the Advisory Report”) on certain financial aspects of the proposal by the General Dental Council (“the GDC”) to increase the Annual Retention Fee as set out in a paper entitled “Consultation on the Annual Retention Fee (ARF) Level for 2015” (“the Consultation Document”) published by the GDC on 30 June 2014. FTI Consulting understands that the Advisory Report is required by the BDA to inform and form part of its response to the consultation and that the BDA may wish to deploy it in connection with both an application for judicial review and the review itself should it take place.

1.2 This report has been prepared under the responsibility of Adrian Smith (“Mr Smith”). He has been assisted by additional FTI Consulting staff working under his direction. The term “we” is used to refer to Mr Smith and the FTI Consulting staff who have worked on this matter.

Mr Smith’s qualifications and experience

1.3 Mr Smith is a director in the FTI Economic and Financial Consulting practice and is based in London.

1.4 He is a chartered accountant and has 17 years’ experience of financial analysis relating to international arbitration, civil and criminal litigation, mediation, business interruption claims, business valuation, and regulatory investigation and litigation. He has provided financial and economic consulting advice to clients and their legal teams in France, Italy, Malaysia, Qatar, Saudi Arabia, the United Kingdom and the United States. His experience includes preparing expert and other reports for a wide variety of forums.

1.5 In recent years, Mr Smith’s practice has focused on expert financial advice mainly in the context of arbitration and litigation.

1.6 Mr Smith’s qualifications and experience are summarised at Appendix 1.
Background to this matter

1.7 We summarise our understanding of the background to the issues covered by our instructions below. This is intended to be an uncontroversial summary of facts to provide context.

The BDA

1.8 The BDA is the professional association and trade union for dentists in the United Kingdom. The BDA is owned entirely by its members. The BDA’s mission is to promote the interests of its members, advance the science, arts and ethics of dentistry, and improve the nation's oral health.¹

The GDC

1.9 The GDC is the statutory regulator of dental professionals for the United Kingdom established under the Dentists Act 1984.² The main objective of the GDC is to protect patients and the public. The GDC does this by:³

- registering qualified dental professionals;
- setting and enforcing standards of dental practice and conduct;
- protecting the public from illegal practice;
- assuring the quality of dental education;
- ensuring professionals keep their knowledge and skills up to date;
- investigating and acting upon complaints received about fitness to practise;
- helping patients and the profession to resolve complaints about private dentistry, through the Dental Complaints Service (“the DCS”).

¹ http://www.bda.org/about-the-bda/overview.aspx
² CD: Page 2.
³ Corporate Strategy 2013 -2015, inside cover.
1.10 It holds a register of professionals who make up the dental team comprising dentists and dental care professionals ("DCPs") (clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists and orthodontic therapists).4

**The Annual Retention Fee**

1.11 The Annual Retention Fee ("ARF") is a mandatory payment for all registrants. Registration with the GDC is a legal requirement for all dental professionals. It is therefore an unavoidable cost of practising dentistry in the UK.

1.12 The ARF is the GDC’s primary source of income. It has not been increased since 2010.

**The Consultation**

1.13 On 30 June 2014, the GDC issued a consultation on the level of the ARF for registrants ("the Consultation"). The GDC’s press release refers to the Consultation following on from a separate consultation held between 16 April 2014 and 4 June 2014 regarding the policy used when setting the ARF. The press release stated that responses had been considered when establishing the proposed new fee.

1.14 The press release, published on the GDC’s website, provided links to a page of background information5 and three documents:

1. (1) the Consultation Document;

2. (2) Annual Retention Fee (ARF) Level Consultation – 12 Key Facts ("the ARF Key Facts Document"); and

3. (3) the GDC Report on the outcome of the consultation on the Annual Retention Fee (ARF) Policy ("the Policy Outcome Report") (Item 6 Council 18 June 2014) setting out the results and key themes arising from the consultation on the Annual Retention Fee (ARF) policy which was open from 16 April until 4 June 2014.

1.15 The GDC also published “The GDC statement following the consultation on the Annual Retention Fee (ARF) Policy” ("the Policy Statement").6

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4 CD: Page 2.
5 The background information is also included in the Consultation Document.
6 The GDC website: http://www.gdc-uk.org/GDCcalendar/Documents/GDC%20statement%20following%20the%20consultation%20on%20the%20Annual%20Retention%20Fee%20Policy.pdf
1.16 The Consultation Document refers to the purpose of the Consultation stating:

“The GDC’s primary source of income is fees from registrants. We do not receive funding from the taxpayer and we must use the fee income that we receive to fund all of the activities which Parliament has stated we must deliver.

The current fee level for dentists is £576 and for DCPs is £120. We have not increased the ARF for 4 years.

Since 2010 when we last increased the ARF, there has been a 110% increase in the number of complaints from patients and members of the public, employers, other registrants and the police about GDC registrants. As a result, we need additional funds to investigate these complaints and where necessary to bring Fitness to Practise cases involving dentists and DCPs. If we do not have sufficient funds to bring these cases we would fail in our duty to protect patients and the public. This would also mean that the public would lose confidence in dental professionals.

In total we estimate we will need to collect an extra £18.0 million in fee income [including costs noted below] to allow us to deal with the extra volume of complaints and Fitness to Practise hearings that we anticipate in 2014 and 2015. This will be collected partly in 2015, with the balance in 2016 as set out in Table 6, later in this document. This means that the ARF level for dentists will need to increase to £945 a year and for DCPs to £128: a 64% and a 6.7% increase respectively. This fee is deductible for the purposes of income tax, for all UK-based registrants.

This consultation will set out in more detail why this fee increase is necessary and how the fee levels have been calculated. It seeks views from registrants about this fee increase and whether we have adequately explained why a fee increase is necessary.”
1.17 The Consultation Document then seeks to address the following matters:
- why the GDC charges an ARF;
- how it sets the ARF;
- the resources it needs to fund its statutory functions in 2015;
- the difference between its forecast of its income and expenditure in 2015 (which it refers to as the funding gap);
- the cost savings it has introduced to reduce the funding gap;
- the need for legislative changes to improve its Fitness to Practise processes;
- whether it can use its financial reserves to reduce the funding gap; and
- what it means for the ARF level for dentists and DCPs in 2015.

1.18 The Consultation Document asks:
- whether it has provided a clear account of its resource needs for 2015, as it said it would;
- whether there is any other information that would be useful;
- whether it has provided a clear account of what it is doing to keep costs under control, as it said it would; and
- whether the ARF for dentists and DCPs in 2015 should be £945 and £128 respectively to enable the GDC to raise sufficient funds to deliver its statutory functions.

1.19 The deadline for responses to the Consultation Document is 4 September 2014. The Consultation Document does not set out the process by which the GDC will take responses into account.

The BDA’s view / the Pre-Action Protocol letter

1.20 On 24 July 2014, the BDA sent a Pre-Action Protocol letter (“PAP”) to the GDC.
1.21 The PAP set out the BDA’s concerns regarding the Consultation and the BDA’s intention to issue an urgent claim for judicial review and seek by way of remedy a quashing of the consultation, on the basis that it is proceeding on a false, unreasonable and unfair basis, unless it received confirmation by 8 August 2014 that: 9

- the Consultation Document will be withdrawn;
- the GDC will publish or make plain to consultees what published policy is guiding the discretion to raise the ARF; and
- the GDC will publish sufficient detailed information prior to the commencement of the renewed consultation (the BDA having enclosed a request for information as part of the PAP); or
- adequate reasons for not doing so.

1.22 The PAP included a request for information in the context of the intended judicial review proceedings. The BDA also asked for the request to be treated as an application for a Freedom of Information request under the Freedom of Information Act 2000 (“the FOI Request”). 10

The GDC’s response to the PAP

1.23 On 12 August 2014, Kingsley Napley LLP (“Kingsley Napley”), solicitors instructed by the GDC, sent two letters to the BDA.

1.24 The first letter (“the GDC’s PAP Response”) included the following summary of the GDC’s response: 11

“In short, the GDC’s position is that the Consultation is being conducted fairly and in accordance with its broad discretion as to how to carry out a consultation exercise and, specifically:

(a) that the GDC has a clear policy under which the power under section 19 of the Dentists Act 1984 will be exercised;

(b) that the GDC has disclosed sufficient information to allow consultees to make an informed and intelligent response to the Consultation; and,

(c) that the Consultation document is neither misleading nor is it based on unreliable information.”

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9 PAP: Page 14.
10 PAP: 39.
11 GDC PAPR: 2.
1.25 The letter also stated that that GDC does not intend to withdraw the Consultation and set outs reasons why, in the GDC’s view, a challenge by way of a Judicial Review would be inappropriate.

1.26 The GDC’s PAP Response stated:

“It is not considered that disclosure of the information sought at paragraph 39 of your letter is required for the purpose of the response to a pre action letter. Accordingly your request is being treated as a request under the Freedom of Information Act 2000. We will be writing separately with the response to that request.”

1.27 The second letter enclosed the GDC’s response to the FOI Request (“the GDC’s FOI Response”). The letter stated that the GDC would consider further whether it holds any other information falling with the terms of the request and that it will confirm the position to the BDA. We understand from the BDA that confirmation has not been received to date.

1.28 The GDC has published the GDC’s PAP Response and the GDC’s FOI Response on its website by way of a links from a press release dated 12 August 2014.

**Our instructions**

1.29 We have been instructed to produce an advisory report on certain financial aspects of the Consultation, addressing:

1. the adequacy of the financial reasons for the increase in the ARF and whether a 64% increase in the amount payable by dentists is objectively justifiable;

2. whether the information in the Consultation Document appears consistent with other publicly available information published by the GDC on its website; and

3. whether the information, as currently presented, is sufficient to enable those consulted, including key stakeholders such as the BDA, to challenge the accuracy of any facts and the validity of any financial arguments upon which the proposed increase is based; and if not what further financial information would be necessary (and in particular, what is the bare minimum of further information that would be necessary).

1.30 We have been instructed to address the matters first without taking into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response and then to consider separately whether the additional material affects our view on these matters.

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12 GDC PAPR: 12
1.31 We have been instructed to confine our work to considering the financial aspects of the Consultation Document and not consider, for example, matters concerning how the GDC should interpret its statutory obligations or whether the GDC has a clear policy in relation to the ARF.

Sources of information

1.32 We identify in Appendix 2 the information we have relied upon in preparing this report.

1.33 We use short form references to refer to specific paragraphs, sections, parts etc. of documents with numbered paragraphs, sections, parts etc. We explain the references used in Appendix 3.

Restrictions

1.34 This report has been prepared solely for the benefit of the BDA for use for the purpose described in this introduction.

1.35 FTI Consulting accepts no liability or duty of care to any person other than the BDA for the content of the report and disclaims all responsibility for the consequences of any person other than the BDA acting or refraining to act in reliance on the report or for any decisions made or not made which are based upon the report.

Limitations to the scope of our work

1.36 This report contains information obtained or derived from a variety of sources. Except where indicated, FTI Consulting has not sought to establish the reliability of those sources or verified the information provided.

1.37 Our opinions are limited to matters that fall within our expertise and exclude questions of law.

1.38 The level of work undertaken has been limited by the time available. The matters we have been instructed to address include whether the information in the Consultation Document appears consistent with other publicly available information published by the GDC on its website. In approaching this task, we have sought to identify relevant documents on the GDC’s website. We have done so by a combination of review of the GDC’s website and key word searches. There is large volume of information on the GDC’s website and we cannot be confident that we have identified all relevant documents.

1.39 No representation or warranty of any kind (whether express or implied) is given by FTI Consulting to any person (except to the BDA under the relevant terms of our engagement) as to the accuracy or completeness of this report.
1.40 This report is based on information known to us at the date of the report. We accept no responsibility for updating the report or informing any recipient of the report of any new information which becomes known to us after the date of the report.

**Structure of this report**

1.41 In Section 2, we summarise our conclusions.

1.42 In Section 3, we provide an overview of the GDC’s approach to calculating the level of the ARF.

1.43 In Sections 4 to 6, we consider the information provided in the Consultation Document without taking into account the additional material in the GDC’s PAP Response and the GDC’s FOI Response. We do so by reference to:

- the calculation of total expenditure to be funded by the ARF in 2015 to 2017 (Section 4);
- the allocation of the total ARF between dentists and DCPs (Section 5); and
- the calculation of the ARF payable by each dentist or DCP (Section 6).

1.44 We consider the individual sections of the Consultation Document and the ARF Key Facts Document in Appendices 5 to 13 and other matters of note in Appendix 14.

1.45 In Sections 7, we consider the additional material in the GDC’s PAP Response.

1.46 In Section 8, we consider the additional material in the GDC’s FOI Response.
2. Summary of conclusions

Introduction

2.1 In this section, we summarise our conclusions in relation to the questions we have been asked to address.

2.2 We address each question firstly without considering the additional information set out in the GDC’s PAP Response and the GDC’s FOI Response, but including by reference to information obtained from the GDC’s website. We then consider separately whether the additional material affects our view on these matters.

1. The adequacy of the financial reasons for the increase in Annual Retention Fee and whether a 64% increase in the amount payable by Dentists is objectively justifiable

Our key conclusions

2.3 In our opinion, the GDC has not explained adequately the financial reasons for the proposed increase in the level of the ARF, or provided calculations and evidence in support sufficient to determine the amount of the increase, if any, required.

2.4 An increase in the ARF of 64% may be justifiable, but, in our view, the increase is not justified by reference to the information set out in the Consultation Document.

2.5 We remain of this view having also considered the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response.

Overview of how the level of the 2015 ARF has been calculated

2.6 The GDC has determined the level of the ARF for 2015 by reference to the following calculations (see Section 3):

(1) a calculation of the total expenditure to be funded by the ARF in 2015, 2016 and 2017 including, funds to replenish reserves in respect of a projected deficit for 2014;

(2) a calculation to allocate the required funding between dentists and DCPs; and

(3) a calculation to determine the level of the ARF for registrant dentists and DCPs in 2015.
2.7 In our view, each aspect of the calculation currently requires additional support and explanation. We briefly consider each aspect of the calculation below.

Total expenditure to be funded by the ARF in 2015, 2016 and 2017

2.8 We consider the total expenditure to be funded by the ARF in 2015, 2016 and 2017 in Section 4 and the associated appendices.

2.9 The information provided in the Consultation Document is insufficient to explain how the GDC has calculated the projected expenditure and the funding requirements that give rise to the proposed increase in the ARF. The GDC has not provided calculations, together with supporting evidence, explaining its projected expenditure from 2014 to 2017. As explained in Section 3, the GDC relies on its projected expenditure for each of these years when calculating the proposed level of the ARF in 2015.

2.10 The proposed increase in the ARF is largely based on the GDC’s prediction that there will be a step change in its activities in relation to its Fitness to Practise function in 2014 through 2017 and, in particular, that there will be large increases in the number of Fitness to Practise hearings compared with historical levels. However these projected changes and the associated cost increases are not adequately explained or supported.

2.11 There is no information in support of the GDC’s projections of the number of complaints it will receive in 2014 and 2015 beyond a statement that the predictions are “based on current trends”. It appears that the GDC may have analysed the trend by performing linear regression based on the number of complaints received in 2010 to 2013. The Consultation Documents sets out no information about actual complaints received in 2014 and there is no explanation regarding why the projection appears to differ from the budget in the 2014 Business Plan which assumed “zero growth in Fitness to Practise cases in 2014 following two years of very significant growth” whilst noting that “very careful monitoring of caseload in 2014 will be undertaken to ensure a rapid response, with recourse to reserves should the number of complaints increase substantially”. The 2014 Business Plan also states “For the purposes of the proposed budget, a ‘zero growth scenario has been assumed whereby 3,002 new complaints are received in 2014, equal to the number received in 2013”, and observed that “It is not unusual for fitness to practise complaint levels to plateau after years of growth”.

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14 2014 BP: Page 2; Budget; Paragraph 6.
15 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
2.12 Whilst the 2014 Business Plan also referred to the possibility that complaints in 2014 would be higher,\textsuperscript{17} no evidence is provided in the Consultation Document to explain why the zero growth scenario, which was adopted by the GDC in its budget, needed to be revised to an increase of 17% in 2014 in the Consultation Document.\textsuperscript{18}

2.13 The Consultation Document does not set out any actual complaints data for 2014. Therefore, it appears reasonable to assume that actual data for 2014 does not form the basis of GDC’s projections. However, a GDC press release issued before the Consultation Document states that “In the first quarter of 2014 it [the GDC] received 846 complaints (a 5.49% increase on the same period in 2013).”\textsuperscript{19} This rate of increase is significantly less than the projected increases of 17% in 2014, followed by a further increase of 13% in 2015, set out in the Consultation Document.

2.14 The Consultation Document does not set out the GDC’s projections of the number of Fitness to Practise complaints it will receive in 2016 and 2017. Such projections are relevant to the Consultation as the GDC uses projected expenditure for those when calculating the proposed level of the ARF for 2015. The Consultation Document states only that “The proposed ARF assumes that the volume of complaints (and therefore Fitness to Practise costs) in 2016 and 2017 do not increase at the rates they are expected to increase in 2014 and 2015”.\textsuperscript{20} This provides no information about the projections used by the GDC when estimating its required expenditure for those years.

\textsuperscript{16} In one of the passages quoted, the GDC refers to “zero growth in Fitness to Practise cases”, and in another it refers to zero growth in “complaints”. On the face of it, there could be a difference between the numbers of “complaints received” and “cases received” (if some complaints do not give rise to cases). It is unclear, in documents considered in this report, whether the GDC uses the terms “complaints” and “cases” interchangeably or whether the GDC always distinguishes the terms but that, in some periods, the number of complaints and cases were, or were expected to be, the same. We have done our best to understand passages in which the terms are used. In some instances, clarification from the GDC may resolve apparent inconsistencies noted.

\textsuperscript{17} 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.

\textsuperscript{18} CD: Page 9, Table 2.

\textsuperscript{19} GDC Press Release 20 June 2014 “Department of Health signals urgent legislative change to streamline fitness to practise procedures”.

\textsuperscript{20} CD: Page 17.
2.15 No information is provided to explain how the projected increases in complaints on previous years of 17% and 13% in 2014 and 2015 results in projected increases in the number of Fitness to Practise hearings in 2014 and 2015 of 85% and 116%.\textsuperscript{21} The GDC refers to a “drive to process cases on a more timely basis, the need to clear a backlog of cases, and the time lag from the date of a complaint being received by it and the point at which the matter is heard by a Fitness to Practise Committee”.\textsuperscript{22} However, no analysis is provided regarding the impact of these factors or to explain the calculation of the projected increases in hearings. The GDC has not provided its projections of the numbers of hearings that will take place in 2016 and 2017 (which could be significantly lower if the backlog referred to by the GDC has been cleared).

2.16 The Consultation Document contains no analysis of how the information provided regarding the cost of hearings, the number of complaints and the number of hearings translates into the projected Fitness to Practise costs.

\textsuperscript{21} CD: Page 9; Table 2.

\textsuperscript{22} CD: Page 9.
2.17 As already mentioned, the GDC has not provided any calculations or supporting evidence for its projected expenditure in 2014, 2015, 2016 or 2017. In our view, the appropriate level of information required to provide clarity and support for the projected expenditure is affected by the following matters:

(1) from the end of 2010 to the end of 2013, the GDC has reported a surplus of £4 million (see Appendices 7 and 10). This increases the need for the predicted step change in activity and costs to be explained adequately;

(2) the GDC’s projection of a deficit of £5.9 million in 2014 in the Consultation Document is contrary to the budget set out in the 2014 Business Plan published on 17 October 2013 which anticipated a deficit of £3 million for 2014 (which was itself greater than the £1.6 million deficit that it had anticipated in its Quarter 2 2013 forecast). Again, this increases the need for changes to be explained adequately;

(3) the projected deficit in 2014 is also contrary to the following statement in the financial review which forms part of the GDC’s published Annual Report and Accounts for 2013 signed on 18 June 2014, less than two weeks before the Consultation Document was issued:

"Outlook

Looking forward to 2014, we are predicting a deficit budget amounting to £3.0m, given the need to fund the increasing number of fitness to practise cases which is the principal driver of costs. The budget assumes that, following two years of very significant growth, the number of new fitness to practise cases received will plateau."

2.18 In our opinion, given the above matters, it would be helpful for the GDC to explain, in appropriate detail, what has caused it to revise significantly its expectations regarding its expenditure for 2014 and subsequent years, and when the need to revise its predictions became apparent.

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23 CD: Page 18 and Page 13 from which the projected deficit for 2014 can be calculated as the projected reserves of £9.3 million at the end of 2014 less the reserves of £15.2 million brought forward from the end of 2013.

24 2014 BP: Page 2: Budget; Paragraph 5.

25 2014 BP: Page 2: Budget; Paragraph 5 (2013 Q2 forecast: £32.8 million income less £34.4 million expenditure).

2.19 The limited information set out in the Consultation Document in relation to the GDC’s Fitness to Practise function contains apparent internal inconsistencies. This suggests that either the information in the Consultation Document is unreliable or further explanation and support is required to understand the information presented. For example:

(1) the projected number of Fitness to Practise hearings in 2015 (638) multiplied by the stated average costs of a Fitness to Practise hearing (£78,000) suggests that the Fitness to Practise hearing costs in 2015 will be £49.8 million. This exceeds the projected total Fitness to Practise expenditure of £38.0 million in 2015 by £11.8 million (see Appendix 6);

(2) the prominent statistic regarding the complaints increasing by 110% since 2011\textsuperscript{27} appears to be misstated and inconsistent with other data in the Consultation Document. We have been unable to reproduce this 110% figure based on the data in the Consultation Document. On the basis of the data provided by the GDC, we calculate the increase in complaints received from 2011 to 2013 as 89%\textsuperscript{28}; and from 2010 to 2013 as 113%\textsuperscript{29} (see Appendix 5);

(3) the prominent statement that “The GDC will need to collect an additional £18 million to deal with anticipated complaint levels in 2014 and 2015”\textsuperscript{30} is inconsistent with other data in the Consultation Document indicating that the GDC projects that expenditure on its Fitness to Practise function will increase in 2014 and 2015 by £16.4 million (see Appendix 5); and

(4) the cost savings, expressed as a percentage of annual expenditure for 2014 and 2015 in Table 4 of the Consultation Document, are inconsistent with the projected cost savings in the same table and total expenditure for those years set out in Tables 1 and 3 of the Consultation Document (see Appendix 8).

\textsuperscript{27} The statistic is referred to by the GDC many times in the Consultation, including in the graphic on page 4 of the Consultation Document where it is referred to as being in respect of the increase since 2011. Elsewhere, the increase is referred to as being from 2010.

\textsuperscript{28} Complaints in 2013 – complaints in 2011 / complaints in 2011 x 100% = 2,990 -1,578/1,578 x 100% = 89%.

\textsuperscript{29} Complaints in 2013 – complaints in 2010 / complaints in 2010 x 100% = 2,990 -1,401/1,401 x 100% = 113%.

\textsuperscript{30} CD: Page 4.
2.20 As explained below, in our conclusions in respect of the second question put to us, information in the Consultation Document appears inconsistent with other information published on the GDC’s website. This also suggests that either the information in the Consultation Document is unreliable or that further explanation and support is required to understand the information presented.

2.21 In relation to cost savings, the GDC states “When we are considering a fee increase we will always look to see if we can introduce cost savings and we will set out what measures we have taken to reduce costs”. The GDC acknowledges that it said that it would provide a clear account of what it is doing to keep costs under control. However, the information in the Consultation Document regarding costs savings is unclear (see Section 4 and Appendices 8 and 9) in that, for example:

(1) although the GDC provides examples of efficiency measures implemented since 2011, it is not clear how projected costs savings in 2014 and 2015 have been calculated or what savings are included;

(2) although the GDC states that savings will continue to accumulate into 2016 and beyond, it does not specify the savings that have been included in its expenditure projections; and

(3) although information published by the GDC suggests that legislative changes are likely to occur, resulting in efficiencies and cost savings in respect of the GDC’s Fitness to Practise processes within the timeframe relevant to the GDC’s calculation of the proposed level of the ARF, it is unclear whether expenditure projections in the Consultation Document incorporate the anticipated savings.

