GDC’s ARF rise
What do I need to know?

In a nutshell

The GDC proposed to increase the annual retention fee (ARF) for dentists by 64 per cent, from £576 to £945 per year, from 2015, and ran a consultation on the increase between 30 June and 4 September 2014. The regulator cited an increased number of projected complaints and fitness-to-practise (FTP) hearings against registrants as the main reason for the proposed rise.

The proposal shocked and outraged the profession, especially when set against a background of inefficiencies and procedural problems within the GDC’s FTP function. We are fighting against the increase through a major campaign on all levels.

What has the BDA done?

- We met with the GDC’s Chair and Chief Executive the day after the announcement, telling them the proposal was wholly unacceptable.

- We wrote to the Secretary of State for Health, Jeremy Hunt, calling on him to initiate an investigation into the competence of the GDC, following its poor performance appraisal by the Professional Standards Authority (PSA). The letter was also copied to the PSA.

- We have provided opinion pieces in a number of publications, including BDA News and the BDJ, ever since the consultation started.

- PEC Chair Mick Armstrong provided a blog on the BDA website outlining the Association’s initial views. Members are welcome to provide their views through the BDA Connect service.
- In July, we ran a survey of members into their confidence in the GDC as a regulator and published the damming evidence, with nearly 8 in 10 respondents casting doubt on the GDC’s ability to perform its regulatory functions.

- We initiated a postcard campaign encouraging our members to highlight their views to the Secretary of State, which prompted a response from the Department of Health.

- We supported the online petition set up by Veeren Gupta which has now received over 15,000 signatures.

- We also challenged the GDC on the publication on an inflammatory advertisement that appeared in the Daily Telegraph.

- Questions were raised in Parliament by a number of MPs about the GDC’s proposals.

- We encouraged members to write to their MPs and meet with them to discuss the issues facing the profession.

- We instructed lawyers to write to the GDC in July, challenging the lawfulness of its ARF Consultation and asking for detailed information on its underlying assumptions for the rise.

- In October, we initiated judicial review proceedings against the GDC, challenging its consultation and consequent decision to increase the ARF.

**End of consultation period**

We submitted an official response to the GDC’s consultation on 4 September 2014, including an independent financial analysis of the consultation document and other supporting information. Through this response, we advised the GDC that if it failed to respond properly to the issues raised, the BDA would be forced into using the submission as the basis for a challenge by way of judicial review. It also contained a list of additional information necessary to make the consultation fair. The response was also copied to the Secretary of State and the PSA.

The GDC announced on 11 September that it would postpone its final decision on the ARF level until the end of October, and would, in the meantime, ‘consider the outcomes and some broader themes that have emerged about regulation and the handling of complaints in particular.’

In addition to this development, the GDC commissioned accountants KPMG to consider the background to its own assumptions justifying the rise.
The GDC published a document detailing the responses to the consultation, which showed that 97% of respondents had rejected the GDC’s proposed 64% fee rise. An overwhelming majority questioned the regulator’s justification for any fee rise, and the measures it had taken to cut costs.

On 19 September, the BDA issued a further legal letter again demanding that the regulator reveal the information on which its proposed ARF rise was based.

The BDA also called on the regulator to disclose the documents passed to accountants KPMG, commissioned by the GDC to review the assumptions underpinning the proposed rise in the fee, and to publish KPMG’s report in full.

The BDA was also concerned to read what appear to be clear signs of predetermination of the issue which was supposed to be consulted on with an open mind in recent published remarks by the Chief Executive of the GDC and has raised this in the legal correspondence.

**GDC decision**

On 30 October 2014, the GDC decided to set the ARF for dentists for 2015 at £890 and for DCPs at £116. It made the relevant regulations on the same day and proceeded to inform registrants of the change.

A KPMG headline report was published as part of the Council meeting papers. It noted that the main assumptions underlying the proposals contained ‘high levels of estimation uncertainty’.

**The legal arguments: Information provision and business case**

The BDA has continued to ask for clear financial information that would explain the basis for the now determined increase, which appears to have been taken on the basis of the level of reserves of the GDC rather than the projected number of FTP cases in the next few years; in fact, the latter approach appears to have been abandoned by the GDC, which means that the whole basis for their consultation and the figures therein is no longer valid. In addition, none of the assumptions underlying the final decision were published until they appeared in the Council meeting papers long after the consultation had closed.

We believe that no business case has been made for the rise, especially with a view to recently-published information that the number of cases closed at triage and investigation stage is on the rise and the number of cases going forward to a full hearing declining. Some specific information we have requested, especially in relation to the KPMG report, has still not been disclosed.
What happens next?

Legal proceedings were issued on 17 October. A number of legal documents have since been produced by the BDA’s and the GDC’s lawyers. The BDA has focused on the unfairness of the consultation, the inappropriateness of the information provided to consultees in the consultation document and thereafter, and the lack of a business case for the rise. The hearing will take place on 15 December 2014. If the BDA case is successful, we have asked the consultation to be quashed together with the resultant decision and regulations, so that the ARF should revert to this year’s level. The decision is now in the hands of a judge.

How can I get involved?

- Use the hashtag #ARFhike on Twitter.
- Lend your support to the BDA’s Facebook page.
- Share your views on the BDA Connect Forum page.
- Keep up to date on progress by reading the emails we’re sending. Make sure your email address is up-to-date and a named address (e.g. not info@) so you do not miss out on the latest campaign news.
- Bookmark our campaign page: [www.bda.org/arf](http://www.bda.org/arf) and share with your colleagues.
- Contact your MP about these concerns and the disparity between the Government’s requirement on regulators not to increase registration fees unless there is a clear business case
- Encourage your non-member colleagues to join the BDA and support our campaign.