

# Consultation

## Clear and certain: A new framework for fee-setting



## Foreword from the Chair

Parliament has set the General Dental Council (GDC) three objectives in relation to dentistry: the protection of the public, the maintenance of public confidence in the professions we regulate, and the achievement of high standards of education, ethics and conduct for those professions. We seek to achieve these objectives through a mixture of regulatory interventions, both formal and informal, in order to influence the behaviour of those we regulate. In doing so, we work alongside governmental and professional bodies whose roles and responsibilities complement those of the GDC. The vast majority of the professionals we regulate aspire to high standards of professionalism, and the public, on whose behalf we act, expect those high standards to be maintained.

It is the achievement of those high standards that generates a sense of confidence on the part of the public that the dental treatment they receive will be safe and effective, that they will be treated with respect, and that their interests will not be unreasonably compromised by the other pressures faced by dental professionals, including those arising from the financial elements of the relationship.

As is clear from the ideas set out in *Shifting the balance*, the GDC is pursuing, with the help of others, a new approach to professional regulation in dentistry, one that moves away from the historical over-reliance on enforcement in the form of fitness to practise investigations and prosecutions. We are seeking to put in its place a model that is based first and foremost on the promotion of professionalism and a deep understanding of the opportunities and obligations that go to the very heart of what it means to be a dental professional. No dental professional who understands his or her obligations to the public and to patients, and who takes them seriously, ought to have anything to fear from regulation.

Whatever model the GDC adopts, and however successful we and other organisations are collectively in our endeavours to reform and improve the regulation of dentistry, there will be a cost involved. In the UK, like many other modern democracies, society requires those who are subject to regulation to bear the bulk of the costs of regulation. In the case of dentistry, the mechanism for doing so is reflected in the powers that Parliament has conferred on the GDC to collect fees from dental professionals and from those who seek to become dental professionals.

The GDC recognises that, because registrants have no choice but to pay fees if they wish to work in the UK as dental professionals, the regulator must operate to high standards of economy, efficiency and effectiveness and be able to demonstrate that this is the case.

This consultation marks a significant step forward in how we make and, importantly, explain decisions regarding the use of the funds we raise. Our aim is to demonstrate how the broad regulatory outcomes that society has set out are best achieved, and how much the GDC should spend delivering its part in securing those outcomes.

This is not a consultation about fee levels. Its focus is on how we design the mechanisms for setting those levels. It builds on the ideas set out in *Shifting the balance*, including the recognition that dentistry is delivered in a very complex environment, and that regulation and the GDC are far from being the only influences over those outcomes. Indeed, the more the profession can do for itself, through leadership and constructive advocacy of high standards, the less will need to be done through regulation.

The Council and I hope all those with an interest in dentistry will engage with the issues and proposals set out in this consultation and look forward to receiving your responses.

**William Moyes, Chair**

# 1. Introduction

- 1.1 The General Dental Council (GDC), under powers conferred by the Dentists Act 1984 (“the Act”), raises income to fund its regulatory activity by charging fees in connection with obtaining or maintaining registration as a dentist or dental care professional (DCP).
- 1.2 This consultation seeks views on the GDC’s proposals for its future approach to setting such fees. This approach is embedded in a draft fees policy, which is appended to this consultation at **Annex A**.
- 1.3 In developing a proposed new policy on fees and consulting the professions and other stakeholders, we aim to improve the way we explain the use of income generated through fees. We are also seeking to bring additional clarity to the fee structure, to ensure that the costs of any particular activity are borne by those most closely associated with that activity, while being as fair and practical as we can. This includes being clear about (and reducing where we can), cross subsidy between categories of registrant and between existing and prospective registrants. Cross subsidy arises when money raised from one group of registrants is used to pay for regulatory activity generated by, or for the benefit of, others.
- 1.4 Through this consultation on the proposed new policy, we are seeking to establish a set of principles that we will apply in determining the levels for all the fees we charge.
- 1.5 We are, of course, putting forward these proposals against the backdrop of the broader programme of reforms to the way professional regulation in dentistry is delivered, which we set out in *Shifting the balance*. In particular, we think it is important to recognise that dentistry operates in a complex environment. Both the scale and cost of the GDC’s programme of activity to secure its statutory objectives are influenced by a wide range of factors, many of which are outside our direct control.
- 1.6 This consultation document sets out our proposals for establishing fee levels in future. It covers the following areas:
  - Our overall principles in setting fees.
  - How we will calculate the overall amount that needs to be raised.
  - How we will decide how much different groups and subgroups of registrants should contribute to that amount (essentially ‘fee bands’).
  - How we prioritise allocation of resources.
  - What we will consult on, what we do not propose to consult on, and why.
  - What we will do in exceptional circumstances.