The calculation to allocate the required funding between dentists and DCP

2.22 The GDC allocates £110.9 million (82.5%) of the total expenditure to be funded by the ARF over 2015 to 2017 to dentists and £23.5 million (17.5%) to DCPs.
2.23 The method by which the GDC performs the allocation between the registrant groups is unclear. The allocation appears to be on a weighted cost basis but there is insufficient information to:

- determine the exact basis of allocation;
- check the calculations; or
- determine whether the GDC’s methodology is in accordance with its statement that it will set the ARF level based on how much it costs to regulate each registrant group.

2.24 Further information regarding these matters is set out in Section 5 and Appendix 11.

*The calculation to determine the level of the ARF for registrant dentists and DCPs in 2015*

2.25 The GDC has calculated the proposed ARF for 2015 by reference to its projected funding requirements over the three year period 2015 to 2017 plus an adjustment to recover its projected deficit for 2014.

2.26 Over the course of 2015 to 2017, the GDC is estimating that its expenditure will rise by £2.3 million from £44.1 million to £46.4 million with £2 million being attributable to increases in Fitness to Practise costs. The net amount to be funded each year is not clear, as the GDC does not analyse its other income by year. However, it appears that the GDC is proposing to collect total ARF in 2015 in excess of its requirements. It is not clear whether it is appropriate for the GDC to do so.

2.27 In addition, the GDC indicates that, when calculating the amount of ARF payable by each dentist and DCP, it has divided the expenditure being funded by the ARF fee by “the average number of registrants paying the ARF.” The GDC has not explained how it has estimated that average figure.

2.28 Further information regarding these matters is set out in Section 6 and Appendix 10.

*The additional material set out in the GDC’s PAP Response*

2.29 We consider the GDC’s PAP Response in Section 7. As noted in Section 7, the GDC’s PAP Response does not address all the points raised by the BDA in the PAP.

2.30 The GDC’s PAP Response has not altered our overall conclusions in respect of this matter. We set out below what appear to be the more salient aspects of the GDC’s PAP Response.

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38 CD: Page 16.
2.31 In the PAP, the BDA set out its view, along with supporting calculations, that the average cost of a Fitness to Practise hearing set out by the GDC in the Consultation Document appears unrealistic. In response, the GDC has criticised the BDA’s approach and its calculations for failing to take into account a “number of variables”. This suggests that the GDC accepts that it is necessary to understand such variables in order to assess whether the GDC’s expenditure projections are stated fairly. The Consultation Document and the GDC’s PAP Response do not explain the variables or their financial impact.

2.32 In the PAP, the BDA set out its view that the 2010 expenditure in Table 1 on page 8 of the Consultation Document is inconsistent with the figures given in the GDC’s statutory accounts whether in total or category. The GDC’s PAP Response does not address expenditure by category and does not include a reconciliation of the figures by category. The GDC states that it does not understand what formula the BDA used to conclude that the figures are inconsistent. The Consultation Document does not explain the basis on which the GDC determined the expenditure by category and the GDC has not provided information sufficient to reconcile expenditure by category to the GDC’s statutory accounts.

The additional material set out in the GDC’s FOI Response

2.33 We consider the GDC’s FOI Response in Section 8. The response has not altered our overall conclusions in respect of this matter. We set out below what appear to be the more salient aspects of the GDC’s FOI Response.

2.34 The GDC has provided additional information regarding how it has calculated the average hearing costs of £78,000. As set out in Section 8, we have been unable to verify all the components of the calculation. In addition, it is clear from the GDC’s FOI Response that its calculation excludes hearing cases referred to the Interim Orders Committee. That exclusion is not obvious from the information provided in the Consultation Document. Also, in the Consultation Document, the GDC includes “costs of the Prosecution function” when calculating hearing costs. This is inconsistent with how “hearing costs” are reported in the GDC’s 2013 Annual Report and Accounts.
2.35 In relation to the proposal to increase the ARF, the GDC’s FOI Response states:

“The ARF proposals are based on a preliminary budget for 2015, completed in May 2014. The approach taken for the preliminary “high level” budget included:

- Meetings with Directors and CEO individually to help identify priorities, scope business objectives and activities for 2015, and quantify the budget impact
- Fitness to practise planning workshop was held, led by the Director of Regulation, to agree the key assumptions for a ‘realistic case’ and a ‘worst case’ scenario across the Fitness to Practise processes
- Wimpole Street redevelopment completed April 2015

The output from the preliminary budget exercise is as set out in the Consultation on the Annual Fee Retention (ARF) level for 2015 document.

The current budget is not yet complete and will be available when it goes to Council in September 2013 [sic].”

2.36 We assume that the last sentence of the passage quoted above should refer to September 2014 rather than September 2013.

2.37 Although the GDC states that the ARF proposals are based on a preliminary budget for 2015 completed in May 2014, the GDC has not provided a copy of that preliminary budget. It is unclear why such a document would not be responsive to the BDA’s FOI request. This is a legal matter.

2.38 It is also not clear why, if the “preliminary budget” completed in May 2014 projects that the number of complaints will rise by 17% from 2013 to 2014, the GDC stated, in the “outlook” in the 2013 Annual Report and Accounts dated 18 June 2014, that “The budget assumes that following two years of very significant growth, the number of fitness to practise cases will plateau in 2014”. If the GDC is making a relevant distinction here between “cases” and “complaints” it would be helpful if it would explain its position. The 2014 budget assumed that complaints would not increase in 2014 compared with 2013.

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39 CD: Page 9: Table 2.

40 GDC 2013 AR&A: Outlook; Page 46 which forms part of the financial dated 18 June 2014; Page 48).

41 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
2.39 The GDC describes the preliminary budget as being at a “high level”. This suggests that the information set out in the Consultation Document may not be the result of detailed and careful analysis. We have not seen the preliminary budget and are unable to comment on whether it forms a suitable basis for the proposed increase in the ARF.

2.40 The GDC refers to a workshop “to agree the key assumptions for a ‘realistic case’ and a ‘worst case’ scenario across the Fitness to Practise processes”. The GDC does not disclose the findings of the workshop and does not explain what scenario forms the basis of the figures set out in the Consultation Document.

2.41 The BDA also requested “Operational evaluations of reasons for higher than previous conversion rates from complaints to FTP cases”. In response, the GDC states:

“Your request above refers to ‘higher than previous conversion rates from complaints to FTP cases’. If you would specify which conversion rates you refer to in this instance, further currently available information will be provided in response to your query if this is still required.”

2.42 It is a legal matter regarding whether the BDA specified its request adequately. It would have been helpful for the GDC to explain what conversion rates are relevant and provide the associated operational evaluations, particularly as its response to a separate request states:

“We then forecast the rate of incoming complaints expected in future months, and calibrate the rate of case conversion expected at each case stage in future.”

2.43 In response to request for “Reasoning behind projected Complaints and FTP cases and any change in conversion rates”, the GDC states:

“As stated on page three of the Consultation, there was a 110% increase in incoming complaints received between 2010 and 2013.”

2.44 Page three of the Consultation Document simply refers to the increase being “since 2010”. The GDC’s FOI Response has clarified that the 110% increase is between 2010 and 2013. We do not understand how the percentage increase has been calculated. Using the GDC’s own figures set out in Table 2 of the Consultation Document, the increase is 113%.

\[(\text{Complaints in 2013} - \text{Complaints in 2010}) / \text{Complaints in 2010} \times 100\% = 2,990 - 1,401 / 1,401 \times 100\% = 113\%\].
2.45 The GDC’s response also includes further information regarding its processes stating:

“The rate of incoming complaints is regularly monitored to support any decisions made regarding the level of resource required in the current year and in future years.

Each year, we review the latest data available regarding incoming complaints and case conversion rates to inform business and budget planning for the following year.

We then forecast the rate of incoming complaints expected in future months, and calibrate the rate of case conversion expected at each case stage in future. This is to ensure that resources are appropriately allocated across the various areas of activity. These rates are calculated as accurately as possible given the multitude of factors which affect both incoming complaints and case conversion over time.

The Fitness to Practise budget for 2015 has not yet been finalised. This is due to be submitted to Council for review and approval in September 2014. As this process is still ongoing, we do not currently have any further information regarding the assumptions to be made within the final budget.

As referenced on page three of the Consultation, information available at the time indicated that the GDC was likely to continue to receive complaints in line with the actual trend observed for the previous years from 2010 to 2013. Taking this information into account, we considered it diligent to plan our future FTP resources in line with this trend.

However, any validated fluctuations observed in the rate of incoming complaints and/or in the rate of case conversion will be taken into account with adjustments made if required before the Council finally agrees the FTP budget at its September meeting.”

2.46 The GDC’s FOI Response does not provide any specific information regarding how it projected the number of cases and hearings set out in the Consultation Document.

2.47 The GDC refers to information available at the time of the Consultation Document. However, it also states that it based the trend on information observed from 2010 to 2013. The GDC does not explain why it did not take into account available Q1 2014 data.

2.48 In relation to costs savings, the GDC states that it has no figures comparing the costs of external legal advice to the costs of employing full time in-house prosecution team. It is therefore unclear how the GDC is assessing related future cost savings when forecasting the expenditure set out in the Consultation Document.
2. Whether the information in the Consultation Document appears consistent with other publicly available information published by the GDC on its website

2.49 There are a number of apparent inconsistencies between information in the Consultation Document and other publicly available information published by the GDC:

(1) the GDC’s analysis of its activity by just four functions in the Consultation Document is inconsistent with the GDC’s previous reporting of its regulatory activities. As a consequence, we have been unable to determine whether the analysis of expenditure in 2010 in the Consultation Document is consistent with the GDC’s reported results (see Section 4 and Appendix 6);

(2) the GDC does not state the basis on which it has calculated the average length of a hearing but the information in the Consultation Document appears to be inconsistent with data reported in the GDC’s 2013 Annual Report and Accounts (see Appendix 6); and

(3) the statement that the average cost of a Fitness to Practise hearing is £19,500 a day appears inconsistent with information set out in the GDC’s 2013 Annual Report and Accounts (see Appendix 6).

2.50 As noted in our conclusions in respect of the first question put to us, there also appear to be inconsistencies between the forecast levels of future Fitness to Practise complaints in the Consultation Document and:

(1) the assumption in the 2014 Business Plan that Fitness to Practise complaints in 2014 would be “equal to the number received in 2013”;\(^43\) and

(2) the level of actual complaints received in Q1 2014.

2.51 The apparent inconsistencies set out above suggest that either the information in the Consultation Document is unreliable, or further explanation and support is required to understand the information presented.

The additional material set out in the GDC’s PAP Response and the GDC’s FOI Response

2.52 We set out our comments regarding the GDC’s PAP Response and the GDC’s FOI Response in Sections 7 and 8 and summarise the most salient material in our response to the first question put to us (see above).

\(^{43}\) 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
3. Whether the information, as currently presented, is sufficient to enable those consulted, including key stakeholders such as the BDA, to challenge the accuracy of any facts and the validity of any financial arguments upon which the proposed increase is based; and if not what further financial information would be necessary (and in particular, what the bare minimum of further information would be necessary)

2.53 Insufficient information in the Consultation Document does not necessarily prevent those consulted from seeking to challenge the facts and the validity of financial arguments upon which the proposed increase is based. The GDC has acknowledged that it stated that it would provide a clear account of its resource needs for 2015 and asks those consulted whether there is any other information that would be useful. The Consultation Document does not explain how the GDC will take into account responses to the Consultation Document and, in particular how:

(1) it will respond to consultees who answer question 1 in the negative or who, in response to question 2, request additional information; and

(2) the consultees’ further reactions to any additional information requested will be obtained and considered.

In our view, such processes form an important part of a consultation, particularly in circumstances where the information provided is inadequate and further information, explanation or support is required.

2.54 The Budget Proposals document produced on 30 September 2010 in support of the ARF increase in 2010 is detailed, and contains Business Plans for 2011 to 2013. We would expect that at least a similar level of analysis would have been performed for this 2015 ARF consultation, particularly considering the larger scale of the proposed 2015 increase. It is not clear why at least this level of detail has not been provided in the Consultation Document.

2.55 In Appendix 14, we set out other matters of note regarding the presentation of information in the Consultation Document. In particular, the presentation of information by reference to just four functions makes it difficult to compare the projections in the Consultation Document to historical reported results and to understand the costs of the GDC’s various activities.

2.56 We set out in Appendix 4 our views on the further information that would be necessary to enable those consulted, including key stakeholders such as the BDA, to challenge the accuracy of any facts and the validity of any financial arguments upon which the proposed increase is based.
Without providing a legal opinion, we would suggest that the bare minimum of further information would be that which provides the person considering the subject matter of the Consultation with a reasonable assurance that the proposed rise is justified, or reason to conclude otherwise.

The additional material set out in the GDC’s PAP Response and the GDC’s FOI Response

As noted above, in response to the first question put to us, the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response has not altered our opinion that the GDC has not explained adequately the financial reasons for the proposed increase in the level of the ARF or provided calculations and evidence in support sufficient to determine the amount of the increase, if any, required.

The GDC’s PAP Response and the GDC’s FOI Response appear incomplete (see Sections 7 and 8). The BDA may wish to seek full answers.

As noted in our summary conclusions regarding the first question put to us, the GDC has referred to, but has not provided:

(1) the “preliminary budget” completed in May 2014, upon which the GDC states the ARF proposals are based; and

(2) the findings of the workshop “to agree the key assumptions for a ‘realistic case’ and a ‘worst case’ scenario across the Fitness to Practise processes”.

We suggest that the GDC is requested to provide this information and also the “Fitness to Practise budget for 2015”, when produced.
3. Overview of the GDC’s approach to calculating the level of the ARF

Introduction

3.1 In this section, we provide an overview of the GDC’s approach to calculating the level of the ARF in 2015.

Overview of the GDC’s approach

3.2 The GDC has determined the level of the ARF for 2015 by reference to the following calculations:

(1) a calculation of the total expenditure to be funded by the ARF in 2015, 2016 and 2017;

(2) a calculation to allocate the required funding between dentists and DCPs; and

(3) a calculation to determine the level of the ARF for registrant dentists and DCPs in 2015.

3.3 We outline each calculation below before considering them in greater detail in the next three sections of this report.
The GDC’s calculation of total expenditure to be funded by the ARF 2015 to 2017

3.4 The GDC calculates the total expenditure to be funded by the ARF in 2015, 2016 and 2017 of £134.4 million by:

(A) commencing with its expected expenditure of £135.7 million in 2015, 2016 and 2017. The GDC presents the expenditure by reference to what it describes as its three core regulatory functions (Fitness to Practise, Registration, and Quality Assurance) and the DCS (together “the Four Functions”). The GDC states that it excludes the cost of the Overseas Registration Exam on the basis that it falls on those sitting the exam;

(B) adding its projected funding gap of £5.9 million in 2014 i.e. the amount by which expenditure is forecast to exceed its income in 2014. By doing so, the GDC is seeking to keep its reserves at £15.2 million;

(C) deducting its projected investment income in 2015 to 2017 of £1.2 million; and

(D) deducting projected income from first time registrations, restorations and specialists in 2015 to 2017 of £6.0 million.

The allocation of the total net expenditure between dentists and DCPs

3.5 The GDC allocates the total net expenditure of £134.4 million to be funded by the ARF 2015 to 2017 between dentists and DCPs stating that in the ARF Policy consultation it explained that it would set the ARF level on the basis of how much it costs to regulate each of these registrant groups.

3.6 The GDC allocates £110.9 million to dentists and £23.5 million to DCPs. The detail of the method of allocation is not clear. It appears to be on the some form of weighted cost basis by reference to the Four Functions.
The calculation of the cost per registrant

3.7 For each registrant group, the GDC divides the amounts to be funded by the ARF for 2015 to 2017 (calculated above) by three to calculate a yearly amount and then by “the average number of registrants paying the ARF”. The calculations result in a proposed ARF in 2015 of £945 for dentists and £128 for DCPs.
4. The GDC’s calculation of total expenditure to be funded by the ARF 2015 to 2017

Introduction

4.1 In this section, we consider the GDC’s calculation of total expenditure to be funded by the ARF 2015 to 2017, including by reference to publicly available information published by the GDC on its website, but without taking into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

4.2 We structure this section by reference to the components of the calculation set out in the overview in Section 3, save that we consider the projected expenditure for relevant years in a single sub-section covering 2014 to 2017.

The GDC’s projected expenditure for 2014, 2015, 2016 and 2017

4.3 We set out below our views on the GDC’s:

(1) analysis of its expenditure by reference to the Four Functions; and

(2) expenditure projections for 2014 to 2017.
The GDC's analysis of its expenditure by reference to the Four Functions

4.4 In the Consultation Document, the GDC analyses its expenditure by reference to the Four Functions. It is not clear why it has done so as the GDC has previously reported expenditure analysed by reference to the following eight regulatory functions:

1. Fitness to Practise and Hearings;
2. Registration;
3. Operational Excellence;
4. Overseas Registration Exam;
5. Policy and Stakeholder Management;
6. Governance;
7. Quality Assurance; and
8. Dental Complaints Service,

4.5 The GDC's 2013 Annual Report and Accounts also separately identify the costs of its “support activities” (Finance, HR and CEO, Accommodation and Office Services, Information Technology and Depreciation and Amortisation).

4.6 In our view, the information provided by reference to Four Functions, presumably after allocating the cost of support activities, is unhelpful in that:

1. whilst we can agree expenditure for 2010 to disclosure in the GDC’s accounts, it is not apparent how the analysis of expenditure by Four Functions can be agreed to the analysis by regulatory function in the GDC’s Annual Report and Accounts (see Appendix 6);
2. it may not be appropriate or meaningful to combine the detailed regulatory functions into the Four Functions, and at the very least, it reduces transparency as to what activities the expenditure relates.

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GCD 2013 AR&A: Page 43.
4.7 The GDC states that it has excluded the cost of running the Overseas Registration Exam from its expenditure projections on the basis that the costs fall on those sitting the exam.\textsuperscript{52} This is consistent with the assumption in the Business Plan and Budget 2014 ("the 2014 Business Plan") but is inconsistent with previous reported results in which there appears to have been a difference between income and expenditure for this function. In 2012 and 2013, the GDC reported “exam income” of £1.668 million and £1.803 million\textsuperscript{53} and expenses in respect of the “Overseas Registration Exam” of £1.991 million and £2.154 million.\textsuperscript{54} This indicates that the GDC may have been receiving less income than it was spending in relation to the Overseas Registration Exam.

4.8 We suggest the GDC should be asked to:

(1) explain why and how, for the purpose of the Consultation Document, it allocated the additional regulatory functions and the support activities to the Four Functions;

(2) explain why the registrants have been subsidising the Overseas Registration Exam costs and whether steps have been taken to avoid future cross subsidy; and

(3) provide more detailed analysis of its expenditure consistent with its most recent financial reporting, to enable a proper comparison to be made.

Project expenditure 2014 to 2017

4.9 As explained in Section 3, the GDC’s approach to calculating the proposed ARF in 2015 requires it to project its expenditure not only over the period 2015 to 2017 but also for 2014. A projection of expenditure in 2014 is required when estimating the funding gap in 2014, which the GDC is seeking to recover through the increased ARF. The projected expenditure for each of the four years 2014 to 2017 is core to the GDC’s calculation of its funding requirements.

\textsuperscript{52} CD: Page 8: Footnote 1.

\textsuperscript{53} The income is disclosed as “Overseas Registration” at GDC 2013 AR&A: Page 43 and “Exam Fees” at 2013 AR&A: Page 71.

\textsuperscript{54} GDC 2013 AR&A: Page 43.
4.10 The GDC has not provided any calculations or supporting evidence for its projected expenditure in 2014, 2015, 2016 or 2017. It appears that the GDC may be projecting its expenditure requirements in 2016 and 2017 by increasing its 2015 expenditure projection by approximately 2.5% each year, possibly to allow for inflation.\textsuperscript{55}

4.11 The GDC has provided no information in support of its projected costs of Registration, Quality Assurance or the DCS (or its other regulatory functions referred to above) totalling £24.7 million.\textsuperscript{56} The Consultation Document provides some material in respect of the GDC’s Fitness to Practise function. We consider that material below.

4.12 The GDC describes its Fitness to Practise function as being the main reason for the increase in expenditure in 2015. It states that increased expenditure is needed because of the high number of Fitness to Practise complaints it has received regarding dentists and DCPs and the associated cost of investigating the complaints and holding hearings to determine whether their Fitness to Practise is impaired.\textsuperscript{57} However, the GDC does not explain how it has calculated the projected expenditure increases, despite requests for greater transparency.\textsuperscript{58}

\textsuperscript{55} It is not possible to determine the exact increase as the projected expenditure is rounded:
Increase in 2016 / Expenditure in 2015 x 100% = £45.2 million - £44.1 million / £44.1 million x 100% = 2.5% and Increase in 2017 / Expenditure in 2016 x 100% = 46.4 million -£45.2 million / £45.2 million x 100% = 2.7%.

\textsuperscript{56} £6.0 million in 2014 (CD: Page 8; Table 1) and £18.7 million in 2015 to 2017 (CD: Page 15; Table 6).

\textsuperscript{57} CD: Page 8.

\textsuperscript{58} The Policy Statement states "A third of respondents to the ARF Policy consultation calling for greater transparency in relation to the GDC’s financial information, in particular Fitness to Practise costs."

The GDC website: http://www.gdc-uk.org/GDCcalendar/Documents/GDC%20statement%20following%20the%20consultation%20on%20the%20Annual%20Retention%20Fee%20Policy.pdf
4.13 Instead of providing calculations and adequate support for the projected increased costs of its Fitness to Practise function, the GDC provides some data regarding the average costs of a full hearing and information regarding the number of hearings and complaints from 2010 to 2015. As discussed in Appendix 6, this information may be unreliable and is of limited use as:

(1) hearing costs are but a part of total Fitness to Practise costs. Although the GDC acknowledges this, it provides no information regarding the other costs;\(^\text{59}\)

(2) the GDC does not disclose the source for its data in respect of its average hearing length and costs.\(^\text{60}\) We have been unable to verify the data provided to information published by the GDC on its website regarding either the cost of hearings or the average length of hearings;\(^\text{61}\)

(3) the information regarding complaints received and the number of hearings does not include projections beyond 2015\(^\text{62}\) (and yet, as explained above, the calculation of the ARF in 2015 is also dependent on expenditure in 2016 and 2017 including in respect of Fitness to Practise costs);

\(^{59}\) CD: Page 8.

\(^{60}\) CD: Page 8.

\(^{61}\) We consider the additional material provided in the GDC's PAP Response and FOI Response regarding hearing costs separately in Sections 7 and 8.

\(^{62}\) CD: Page 9; Table 2.
(4) There is no information in support of the GDC’s projections of the number of complaints it will receive in 2014 and 2015 beyond a statement that the predictions are “based on current trends”.\textsuperscript{63} It appears that the GDC may have analysed the trend by performing linear regression based on the number of complaints received in 2010 to 2013. However, no information is disclosed about actual complaints received in 2014 and there is no explanation regarding why the projection differs from the budget in the 2014 Business Plan which assumed “zero growth in Fitness to Practise cases in 2014 following two years of very significant growth”\textsuperscript{64} and which states, “For the purposes of the proposed budget, a ‘zero growth scenario has been assumed whereby 3,002 new complaints are received in 2014, equal to the number received in 2013. It is not unusual for fitness to practise complaint levels to plateau after years of growth”\textsuperscript{65} Whilst the 2014 Business Plan also referred to the possibility that complaints in 2014 would be higher,\textsuperscript{66} and assumed that complaints would rise again in 2015 and plateau in 2016,\textsuperscript{67} no evidence is provided in the Consultation Document to explain why the zero growth scenario which was adopted by the GDC in its budget needed to be revised to an increase of 17% in 2014;\textsuperscript{68}

(5) The Consultation Document does not set out any actual complaints data for 2014 and hence it appears reasonable to assume that actual data for 2014 does not form the basis of GDC’s projections. However, we note that a press release by the GDC prior to the issue of the Consultation Document states that “In the first quarter of 2014 it [the GDC] received 846 complaints (a 5.49% increase on the same period in 2013).”\textsuperscript{69} This rate of increase is significantly less than the projections in the Consultation Document of an increase of 17% in 2014 followed by a further increase of 13% in 2015. It is not clear why the GDC does not refer to this information in the Consultation Document;

\begin{footnotesize}
\begin{enumerate}
\item CD: Page 9.
\item 2014 BP: Page 2; Budget; Paragraph 6.
\item 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
\item 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
\item 2014 BP: Annex B: Page 8.
\item CD: Page 9, Table 2.
\item GDC Press Release 20 June 2014 “Department of Health signals urgent legislative change to streamline fitness to practise procedures”.
\end{enumerate}
\end{footnotesize}
(6) no information has been provided to explain how the predicted increases in complaints will give rise to increases in the number of Fitness to Practise hearings in 2014 and 2015, being 85% and 116%. The GDC refers to a “drive to process cases on a more timely basis, the need to clear a backlog of cases, and the time lag from the date of a complaint being received by it and the point at which the matter is heard by a Fitness to Practise Committee”.

(7) whilst the GDC acknowledges that hearing costs depend on the nature of the case being heard, there is no analysis of the type of cases received and any trends which may impact the costs of processing the cases to completion; and

(8) in any event, there is no analysis of how the information regarding the cost of hearings, the number of complaints and the number of hearings translates into the projected Fitness to Practise costs.

4.14 In relation to the last point above, we note that in 2015, using the GDC’s own data, the number of Fitness to Practise hearings multiplied by the average cost of a hearing exceeds the total Fitness to Practise costs projected by the GDC for 2015 by £11.8 million (see Appendix 6). Absent further explanation from the GDC, this suggests that the data set out by the GDC in the Consultation Document may be unreliable and/or misleading as expenditure on Fitness to Practise hearings cannot be greater than total Fitness to Practise expenditure.
4.15 As already noted, the GDC has not provided any calculations or supporting evidence for its projected expenditure in 2014, 2015, 2016 or 2017. In our view, the appropriate level of information required to provide clarity and support for the projected expenditure is affected by the following matters:

(1) from the end of 2010 to the end of 2013, the GDC has reported a surplus of £4 million (see Appendices 7 and 10). This increases the need for the predicted step change in activity and costs to be explained adequately;

(2) the GDC’s projection of a deficit of £5.9 million in 2014 in the Consultation Document\(^{72}\) is contrary to the budget set out in the 2014 Business Plan published on 17 October 2013 which anticipated a deficit of £3 million for 2014\(^{73}\) (which was itself greater than the £1.6 million deficit that it had anticipated in its Quarter 2 2013 forecast).\(^{74}\) Again, this increases the need for changes to be explained adequately;

(3) the projected deficit is also contrary to the following statement in the financial review which forms part of the GDC’s published Annual Report and Accounts for 2013 signed on 18 June 2014, less than two weeks before the Consultation Document was issued:\(^{75}\)

“Outlook

Looking forward to 2014, we are predicting a deficit budget amounting to £3.0m, given the need to fund the increasing number of fitness to practise cases which is the principal driver of costs. The budget assumes that, following two years of very significant growth, the number of new fitness to practise cases received will plateau.”

4.16 In our opinion, given the above matters, the GDC, it would be helpful for the GDC to explain, in appropriate detail, what has caused it to revise significantly its expectations regarding its expenditure for 2014 and subsequent years, and when the need to revise its projections became apparent.

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\(^{72}\) CD: Page 18 and Page 13 from which the projected deficit for 2014 can be calculated as the projected reserves of £9.3 million at the end of 2014 less the reserves of £15.2 million brought forward from the end of 2013.

\(^{73}\) 2014 BP: Page 2: Budget; Paragraph 5.

\(^{74}\) 2014 BP: Page 2: Budget; Paragraph 5 (2013 Q2 forecast: £32.8 million income less £34.4 million expenditure).

\(^{75}\) GDC 2013 AR&A: Page 46.
4.17 In relation to cost savings, the GDC states "When we are considering a fee increase we will always look to see if we can introduce cost savings and we will set out what measures we have taken to reduce costs."\textsuperscript{76} The GDC acknowledges that it said that it would provide a clear account of what it is doing to keep costs under control.\textsuperscript{77} However, in our view, the information provided by the GDC regarding costs savings\textsuperscript{78} is not appropriately clear.

4.18 The GDC provides some examples of efficiency measures implemented since 2011, and states that it expects to have reduced the overall expenditure of the GDC by £10.9 million between 2011 and 2015 with £2.6 million of savings being expected in 2014 and £1.7 million of savings in 2015. However, it is not clear how the projected savings in 2014 and 2015 have been calculated (see Appendix 8).

4.19 Although the GDC states that the savings "will continue to accumulate into 2016 and beyond"\textsuperscript{79} it does not specify the amounts that it has incorporated into its projections for expenditure in 2016 and 2017. Consequently, it is not possible for us to verify the Council’s statement that "If we had not done this, we would now need to raise the ARF level for dentists to £1,122 and for DCPs to £151."\textsuperscript{80}

4.20 The Consultation Document is also unclear regarding the extent to which the GDC has incorporated cost savings likely to arise from legislative changes. The proposed changes would allow the GDC to improve its Fitness to Practise processes and reduce its costs. Available information suggests the legislative changes are likely to occur resulting in efficiencies and cost savings within the timeframe relevant to the GDC’s calculation of the proposed level of the ARF (see Appendix 9).

\textsuperscript{76} CD: Page 7.
\textsuperscript{77} CD: Page 14.
\textsuperscript{78} CD: Page 11.
\textsuperscript{79} CD: Page 11.
\textsuperscript{80} CD: Page 11.
4.21 In our view, further information is required in order to understand whether the GDC has reviewed adequately its projected activities to identify and quantify efficiencies and other savings and incorporated the results into its projected expenditure for 2014 to 2017 (the years which impact the GDC’s calculation of the proposed ARF). It appears that there is a particular need for the GDC to have conducted a thorough review of efficiencies and other cost savings, potentially including changes in resourcing and operational procedures, in circumstances where an increase of 64% in the ARF charged to dentists is being proposed.

Adjustment for projected funding gap in 2014

4.22 As set out in Section 3, the GDC adds its projected funding gap in 2014 to its projected expenditure in 2015 to 2017. The GDC projects a 2014 funding gap of £5.9 million, calculated as the difference between projected income of £31.7 million less projected expenditure of £37.6 million.\(^81\)

4.23 In our view, insufficient information is provided to determine whether the funding gap is estimated fairly as the GDC does not provide any information in support of its projected income in 2014 or its projected expenditure for that year (see above).

4.24 By adjusting for a projected funding gap in 2014, the GDC is seeking to keep its reserves at the level at the end of 2013, i.e. £15.2 million.\(^82\) This would represent approximately a third of its projected expenditure in 2015\(^83\) and would therefore be in accordance with the GDC’s reserves policy.\(^84\)

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81 CD: Page 10; Table 3.
82 CD: Page 10.
83 Reserves of £15.2 million / 2015 projected expenditure of £44.1 million = approximately 1/3.
84 CD: Page 13; Footnote 3 (see Appendix 10).
4.25 It is beyond the scope of this Advisory Report to consider whether the GDC’s reserves policy is appropriate. Leaving aside that policy, it appears that the GDC has the potential to utilise borrowing powers and has realisable investments which it could convert to cash to fund its operations. The 2014 Business Plan refers to:

(1) a forecast closing cash balance for 2013 of £22.6 million (the actual year-end balance was £26.5 million\(^6\));

(2) potential for arranging short term bank funding to cover cash requirements; and

(2) £13.6 million of realisable assets under management by Smith & Williamson which could be converted into cash, with no exit penalties.

4.26 Whilst in the long term the GDC will need ensure that its income covers its expenditure, the situation referred to above suggests that the GDC may have some flexibility to set the ARF at a lower level and then keep the situation under review. The GDC has not set out an analysis of possible operational outcomes, their likelihood, and the associated funding implications. Were it to do so, it would assist an assessment of whether setting a lower ARF and then re-assessing the amount in subsequent years might be the more appropriate option with temporary funding from reserves if required. At present, the GDC provides no indication of the level of prudence it has applied when estimating its funding requirements.

**Adjustment to deduct projected investment income for 2015 to 2017**

4.27 As part of its calculation to determine the total expenditure to be funded by the GDC in 2015 to 2017, the GDC deducts its projected investment income of £1.2 million for those three years.\(^7\)

4.28 The GDC provides no information about how it has calculated its projected investment income.

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\(^7\) GDC 2013 AR&A: Page 61: “cash and cash equivalents”.

\(^8\) CD: Page 15.
Adjustment to deduct projected income from first time registrations, restorations and specialists 2015 to 2017

4.29 As part of its calculation to determine the total expenditure to be funded by the GDC in 2015 to 2017, the GDC also deducts projected income of £6.0 million from first time registrations, restorations and specialists for those three years.\textsuperscript{88}

4.30 The GDC provides no information in the Consultation Document about how it has calculated its projected income from first time registrations, restorations and specialists.
5. Allocation of the total expenditure to be funded by the ARF over 2015 to 2017 between dentists and DCPs

Introduction

5.1 Following its consultation on the principles for setting the ARF, the GDC published a statement setting out its decisions. The GDC states that it “will continue to distinguish between dentists and dental care professionals (DCPs) and treat each as a distinct registrant group.” The GDC states in the Consultation Document, “In the ARF Policy consultation we explained that we will set the ARF level based on how much it costs us to regulate each registrant group (dentists and DCPs).” This therefore requires the GDC to calculate the ARF for dentists and DCPs separately.

5.2 In this section, we consider the GDC’s calculations to allocate the total expenditure to be funded by the ARF over 2015 to 2017 between dentists and DCPs, including by reference to publicly available information published by the GDC on its website, but without taking into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary conclusions

5.3 The GDC allocates £110.9 million (82.5%) of the total expenditure to be funded by the ARF over 2015 to 2017 to dentists and £23.5 million (17.5%) to DCPs.

5.4 As explained in Appendix 10, the method by which the GDC performs the allocation between the registrant groups is unclear. The method appears to be on some form of weighted cost basis by reference to the Four Functions, but there is insufficient information to:

- determine the actual basis of allocation;
- check the calculations; or
- determine whether the GDC’s methodology is in accordance with its statement that it will set the ARF level based on how much it costs to regulate each registrant group.

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89 GDC statement following the consultation on the Annual Retention Fee (ARF) Policy: page 1.
6. Calculation of the ARF payable by each dentist or DCP

Introduction

6.1 In this section, we consider the calculation by which, for each registrant group, the GDC divides the amounts to be funded by the ARF for 2015 to 2017 (calculated above) by three to derive a yearly average for the period and then by “the average number of registrants paying the ARF”. The calculations result in a proposed ARF in 2015 of £945 for dentists and £128 for DCPs. We consider this matter by reference to publicly available information published by the GDC on its website, but without taking into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary conclusions

6.2 As explained in Appendix 10 and summarised below, the basis on which the GDC has calculated the ARF payable by each dentist or DCP is unclear.

Impact of setting the ARF for 2015 by reference to a three year period

6.3 As explained in Section 3, the GDC has calculated the proposed ARF for 2015 by reference to its projected funding requirements over the three year period 2015 to 2017 plus an adjustment to recover its projected deficit for 2014.

6.4 Over the course of 2015 to 2017, the GDC is estimating that its expenditure will rise by £2.3 million from £44.1 million to £46.4 million with £2 million being attributable to increases in Fitness to Practise costs. The net amount to be funded each year is not clear, as the GDC does not analyse its other income by year. However, it appears that the GDC is proposing to collect total ARF in 2015 in excess of its requirements. It is not clear whether it is appropriate for the GDC to do so.

Division by the average number of registrants paying the ARF

6.5 The GDC indicates that, when calculating the amount of ARF payable by each dentist and DCP, it has divided the expenditure being funded by the ARF fee by “the average number of registrants paying the ARF.”

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90 CD: Page 16.
6.6 The GDC has not explained how it has calculated that average figure. Given its context, the word “average” appears to imply that the GDC has calculated an average over 2015 to 2017. In any event, we have been unable to verify the estimates by reference to other information published by the GDC. The GDC has also not explained whether it has reduced the number of registrants by those it assumes will not pay and who will then presumably be removed from the register.

6.7 It would be useful for the GDC to provide details of its projections and information in support to provide clarity regarding its calculation.
7. **The GDC’s response to the BDA’s Pre-Action Protocol letter**

**Introduction**

7.1 In this section, we consider the information set out in GDC’s PAP Response.

7.2 We have not been instructed to address whether the GDC has a clear policy under which it can exercise the power under Section 19 of the Dentists Act 1984 and so do not comment on the information set out in the GDC’s PAP Response regarding this matter.

**Summary conclusions**

7.3 Although the additional material in the GDC’s FOI response has clarified some matters, it has not altered our summary conclusions set out in Section 2. We provide our comments regarding the GDC’s PAP Response below and summarise what appear to be the more salient aspects in Section 2.

**The information available to consultees**

7.4 The GDC accepts that “in order for a consultation to be fair, consultees must be provided with sufficient reasons for any proposal to be given intelligent consideration and response.” The GDC goes on to state:

“The GDC considers that the information provided in the Consultation (in particular as set out on pages 8-13, 15 and 16 and the Appendix) clearly and self-evidently allows your client [the BDA], and registrants, to give an intelligent consideration and response to the questions raised.”

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91 GDC’s PAP Response: Page 4; 7.
7.5 The GDC Response also states:

“In addition, at question 1 of the Consultation, consultees are asked whether they agree that the GDC has given a clear account of its resource needs for 2015 and at question 2 are asked if there is any other information that they think would be useful. To the extent that your client considers that further information is required, this provides the opportunity to make that clear and, of course, anything that may be said in this respect will be carefully taken into account by the GDC.”

7.6 The GDC does not explain how it will take into account the responses to the Consultation Document and, in particular:

1. how it will respond to consultees who answer question 1 in the negative or who, in response to question 2, request additional information; and

2. how the consultees further reactions to any additional information requested will be obtained and considered.

7.7 The GDC’s PAP Response goes on to respond to points made by the BDA in paragraph 31 of the PAP in which the BDA states that no reliable financial trend information has been produced and states that the Consultation Document contains unrealistic overestimates. We consider the GDC’s responses to the specific matters raised by the BDA below.

**Responses to the BDA statement that no reliable financial trend information has been produced**

**Historical surpluses**

7.8 The PAP states:

“The case for an increase in the ARF is being made on the basis of a 110% increase in complaints from 2011 to 2014. During the period 2011-2013 (the last full financial year) the GDC has made a cumulative surplus of £3.9m (both 2011 and 2012 saw surpluses in excess of £2m).”

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93 PAP: 31(a).
7.9 The GDC’s PAP Response states:94

“You refer to the fact that during the period 2011-2013 the GDC had made a cumulative surplus of £3.9m and that both 2011 and 2012 saw surpluses of in excess of £2m. What you omit to refer to is the fact that in 2013 there was a deficit of £728,000 and that, as set out in the Consultation, the forecast deficit for 2014 is £5.9m and for 2015 (if no increase in ARF), £12.1m. The predicted deficits for 2014 and 2015 are greater than the cumulative general reserves of £15.2m at December 2013.”

7.10 The GDC does not provide any data beyond that set out in the Consultation Document. The GDC states that it made a deficit of £728,000 in 2013. This agrees to the GDC’s deficit after tax in the GDC’s 2013 Annual Report and Accounts. This deficit is before unrealised gains on investments of £260,000 and actuarial gains on pension scheme assets of £2,025,000 in 2013.95

The need for external venues for hearings

7.11 The PAP states:96

“While the GDC made a deficit of £572,000 in 2013 and FTP costs increased by £1.8m (12%), the accounts note that all hearings from March 2013 were held in external venues due to building work on the GDC Wimpole St headquarters. Venue costs make up 10% of the average hearing costs stated on Page 8. There is simply no way of telling from the accounts or consultation whether these temporary increase[s] in venue costs represent the majority of the overall increase (and whether the average cost in the consultation has therefore been overstated). Staffing did increase in this area but in large part this appears to be the result of bringing legal preparation for FTP hearings in-house. The dislocation from this work could also have impacted on other parts of the organisation increasing costs across the board. This makes it difficult to justify a significant increase in ARF on the basis of financial trends from 2011-2013. In this regard we note that FTP costs fell by £100k from 2011 – 2012.”

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94 GDC PR: 10(a).
95 GDC 2013 AR&A: Page 60.
96 PAP: 31(b).
7.12 The GDC’s reported cost of “Fitness to Practise and Hearings” decreased by £109,000 from 2011 to 2012\(^\text{97}\) rather than the £100,000 referred to by the BDA.

7.13 The GDC’s PAP Response states:\(^\text{98}\)

“You refer to the fact that in 2013 FTP costs increased by £1.8m (12%) and state that, while venue costs make up 10% of average hearing costs, it is not possible to tell whether the temporary increase in venue costs resulting from all hearings being held in external venues due to building work at 37 Wimpole Street represents the majority of the increase in FTP costs. As we state on page 8 of the consultation document, FTP costs are increasing because of the high number of FTP complaints we have received and the associated costs of investigating and holding hearings. The significant increase in hearings predicted in 2014 and 2015 will result in an increase in all associated costs - prosecution costs, Counsel's fees, FTP panellist costs, and staffing costs as well as venue costs. We expect to have to hold up to nine concurrent hearings per day in some months. As the capacity at Wimpole Street, following re-development, will be limited to one hearing, costs, including those for external venues, will rise for the reasons indicated above.”

7.14 The GDC’s response assists in so far as it explains that the capacity at Wimpole Street will be limited to accommodating one hearing and hence external venue costs will continue. No additional information is provided regarding those costs including any assumption made in the expenditure projections in the Consultation Document regarding when the capacity at Wimpole Street will become available and presumably reduce overall hearing costs.

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\(^\text{97}\) GDC 2012 AA&R: Page 36. This excludes support activities.

\(^\text{98}\) GDC PR: 10(b).
Projected complaints in 2016 and 2017

7.15 The PAP states:99

“The 2013 annual report stated that the GDC expected the increase in complaints to plateau in 2014. Before the 2014 financial year is complete the GDC has now projected a 25% increase from 2013 to 2015. Yet there are no projected complaints for 2016 and 2017 provided, nor is there any evidential support for the claim that the financial impact of these two years is a £27m “funding gap” (Table 3 page 10). Based on the expenditure figures on Table 3 this assumes a further 5% increase in complaints from 2015 to 2017. There is no evidential basis or justification for these assumptions, nor for the asserted trends as set out in the consultation document.”

7.16 Contrary to the BDA’s statements in the PAP, it is our understanding that the GDC is projecting a 34%, rather than a 25%, increase in projected complaints from 2013 to 2015.100 Also, it appears that the BDA is incorrect to suggest that Table 3 of the Consultation Document assumes a further 5% increase in complaints from 2015 to 2017. The Consultation Document is silent on the reason for the increases and, as noted in Section 4 of this report, the increase in projected expenditure may relate to inflation rather than any anticipated increase in the GDC’s operational activity in 2016 and 2017. Also, the GDC’s 2013 Annual Report and Accounts refers to expectations regarding “fitness to practise cases” rather than “complaints”.101 Leaving aside these points, the BDA’s underlying queries appear valid.

7.17 The GDC’s PAP Response states:102

“You refer to the lack of “projected complaints for 2016 and 2017” - this is addressed at page 17 of the Consultation.”

7.18 Page 17 of the Consultation Document includes only the following statement regarding the projected number of complaints:

“The proposed ARF assumes that the volume of complaints (and therefore Fitness to Practise costs) in 2016 and 2017 do not increase at the rates they are expected to increase in 2014 and 2015.”

99 PAP: 31(c).

100 CD: Page 9; Table 2. Complaints 2015 less complaints 2013 / complaints 2013 x 100% = 4,000 – 2,990 / 2,990 x 100% = 34%.


102 GDC PR: 10(c).
7.19 The Consultation Document does not set out the projected complaints for 2016 and 2017 despite the projected expenditure for those years forming part of the GDC’s calculation of the proposed ARF in 2015 (see Section 3).

7.20 The GDC’s PAP Response does not address the other matters raised by the BDA, namely the lack of evidential support for the claim that the financial impact of 2016 and 2017 is a £27m “funding gap” and the basis for the projected trend in complaints. The projected increase in complaints is also the subject of the query below.

**Basis for the projected increase in complaints**

7.21 The PAP states: \(^{103}\)

“All of the projected increases appear to be based on unpublished, incomplete and unaudited figures for 2014. They are not supported by any financial trend information either from previous years or figures from the management accounts in 2014 – which of course have not been provided.”

7.22 The GDC’s PAP Response states: \(^{104}\)

“You assert that the projected increases appear to be based on "unpublished, incomplete and unaudited figures". In fact, the figures in the Consultation are based on the audited, published Annual Report and Accounts for 2013 (which included a subsequent events review up to the date of the signing of the audit reports). In addition, the GDC has published on its website the Q1 2014 finance report to the Council which includes a chart showing current trends in fitness to practise.”

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\(^{103}\) PAP: 31(d).

\(^{104}\) GDC PR: 10(d).
The GDC’s 2013 Annual Report and Accounts includes various statements about the number of complaints, including those set out below:

“We have also sought efficiency savings across the organisation at a time when the complaints we are receiving continue to increase dramatically. Even so, the proportion of the GDC’s income devoted to fitness to practise has necessarily increased, and that is likely to be the case again in 2014.”

We need to get a better understanding of the reasons behind the sharp upward trend in complaints, what it says about the standards of dental care, and how best to manage what is a very costly operation. Since 2010, fitness to practise complaints have increased by 110 per cent.”

“A key area of concern has been the increase in FtP complaints received by the GDC; the number has almost doubled from 2011 to 2013 with consequent need to recruit and retain adequate resources in time to deal with the extra work.”

We have not identified detailed projections of the future level of complaints in the GDC’s 2013 Annual Report and Accounts. The section headed “Outlook” includes the statement that predicts that the number of new fitness to practise cases will plateau in 2014:

“Looking forward to 2014, we are predicting a deficit budget amounting to £3.0m, given the need to fund the increasing number of fitness to practise cases which is the principal driver of costs. The budget assumes that, following two years of very significant growth, the number of new fitness to practise cases received will plateau in 2014.”

To the extent that the GDC may be distinguishing between “cases” and “complaints” (which the 2014 budget also assumed would plateau), it would be helpful for the GDC to explain the expected relationship between cases and complaints at the date the “outlook” was published.

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107 GDC 2013 AR&A: Page 52.
109 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
7.25 We take the reference in the GDC’s PAP Response to the “Q1 2014 finance report to the Council which includes a chart showing current trends in fitness to practise” to be a reference to Item 5 Council 20 May 2014 titled “Q1 2014 Financial Performance Review”. We refer to this document in Appendix 6, as part of a wider consideration of the GDC’s projections of the number of Fitness to Practise complaints it expects to receive.