The closing date for the consultation is 15 May 2018. Responses can be sent to [policyinbox@gdc-uk.org](mailto:policyinbox@gdc-uk.org). Alternatively, you can complete the consultation online via our [consultations page](#). A consolidated list of questions can be found at Annex B.

## 2. Background

### Our functions

- 2.1 The GDC is the regulator of dental professionals in the UK, and one of nine professional healthcare regulators<sup>1</sup>. Like all professional healthcare regulators, our activities are overseen by the Professional Standards Authority (PSA), which sets standards of good regulation and assesses our performance against them. You can find more information about the PSA at [professionalstandards.org.uk](https://professionalstandards.org.uk).
- 2.2 The GDC was established as a statutory body by the Dentists Act 1984, and has a broad statutory remit. In common with all other healthcare professional regulators, our overarching objective, as set out in the Health and Social Care (Safety and Quality) Act 2015, is the protection of the public, in pursuit of which we must pursue the three following objectives:
- To protect, promote and maintain the health, safety and well-being of the public.
  - To promote and maintain public confidence in the regulated professions.
  - To promote and maintain proper professional standards and conduct for members of those professions.
- 2.3 The legislation permits us discretion in how we achieve those objectives. It provides opportunities for us, in partnership with the professions, to develop an approach to regulation that focuses on promoting a positive vision of professionalism in dentistry. Parliament has also set out four functions (our ‘statutory functions’) that we *must* carry out in pursuit of these objectives, whatever else we may choose to do. They are:
- To maintain a register of dental professionals who are ‘fit to practise.’
  - To set standards for the dental team.
  - To set standards for dental education.
  - To investigate allegations of ‘impaired fitness to practise’ and take appropriate action where necessary.
- 2.4 The Act, in section 2D, also gives us a specific power to assist in the resolution of complaints about a registered professional or a corporate body delivering dental services. We currently exercise that power through the Dental Complaints Service (DCS), which assists in the resolution of complaints about privately funded dentistry.
- 2.5 Within these statutory functions and specified powers we have specific duties, but also significant discretion about how we achieve our objectives. We exercise this discretion in a number of ways. For example, we undertake activity aimed at preventing harm to patients before it occurs, such as promoting high standards of professionalism, which may reduce the need for costly and intrusive enforcement activity later. We often refer to this sort of activity as ‘upstream’ regulation, and it is a key component of the ideas set out in *Shifting the balance*.

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<sup>1</sup>

General Chiropractic Council  
General Dental Council  
General Medical Council  
General Optical Council  
General Osteopathic Council  
General Pharmaceutical Council  
Health & Care Professions Council  
Nursing & Midwifery Council  
Pharmaceutical Society of Northern Ireland

## The fees we charge and why

2.6 There is a long-standing presumption in public policy that professional regulators should be independent from, and therefore not funded by, government. This means that those subject to regulation must bear the costs directly<sup>2</sup>. Professional healthcare regulation is no exception and the GDC, while operating a statutory system of regulation, receives no funding from the Government. The Act correspondingly provides powers to fund all our activity, both obligatory and discretionary, from fee income. Except for a small income<sup>3</sup> from investments, and, in some years<sup>4</sup>, a small surplus from the Overseas Registration Exam (ORE)<sup>5</sup> our funding is derived exclusively from fees. Regulators are expected to design fees and charges to secure full cost recovery.

2.7 The fees most commonly encountered by our registrants are:

- **Registration fee:** All dental professionals pay a fee to enter their name onto the dentist or DCP registers for the first time.
- **Annual retention fee (ARF):** Professionals pay the annual retention fee each year in order to maintain their registration.
- **Restoration fee:** If a professional removes his or her name from the register, or it is removed by the GDC, a fee will apply to any application to restore their name to the register.