Responses to the BDA’s concerns regarding unrealistic overestimates

The average cost of a fitness to practise hearing

7.26 The PAP states:\textsuperscript{110}

“The FTP average cost set out on page 8 appears unrealistic based on publicly available information. It states an average hearing of four days at £19,000 per day. In fact the 2013 accounts state 1,066 hearing days were scheduled in the year. Based on these figures the costs should be c.£20.8m. They were actually £5.7m. Applying the average cost to the number of hearings forecast for 2015 on page 9 of the consultation document gives an overall FTP cost of £49.8m, £4m higher than the £45.8m is estimated to be total income generated by the fee increases in 2015.”

7.27 The Consultation Document refers to average hearing costs of £19,500 a day rather than £19,000 referred to by the BDA. This appears to be a typing error in the PAP. We say this as the BDA’s reference to costs of £20.8 million appears to be based on 1,066 scheduled hearing dates multiplied by £19,500 taken from the Consultation Document rather than £19,000.

\textsuperscript{110} PAP: 31(e).
7.28 The GDC PAP Response states: 111

“You refer to the 'FTP average cost' which we take to mean the cost of a fitness to practise hearing of £78,000. You suggest this is ‘unrealistic based on publicly available information.’ However, we confirm that this figure is correct. You appear in your calculations to have failed to take into account that the reported number of hearing days scheduled includes both IOC hearing days (which have a different cost profile) and ineffective hearing days. The cost of a fitness to practise hearing set out at page 8 of the Consultation has been calculated without reference to IOC and ineffective hearing days. In addition, applying the average cost per case heard in 2013 of £78,000 to the projected number of hearings in 2015 is incorrect because it fails to take into account a number of variables including efficiency measures, for example, the introduction of the in-house legal team.”

7.29 The GDC’s PAP Response states that the cost of a fitness to practise hearing was calculated without references to Interim Orders Committee (“IOC”) and ineffective hearing days. This is not disclosed or explained in the Consultation Document.

7.30 The GDC has criticised the BDA’s approach and calculation for failing to take into account a “number of variables”. This suggests that the GDC accepts that it is necessary to understand such variables in order to assess whether the GDC’s expenditure projections are stated fairly. The Consultation Document and the GDC’s PAP Response do not explain the variables adequately and their financial impact on required expenditure from 2014 to 2017.

7.31 Some additional information regarding the GDC’s calculation of the average cost of a fitness to practise hearing is set out in the GDC’s FOI Response. We consider this information in Section 8 below.

111 GDC PR: 10(e).
Reconciliation of 2010 expenditure

7.32 The PAP states:\textsuperscript{112}

“Table 1 on Page 8 shows expenditure for 2010. It is inconsistent with the figure given in the GDC’s statutory accounts whether in total or by category. The consultation document shows total expenditure as £24.8m with FTP representing £20.8m. The accounts show total expenditure to be £26.8m, of which FTP represents £12.7m. Apportioning overheads on expenditure increases this to only £16.6m. A very substantial shortfall on the figure contained in the consultation document.”

7.33 The GDC’s PAP Response states:\textsuperscript{113}

“You refer to what you describe as an "inconsistency" between information provided in the Consultation at page 8 and the GDC’s expenditure as reported in its 2010 statutory accounts. There is no inconsistency or shortfall as you assert. In relation to the total expenditure figures given, and as explained at footnote 1 on page 8 of the Consultation, the figure given in the Consultation excludes what it cost the GDC to run the Overseas Registration Exam (ORE). You also point to what you say is an inconsistency in the figures presented for FTP overheads. However, we do not understand what formula for the apportionment of overheads you have used to conclude that there is an inaccuracy in our figures.”

7.34 The GDC’s PAP Response does not address expenditure by category and does not include a reconciliation of the figures by category. The GDC states that it does not understand what formula the BDA used to conclude that the figures are inconsistent. The Consultation Document does not explain the basis on which the GDC determined the expenditure by category and the GDC has not provided information sufficient to reconcile expenditure by category to the GDC’s statutory accounts.

\textsuperscript{112} PAP: 31(f).

\textsuperscript{113} GDC PR: 10(f).
Responses to the BDA’s concerns regarding basic accounting errors in the financial information presented

2010 expenditure

7.35 The BDA also referred to the 2010 expenditure stating:\textsuperscript{114}

“Table 1 (page 8) – 2010 expenditure does not reconcile to the statutory accounts”.

7.36 The GDC’s PAP Response states:\textsuperscript{115}

“You refer to what you describe as “apparent basic accounting errors”. In fact, the simple explanation (and see footnote 1 on page 8 of the Consultation) is that for all years shown, the income and costs to the GDC of running the Overseas Registration Exam have been excluded.”

7.37 We are also of the view that there is insufficient information available to enable the 2010 figures in GDC Table 1 to be agreed to either the GDC’s 2010 Annual Report and Accounts or the 2010 comparatives in the 2011 Annual Report and Accounts in which total expenditure remained the same but was re-analysed (see Appendix 6). Although, the expenditure can be agreed, in total, once costs in relation to the Overseas Registration Exam are excluded (see FTI Table A6-1 in Appendix 6), we have been unable to agree the costs of the functions set out in the Consultation Document, including the cost of the Fitness to Practise function (as focused on by the BDA at paragraph 31(g) of the PAP) to the GDC’s 2010 or 2011 Annual Report and Accounts.

Total income projections

7.38 The PAP states:\textsuperscript{116}

“Table 3 (page 10) – Total income projections from 2014 onwards are lower than total income for 2013 (£33.4m including investment income, £32.8m excluding investments) and 2012 (£33m including investments £32.2 without)"

\textsuperscript{114} PAP: 31(g).
\textsuperscript{115} GDC PR: 10(g).
\textsuperscript{116} PAP: 31(h).
7.39 The GDC’s PAP Response repeats its statement:\textsuperscript{117}

“You refer to what you describe as “apparent basic accounting errors”. In fact, the simple explanation (and see footnote 1 on page 8 of the Consultation) is that for all years shown, the income and costs to the GDC of running the Overseas Registration Exam have been excluded.”

7.40 This response appears correct and adequate. The GDC’s total income in 2013 was £32.795 million.\textsuperscript{118} The income, excluding Overseas Registration Exam income of £1.803 million, was £30.992 million which is less than the “total income” of £31.7 million projected for 2014 in Table 3 on page 10 of the Consultation Document.

7.41 However, whilst the GDC referred to excluding the costs of the Overseas Registration Exam from its projected expenditure, it was not explicit that it excluded income from the Overseas Registration Exam in Table 3. The lack of explanation in the Consultation Document may have given rise to the BDA’s query.

\textsuperscript{117} GDC PR: 10(h).

\textsuperscript{118} GDC 2013 AR&A: Page 60.
8. The GDC’s response to the BDA’s Freedom of Information requests

Introduction

8.1 In this section, we consider the information set out in the GDC’s FOI Response. We do so by reference to the headings and specific requests set out by the BDA on page 15 of the PAP.

Summary conclusions

8.2 Although the additional material in the GDC’s FOI response has clarified some matters, it has not altered our overall conclusions in respect of this matter set out in Section 2. We provide our comments regarding the GDC’s FOI Response below and summarise the more salient aspects in Section 2 above.

A. Financial / operational costs and planning forecasting and expenditure analysis

(i) Management accounting calculations in determining cost per case as published by year 2010 – 2013

8.3 The GDC states that no calculations of this type were prepared before 2013 and that it has not calculated the cost per case for any other years.

8.4 In the Consultation Document, the GDC refers to an average hearing costing £78,000. The GDC provides an analysis by cost type but does not explain the source of figures to which the figures relate. The GDC’s FOI Response provides the following additional information:

“In 2013 the average cost per case heard was £78,000, which was calculated by taking the total cost of the Hearings function - excluding the cost of hearing cases referred to the Interim Orders Committee which have a very different cost profile - and the costs of the Prosecution function and dividing it by the number of practice committee cases that were heard in 2013.”
Cost of the Hearings function (excluding IOCs)  £5.3m
Cost of the Prosecution function  £7.1m
Total cost of cases heard  £12.4m
Number of Practise committee cases heard  160
* as published in the 2013 annual report and accounts
Cost per case heard  £78,000

8.5 The GDC’s use of the asterisk is unclear but we have attempted to understand the GDC’s calculation by reference to the GDC’s 2013 Annual Report and Accounts and set out our comments below.

8.6 The GDC’s 2013 Annual Report and Accounts states “hearing costs” were £5.7 million. We have been unable to confirm the GDC’s statement that “Cost of the Hearings function (excluding IOCs)” is £5.3 million. The statement suggests that the cost of Interim Orders Committee (“IOC”) hearings was £0.4 million;

8.7 The GDC does not explain clearly in the Consultation Document that IOC hearings have been excluded. We note however that the GDC does state that “The most costly part of the Fitness to Practise function is where we hold a full Fitness to Practise hearing involving a registrant”. This may have been the reason why the cost of IOC hearings is not included. It would have been helpful for this to have been explicit in the Consultation Document.

8.8 When calculating the cost of an average hearing, GDC has included the “Cost of the Prosecution function” of £7.1 million. We have been unable to agree the amount to the GDC’s 2013 Annual Report and Accounts, as it appears not to disclose separately the costs of the prosecution function.

8.9 The GDC uses the term “hearing costs” in the Consultation Document to mean something very different to its use of the concept in its Annual Report and Accounts. The inconsistent use of the term may be misleading. The inclusion of “costs of the prosecution function” results in the hearing costs in the Consultation Document being far higher than the hearing costs disclosed in the GDC’s Annual Report and Accounts.

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120 £5.7 million - £5.3 million = £0.4 million.
121 CD: Page 8.
8.10 The GDC states that the “Number of Practise [sic] committee cases heard” in 2013 was 160. The GDC thereby refers to “cases heard” rather than the number of hearings. In the light of this information, we have considered information set out in the Regulation Statistical Report in the GDC’s 2013 Annual Report and Accounts. It indicates that in 2013, the Professional Performance Committee, the Professional Conduct Committee and the Health Committee heard a total of 159 cases.\(^{122}\) There are also references to two registrants having two hearings. If it is assumed that, other than in respect of these two registrants, each case resulted in a single hearing, this suggests that there were 161 hearings in 2013.

(ii) Reconciliation of cost per case average to statutory accounts costs, 2010 – 2013

8.11 The GDC states that it does not have this calculation.

(iii) Management accounting calculations in determining cost per case as forecast

8.12 The GDC states that it does not have such a calculation.

(iv) Management accounting forecast calculations used in creating forecast costs

8.13 The GDC provides the following information regarding its general budgeting processes:

“The way that our forecasting process works (in accordance with best practice in similar organisations) is as follows:

We prepare a budget every year, which goes to the Council in [September] for approval. As part of that budget process, which is an iterative process, we prepare a budget for the following year and projections for the following two years. In accordance with normal accountancy practice, the budget and the forecast are prepared based on a number of planning assumptions which, based on trend analysis and experience, are established and agreed with Finance by key individuals to whom budget responsibility has been delegated.

A budget is produced for each individual budget area and these are consolidated into the wider GDC budget. The budget goes through various processes including scrutiny by and discussion with the Finance team, scrutiny by and discussion with the Executive Management Team and scrutiny by and discussion with the Finance and Performance Committee.

The budget, including the projections for years 2 and 3, is then recommended by the Finance and Performance Committee for approval by the Council.”

\(^{122}\) GDC AR&A: Page 26.
8.14 In relation to the proposal to increase the ARF, the GDC states:

“The ARF proposals are based on a preliminary budget for 2015, completed in May 2014. The approach taken for the preliminary “high level” budget included:

• Meetings with Directors and CEO individually to help identify priorities, scope business objectives and activities for 2015, and quantify the budget impact
• Fitness to practise planning workshop was held, led by the Director of Regulation, to agree the key assumptions for a ‘realistic case’ and a ‘worst case’ scenario across the Fitness to Practise processes
• Wimpole Street redevelopment completed April 2015

The output from the preliminary budget exercise is as set out in the Consultation on the Annual Fee Retention (ARF) level for 2015 document.

The current budget is not yet complete and will be available when it goes to Council in September 2013 [sic]”

8.15 We assume that the last sentence of the passage quoted above should refer to September 2014 rather than September 2013.

8.16 Although the GDC states that the ARF proposals are based on a preliminary budget for 2015 completed in May 2014 it has not provided a copy of that preliminary budget. It is unclear why such a document would not be responsive to the BDA’s FOI request. The disclosure of this document or otherwise is a legal matter.

8.17 It is also unclear why, if the “preliminary budget” completed in May 2014 projects that the number of complaints will rise by 17% from 2013 to 2014\(^{123}\) the GDC stated, in the “outlook” set out in the 2013 Annual Report and Accounts, dated 18 June 2014, that “The budget assumes that following two years of very significant growth, the number of fitness to practise cases will plateau in 2014”.\(^{124}\) To the extent that the GDC may be distinguishing between “cases” and “complaints” (which the 2014 budget also assumed would plateau),\(^{125}\) it would be helpful for the GDC to explain the expected relationship between cases and complaints at the date the “outlook” was published.

\(^{123}\) CD: Page 9: Table 2.

\(^{124}\) GDC 2013 AR&A: Outlook; Page 46 which forms part of the financial review (dated 18 June 2014 on page 48).

\(^{125}\) 2014 BP: Annex B: Budget summary and assumptions; Page 3; Budget; Paragraph 22.
8.18 The reference to the preliminary budget being at a “high level” suggests that the information set out in the Consultation Document may not be the result of detailed and careful analysis. We have not seen the preliminary budget and are unable to comment on whether it forms a suitable basis for the proposed increase in the ARF.

8.19 The GDC refers to a workshop “to agree the key assumptions for a ‘realistic case’ and a ‘worst case’ scenario across the Fitness to Practise processes”. The GDC does not disclose the findings of the workshop and does not explain what scenario forms the basis of the figures set out in the Consultation Document.

(v) **Cost of livings awards 2010-2013**

8.20 The GDC has disclosed costs of living awards for 2010 to 2013. We have not had reason to consider the awards in our work to date.

(vi) **Copy of reserves policy and (if separate) treasury policy**

8.21 The GDC has provided a link to its reserves policy. It states that it is the GDC’s policy to maintain reserves within a range of four to six months of annual operating expenditure. This is consistent with the statement in the Consultation Document.  

8.22 The GDC states that it has no Treasury Policy.

(vii) **Copy of policy towards pension fund surplus**

8.23 The GDC states that it is in correspondence with the Pension Fund Trustees regarding whether it can disclose the policy. We are informed by the BDA that the policy has not been disclosed to date.

(viii) **Full breakdown of staff by salary band 2010-2013**

8.24 We have no comment on the disclosure made of staff salaries by band.

(ix) **Operational evaluations of reasons for higher than previous conversion rates from complaints to FTP cases**

8.25 The GDC states:

“Your request above refers to ‘higher than previous conversion rates from complaints to FTP cases’. If you would specify which conversion rates you refer to in this instance, further currently available information will be provided in response to your query if this is still required.”

8.26 It is a legal matter regarding whether the BDA specified its request adequately. It would have been helpful for the GDC to explain what conversion rates are relevant and provide the associated operational evaluations, particularly as its response to request ten below includes reference to “case conversion” stating:

“We then forecast the rate of incoming complaints expected in future months, and calibrate the rate of case conversion expected at each case stage in future.”

8.27 It will be for the BDA to follow up with a more specific request, if required.

(x) Reasoning behind projected Complaints and FTP cases and any change in conversion rates

8.28 The GDC states:

“As stated on page three of the Consultation, there was a 110% increase in incoming complaints received between 2010 and 2013.”

8.29 Page three of the Consultation Document simply refers to the increase being “since 2010”. The GDC has now clarified that the 110% increase is between 2010 and 2013. We do not understand how the increase has been calculated. Using the GDC’s own figures set out in Table 2 of the Consultation Document, the increase is 113%.

8.30 The GDC continues:

“The rate of incoming complaints is regularly monitored to support any decisions made regarding the level of resource required in the current year and in future years.

Each year, we review the latest data available regarding incoming complaints and case conversion rates to inform business and budget planning for the following year.

We then forecast the rate of incoming complaints expected in future months, and calibrate the rate of case conversion expected at each case stage in future. This is to ensure that resources are appropriately allocated across the various areas of activity. These rates are calculated as accurately as possible given the multitude of factors which affect both incoming complaints and case conversion over time.

127 Complaints in 2013 - complaints in 2010 / complaints in 2010 x 100% = 2,990 - 1,401 / 1,401 x 100% = 113%.
The Fitness to Practise budget for 2015 has not yet been finalised. This is due to be submitted to Council for review and approval in September 2014. As this process is still ongoing, we do not currently have any further information regarding the assumptions to be made within the final budget.

As referenced on page three of the Consultation, information available at the time indicated that the GDC was likely to continue to receive complaints in line with the actual trend observed for the previous years from 2010 to 2013. Taking this information into account, we considered it diligent to plan our future FTP resources in line with this trend.

However, any validated fluctuations observed in the rate of incoming complaints and/or in the rate of case conversion will be taken into account with adjustments made if required before the Council finally agrees the FTP budget at its September meeting."

8.31 On our reading of the BDA’s request, it was seeking an explanation of the level of complaints received and the level of Fitness to Practise hearings as projected in the Consultation Document. In our view, this is information that the GDC ought to have been able to provide.

8.32 We note that the GDC states that the Fitness to Practise budget for 2015 has not yet been finalised. The GDC is not explicit on whether the outcome of the budgeting exercise will be reflected in the level of the ARF set for 2015.

(xi) Internal evaluation of efficiency of case management

8.33 No additional information is provide save for:

(1) the statement that the GDC’s Finance and Performance Committee is responsible for ensuring that resources are allocated and spent appropriately on an ongoing basis, and that cost savings are achieved wherever possible; and

(2) disclosure of the terms of reference of the committee.

(xii) Costs of external legal advice compared to the costs of employing full time in-house prosecution team

8.34 The GDC states:

“Since the in-house legal prosecution team was established in September 2013 and 2014 is the first full year of operation, there are no figures available to allow us to do the comparison you have requested. Actual costs and savings will be published in the 2014 annual report and accounts next year.”
8.35 The GDC has not provided, as part of its response, any cost-benefit analysis undertaken prior to establishing the in-house legal team and, its response suggests that it has not been monitoring any savings since implementing the team. However, the Consultation Document states:\textsuperscript{128} 

“A proportion of Fitness to Practise cases are now conducted by an in-house legal team, rather than external law firms (£0.5m per annum, estimated).”

8.36 The GDC has not provided any information regarding its estimated savings and is not explicit regarding whether it plans to expand the team for its projected increased activity, what the savings would be compared to using external law firms, or what related assumptions have been made when forecasting the expenditure set out in the Consultation Document.

\textit{(xiii) A full analysis of the savings that are claimed to be achieved specifically by the s60 reforms}

8.37 The GDC states:

“The GDC is currently at an early planning stage in liaison with the Department of Health (DH) to finalise a Section 60 order which would allow for the introduction of Case Examiners within the FTP process. Please see the enclosed Council paper at Annex 2 for the detail.”

8.38 The paper at Annex 2 of the GDC’s FOI Response includes information regarding the likely scope and impact of a Section 60 order, including information regarding likely efficiencies and costs savings. We consider these matters, and refer to the paper, in Appendix 9.

\textit{(xiv) A detailed explanation of how the GDC will ensure that consensual disposal achieves cost savings}

8.39 The GDC states:

“The GDC is currently at an early planning stage in liaison with the Department of Health (DH) to finalise a Section 60 order which would allow for the introduction of Case Examiners within the FTP process. Please see the enclosed Council paper at Annex 2 for the detail.”

8.40 We consider the paper at Annex 2 in Appendix 9.

\textsuperscript{128} CD: Page 11
B. Statistical information relating to growth in costs associated with investigations and fitness to practise

(i) Number of total complaints each year since 2000, separated into dentists and DCPs

8.41 The GDC refers to the information it provides in Annex 3 to the GDC’s FOI Response. Annex 3 is headed “Breakdown of Incoming Complaints and Case Progression (2000-2013) but appears to only set out information regarding complaints.

8.42 The total number of complaints from 2010 to 2013 agrees to the information provided in the Consultation Document. In our view, information earlier than 2010 is probably of limited relevance apart from showing that the annual growth rate of total complaints has been volatile as illustrated in Figure 8.1 below. Historically, there have been periods when the growth rate has been negative.

Figure 8.1: Annual growth rate of total complaints

Note: From 2008, the figures relate to DCPs in addition to dentists. Further information regarding the limitations of the data prior to 2009 is set out in GDC FOI Response: Annex 3.
8.43 The GDC has only been able to analyse the number of complaints in respect of the groups dentists and DCPs from 2008 onwards. From 2010 to 2013, the period referred to in the Consultation Document, between 85% and 88% of the complaints are in respect of dentists. Information about the number of complaints is insufficient to determine the relative cost of regulating each of the registrant groups which impacts the GDC's calculation of the level of the ARF for dentists and DCPs (see Section 5).

(ii) Number of complaints that were closed immediately without further action each year, separated into dentists and DCPs

8.44 The GDC states:

“Until the introduction of the Triage stage in 2012, no formal filtering process existed within the FTP department for the immediate closure of complaints without further action.

The Triage process has supported the closure of 2,129 cases in total in the two years of annual reporting to date, 2012 and 2013.”

8.45 This information appears responsive to the requests but is of limited assistance in isolation. As discussed in Section 4, a wider explanation is required in order to understand how the projected Fitness to Practise complaints are anticipated to translate into Fitness to Practise hearings and the expected associated costs.

(iii) Number of complaints that were closed with a warning each year at this stage, separated into dentists and DCPs

8.46 The GDC states:

“The GDC does not have, nor has ever had, the power to close a complaint immediately with a warning. Warnings are issued to registrants at the Preliminary Proceedings Committee/Investigating Committee stage.

A breakdown of these warnings has been provided in Annex 4. Please also refer to the notes included below the table which have been provided as clarification of the information available.

Due to the transition of reporting procedures at this stage between 2000 and 2013, it is not possible to provide at this point a full breakdown of Dentist and DCP referrals for the Preliminary Proceedings Committee Investigating Committee stage.”
8.47 Annex 4 indicates that during the period referred to in the Consultation Document, 2010 to 2013, “Preliminary Proceedings Committee/Investigating Committee warnings” have decreased from 261 and 254 in 2010 and 2011 to 135 in 2012 and 89 in 2013. The GDC states:

“The observed reduction in cases receiving warnings at an Investigating Committee after 2011 may be attributed to various factors; however, it is likely that a proportion of this reduction was due to the impact of the outcome of Lutton v GDC in late 2011.”

8.48 We have not examined this factor, but it may suggest that Fitness to Practise costs may have increased as the opportunities for disposing of matters by way of issuing warnings may have decreased. There is insufficient information to determine the amount of any additional cost that may have resulted from late 2011 onwards.

(iv) Number of complaints that went to Investigating Committee each year, separated into dentists and DCPs

8.49 The GDC states that it only has this analysis for 2013. The data provided indicates that 87% of the cases related to dentists. Again this information is insufficient to determine the relative costs of regulating the registrant groups.

(v) Number of cancelled FTP and IC hearings in the past three years.

8.50 The GDC has provided data for 2013 and the first half of 2014 and states that it does not have data for earlier periods. In our view, this data may be relevant to a wider explanation required in order to understand how the projected Fitness to Practise complaints are anticipated to translate into Fitness to Practise hearings and the expected associated costs (see Section 4).
Appendix 1
Mr Smith’s qualifications and experience

A1.1 Mr Smith is a director in the FTI Economic and Financial Consulting practice and is based in London.

A1.2 Mr Smith is a chartered accountant and has 17 years’ experience of financial analysis relating to international arbitration, civil and criminal litigation, mediation, business interruption claims, business valuation, and regulatory investigation and litigation. He has provided financial and economic consulting advice to clients and their legal teams in France, Italy, Malaysia, Qatar, the United Kingdom and the United States. His experience includes preparing expert and other reports for a wide variety of forums. Mr Smith has testified in successful proceedings in the High Court.

A1.3 During 2010, Mr Smith was seconded to the UK’s Financial Services Authority (FSA) (now the Financial Conduct Authority) to assist an Enforcement and Financial Crime investigation. He was appointed as an investigator under the Financial Services and Markets Act 2000.

A1.4 In recent years, Mr Smith’s practice has focused on expert financial advice in the context of arbitration and litigation. Many of these matters require the quantification of lost profits, the assessment of wasted costs, or advice relating to accounting issues. Mr Smith regularly leads teams supporting the testifying expert in high-value disputes.

A1.5 Mr Smith is an Associate of the Academy of Experts.

Previous Positions

A1.6 Mr Smith began his career with Deloitte & Touche, London as an auditor of mainly large international companies. Mr Smith was a member of the management consulting team that advised the government regarding the privatisation of the UK’s regional electricity companies. He was also a member of the liquidation team following the collapse of the Bank of Credit and Commerce International SA.

A1.7 Mr Smith has undertaken investigations direct for the UK’s Insolvency Service and as a forensic accountant employed by an agent of the UK’s Treasury Solicitor.

A1.8 In 2006, Mr Smith joined Forensic Accounting LLP, which was acquired by FTI Consulting in 2008.
Appendix 2
Information relied upon

Documents obtained from the GDC’s website

- Consultation on the Annual Retention Fee (ARF) Level for 2015.
- The ARF Key Facts Document.
- GDC Annual Reports and Accounts for 2010 to 2013.
- GDC Business Plan and Budget 2014.
- GDC’s paper: Proposed Section 60 Order (Item 5 Council 18 June 2014).

Press releases

- Department of Health signals urgent legislative change to streamline fitness to practise procedures 20 June 2014.
- General Dental Council consultation on Annual Retention Fee level 30 June 2014.
- GDC defends consultation on fee increase 12 August 2014.

Documents provided by the BDA

- Pre-Action Protocol letter from the BDA to the GDC dated 24 July 2014.
- The GDC’s Budget Proposals 30 September 2010.

The GDC’s PAP Response

- First letter from Kingsley Napley LLP, on behalf of the GDC, to the BDA dated 12 August 2014.
The GDC’s FOI Response

- Document enclosed with the second letter from Kingsley Napley LLP, on behalf of the GDC, to the BDA dated 12 August 2014.
Appendix 3
Short forms used for references

A3.1 We use short forms to refer to specific paragraphs, sections, parts etc. of documents with numbered paragraphs, sections, parts etc. The form of the reference is short form: number. In Table A3.1 below, we identify the short forms used for different documents.

**Table A3-1: Short forms used for references**

<table>
<thead>
<tr>
<th>Document</th>
<th>Short form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation Document</td>
<td>CD</td>
</tr>
<tr>
<td>Pre-Action Protocol letter from the BDA to the GDC dated 24 July 2014</td>
<td>PAP</td>
</tr>
<tr>
<td>Business Plan</td>
<td>[Year] BP</td>
</tr>
<tr>
<td>Financial Performance Review</td>
<td>GDC [Quarter/Year] FPR</td>
</tr>
<tr>
<td>GDC's FOI Response</td>
<td>GDC FOIR</td>
</tr>
<tr>
<td>GDC’s PAP Response</td>
<td>GDC PR</td>
</tr>
<tr>
<td>GDC’s Section 60 Paper</td>
<td>GDC’s S60 Paper</td>
</tr>
<tr>
<td>GDC Annual Report and Accounts</td>
<td>GDC [Year] AR&amp;A</td>
</tr>
</tbody>
</table>
Appendix 4
Further information required

Introduction

A4.1 We have been asked what further financial information would be necessary (and in particular, what is the bare minimum of further information that would be necessary) to enable those consulted, including key stakeholders such as the BDA, to challenge the accuracy of any facts and the validity of any financial arguments upon which the proposed increase is based.

A4.2 Without providing a legal opinion, we would suggest that the bare minimum of further information would be that which provides a person considering the subject matter of the Consultation with a reasonable assurance that the proposed rise is justified, or reason to conclude otherwise. In responding to this request, we do not distinguish between that level and any higher level of information that might be considered desirable by some consultees.

Information required

A4.3 We set out below our view regarding the information a consultee will require.

Information supporting the Consultation Document

A4.4 To assist consultees to understand the calculations performed and the assumptions adopted by the GDC in the Consultation Document, we suggest that the full set of figures and calculations supporting the information set out in the Consultation Document is required. In order to create the Consultation Document, the GDC would have needed to collate financial information, perform calculations and make assumptions. We suggest that consultees will require explanations from the GDC sufficient to enable those consulted to understand and evaluate the material and the GDC’s approach and calculations.

A4.5 The material will include, but may not be limited to:

1. the GDC’s “preliminary budget” completed in May 2014 upon which it states the ARF proposals are based; and

2. the findings of the workshop “to agree the key assumptions for a ‘realistic case’ and a ‘worst case’ scenario across the Fitness to Practise processes”.

A4.6 The 2014 projections in the Consultation Document differ from those in the 2014 Business Plan. This suggests that consultees will require any updated business plan (including a budget) for 2014, actual data for 2014, including the GDC’s most recent management accounts, and explanations sufficient to understand the reasons the GDC has revised its expectations for 2014.

A4.7 The Consultation Document contains income and expenditure projections for 2015 to 2017. In order to understand how these projections were formed, we suggest that consultees will require any business plans, and other budgets, created for 2015, 2016 and 2017 together with explanations and supporting evidence sufficient to explain any changes between the budgets and the projections set out in the Consultation Document.

Fitness to Practise calculations

A4.8 As noted previously, this expenditure is a key part of the GDC’s ARF calculation. As such, the GDC’s Fitness to Practise expenditure projections are critical to any understanding of total projected expenditure, and in turn the ARF calculation. Consultees will require more information on how the amounts for Fitness to Practise were forecast together with an analysis of the categories of Fitness to Practise expenditure.

A4.9 In order to understand and assess the GDC’s forecast for the number of Fitness to Practise hearings, we suggest that consultees will require a detailed explanation of the GDC’s estimates of the number of hearing that will take place in 2014, 2015, 2016 and 2017 together with data in support, and disclosure of the actual number of hearings in 2014 to date.

A4.10 Related to the above request, consultees will require an explanation and data supporting the GDC’s estimates of the number of complaints that it will receive in 2014, 2015, 2016 and 2017, including an explanation of the “current trends” referred to by the GDC. We would expect the data provided to include the number of complaints received on a monthly basis in 2013 and 2014.

A4.11 Consultees will also require information sufficient to enable them to understand how the GDC’s estimate of the number of complaints it received will translate over time into hearings. We anticipate that this explanation will require the GDC to explain, amongst other matters, its categorisation of complaints received, and how its plans to process cases on a more timely basis and clear a back log of cases, affect its estimate of the number and type of hearings that will be held in 2014, 2015, 2016 and 2017.
Savings

A4.12 We suggest consultees will require further information sufficient to understand and verify whether the GDC has reviewed adequately its projected activities to identify and quantify efficiencies and other savings and incorporated the results into its expenditure projections for 2014 to 2017. The explanation should include, but not be limited to:

1. how the GDC has addressed the issue of efficiencies and cost savings for a period in which it is projecting significant changes in its operational activity; and

2. a full assessment and analysis of cost savings anticipated to arise from legislative change, including as a result of a Section 60 order, and an explanation of the savings, if any, which have been incorporated into the GDC’s expenditure projections.

Income

A4.13 We suggest consultees will require calculations and evidence in support of the GDC’s projected income 2014 to 2017.

A4.14 We suggest that consultees will also require confirmation of whether registrants have been subsidising the Overseas Registration Exam and whether the figures in the Consultation Document have been calculated on the basis that there will be no cross subsidy.

Other regulatory activities

A4.15 As noted above in Section 4 (and detailed below in Appendix 6), the GDC’s analysis of expenditure by reference to the Four Functions presented in the Consultation Document does not match its regulatory functions and support activities presented in the GDC’s Annual Reports and Accounts.

A4.16 Consultees will require an explanation of why the GDC has chosen to analyse expenditure with reference to the Four Functions, and information sufficient to allow consultees to understand how the analysis in the Consultation Document may be mapped, and thereby agreed, to the analysis by regulatory function in the GDC’s Annual Report and Accounts and, where applicable, to expenditure in relation to the GDC’s support activities.
A4.17 We suggest that the information required will include:

(1) an extension of Table 1 in the Consultation Document to include the currently omitted historical years 2011, 2012 and 2013;

(2) a detailed reconciliation of the data in this table to the expenditure information in GDC’s Annual Report and Accounts; and

(3) an analysis of the projected expenditure for 2014 to 2017 in accordance with the GDC’s regulatory functions and support activities set out on page 43 of the GDC’s 2013 Annual Report and Accounts.

**Allocation between Dentists and DCPs**

A4.18 Consultees will require a full explanation of the approach by which the GDC has allocated the total expenditure to be funded by the ARF between dentists and DCPs together with calculations and data in support sufficient to enable them to assess the allocation.

**The calculation of the cost per registrant**

A4.19 We suggest consultees will require an explanation of how the GDC has estimated the number of dentists and DCPs that will pay the ARF in 2015, 2016 and 2017 and the average for each group over the three years.

**Explanations of apparent inconsistencies**

A4.20 We suggest that consultees will require explanations of the apparent internal inconsistencies within the Consultation Document and apparent inconsistencies between the Consultation Document and other published by the GDC on its website as referred to in this report.

**A revised forecast**

A4.21 We suggest that consultees will require confirmation of any revisions that the GDC accepts are required to its calculation of the proposed ARF for 2015.

**Complete responses to the PAP**

A4.22 To the extent not covered in the requests above, and where in the GDC’s PAP Response and the GDC’s FOI Response has been incomplete, we suggest a full response should be provided.
Appendix 5
The GDC’s statements about this consultation – why and how the GDC sets the ARF

Introduction

A5.1 In this appendix, we consider the information set out by the GDC in the sections of the Consultation Document headed:

- “About this consultation”;129
- “Why do we charge an Annual Retention Fee (ARF)?” 130 and
- “How do we set the Annual Retention Fee (ARF)?”131

A5.2 These sections include, but are not limited to, information regarding the GDC’s statutory duties and policies. We comment on the content of the sections only to the extent that they appear relevant to the financial aspects of the Consultation.

A5.3 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary conclusions

A5.4 The prominent statistic regarding the complaints increasing by 110% appears to be misstated and inconsistent with the data in the Consultation Document.

A5.5 The estimated additional £18 million in fee income the GDC states is needed to deal with anticipated complaint levels in 2014 and 2015 appears inconsistent with other data in the Consultation Document.

129 CD: Pages 4 and 5.
130 CD: Page 6.
131 CD: Page 7.
The GDC’s statement about the consultation

A5.6 The GDC’s statement about the consultation is set out in Section 1 of this report. In addition, the GDC provides six key graphics. We have been unable to determine the basis for the GDC’s statements regarding the percentage rise in complaints and the additional amount to deal with complaints in 2014 and 2015.

GDC’s six graphics

A5.7 In our opinion, the GDC diagrams set out at page 4 of the Consultation Document can be described as ‘headline graphics’ as they appear to have been included as key factors in support of the proposed increase in ARF. As detailed below, two of the statistics appear to be incorrect. In addition, we are of the view that care should have been taken to ensure that the graphics are not misleading. The visual representation of the increase in complaints since 2011 and the additional money needed are misleading as the images exaggerate the increases being illustrated. Similarly, the graphic showing the 17% increase in projected expenditure in 2015 does not indicate which year this increase is in relation to and illustrates an increase of 29%\(^{132}\) rather than 17%.

“Complaints have increased by 110%”\(^{133}\)

A5.8 The primary reason provided by the GDC for increasing the ARF is that:\(^{134}\)

“Since 2010, when we last increased the ARF, there has been a 110% increase in the number of complaints ... As a result, we need additional funds to investigate these complaints”.

A5.9 This 110% figure is also stated in the graphic on the following page, however the association caption reads:\(^{135}\)

“Since 2011 complaints have increased by 110%”.

A5.10 The Consultation Document is therefore inconsistent whether the stated increase of 110% is measured from 2010 or 2011. It is further not stated to which year the increase is measured. Data for 2011 to 2015 is included as part of the graphic.

\(^{132}\) \((9 \text{ coins} – 7 \text{ coins}) / 7 \text{ coins} \times 100\% = 29\%.

\(^{133}\) CD: Page 4.

\(^{134}\) CD: Page 3.

\(^{135}\) CD: Page 4.
A5.11 The GDC’s 2013 Annual Report and Accounts states that:\textsuperscript{136}

\textit{“Since 2010, fitness to practise complaints have increased by 110 per cent.”}

This implies that the 110% figure relates to an increase from 2010 to 2013 in Fitness to Practise complaint but no data is provided in support and the basis for the percentage rise of 110% is unclear.

A5.12 We have been unable to reproduce this 110% figure based on the data in the Consultation Document. This statistic of 110%, which is given high prominence as the key reason for increasing the ARF, therefore may be misstated and inconsistent with the data in the Consultation Document. On the basis of the data provided by the GDC, we calculate the increase in complaints received from 2011 to 2013 as 89\%\textsuperscript{137}; and from 2010 to 2013 as 113\%\textsuperscript{138}.

\textit{Additional £18 million to deal with anticipated complaint levels}

A5.13 The GDC states that it needs to collect an extra £18.0 million in fee income to allow it to deal with the extra volume of complaints and Fitness to Practise hearings anticipated in 2014 and 2015.\textsuperscript{139} The Consultation Document also states, in conjunction with a prominent graphic, that “The GDC will need to collect an additional £18 million to deal with anticipated complaint levels in 2014 and 2015”\textsuperscript{140}.

A5.14 The GDC states that this £18.0 million “will be collected partly in 2015, with the balance in 2016 as set out in Table 6”.\textsuperscript{141} We have not been able to reconcile this to GDC Table 6 which presents expenditure projections. Furthermore, the reference to collecting the £18.0 million cost in 2015 and 2016 is inconsistent with the GDC’s approach of calculating total expenditure over the three years 2015 to 2017 and then dividing this by 3 to reach the cost allocated to 2015.

\begin{itemize}
\item \textsuperscript{136} GDC 2013 AR&A: Page 8.
\item \textsuperscript{137} Complaints in 2013 – complaints in 2011 / complaints in 2011 x 100% = 2,990 - 1,578 / 1,578 x 100% = 89\%.
\item \textsuperscript{138} Complaints in 2013 – complaints in 2010 / complaints in 2010 x 100% = 2,990 - 1,401 / 1,401 x 100% = 113\%.
\item \textsuperscript{139} CD: Page 3.
\item \textsuperscript{140} CD: Page 4.
\item \textsuperscript{141} CD: Page 3.
\end{itemize}
The calculation to support the £18.0 million is not provided, but it appears to be inconsistent with information set out in the Consultation Document. Elsewhere, in the Consultation Document, data shows that the GDC projects that the expenditure on its Fitness to Practise function will increase by £16.4 million over 2014 and 2015, as shown in FTI Table A5-1. The GDC states that the increased expenditure in 2014 of £5.0 million is needed “because of the high number of Fitness to Practise complaints we have received”.\(^{142}\) The increase of £16.4 million is £1.6 million less than the £18.0 million referred to above.

**FTI Table A5-1: Expenditure on Fitness to Practise (£ million)**

<table>
<thead>
<tr>
<th>£ million</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Total increase in 2014 and 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditure on Fitness to Practise</td>
<td>26.6</td>
<td>31.6</td>
<td>38.0</td>
<td>N/A</td>
</tr>
<tr>
<td>Increase on 2013 level</td>
<td>N/A</td>
<td>5.0</td>
<td>11.4</td>
<td><strong>16.4</strong></td>
</tr>
</tbody>
</table>

Source: CD: Page 8.

It is possible that the GDC’s calculation of a required increase of £18 million has been undertaken by reference to the increase in total projected expenditure in 2014 and 2015, as shown in FTI Table A5-2 below.

**FTI Table A5-2: Total Expenditure (£ million)**

<table>
<thead>
<tr>
<th>£ million</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Total increase in 2014 and 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Expenditure</td>
<td>31.8</td>
<td>37.6</td>
<td>44.1</td>
<td>N/A</td>
</tr>
<tr>
<td>Increase on 2013 level</td>
<td>N/A</td>
<td>5.8</td>
<td>12.3</td>
<td><strong>18.1</strong></td>
</tr>
</tbody>
</table>

Note: Total expenditure excludes expenditure on the Overseas Registration Exam. Source: CD: Page 8 and GDC 2013 AR&A: Page 43.

However, the increase in projected total expenditure includes increases in relation to Registration Costs, Quality Assurance Costs and the Dental Complaints Service, which functions appear unrelated to the Fitness to Practise complaints discussed in the Consultation Document. Therefore, this calculation would not provide support for the GDC’s statement that an additional £18 million is needed to deal with anticipated complaint levels in 2014 and 2015.

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\(^{142}\) CD: Page 8.
The GDC’s statements about why it charges an Annual Retention Fee

A5.18 In the section of the Consultation Document about why it charges an Annual Retention Fee, the GDC explains what the ARF is and why the GDC charges it. The GDC lists a number of activities that are undertaken by the GDC which are funded by the ARF.

A5.19 The list of five activities is different to the Four Functions listed elsewhere in the Consultation Document. The list of five activities in the Consultation Document is also inconsistent with the regulatory and support activities listed in the GDC’s Annual Report and Accounts. These inconsistencies are unexplained.

The GDC’s statement about how it sets the Annual Retention Fee

A5.20 In this section of the Consultation Document, the GDC sets out the policy approach supported by respondents to a consultation on how the GDC should set the ARF. The four steps set out are general and provide little clarity on the approach that the GDC is using.

A5.21 For example, the GDC states that it “will always look to see if we can introduce cost savings”. The Consultation Document does not define how the GDC will identify cost savings or how rigorous its pursuit will be.

A5.22 The final step in the policy approach states that the GDC will use their estimates of how much additional income they will need “to calculate the fee level for each group”. This is a general statement and provides no information as to what method will be applied.

A5.23 We understand that there is a wider point as to the policy that the GDC is required to follow when setting the level of ARF. Consideration of this issue is beyond the scope of our work.

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143 CD: Page 6.
144 GDC AR&A 2013: page 43.
146 CD: Page 7.
147 PAP: Pages 5-7.
Appendix 6
The GDC’s statements regarding the resources needed to fund its statutory functions in 2015

Introduction

A6.1 In this section, we consider the information set out by the GDC in the section of the Consultation Document headed “What resources do we need to fund our statutory functions in 2015”\(^\text{148}\) in which the GDC sets out information regarding its projected:

(1) expenditure in 2014 and 2015 analysed by reference to the Four Functions; and
(2) Fitness to Practise costs.

A6.2 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary conclusions

A6.3 The GDC’s presentation of expenditure by reference to the Four Functions is inconsistent with its analysis in its published accounts by reference to a larger number of regulatory functions. The analysis by reference to the Four Functions may not be meaningful if it does not reflect future regulatory activities.

A6.4 The 2010 expenditure in GDC Table 1 agrees in total to the GDC’s reported expenditure in its Annual Report and Accounts but there is insufficient information to agree the analysis of expenditure by Four Functions in the Consultation Document to the analysis of expenditure in the GDC’s Annual Report and Accounts for 2010 or 2011 (in which the 2010 expenditure was re-analysed).

A6.5 The GDC does not explain how it has calculated its forecast expenditure for 2014 and 2015 or provide adequate information in support.

A6.6 No information or evidence in support is provided in respect of its projected costs of Registration, Quality Assurance or the DCS.

\(^{148}\) CD: Pages 8 and 9.
A6.7 The information provided in respect of the GDC’s Fitness to Practise function is insufficient to enable projected expenditure in respect of this function to be understood adequately. For example, projections of the numbers of Fitness to Practise complaints that will be received and the Fitness to Practise hearings that will take place are not adequately explained and there is no explanation of how the associated expenditure has been estimated.

**Whether the presentation of expenditure by reference to the Four Functions is consistent with the GDC’s recent financial reporting**

A6.8 The GDC’s most recent published Annual Report and Accounts, for 2013, includes a table to show its “performance by Regulatory function”. A table in the GDC’s 2013 Annual Report and Accounts sets out expenditure by reference to the following eight regulatory activities:

- Fitness to Practise and Hearings;
- Registration;
- Operational Excellence;
- Overseas Registration Exam;
- Policy and Stakeholder Management;
- Governance;
- Quality Assurance; and
- Dental Complaints Service.

A6.9 The table also discloses separately additional expenditure in respect of four “support activities”:

- Finance, HR and CEO
- Accommodation and Office Services
- Information Technology
- Depreciation and Amortisation.

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149 GDC’s 2013 AR&A: Page 43.
150 GDC’s 2013 AR&A: Page 43.
151 GDC’s 2013 AR&A: Page 43.
A6.10 This analysis by regulatory function and support activity contrasts with the Consultation Document in which the GDC presents its expenditure by reference to the Four Functions.

A6.11 Assuming that the GDC still undertakes Policy and Stakeholder Management; Governance and Operational Excellence functions it is not clear:

1. why the GDC only refers to Four Activities in the Consultation Document;

2. on what basis the costs of other activities (£4.7 million in 2013) have been included within the Four Functions;

3. on what basis it has allocated its support activities to the Four Functions set out in the Consultation Document, including presumably any support costs that relate to Policy and Stakeholder Management, Governance, and Operational Excellence.

A6.12 A question also arises as to whether the analysis of expenditure by reference to Four Functions in the Consultation Document is meaningful. The limited disclosure also prevents comparison of the GDC’s projections for expenditure for each function in 2014 and subsequent years with the GDC’s reported expenditure in 2013.

A6.13 In our view, it is for the GDC to explain any changes in its regulatory functions since the end of 2013 or why it has not provided an account of its regulatory activities and the associated costs consistent with the regulatory activities disclosed in its most recent accounts.

Projected expenditure in 2014 and 2015 and the 2010 historical figures

A6.14 The GDC sets out its projected expenditure for 2014 and 2015 together with historical costs for 2010, but not for 2011, 2012 or 2013, in the following table:

<table>
<thead>
<tr>
<th>Function</th>
<th>2010</th>
<th>2014</th>
<th>2015</th>
<th>% increase 2010-2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness to Practise</td>
<td>20.2</td>
<td>31.6</td>
<td>38.0</td>
<td>88%</td>
</tr>
<tr>
<td>Registration</td>
<td>3.4</td>
<td>3.9</td>
<td>4.0</td>
<td>18%</td>
</tr>
<tr>
<td>Quality Assurance</td>
<td>0.7</td>
<td>1.3</td>
<td>1.3</td>
<td>86%</td>
</tr>
<tr>
<td>Dental Complaints Service</td>
<td>0.5</td>
<td>0.8</td>
<td>0.8</td>
<td>60%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24.8</strong></td>
<td><strong>37.6</strong></td>
<td><strong>44.1</strong></td>
<td><strong>79%</strong></td>
</tr>
</tbody>
</table>

Sources: CD: page 8.

152 The Overseas Registration Exam costs are excluded from GDC Table 1 for the reasons already explained.
A6.15 The GDC predicts that its expenditure in 2015 will be £44.1 million, an increase of £6.5 million (17%) over its anticipated expenditure in 2014.

**The 2010 expenditure**

A6.16 GDC Table 1 includes historical expenditure in 2010. The information is used by the GDC when calculating the percentage by which expenditure in 2010 has increased to the projected levels in 2015 in total and for each of its functions.

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153 The GDC states: “This excludes what it costs the GDC to run the Overseas Registration Exam for those dentists who applied to join the register and who trained and qualified outside of Europe. We spent £1.8 million on this, the cost of which fell to those sitting the exam.” Whilst the GDC is not explicit regarding this matter, for the purpose of this report, we assume that all the figures in the GDC’s Table 1 are presented on a consistent basis.
A6.17 There is insufficient information available to enable the 2010 figures in GDC Table 1 to be agreed to either the GDC’s 2010 Annual Report and Accounts or the 2010 comparatives in the 2011 Annual Report and Accounts (in which the total expenditure remained the same but was re-analysed).\(^{154}\) FTI Table A6-1 below compares the GDC’s 2010 expenditure reported by regulatory function with the 2010 expenditure set out in the Consultation Document.

**FTI Table A6-1: Comparison of 2010 expenditure by function in the Consultation Document and the GDC’s Annual Report and Accounts**

<table>
<thead>
<tr>
<th>Function</th>
<th>Consultation Document £000s</th>
<th>2010 Annual Report and Accounts £000s</th>
<th>2010 Comparatives in 2011 Annual Report and Accounts £000s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness to Practise</td>
<td>20,200</td>
<td>12,460</td>
<td>12,709</td>
</tr>
<tr>
<td>Registration</td>
<td>3,400</td>
<td>3,790</td>
<td>2,371</td>
</tr>
<tr>
<td>Overseas Registration Exam</td>
<td>N/A</td>
<td>NSD</td>
<td>1,936</td>
</tr>
<tr>
<td>Policy</td>
<td>NSD</td>
<td>788</td>
<td>1,473</td>
</tr>
<tr>
<td>Governance and External Relations</td>
<td>NSD</td>
<td>2,985</td>
<td>1,056</td>
</tr>
<tr>
<td>Corporate Services</td>
<td>NSD</td>
<td>6,454</td>
<td>NSD</td>
</tr>
<tr>
<td>Quality Assurance</td>
<td>700</td>
<td>NSD</td>
<td>668</td>
</tr>
<tr>
<td>Dental Complaints Service</td>
<td>500</td>
<td>319</td>
<td>319</td>
</tr>
<tr>
<td>Support Activities</td>
<td></td>
<td></td>
<td>6,264</td>
</tr>
<tr>
<td>Adjustment for Overseas Registration Exam</td>
<td>(1,936)</td>
<td></td>
<td>(1,936)</td>
</tr>
<tr>
<td><strong>Total Expenditure (excluding Overseas Registration Exam)</strong></td>
<td><strong>24,800</strong></td>
<td><strong>24,860</strong></td>
<td><strong>24,860</strong></td>
</tr>
</tbody>
</table>

Note: NSD = no separate disclosure. N/A - not applicable as deliberately excluded.
Source: Consultation Document: Page 8; Table 1, the GDC’s 2010 Annual Report and Accounts; Page 28, and the 2010 comparatives set out in the GDC’s 2011 Annual Report and Accounts: Page 33 (for disclosure of the Overseas Registration Exam expenditure), the GDC’s 2011 AR&A: page 33.

\(^{154}\) In the 2011 accounts, the 2010 expenditure by function was restated to show costs reported on the same basis as they are in 2011 (see the GDC’s 2011 AR&A: page 34).
A6.18 The total expenditure in GDC Table 1 agrees to the total expenditure reported in the GDC’s accounts\textsuperscript{155} (after excluding the Overseas Registration Costs of £1.9 million) save for what may be difference arising from rounding. However, the Consultation Document only reports the Four Functions in contrast to seven “regulatory functions” (excluding Overseas Registration) in the 2010 accounts and six regulatory functions and the “support activities” (overheads) set out in the comparatives in 2011.\textsuperscript{156}

A6.19 It follows that, when producing analysis by Four Functions in the Consultation Document, the GDC has allocated £10.2 million of costs in respect of “Policy”, “Governance and External Relations” and “Corporate Services” to the Four Functions.

A6.20 The GDC has not disclosed or explained that it has, or how it has, in effect, amalgamated its regulatory activities in this way.

**The 2014 projected expenditure**

A6.21 The GDC does not explain how it calculated its forecast expenditure for 2014. The GDC provides no analysis or evidence in support of the amounts stated in GDC Table 1.

A6.22 The Consultation Document was published by the GDC on 30 June 2014, being part way through 2014 and yet the GDC has not explained whether the 2014 figures are based on a budget prepared prior to the commencement of 2014 or on actual expenditure for part of 2014 and a revised forecast for the remainder of the year.

\textsuperscript{155} There is a small difference between this figure and the amount stated in Table 1 which could be due to rounding differences.

\textsuperscript{156} The references to the number of functions exclude the Overseas Registration Exam function as the cost of such is not included in GDC Table 1.
In the absence of an explanation of the figures, we have compared the figures in the Consultation Document to those in the 2014 Business Plan. We set out the result in FTI Table A6-2 below.

**FTI Table A6-2: Comparison of 2014 expenditure as forecast in the Consultation Document and the 2014 Business Plan**

<table>
<thead>
<tr>
<th>Function</th>
<th>Consultation Document £m</th>
<th>2014 Business Plan £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness to Practise</td>
<td>31.6</td>
<td>17.7</td>
</tr>
<tr>
<td>Registration</td>
<td>3.9</td>
<td>2.2</td>
</tr>
<tr>
<td>Quality Assurance</td>
<td>1.3</td>
<td>1.1</td>
</tr>
<tr>
<td>Dental Complaints Service</td>
<td>0.8</td>
<td>0.6</td>
</tr>
<tr>
<td>Overseas Registration Exam</td>
<td>NSD</td>
<td>2.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>37.6</strong></td>
<td><strong>23.8</strong></td>
</tr>
<tr>
<td><strong>Total excluding Overseas Registration Exam</strong></td>
<td><strong>37.6</strong></td>
<td><strong>21.6</strong></td>
</tr>
</tbody>
</table>

**Costs not allocated to a function listed above:**

<table>
<thead>
<tr>
<th>Function</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational Excellence</td>
<td>1.3</td>
</tr>
<tr>
<td>Policy and Stakeholder Management</td>
<td>3.2</td>
</tr>
<tr>
<td>Governance</td>
<td>0.5</td>
</tr>
<tr>
<td>Chief Executive Office</td>
<td>0.6</td>
</tr>
<tr>
<td>Finance</td>
<td>1.9</td>
</tr>
<tr>
<td>Office Facilities</td>
<td>1.6</td>
</tr>
<tr>
<td>IT</td>
<td>1.8</td>
</tr>
<tr>
<td>HR</td>
<td>1.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>37.6</strong></td>
</tr>
<tr>
<td><strong>Total excluding Overseas Registration Exam</strong></td>
<td><strong>37.6</strong></td>
</tr>
</tbody>
</table>

Note: NSD = no separate disclosure


Projected expenditure, excluding the Overseas Registration Exam, is £3.5 million higher in the Consultation Document compared with the 2014 Business Plan. As noted in the table above, £12.5 million of the costs set out in the Business Plan appear not to be costs that may be linked directly to the functions set out in the Consultation Document. It is not clear how the GDC has allocated such costs when analysing expenditure by the Four Functions in the Consultation Document.
A6.25 The GDC has not explained why it has apparently revised the forecasts in its 2014 Business Plan beyond providing increased estimates of the number of Fitness to Practise complaints it expects to receive and the number of Fitness to Practise hearings that it expects will take place. However, these revised estimates are unsupported and there is no analysis of the expected financial impact of the increases. This is discussed further when considering the GDC’s statements regarding Fitness to Practise below.

**The 2015 Projected Expenditure**

A6.26 The GDC does not explain how it has calculated its projected expenditure in 2015. The GDC provides no analysis or evidence in support of the amounts included in GDC Table 1.

A6.27 The GDC states that the main reason for the increase in expenditure in 2015 is due to its Fitness to Practise function. However, the information provided in the Consultation Document does not explain adequately the amount of the projected expenditure or the increase in comparison with 2014 and earlier. We consider the information that the GDC provides in relation to its Fitness to Practise function in more detail below.

**Fitness to Practise**

A6.28 In a statement following its consultation on the Annual Retention Fee Policy, the GDC reported that: ¹⁵⁷

“A third of respondents called for greater transparency in relation to the GDC’s financial information, in particular Fitness to Practise costs. In the forthcoming consultation document on the Annual Retention Fee Level for 2015 we will provide more detail on the different aspects of the Fitness to Practise process, and will build this into our public reporting on how we spend the fee income.”

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A6.29 The GDC provides limited disclosure regarding its Fitness to Practise costs. As set out below, the GDC has not:

(1) explained how it has calculated forecast costs;

(2) provided any information regarding Fitness to Practise costs other than average hearing costs (the calculation of which is not adequately explained or supported);

(4) explained how it has forecast the number of complaints it expects to receive; and

(5) explained how it has calculated how the number of complaints relates to the expected number of hearings.

**Unexplained forecast of 2014 and 2015 Fitness to Practise costs**

A6.30 The GDC states:

> “the main reason for the increase in expenditure in 2015 is due to our Fitness to Practise function. In 2014, our Fitness to Practise costs are expected to increase by £5.0m, up from £26.6m in 2013 (and up from £20.2m in 2010) to £31.6m in 2014. This expenditure is needed because of the high number of Fitness to Practise complaints we have received from patients and members of the public about dentists and DCPs; and the associated costs of investigating these complaints and holding hearings to determine whether their Fitness to Practise is impaired.”

A6.31 The GDC provides no explanation of how it has calculated its forecast Fitness to Practise costs in 2014 and 2015.

A6.32 In addition, as explained above, we have been unable to verify the historical Fitness to Practise expenditure in 2010 which the GDC refers to as a comparison and hence cannot verify the increase referred to above.
The cost of hearings

A6.33 The GDC provides the following information regarding the duration and costs of hearings:\(^{158}\)

“The most costly part of the Fitness to Practise function is where we hold a full Fitness to Practise hearing involving a registrant. An average hearing lasts 4 days and costs £78,000 (£19,500 per day). The costs incurred in an average £78,000 hearing break down as follows:

- Prosecution costs £33,000
- Counsel fees £4,000
- Venue costs £8,000
- Fitness to Practise Panellist costs £19,000
- Staff costs £14,000

During the past year the length of hearings has ranged from one third of a day (at an approximate cost of £6,500) to 35 days (at an approximate cost of £682,500), depending on the nature of the case being heard.”

A6.34 Although the GDC states that the costs of full hearings is only a part of the cost of its Fitness to Practise function, it provides no information regarding the significance of such hearings as a proportion of the overall cost except for stating that it is the “most costly part”. The GDC does not identify or provide any information regarding other costs. For example, we are provided no information on what the £33,000 Prosecution costs are, and how they differ from staff costs. We also have no justification or explanation for why Panellist costs are so high or why they are significantly higher than Counsel Fees.

A6.35 GDC’s 2013 Annual Report and Accounts states: \(^{159}\)

“In addition, all hearings were hosted at external venues from April 2013 due to the redevelopment of the GDC’s premises at 37 Wimpole Street, at which two of the five hearings suites required were previously located.

Hearings costs increased by £1.2m to £5.7m in 2013.”

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\(^{158}\) CD: Pages 5, 8 and 9.

\(^{159}\) GDC 2013 AR&A: Page 45.
A6.36 It is unclear how much of the increased hearing costs relate to the need to host hearings at external venues during the refurbishment and whether such costs have been excluded for future periods after refurbishment has been completed.

A6.37 The GDC’s Annual Report and Accounts do not provide an analysis of the Fitness to Practise expenditure. However, the 2014 Business Plan provides information regarding five categories of Fitness to Practise costs as set out in FTI Table A6-3 below.

**FTI Table A6-3: Categories of Fitness to Practise costs in the 2014 Business Plan**

<table>
<thead>
<tr>
<th>Cost</th>
<th>Expenditure £m</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hearing costs</td>
<td>6.2</td>
<td>35%</td>
</tr>
<tr>
<td>Legal and professional costs (includes illegal practice costs)</td>
<td>2.0</td>
<td>11%</td>
</tr>
<tr>
<td>Commissioning costs</td>
<td>5.4</td>
<td>31%</td>
</tr>
<tr>
<td>Casework</td>
<td>2.4</td>
<td>14%</td>
</tr>
<tr>
<td>IC (the Investigating Committee)</td>
<td>1.7</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>17.7</strong></td>
<td></td>
</tr>
</tbody>
</table>


A6.38 The above analysis indicates that that the category “hearing costs” was the most costly part of the Fitness to Practise function in the 2014 Business Plan but it only represents 35% of the overall costs. It is not clear whether the GDC’s reference to “hearing costs” in the Consultation Document is consistent with its use of the term in the 2014 Business Plan.

A6.39 The GDC states that the average Fitness to Practise hearing lasts four days, and costs £19,500 per day. The GDC does not provide a source for this statement, or explain whether it is based on historical costs or projections of future costs. As set out below, we have been unable to verify the figures to other information published by the GDC.
A6.40 The Consultation Document’s statement that the average cost of a Fitness to Practise hearing is £19,500 a day appears inconsistent with information set out in the GDC’s 2013 Annual Report and Accounts. As part of its explanation of why Fitness to Practise and hearing costs have increased, the GDC states:  

“A 5% increase in the number of hearings held. 1066 hearing days were scheduled in 2013, compared with 1019 hearing days in 2012. In addition, all hearings were hosted at external venues from April 2013 due to the redevelopment of the GDC’s premises at 37 Wimpole Street, at which two of the five hearings suites required were previously located. Hearings costs increased by £1.2m to £5.7m in 2013.”

A6.41 The above passage clearly states the “hearings costs” were £5.7 million. The context of the passage suggests that the number of hearing days scheduled is referred to in order to provide the reader with additional information relevant to the 5% increase in the number of hearings held. The GDC’s Annual Review and Accounts also states, under a heading “Hearing days in 2013” that the number of scheduled hearing days in 2013 was 1,066.  

Combining this information suggests that the average hearing cost a day in 2013 was £5,347 which is lower than the hearing cost a day of £19,500 stated in the Consultation Document. To the extent hearings are being scheduled but then cancelled, it is unclear how costs associated with the cancelled hearings are treated by the GDC in its calculation of hearing costs in the Consultation Document.

A6.42 The Consultation Document states “An average hearing lasts 4 days.” We have not been able to agree this to information in the GDC’s Annual Report and Accounts. The GDC’s Annual Report and Accounts disclose the average length of an “initial hearing”. It is unclear whether the distinction between the average length of a “hearing” and an “initial hearing” is significant. The average length of initial hearings from 2010 to 2014 is set out in FTI Table A6-4 below.

FTI Table A6-4: Average length of hearing

<table>
<thead>
<tr>
<th>Hearing length</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days</td>
<td>3.0</td>
<td>4.0</td>
<td>4.2</td>
<td>4.5</td>
</tr>
</tbody>
</table>


160 GDC’s 2013 AR&A: Page 45 (first bullet point).
161 GDC’s AR&A: Page 28.
162 Hearing costs in 2013 / number of scheduled hearings in 2013 = £5.7 million / 1,066 = £5,347.
163 CD: Page 8.
The 2014 Business Plan included as part of a strategic objective to deliver “proportionate and targeted regulation” a plan to “Reduce the average number of days per Hearing” by the end of 2014. The Consultation Document does not refer to this objective or the extent to which the objective has or will be achieved.

In an attempt to verify the GDC’s calculation or otherwise understand better the average daily hearing cost, we analysed the expenditure reported in the Financial Statements from 2010 to 2013 in respect of “Fitness to Practise [and Hearings].” As accepted by the GDC, not all the Fitness to Practise expenditure relates to hearing costs. Therefore, assuming that the actual number of hearing days is the same as the scheduled hearing dates, average Fitness to Practise costs per scheduled hearing date ought to be greater than the average hearing costs per day. We set out our calculations in FTI Table A6-5 below.

**FTI Table A6-5: Average Fitness to Practise costs per scheduled hearing date**

<table>
<thead>
<tr>
<th>Year</th>
<th>Fitness to Practise [and Hearings] (see note)</th>
<th>Scheduled hearing days</th>
<th>Average Fitness to Practise costs per scheduled hearing day</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>£12.709m</td>
<td>582</td>
<td>£21,837</td>
</tr>
<tr>
<td>2011</td>
<td>£14.432m</td>
<td>766</td>
<td>£18,841</td>
</tr>
<tr>
<td>2012</td>
<td>£14.323m</td>
<td>1,019</td>
<td>£14,056</td>
</tr>
<tr>
<td>2013</td>
<td>£16.157m</td>
<td>1,066</td>
<td>£15,157</td>
</tr>
</tbody>
</table>

*Note: The paragraph above sets out important assumptions.*


These calculations indicate that for the most recent year reported, 2013, average Fitness to Practise costs (including all costs and not just hearing costs) per scheduled hearing date were less than the average hearing cost per day of £19,500 referred to in the Consultation Document and that the historic trend shows an overall decline.
A6.46 An alternative way of considering the information provided by the GDC is to take the data in respect of the average cost of a Fitness to Practise hearing and multiply it by the projected number of Fitness to Practise hearings and then compare the result with the projected Fitness to Practise costs. Given that the costs of hearings is just part of the total Fitness to Practise costs, we would expect the amount calculated to be less than the projected Fitness to Practise costs set out in GDC Table 1. We set out our calculations for 2014 and 2015 in FTI Table A6-6 below.

**FTI Table A6-6: Comparison of total hearing costs, calculated as number of hearings multiplied by the £78,000 (being the average cost of a hearing stated in the Consultation Document) and projected total Fitness to Practise expenditure in 2014 and 2015**

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected Fitness to Practise expenditure</td>
<td>£31.6m</td>
<td>£38.0m</td>
</tr>
<tr>
<td>Projected Number of Fitness to Practise hearings</td>
<td>296</td>
<td>638</td>
</tr>
<tr>
<td>Average cost of a hearing</td>
<td>£78,000</td>
<td>£78,000</td>
</tr>
<tr>
<td>Implied expenditure on Fitness to Practise hearings</td>
<td>£23.1m</td>
<td>£49.8m</td>
</tr>
<tr>
<td><strong>Implied expenditure on Fitness to Practise hearings as a percentage of total forecast Fitness to Practise expenditure</strong></td>
<td>73%</td>
<td>131%</td>
</tr>
</tbody>
</table>

Sources: CD: pages 8 and 9; and FTI Calculations.

A6.47 The implied expenditure on Fitness to Practise hearings is £11.8 million greater than the projected total Fitness to Practise expenditure. This suggest that the data in the Consultation Document may be unreliable and / or misleading as expenditure on Fitness to Practise hearings cannot be greater than the total Fitness to Practise expenditure.
The number of complaints

A6.48 The GDC states:\(^{166}\)

“The number of cases that we hear has increased since 2010 and we expect further increases in 2014 and 2015 due to the increase in the number of new complaints received over recent years, and the very significant amount of cases already in the Fitness to Practise process and working their way through.

… The significant increase in hearings predicted in 2014 and 2015 is due to a drive to process cases on a more timely basis, the need to clear a backlog of cases and the time lag from the date of a complaint being received by us and the point at which it is heard by a Fitness to Practise committee.”

A6.49 The GDC provides data regarding the number of complaints and hearings in GDC Table 2 which we have reproduced below.

**GDC Table 2: The number of complaints and the number of hearings**

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of complaints</td>
<td>1401</td>
<td>1578</td>
<td>2278</td>
<td>2990</td>
<td>3500</td>
<td>4000</td>
</tr>
<tr>
<td>% increase of complaints on previous year</td>
<td>N/A</td>
<td>13%</td>
<td>44%</td>
<td>31%</td>
<td>17%</td>
<td>13%</td>
</tr>
<tr>
<td>Number of FTP hearings</td>
<td>139</td>
<td>134</td>
<td>149</td>
<td>160</td>
<td>296</td>
<td>638</td>
</tr>
<tr>
<td>% increase in FTP hearings on previous year</td>
<td>N/A</td>
<td>-4%</td>
<td>11%</td>
<td>7%</td>
<td>85%</td>
<td>116%</td>
</tr>
</tbody>
</table>

Source: CD: Page 9; Table 2.

A6.50 The GDC predicts a 17% increase in the number of complaints in 2014, and a 13% increase in 2015.\(^{167}\) The GDC does not explain the basis for its forecasts save for stating that its predictions are “based on current trends”.\(^{168}\) The GDC provides no explanation as to what trends it has identified and relies upon.

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\(^{166}\) CD: Page 9.

\(^{167}\) CD: page 9.

\(^{168}\) CD: Page 9.
A6.51 As shown in Figure A6-1 below, comparing the GDC forecast figures for 2014 and 2015 with a trend line\textsuperscript{169} based on the number of complaints in 2010 to 2013 suggests that the GDC forecasts are a simple extrapolation upwards based on the previous three years with the figures rounded to the nearest 100. The inclusion of the trend line does not indicate that we are of the view that it is appropriate to project the level of complaints in this manner. It is included as part of our attempt to understand the GDC’s projections.

Figure A6-1: Total and forecast complaints, 2010 – 2015

\begin{figure}
\centering
\includegraphics[width=\textwidth]{figureA6-1.png}
\caption{Total and forecast complaints, 2010 – 2015}
\end{figure}

\textit{Note: The trend line has been determined using linear regression.}
\textit{Source: CD: Page 9; Table 2 for the actual and GDC’s forecast complaints.}

\textsuperscript{169} Calculated by linear regression least squares method.
From the above, it appears that the GDC may have projected future complaints on the basis that the increases will simply continue in the same manner as they did from 2010 to 2013. The GDC does not explain in the Consultation Document why it has made that assumption, if that is the case, and does not explain why it has departed from the approach set out in its 2014 Business Plan. When setting the 2014 budget, the GDC stated:\textsuperscript{170}

“Based on the rate of growth in new complaints received in 2011, 2012 and the first quarter of 2013, the forecast total for 2013 has been projected at 3,002 new complaints (a 31\% increase on 2012).

For the purposes of the proposed budget, a ‘zero growth’ scenario has been assumed whereby 3,002 new complaints are received in 2014, equal to the number received in 2013. It is not unusual for fitness to practise complaint levels to plateau after years of growth, however, it is also possible that the actual level of new complaints received in 2014 will be somewhere between ‘zero growth’ (3,002 complaints) and a growth pattern commensurate with the three previous years (4,125 complaints).

The draft budget provides for resources sufficient to handle the caseload if it levels out in 2014. Careful monitoring of the caseload will be necessary to respond with additional resources should there be further growth in fitness to practise complaints in 2014 and if there is an increase in referrals for a hearing leading to an increase in actual hearings during 2014.

Approval will be sought from the new Council for any additional resources necessary which would be funded out of reserves.”

In fact, the actual number of complaints in 2013 was 2,990, marginally lower than the 3,002 complaints projected for 2013 in the 2014 Business Plan. Therefore, it not clear why, on the basis of the results at the end of 2013, the GDC would depart from its prediction that complaints would “plateau”. The GDC’s 2013 Annual Report and Accounts, dated June 2014 states:\textsuperscript{171}

“We need to get a better understanding of the reasons behind the sharp upward trend in complaints, what it says about the standards of dental care, and how best to manage what is a very costly operation.”

\textsuperscript{170} 2014 BP: Annex B, Page 3; 21 to 24.
\textsuperscript{171} GDC 2013 AR&A: Page 8.
A6.54 We are unaware whether the GDC has undertaken the work required to gain a better understanding of the reasons for historical changes in the level of complaints and determine how best to manage its Fitness to Practise activities and, if it has done so, whether its findings have been incorporated into the projections in the Consultation Document, which is silent on these matters.

A6.55 The Consultation Document does not set out any actual complaints data for 2014 and hence it appears reasonable to assume that actual data for 2014 does not form the basis of GDC’s projections. Nonetheless, we note that the GDC has published its Q1 2014 Financial Performance Review which states:

> "Increased expenditure for Fitness to Practise

The original 2014 budget provided for fitness to practise complaints received in 2014 to be at the same level as the number received in 2013 - some 3,000 cases – an assumption that appeared more reasonable with evidence that the level of complaints was easing off during Q2 and Q3 2013.

However, since then, the number of FtP cases received has increased with 299, 250 and 286 new cases received in January, February and March 2014 respectively. Projecting forward on a rolling 12 month basis (see chart at Annex B), the Q1 trend suggests that we may receive some 3,700 FtP cases in 2014."

A6.56 We have not verified the trend referred to as the document does not provide the data used in GDC’s calculation. The projection assumes that complaints will continue to increase and that the GDC’s observation that “It is not unusual for fitness to practise complaint levels to plateau after years of growth”173 will not apply.

A6.57 In addition, in a press release by the GDC dated 20 June 2014, which predates when the Consultation Document was issued, the GDC refers to the level of complaints in Q1 2014 compared to the same period in 2013 stating:

> “In the first quarter of 2014 it [the GDC] received 846 complaints (a 5.49% increase on the same period in 2013). This decision by the Department of Health is a significant step forward in allowing real improvements to be made to how the GDC manages the complaints it receives.”

172 GDC, Q1 2014 FPR, page 1 Page 4: 8 and 9.


174 GDC Press Release 20 June 2014 “Department of Health signals urgent legislative change to streamline fitness to practise procedures”.

The observed increase of 5.49% for the first quarter of 2014 compared with the first quarter of 2013, is less than the 17% increase for 2014 compared with 2013 projected in the Consultation Document. If the number of complaints for 2014 and 2015 is calculated on the basis of a 5.49% increase each year, it results in estimates of 3,154 in 2014 and 3,327 in 2015. This contrasts to projections of 3,500 and 4,000 for 2014 and 2015 in the Consultation Document. Any lower level of complaints projected from 2014 and 2015 would presumably also affect the 2016 and 2017 estimates, although the GDC does not state its projections of those years. (As set out in Section 4, the Consultation Document does not state the GDC’s projections of complaints in 2016 and 2017 but it appears that the increases may just be for inflation rather than in respect of any forecast increased activity).

From information available, we are unable to determine whether complaints will continue to rise, or indeed fall. Were the complaints to plateau at the level of complaints received in Q1 2014, this would equate to 3,340 complaints for the full year, 160 complaints less than projected for 2014 in the Consultation Document. This would represent a 12% increase on the level of complaints in 2013 rather than the 17% increase forecast. Were the level also to remain constant in 2015, this would result in 660 less complaints in 2015 than projected in the Consultation Document and probably similarly less complaints in 2016 and 2017. This assumes that GDC is projecting that complaints in 2016 and 2017 will remain the 2015 level. The Consultation Document does not set out projected complaints in 2016 and 2017.

175 CD: Page 9; Table 2.
176 1.0529 x actual number of complaints received in 2013 = 1.0549 x 2,990 = 3,154.
177 1.0529^2 x actual number of complaints received in 2013 = 1.0549^2 x 2,990 = 3,327.
178 Complaints for Q1 2014 x four quarters = (299 + 250 + 286) x 4 = 3,340 complaints for 2014.
179 (3,340 - 2,990) / 2,990 x 100% = 12%.
**The number of hearings**

A6.60 FTI Table A6-7 below shows the number of hearings, as a percentage of the number of complaints received each year:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of complaints received</th>
<th>Number of FTP hearings</th>
<th>Hearings as a percentage of complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>1,401</td>
<td>139</td>
<td>10%</td>
</tr>
<tr>
<td>2011</td>
<td>1,578</td>
<td>134</td>
<td>8%</td>
</tr>
<tr>
<td>2012</td>
<td>2,278</td>
<td>149</td>
<td>7%</td>
</tr>
<tr>
<td>2013</td>
<td>2,990</td>
<td>160</td>
<td>5%</td>
</tr>
<tr>
<td>2014</td>
<td>3,500</td>
<td>296</td>
<td>8%</td>
</tr>
<tr>
<td>2015</td>
<td>4,000</td>
<td>638</td>
<td>16%</td>
</tr>
</tbody>
</table>


A6.61 There is a larger percentage increase in the number of hearings, compared to the percentage increase number of complaints, in 2015. The Consultation Document indicates possible reasons stating:

> “The significant increase in hearings predicted in 2014 and 2015 is due to a drive to process cases on a more timely basis, the need to clear a backlog of cases and the time lag from the date of a complaint being received by us and the point at which it is heard by a Fitness to Practise committee.”

A6.62 The 2013 Annual Report and Accounts refers to an increase in the number of complaints waiting for a first hearing from 125 at the end of 2012, to 168 at the end of 2013.\(^\text{181}\) This may be the “backlog” referred to in the quote above. However, the backlog may well refer to wider matters than just complaints waiting for a first hearing and, even if this backlog were completely cleared by the end of 2015, there would still be an unexplained increase in the number of hearings in 2015.

A6.63 It is our understanding that the majority of complaints received by the GDC do not require a formal hearing by one of its committees. The GDC operates a triage system, whereby any complaints relating to a potential impairment of Fitness to Practise are reviewed by an investigating committee panel. The panel then refers more serious cases to one of three practice committees for a formal hearing. We assume that the Fitness to Practise hearings mentioned in the Consultation Documents refer to hearings conducted by the three practice committees: the Professional Performance Committee, the Professional Conduct Committee and the Health Committee.\(^\text{182}\)

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\(^\text{180}\) CD: page 9.


\(^\text{182}\) GDC 2013 AR&A: Page 23.
Furthermore, the extract from the 2014 Business Plan below goes on to acknowledge what it describes as a number of detailed key assumptions which underpin the business plan and budget:

“25. Other key assumptions include:

a. 39% of new cases closed at the triage stage, based on 39% closed on average from Q1 2012 – Q1 2013, and no consistent trend in the closure rate (Q1 2012 - 46%, Q2 2012 – 22%, Q3 2012 - 38%, Q1 2013 - 44%)

b. 32% of cases closed at the assessment stage, based on 37% closed in 2012 overall, 29% in Q3 and Q4 2012 and 35% in Q1 2013.

c. An estimated 1,635 cases will be listed for Investigating Committee in 2014 (to include adjourned cases and cases subject to a Rule 10 decision at hearings stage), compared with 605 cases in 2012 and 1,635 cases in 2013.

d. The option of closing certain (clearly defined) single patient complaints at the assessment stage, rather than referring the matter to the Investigating Committee, is being considered. Analysis of a sample of cases indicated that around 12 -13% fell into this category. While further validation of the data, consultation with key stakeholders on the design and implementation of a new process will be necessary, early indications are that £200,000 of savings are achievable.

e. The number of cases that it is assumed will be prosecuted in 2014 is 190 cases, increased from 108 cases in 2012. The In-house legal team will handle 25% of that caseload by the end of 2013, increasing to 50% of new referrals by quarter 3 of 2014.

f. 1,124 scheduled hearing days (equivalent to 5 concurrent hearings) to hear a minimum of 190 cases (the number of cases heard would increase with a reduction in lost and wasted days), compared with 1,019 days in 2012 and 1,050 days in 2013.

g. An additional 28.6 full time equivalent (FTE) employees are needed to handle the increased workload across the directorate.

h. The recruitment and training of a new panel of Investigating Committee members”

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A6.65 The high number of assumptions and the detail provided in the business plan serve to show how complex the process of forming projections is. It follows that it is likely that a good deal of additional information is needed in order to understand how the GDC has calculated the number of projected hearings in 2014 and 2015 and beyond. In the absence of that information, the Consultation Document lacks transparency about the method used to estimate the number of hearings that will take place and the assumptions that have been incorporated.
Appendix 7
The GDC’s statements regarding the funding gap

Introduction

A7.1 In this appendix, we consider the information set out by the GDC in the section of the Consultation Document headed “The funding gap – What is the difference between our ARF income and our expenditure in 2015?”184 in which the GDC:

(1) states that it is no longer sustainable for the GDC to avoid increasing fees which have remained unchanged since 2010; and

(2) sets out its projection of its total income and expenditure and the resulting funding gap in 2014 to 2017 if the ARF remains at £576 for dentists and £120 for DCPs.

A7.2 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary of conclusions

A7.3 The GDC has not provided any information in support of its projections of total income or the amounts it anticipates receiving from each source of income.

A7.4 The GDC has not provided adequate information in support of its projected expenditure in 2014 and 2015 and no information in support of its projected expenditure in 2016 and 2017 (see Section 4 and Appendices 6 and 11).

A7.5 Consequently, the illustrative funding gap if the ARF is not increased is not adequately supported.

A7.6 From 2010 to 2013 (the last year for which accounts have been published), the GDC has increased its reserves by £4 million. In our view, this increases the need for the GDC to provide additional information sufficient to explain adequately the step change in its projected operations and costs from 2014 onwards.

184 CD: Page 10.
The GDC’s illustration of the funding gap which would arise absent an increase in fee levels

A7.7 The GDC’s Table 3, as reproduced below, sets out the GDC’s view of the funding gap that would develop for each year from 2014 to 2017 absent an increase in fee levels.

**GDC Table 3: Funding gap if the ARF remained at £576 for dentists and £120 for DCPs**

<table>
<thead>
<tr>
<th>£m</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total income</td>
<td>31.7</td>
<td>32.0</td>
<td>32.2</td>
<td>32.4</td>
<td></td>
</tr>
<tr>
<td>Expenditure</td>
<td>37.6</td>
<td>44.1</td>
<td>45.3</td>
<td>46.4</td>
<td></td>
</tr>
<tr>
<td>Funding gap</td>
<td>(5.9)</td>
<td>(12.1)</td>
<td>(13.1)</td>
<td>(14.0)</td>
<td>(45.1)</td>
</tr>
</tbody>
</table>

Sources: CD: Table 3.

Projected Income

A7.8 The GDC does not set out any calculations in support of its projections of total income. Nor does it provide details of the sources of income and the amounts it expects to derive from each source.

Projected Expenditure

A7.9 The projected expenditure for 2014 and 2015 agrees to the projections set out in GDC’s Table 1 (see Appendix 6).

A7.10 No information is provided in support of the level of projected expenditure in 2016 and 2017. GDC does not explain its projections. They may be based on the 2015 projection increased each year for inflation (see Appendix 11).

Movements in reserves since 2010

A7.11 We consider information provided by the GDC regarding its general reserves in Appendix 10. The GDC’s reported results indicate that its general reserves increased in 2011 and 2012 and that from 2010 to 2013 they increased by £4 million.

A7.12 The 2014 budget in the 2014 Business Plan projected a deficit for 2014 of £3 million. The GDC has not explained adequately its revised projection that its funding gap will be £5.9 million in 2014 or its projected deficits for subsequent years if the ARF is not increased.

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185 2014 BP: Page 2; Paragraph 2.
Appendix 8
The GDC’s statements regarding costs savings introduced to reduce the funding gap

Introduction

A8.1 In this appendix, we consider the information set out by the GDC in the section of the Consultation Document headed “What cost savings have we introduced to reduce the funding gap?” in which the GDC:

(1) explains the relevance of cost savings;
(2) sets out actual and projected cost savings in 2011 to 2015;
(3) provides four examples of efficiency measures implemented since 2011; and
(4) comments on expected savings in 2016 and beyond.

A8.2 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary of conclusions

A8.3 In summary, our conclusions are that:

(1) the GDC correctly identifies the relevance of cost savings and refers to its commitment to explaining its work to save costs;
(2) the GDC has not provided adequate information to support the cost savings it states it achieved in 2011 to 2013 and the cost savings it is projecting in 2014 to 2015;
(3) the information provided in the four examples of efficiency measures implemented since 2011 is insufficient to understand the total annual savings achieved in 2011 to 2013 and does not form a basis for predicting achievable future cost savings; and
(4) the GDC has not provided any indication of expected cost savings for 2016 and 2017.
A8.4 Further information is required in order to understand whether the GDC has reviewed adequately its projected activities to identify and quantify efficiencies and other savings and incorporated the results into its projected expenditure for 2014 to 2017. It appears that there is a particular need for the GDC to have conducted a thorough review of efficiencies and other cost savings, potentially including changes in resourcing and operational procedures, in circumstances where an increase of 64% in the ARF charged to dentists is being proposed apparently based on a step change in Fitness to Practise activity.

The relevance of cost savings

A8.5 The GDC correctly identifies the relevance of cost savings and refers to its commitment to explaining its work to save costs, stating:187

“In our ARF policy consultation we stated that we would explain each year what we have done and what we intend to do to keep our costs down so that we can avoid having to raise fees. Implementing efficiency measures that result in cost savings is another way of reducing the funding gap as it reduces the overall amount of expenditure needed each year.”

Actual and projected cost savings in 2011 to 2015

A8.6 The Consultation Document includes a table, reproduced below, of its actual cost savings in 2011 to 2013 and projected cost savings for 2014 to 2015.

GDC Table 4: Reducing the funding gap through cost savings 2011 - 2015

<table>
<thead>
<tr>
<th>Year</th>
<th>Cost savings: achieved/projected</th>
<th>% of annual expenditure</th>
<th>Accumulated cost savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>£0.8m</td>
<td>2.8%</td>
<td>£0.8m</td>
</tr>
<tr>
<td>2012</td>
<td>£2.6m</td>
<td>8.5%</td>
<td>£3.4m</td>
</tr>
<tr>
<td>2013</td>
<td>£3.2m</td>
<td>9.4%</td>
<td>£6.6m</td>
</tr>
<tr>
<td>2014</td>
<td>£2.6m</td>
<td>6.6%</td>
<td>£9.2m</td>
</tr>
<tr>
<td>2015</td>
<td>£1.7m</td>
<td>3.2%</td>
<td>£10.9m</td>
</tr>
</tbody>
</table>

Source: CD: Page 11.

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187 CD: Page 11.
A8.7 We have agreed the cost savings and savings as a percentage of annual expenditure in 2011 to 2013 to the corresponding Annual Report and Accounts.\textsuperscript{188} We have also agreed the accumulated cost savings to the data provided elsewhere in the Consultation Document.

A8.8 The GDC’s targeted savings of £2.6m in 2014 are consistent with the GDC’s expectation set out in its 2013 Annual Report and Accounts.\textsuperscript{189} However this is inconsistent with the GDC’s forecast of a £3.9m savings in its 2014 Business Plan.\textsuperscript{190}

A8.9 We are unable to find any basis to support the projected savings of £1.7 million in 2015, which is a decline from the cost savings of £3.9 million in 2013. This reduction is not explained by the GDC.

A8.10 Cost savings as a percentage of annual expenditure for 2014 and 2015 are inconsistent with data presented elsewhere in the Consultation Document. Taking the cost savings data in GDC Table 4 and total expenditure in GDC Tables 1 and 3. On the basis of the data provided, the percentages should be 6.9\% for 2014 and 3.9\% for 2015.\textsuperscript{191}

A8.11 It is also unclear regarding the extent to which the GDC has, or ought to, incorporate cost savings likely to arise from legislative changes (see Appendix 9).


\textsuperscript{189} GDC 2013 AR&A; Page 46.

\textsuperscript{190} GDC 2014 Business Plan: Annex B; Page 5.

\textsuperscript{191} 2014: £2.6 million / £ 37.6 million x 100\% = 6.9\%. 2015: £1.7 million / £ 44.1 million x 100\% = 3.9\%.
Examples of efficiency measures implemented since 2011

A8.12 The GDC provides four examples of efficiency measures implemented since 2011. These are listed below:\textsuperscript{192}

\begin{itemize}
  \item \textit{Re-tender of the Fitness to Practise external legal services contract to reduce costs (£2m to date)}
  \item \textit{Reduction in the size of some hearings panels from 5 panellists to 3 (£1.2m to date)}
  \item \textit{Renegotiation of certain committee members’, panellists’ and quality assurance inspectors’ tax status with HMRC to reduce income tax and National Insurance costs (£1.2m to date)}
  \item \textit{A proportion of Fitness to Practise cases are now conducted by an in-house legal team, rather than external law firms (£0.5m per annum, estimated).} \textsuperscript{192}
\end{itemize}

A8.13 The GDC does not provide any support for the above savings and we have been unable to identify corroborating evidence in other documents issued by the GDC.\textsuperscript{193} The Annual Report and Accounts do not categorise historical cost savings.

A8.14 The GDC does not provide details of efficiency measures beyond the above examples and does not explain its projections of future cost savings. Consequently, we are unable to verify the GDC’s statement that:\textsuperscript{194}

\textit{“We expect to have reduced the overall expenditure of the GDC by £10.9m between 2011 and 2015.”}

A8.15 Therefore, although the GDC provides four examples of efficiency measures implemented since 2011, the information provided is insufficient to understand the total annual savings set out in GDC Table 4.

\textsuperscript{192} CD: Page 11.

\textsuperscript{193} We have reviewed GDC AR&A for 2011, 2012 and 2013. We have found reference to these measures but not confirmation of the savings made.

\textsuperscript{194} CD: Page 11.
Expected savings in 2016 and beyond

A8.16 Although the GDC states that the savings “will continue to accumulate into 2016 and beyond” it provides no detail as to the specific savings incorporated into its projections for expenditure in 2016 and 2017, which years impact the proposed level of the ARF in 2015. Consequently it is not possible for us to verify the Council’s statement that “If we had not done this, we would now need to raise the ARF level for dentists to £1,122 and for DCPs to £151.”

A8.17 As noted above, it is unclear the extent to which the GDC has, or ought to, incorporate cost savings likely to arise from legislative changes (see Appendix 9).
Appendix 9
The GDC’s statements regarding the need for legislative changes to improve its Fitness to Practise processes and reduce the funding gap

Introduction

A9.1 In this section, we consider the information set out by the GDC in the section of the Consultation Document headed “The need for legislative changes to improve our Fitness to Practise processes and reduce the funding gap.”¹⁹⁷

A9.2 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary conclusions

A9.3 The Consultation Document provides no indication or assessment of the likelihood that the lobbied changes, which it states could save it up to £8 million a year, will occur in the future.

A9.4 The GDC provides no analysis of the expected savings from the different changes that are mentioned.

A9.5 It is not clear whether anticipated savings from potential future legislative changes have been taken into account by the GDC when projecting its expenditure for 2015 to 2017 (discussed in Appendix 8).

¹⁹⁷ CD: page 12.
The GDC’s views on legislative changes

A9.6 The GDC indicates that legislative changes would improve its Fitness to Practise processes and reduce the funding gap. The GDC does not detail what changes to legislation it has been lobbying for but notes that the cost savings could be substantial, stating:\textsuperscript{198}

“We have been urging Government for the last three years to implement specific changes to our Fitness to Practise processes. We estimate that these changes could reduce our Fitness to Practise costs and produce a substantial saving, in the region of £8.0m a year.”

A9.7 The GDC is not explicit on this point, but it appears that it has not taken any savings into account that could arise from legislative changes when projecting its expenditure for 2015 to 2017. Additional information is required to clarify these matters and to conclude what cost savings, if any, should be factored into the GDC’s expenditure projections. We say this because the Consultation Document:

(1) refers to a lack of a Bill to reform the relevant legislation in June 2014\textsuperscript{199} but the Consultation Document is silent on the likelihood of such a Bill being introduced at the next state opening of Parliament following the General Election on 7 May 2015;\textsuperscript{200}

(2) states that it is urging the Government to amend the Dentists Act 1984 by way of a Section 60 Order to effect the most urgent changes.\textsuperscript{201} However, the Consultation Document provides no assessment of the likelihood that this will occur, its impact on costs, and whether any potential cost savings have been included in the projected expenditure. The Consultation Document states that one (unspecified) significant change on its own would enable it to save up to £2 million a year but does not explain this further or set out the total cost savings that would arise from changes that could be made by amending the Dentists Act 1984 by way of a Section 60 order.

A9.8 We note that the ARF Key Facts Document indicates that the Government has brought forward a Section 60 Order (see Appendix 13). However, point (2) above suggests that the related savings may not have been taken into account in the GDC’s expenditure projections.

\textsuperscript{198} CD: Page 12.
\textsuperscript{199} CD: Page 12.
\textsuperscript{200} http://www.parliament.uk/about/how/occasions/stateopening/
\textsuperscript{201} CD: Page 12.
In addition, we note that a paper prepared by the GDC titled “Proposed Section 60 Order” (“the GDC’s Section 60 Paper”) refers to potential changes that could result from the proposed Section 60 Order and referred to savings estimated at £1.8 million a year stating:\textsuperscript{202}

“Case examiners would improve the initial stages of the FtP process by removing the requirement for all cases beyond the assessment stage to be referred to an Investigating Committee (IC). Case examiners would offer increased agility, speed and consistency of decision-making. They would result in faster investigation of cases, as the IC (which is a slower and more expensive process) would only need to consider cases where the case examiners were unable to reach a unanimous decision. They and the IC would have powers to accept undertakings from registrants where this was the best outcome for the protection of patients. These changes would reduce costs by an estimated £1.8m a year, when fully implemented, and result in a process that was quicker and thus more beneficial for both informants and registrants”\textsuperscript{202}

On the matter of timing of implementation and cost savings, the GDC’s Section 60 Paper states:\textsuperscript{203}

“It is assumed that it will take a minimum of 18 months for a section 60 process to be completed and rules made and confirmed, before the improvements could be implemented by the GDC. Therefore the earliest that this saving could begin to accrue would be January 2016. However, only some 30% of the achievable savings would be secured in the first 12 months of operating the new system, whilst cases scheduled to be heard by an IC work their way through the current process. Implementation costs of the new process are likely to be less than £400,000, including rules drafting, implementation management, Policy & Communications involvement and changes to the CRM system.”\textsuperscript{203}

\textsuperscript{202} GDC S60 Paper: Paragraph 3.

\textsuperscript{203} GDC S60 Paper: Paragraph 46.
A9.11 On 20 June 2014, the GDC issued a press release which included reference to process changes, reduced costs and an expectation that the Order will be in place by May 2015:

“The General Dental Council (GDC) is pleased that the Department of Health has recognised the need for urgent change to streamline its fitness to practise processes with the announcement this week of its intention to publish a Section 60 Order.

By means of this Order the GDC can amend its current legislation (The Dentists Act 1984) to allow it to introduce a key change - case examiners - aimed at improving the speed of decision making in the interests of patient protection and reducing costs.

The GDC’s complaints caseload has increased by more than 100% since 2011.

In the first quarter of 2014 it received 846 complaints (a 5.49% increase on the same period in 2013). This decision by the Department of Health is a significant step forward in allowing real improvements to be made to how the GDC manages the complaints it receives.

It is expected that the Order will be in place by May 2015.”

A9.12 The press release also includes a statement from the Chief Executive and Registrar of the GDC, Evlwyn Gilvarry, which refers to planned operational improvements in the handling of cases:

“The GDC recognised in 2011 that it needed to make significant changes to its fitness to practise processes. The ongoing increase in complaints, at around 110% in the last 3 years, has made this an ever more pressing issue. We are extremely pleased that the Department of Health has made this decision. At the same time we are working hard to make operational improvements to the way we handle cases and this is a key priority going forward.”

A9.13 The above press release was issued prior to the Consultation Document, but it is not clear what savings have been incorporated into the expenditure requirements for 2015 to 2017 on which the proposed increase in the ARF is based.
Appendix 10
The GDC’s statements regarding whether it can use its financial reserves to reduce the funding gap

Introduction

A10.1 In this section, we consider the information set out by the GDC in the section of the Consultation Document headed “Can we use our financial reserves to reduce the funding gap?” in which the GDC:

(1) explains how funding reserves may be used in order to reduce any gap between income and expenditure and sets out its reserves policy;

(2) explains the GDC’s requirement to maintain financial reserves; and

(3) presents historical and projected financial reserves for 2010 to 2017.

A10.2 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary of conclusions

A10.3 It is beyond the scope of this Advisory Report to examine whether the GDC’s reserve policy of setting a target level for reserves within a range of four to six months of annual operating expenditure is appropriate. However, it appears that, leaving aside the stated policy, there is the potential for the GDC to utilise borrowing powers and capabilities and realise investments, which it could convert to cash without exit penalties, to fund its operations. This provides the GDC with potential short term flexibility.

A10.4 The projected reserves for 2014-2017 differ from those in the 2014 Business Plan. As discussed elsewhere in this document, the GDC has not provided adequate explanation for its projections of income and expenditure and why it has seen fit to amend its forecasts from those set out in the 2014 Business Plan.
How funding reserves are used / the GDC’s reserves policy

A10.5 The GDC states that it can reduce any gap between its income and expenditure by using its financial reserves built up over time in accordance with its reserves policy stating\textsuperscript{205}:

“The Reserves Policy agreed by the Council has regard for the objectives of the GDC in pursuit of our statutory and regulatory responsibilities, risks to the income and expenditure of the GDC and planned major capital spending programmes. In setting a target level, the Council considered that reserves within a range of four to six months of annual operating expenditure were appropriate. This range is subject to annual consideration by the Council’s Finance and Performance Committee when it proposes the budget for the following year to the Council.”

A10.6 The reference to a target of a minimum reserve of four months of operating expenditure is consistent with the GDC’s comments in the 2014 Business Plan\textsuperscript{206}.

The GDC’s requirement to maintain financial reserves

A10.7 We disagree with the GDC’s statement that:

“It is a generally accepted accounting policy to maintain financial reserves generated from past surpluses of income over expenditure.”

A10.8 It is for each entity to determine its own policy on such matters.

A10.9 The GDC states that, although it has used its reserves to reduce the gap between its income and expenditure at certain points over the past three years, its current reserves will fall below prudent levels unless the ARF is increased.

\textsuperscript{205} CD: Page 13 (footnote 3).

\textsuperscript{206} 2014 BP: Annex B, paragraph 39.
A10.10 It is beyond the scope of this Advisory Report to examine whether the GDC’s reserves policy is appropriate. Leaving aside that policy, it appears that the GDC has the potential to utilise borrowing powers and realise investments, which it could convert to cash, to fund its operations. The 2014 Business Plan refers to:

(1) a forecast closing cash balance for 2013 of £22.6 million (the actual year-end balance was £26.5 million);
(2) potential for arranging short term bank funding to cover cash requirements; and
(3) £13.6 million of realisable assets under management by Smith & Williamson which could be converted into cash, with no exit penalties.

A10.11 Whilst in the long term the GDC will need to ensure that its income covers its expenditure, the situation referred to above suggests that the GDC may have some flexibility to set the ARF at a lower level and then keep the situation under review. Insufficient information is provided for us to provide a view as to whether it would be sensible for the GDC to exercise that flexibility as the Consultation Document:

(1) contains insufficient information to enable us to assess whether the GDC’s projections of its funding requirements are reasonable; and
(2) does not set out an analysis of possible operational outcomes, their likelihoods, and the associated funding implications.

The GDC’s historical and projected financial reserves for 2010 to 2017

A10.12 The GDC sets out its reserves for 2010 to 2013 and its projected reserves for 2014 to 2017 on the basis of the ARF remaining unchanged.

A10.13 The actual figures presented for 2010 to 2014 agree to the “General reserve” reported in the GDC’s Annual Review and Accounts for the associated years. The reserves figures referred to by the GDC exclude its unrealised gains on investment reserve (£1.1 million as at December 2013) or its pension reserve (£5.2 million as at December 2013).
A10.14 As shown in FTI Table A10.1 below, there is a significant difference between the projected reserves in the Consultation Document and those set out in the 2014 Business Plan:

**FTI Table A10-1: Reserves: 2010-2017 if ARF levels remain the same**

<table>
<thead>
<tr>
<th>Year</th>
<th>Consultation Document: Reserves £m</th>
<th>Annual Reports &amp; 2014 Business Plan: General Reserves £m</th>
<th>Actual/Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>11.2</td>
<td>11.2</td>
<td>Actual</td>
</tr>
<tr>
<td>2011</td>
<td>13.6</td>
<td>13.6</td>
<td>Actual</td>
</tr>
<tr>
<td>2012</td>
<td>15.9</td>
<td>15.9</td>
<td>Actual</td>
</tr>
<tr>
<td>2013</td>
<td>15.2</td>
<td>15.2</td>
<td>Actual</td>
</tr>
<tr>
<td>2014</td>
<td>9.3</td>
<td>11.4</td>
<td>Projected</td>
</tr>
<tr>
<td>2015</td>
<td>(2.9)</td>
<td>4.5</td>
<td>Theoretical Projection</td>
</tr>
<tr>
<td>2016</td>
<td>(16.0)</td>
<td>(3.3)</td>
<td>Theoretical Projection</td>
</tr>
<tr>
<td>2017</td>
<td>(30.0)</td>
<td>n/a</td>
<td>Theoretical Projection</td>
</tr>
</tbody>
</table>

*Note: The Business Plan and Budget indicated that the GDC assumed no increase in the ARF.*

*Source: CD: Table 5, and GDC AR&A 2011; Page 47; 2012; Page 51; 2013: Page 61 (Actual data) and 2014 BP: Annex B, page 9 (Projected data).*

A10.15 The annual movement in general reserves depends on the projected surplus or deficit for each year. As discussed earlier in this report, the GDC has not provided adequate explanation of how and why the projections have changed since it prepared the 2014 Business Plan.
Appendix 11
The GDC’s statements regarding what this will mean for the Annual Retention Fee level for dentists and DCPs in 2015

Introduction

A11.1 In this section, we consider the information and calculations set out by the GDC in the section of the Consultation Document headed “What will this mean for the Annual Retention Fee (ARF) for dentists and DCPs in 2015?” in which the GDC sets out information regarding:

(1) the total expenditure to be funded by the ARF in 2015 to 2017, including (a) expected expenditure and (b) adjustments for: the projected funding gap in 2014, the projected investment income and the projected income from first time registrations, restorations and specialists;

(2) the allocation of the total expenditure between dentists and DCPs; and

(3) the division of the allocation of total expenditure between the average number of registrants paying the ARF, the result being a proposed ARF in 2015 of £945 for dentists and £128 for DCPs.

A11.2 We include reference to publicly available information published by the GDC on its website, but do not take into account the additional material set out in the GDC’s PAP Response and the GDC’s FOI Response, considered in Sections 7 and 8.

Summary conclusions

A11.3 The GDC’s expenditure projections for 2015 to 2017 are not adequately explained or supported.

A11.4 The projected deficit for 2014 of £5.9 million which the GDC is planning to recover from the ARF in 2005 to 2017 is not adequately explained or supported.

A11.5 The projected investment income of £1.2 million during 2015 to 2017, deducted when calculating the amount to be funded by the ARF, is not adequately explained or supported, but is broadly in line with historic levels.

211 CD: pages 15 and 16.
A11.6 Projected income from first time registrations, restorations and specialists is not adequately explained or supported.

A11.7 The method of allocating the projected ARF for 2015 and 2017 between dentists and DCPs is not adequately explained or supported.

A11.8 The GDC does not explain how it has reached its estimates of 39,133 dentists and 61,285 DCPs.

The total expenditure to be funded by the ARF in 2015 to 2017: expected expenditure

A11.9 To calculate the 2015 ARF, the GDC first sums its projected expenditure from 2015 to 2017. We reproduce the first part of the GDC’s Table 6, showing projected expenditure from 2015 to 2017 below.

GDC Table 6 (Part 1): Projected expenditure in 2015 to 2017

<table>
<thead>
<tr>
<th>Function</th>
<th>2015 £m</th>
<th>2016 £m</th>
<th>2017 £m</th>
<th>Total £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness to Practise</td>
<td>38.0</td>
<td>39.0</td>
<td>40.0</td>
<td>117.0</td>
</tr>
<tr>
<td>Registration</td>
<td>4.0</td>
<td>4.1</td>
<td>4.2</td>
<td>12.3</td>
</tr>
<tr>
<td>Quality Assurance</td>
<td>1.3</td>
<td>1.3</td>
<td>1.4</td>
<td>4.0</td>
</tr>
<tr>
<td>Dental Complaints Service</td>
<td>0.8</td>
<td>0.8</td>
<td>0.8</td>
<td>2.4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>44.1</strong></td>
<td><strong>45.2</strong></td>
<td><strong>46.4</strong></td>
<td><strong>135.7</strong></td>
</tr>
</tbody>
</table>

Sources: CD: page 16.

A11.10 We discuss the projected expenditure in 2015 in Appendix 6 above and conclude that the amounts are not adequately explained or supported.
A11.11 The GDC does not set out any information or calculations in support of the projected expenditure in 2016 and 2017. It appears that the GDC may be simply increasing its projected expenditure for 2015 by approximately 2.5% each year, possibly to allow for inflation.\textsuperscript{212} If that is the case, the approach assumes that operational activity will remain at the level in 2015 which may not be appropriate. For example, when discussing its 2015 Fitness to Practise function for 2015, the GDC states that it needs to clear a backlog of cases.\textsuperscript{213} Once such a backlog is cleared the required activity would reduce to reflect the need to process only cases arising from new complaints.

A11.12 The GDC states in the next section of the Consultation Document:\textsuperscript{214}

“The proposed ARF assumes that the volume of complaints (and therefore Fitness to Practise costs) in 2016 and 2017 do not increase at the rates they are expected to increase in 2014 and 2015.”

A11.13 The Consultation Document is not explicit regarding what rate of increase, if any, is assumed.

\textsuperscript{212} It is not possible to determine the exact increase as the projected expenditure is rounded:
Increase in 2016 / Expenditure in 2015 x 100% = £45.2 million - £44.1 million / £44.1 million x 100% = 2.5% and Increase in 2017 / Expenditure in 2016 x 100% = 46.4 million -£45.2 million / £45.2 million x 100% = 2.7%

\textsuperscript{213} CD: Page 9.

\textsuperscript{214} CD: Page 17.
The total expenditure to be funded by the ARF in 2015 to 2017: adjustments to expected expenditure

A11.14 To determine expenditure to be funded by the ARF over the three years 2015 to 2017, the GDC makes three adjustments to its total expenditure in 2015 to 2017:

(1) as set out in Section 3, the GDC adds its projected funding gap in 2014 to its projected expenditure in 2015 to 2017. The GDC projects a 2014 funding gap of £5.9 million, calculated as the difference between projected income of £31.7 million less projected expenditure of £37.6 million.\(^{215}\) In our view, insufficient information is provided to determine whether the funding gap is stated fairly as the GDC does not provide any information in support of its projected income in 2014 or its projected expenditure;

(2) the GDC subtracts £1.2 million in respect of its projected investment income for 2015 to 2017. This implies expected investment income of approximately £400,000 per year. The GDC does not explain its calculation or provide any evidence in support. The projected investment income is broadly consistent with the GDC’s reported investment income of between £138,000 and £555,000, between 2010 and 2013.\(^{216}\) Investment income received will depend on the amount that the GDC has available to invest, which in turn is dependent on surplus funds which will be affected by its income and expenditure profile, and the investment returns achieved;

(3) the GDC subtracts £6.0 million from the expenditure estimate to account for its projected income from “first time registrations, restorations and specialists.”\(^{217}\) The GDC does not explain its calculation and provides no evidence in support. This projection of an average of £2 million a year is higher than its projected income from first time registrants and restorations of £1.0 million in 2014 in the 2014 Business Plan.\(^{218}\)

A11.15 In summary, each of the three adjustments discussed above require further explanation and evidence in support.

A11.16 After making these adjustments, the GDC considers that the total expenditure from 2015 to 2017 to be funded by the ARF is £134.4 million.

\(^{215}\) CD: Page 10; Table 3.
\(^{217}\) CD: page 15.
The allocation of the total expenditure between dentists and DCPs

A11.17 Following its consultation on the principles for setting the ARF, the GDC published a statement setting out its decisions. The GDC states that it “will continue to distinguish between dentists and dental care professionals (DCPs) and treat each as a distinct registrant group.”219 This therefore requires the GDC to calculate the ARF for dentists and DCPs separately.

A11.18 The GDC has not explained adequately its method of allocating the projected ARF for 2015 and 2017 between dentists and DCPs and has not provided its calculations.

A11.19 For each of the Four Functions, the GDC allocates a percentage of the expenditure to dentists and to DCPs. The GDC has not provided its full calculation and has not provided any support for the percentages it uses to allocate expenditure to each group. The percentage of total expenditure allocated to dentists and DCPs appears to be an average of expenditure for each of the Four Functions allocated to them, weighted by the projected expenditure on each function.

A11.20 The overall result is that GDC allocates 82.5% of the ARF funded expenditure to be paid by dentists, and the remaining 17.5% to be paid by DCPs. In total, the expenditure funded through the ARF for dentists is £110.9 million, and £23.5 million for DCPs.220

A11.21 In summary, the GDC has not provided information adequate to determine whether it has allocated amounts funded by the ARF between dentists and DCPs on an appropriate and fair basis. This is a critical aspect.

The division of the allocation of total expenditure between the average number of registrants paying the ARF

A11.22 Once the projected ARF for 2015 and 2017 has been allocated between dentists and DCPs, the GDC divides the total expenditure figures allocated to dentists and DCPs by the average number of registrants paying the ARF (an estimated 39,133 dentists and of 61,285 DCPs). This is the final step in the calculations, which results in the yearly ARF being set at £945 per year for dentists221 and £128 per year for DCPs.222

A11.23 The GDC does not explain how it has estimated the average number of registrants paying the ARF.

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219 GDC statement following the consultation on the Annual Retention Fee (ARF) Policy: page 1.
220 CD: page 16.
221 £110.9 million ÷ 39,133 ÷ 3 years = £945 per year.
222 £23.5 million ÷ 61,285 ÷ 3 years = £128 per year.
A11.24 The GDC’s Annual Reports and Accounts report a growth in the number of both dentists and DCPs between 2010 and 2013, as set out in the table below. The 2014 Business Plan forecasts an increase in the number of dentist but a decrease in the number of DCPs in 2014. The GDC provides no calculations or evidence in support of its projected decrease in the number of dentists or the increase in the number of DCPs. The projected numbers of dentists and DCPs directly affects the amount payable by each registrant. For ease of reference, we provide data regarding the number of dentists and DCPs from 2010 to 2014, together with the GDC’s projected averages for 2015 to 2017, in FTI Table A11-1 below.

**FTI Table A11-1: Number of dentists and DCPs**

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>GDC’s projected “Average” 2015 to 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of dentists at year end</td>
<td>38,379</td>
<td>39,307</td>
<td>39,894</td>
<td>40,423</td>
<td>42,882</td>
<td>39,133</td>
</tr>
<tr>
<td>Number of DCPs at year end</td>
<td>57,204</td>
<td>58,880</td>
<td>61,700</td>
<td>63,027</td>
<td>60,403</td>
<td>61,285</td>
</tr>
<tr>
<td>% increase in number of dentists on previous year</td>
<td>N/A</td>
<td>2%</td>
<td>1%</td>
<td>1%</td>
<td>6%</td>
<td>N/A</td>
</tr>
<tr>
<td>% increase (decrease) in number of DCPs on previous year</td>
<td>N/A</td>
<td>3%</td>
<td>5%</td>
<td>2%</td>
<td>(4%)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Notes: The 2014 figures are taken from the 2014 Business Plan.
Sources: GDC Annual Reports and Accounts; 2014 BP; and CD: page 16; FTI calculations.
Appendix 12
The GDC’s statements regarding what this will mean for the Annual Retention Fee level in 2016 and beyond

Introduction
A12.1 In this appendix, we consider the information set out by the GDC in the section of the Consultation Document headed “What will this mean for the ARF in 2016 and beyond?”

Summary of conclusions
A12.2 In summary, the GDC states that it will review the ARF each year and may reduce the level if it is in a position to do so or will consult again if a further rise is required, having first examined what cost-saving measures it can implement.

A12.3 As discussed in Appendix 11 above, the GDC also states:

“The proposed ARF assumes that the volume of complaints (and therefore Fitness to Practise costs) in 2016 and 2017 do not increase at the rates they are expected to increase in 2014 and 2015.”

A12.4 The GDC is not explicit regarding what rate of increase, if any, is assumed in its calculation of the proposed 2015 ARF.

CD: Page 17.
Appendix 13
The Annual Retention Fee (ARF) Level Consultation 12 Key Facts

Introduction

A13.1 In this appendix, we consider and comment on the facts set out in the ARF Key Facts Document to the extent that they appear relevant to our work. (Facts 1 to 5, 10 and 12 do not appear relevant).

Fact 6

A13.2 Fact 6 states:

“Complaints have increased by 110% since 2011”.

A13.3 As set out in Appendix 5 above, we have been unable to reconcile this ‘key fact’ with the data provided in the Consultation Document.\(^{224}\)

Fact 7

A13.4 Fact 7 states:

“An average Fitness to Practise hearing lasts 4 days and costs £78,000

This amounts to £19,500 per day and the length of hearings ranges from a third of a day to 35 days.”

A13.5 This statement is consistent with the information set out on pages 8 and 9 of the Consultation Document. We have been unable to verify this information and, for the reasons set out in Appendix 6 above, we consider that the average costs amount of £78,000 may be incorrect and / or misleading.

\(^{224}\) CD: page 4.
**Fact 8**

A13.6 Fact 8 relates to reducing the costs of Fitness to Practise and states:

“We recognise that some of the FtP procedural rules are out of date and we have asked the government to modernise them. This will make the process more efficient and will also allow us to reduce some of the costs in this area. However, this is likely to take some time.

We are constantly seeking to make the process more efficient – for example we have made savings of £0.9 million in 2013 by cutting back on our legal costs.

The increase in FtP costs is mostly due to the number of hearings we are holding. We anticipate this is the only part of expenditure that is going to increase; all other costs are being contained. In 2013 we held 160 final practice committee hearings”

A13.7 The GDC does not provide an assessment of when it expects the Fitness to Practise procedural rules to be modernised. As discussed in Appendices 8 and 9, it is unclear whether the GDC has or ought to include related costs savings in its estimates of expenditure in 2015 to 2017.

A13.8 It is not clear whether the example of £0.9 million of costs savings in relation to legal costs in 2013 has been taken into account when forecasting future costs.

A13.9 The statement that all other costs are being contained is potentially unclear as to whether it refers to containment of other Fitness to Practise costs or the GDC’s wider costs. The wider costs are not being contained. The GDC’s projected expenditure set out in the Consultation Document which states that:

1. Registration costs are projected to increase from £3.9 million in 2014 to £4.0 million in 2015\(^{225}\) and by a further £0.1 million in 2016 and 2017; \(^{226}\) and
2. Quality Assurance costs are projected increase from £1.3 million in 2016 to £1.4 million in 2017.\(^{227}\)

\(^{225}\) CD: Page 8: Table 1.

\(^{226}\) CD: Page 15: Table 6.

\(^{227}\) CD: Page 15: Table 6.
A13.10 The projected costs increases in 2016 and 2017 are relevant as they impact the GDC’s calculation of the amount of the ARF in 2015 (see Sections 3 and 4). The reference to costs being contained may suggest that costs are not being increased. However, the projected costs in 2016 and 2017 appear to be calculated as the 2015 figures increased by approximately 2.5% each year.

A13.11 The figure cited above of 160 “final practice committee hearings” is the same number set out on page 9 of the Consultation Document which simply refers to the number of “hearings”. We do not know whether “final practice committee hearings” and the term “hearings” refer to the same events.

Fact 9

A13.12 Fact 9 states:

“We have been urging Government for the last 3 years to implement specific changes aimed at improving our ability to protect patients and reduce our costs.

One significant change on its own would enable us to save up to £2 million a year – a cost that must be borne by the dental profession.

At present our outdated processes mean that patients have to wait longer for their complaints to be heard, and dental professionals whose fitness to practise has been questioned will not be dealt with as expeditiously as possible.

The Law Commission has drafted a Bill to reform the health regulation system in the UK but it is now expected that this Bill will not be introduced to Parliament until after the election in 2015 and, even then, its fate is uncertain. This will significantly delay improvements necessary to ensure patient safety.

The GDC is therefore pleased that the Government has brought forward a Section 60 order to make some key changes to improve our ability to protect the public. By means of this Order the GDC can amend its current legislation (The Dentists Act 1984) to allow it to introduce a key change - case examiners - aimed at improving the speed of decision making in the interests of patient protection and reducing costs. Our press release can be found here.”

A13.13 The GDC refers to the possibility of the Bill being introduced after the election in May 2015. It is not clear whether the GDC has included, or ought to include projected cost savings in its estimate of expenditure for 2016 and 2017.
A13.14 The GDC does not set out the cost savings that are expected to flow from changes consequent to the Section 60 Order. We have been unable to access the GDC’s referenced press release using the link in the ARF Key Facts Document. However, the reference may be to the GDC’s press release dated 20 June 2014 “Department of Health signals urgent legislative change to streamline fitness to practise procedures” (see Appendix 9).

A13.15 We consider cost savings and legislative changes in Appendices 8 and 9 above.
Appendix 14
Other matters of note

A14.1 In this appendix, we set out some other matters of note.

A14.2 There is an inconsistency between the GDC’s presentation of its expenditure by reference to “core statutory functions” and the Dental Complaints Service (“DCS”) in the Consultation Document and its reporting of a greater number of regulatory functions in its statutory accounts (see Sections 3 and 4). It is not clear why the GDC has presented financial information in the Consultation Document in this manner. In our view, the presentation is unhelpful as it provides the reader with significantly less financial analysis by activity than provided in its statutory accounts. In the absence of explanation of how the analysis in the accounts maps to that in the Consultation Document it prevents much of the financial information from being compared with the GDC’s historical results.

A14.3 We would expect the Consultation Document to include, for comparison purposes, relevant figures from the GDC’s most recent published results (for 2013), its most recent published business plan and budget and available actual results for 2014, such as those of the first quarter. We would then expect differences between those figures and the projections affecting the proposed increase in the ARF to be set out and explained clearly. The Consultation Document does not provide such information and comparisons. For example, GDC Table 1 compares the GDC’s expenditure projections for 2014 and 2015 with actual figures for 2010 but does not set out the equivalent figures for 2013. The GDC does not refer to its 2014 budget or its Q1 2014 results in the Consultation Document. GDC Table 1 sets out the percentage increase in expenditure from 2010 to 2015 whereas, in our view, comparison of the projected figures with the most recent actual results and budget would be more useful and usual.

228 CD: Page 8.
A14.4 On page 14 of the Consultation Document, the GDC asks whether it has provided a clear account of its resource needs for 2015 and whether there is any other information that would be useful. This question is asked at a point in the document at which the GDC has not made clear that its calculation of resource needs for 2015 is actually based on projections of its expenditure for 2016 and 2017 as well as 2014 and 2015. That information does not appear until page 15. Furthermore, the projected expenditure for 2016 and 2017 is higher than in 2015. In these circumstances, it could be argued that the question itself, being limited to 2015, as well as its position in the Consultation, is inappropriate as it may lead to more favourable responses than if the question was placed after pages 15 and 16 and if it also referred to resource needs for 2016 and 2017.

A14.5 Three of the graphics on page 4 of the Consultation Document visually exaggerate the statistics that they purport to represent (see Appendix 5).