2.8 The GDC has the power to apply other fees, such as that charged when a DCP adds an additional title to their register entry. A full list of fees is presented in the table (figure 1) below:

**Figure 1: Fees payable for entry on to/retention on the GDC registers**

<b>Registration fee</b>	
Dentists	£890*
DCPs	£116*
Specialists	£345 (per specialism)
<b>Annual retention fee</b>	
Dentists	£890
DCPs	£116
Specialists	£72 (per specialism)
<b>Restoration fee</b>	
Dentists	£890
DCPs	£116
Specialists	£84
<b>Additional title fee</b>	
DCPs	£12

\* Registration fees are currently payable on a pro-rata basis.

<sup>2</sup> Health Foundation, Fit for Purpose: workforce policy in the English NHS, 2016.

<sup>3</sup> Details of the GDC's income and expenditure are provided in its annual report and accounts at: [gdc-uk.org/about/what-we-do/publications](http://gdc-uk.org/about/what-we-do/publications).

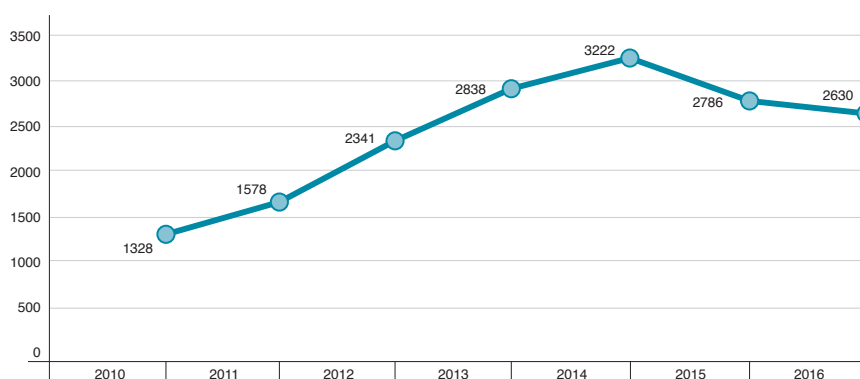
<sup>4</sup> 2009 and 2011.

<sup>5</sup> Under the Dentists Act 1984 the GDC is required to arrange for overseas qualified dentists, who are not already registered in the European Economic Area (EEA), to sit an examination in order to be satisfied that the dentists concerned have the requisite knowledge and skill to be registered in the UK. The Act also provides that the examination is to be provided by a dental authority, or a group of dental authorities, under arrangements made by the GDC.

## Why we are consulting now

- 2.9 In January 2017 we published *Shifting the balance*, which set out a vision for reform of professional regulation in dentistry. In developing our proposals we engaged closely with dental professionals and other stakeholders. This has emphasised the complexity of the landscape in the sector and the external factors that influence the cost of regulation. Coupled with that, we have undertaken significant work in the last two years to improve our efficiency and the rigour of financial stewardship. That work has given us greater clarity over our internal cost drivers, and over where cross-subsidies lie within our financial models.
- 2.10 The work to identify and implement efficiencies also means that we have reached an improved position in relation to the GDC's finances, which had been under significant pressure after a period of deterioration from 2010-2014. For example, we have been successful in replenishing the financial reserves depleted by the very large increase in caseload over the same period (see figure 2, which shows the numbers of fitness to practise referrals received by the GDC each year between 2010 and 2016). This has thrown into sharper relief the need to be clearer about why we hold reserves and the various purposes for which they may be used.

**Figure 2: Increase in caseload between 2010 and 2016**



- 2.11 These points, coupled with the stronger platform for informed debate about professional healthcare regulation in dentistry provided by *Shifting the balance*, means that the time is right for us to revisit and reshape our approach to setting fees, to help ensure that we are regulating fairly and effectively, and that the system of regulation is sustainable for the future.

## 3. Our proposed principles in setting fees

- 3.1 The method to be applied to determining fee levels requires us to:
- Determine, with reference to the professions and our other stakeholders, the activity that needs to be undertaken in order to meet our statutory objectives and obligations in an efficient and cost-effective way.
  - Develop and cost a programme of work, based on up-to-date information/analysis and financial forecasts/assumptions, and build in appropriate contingencies.
  - Determine, in a logical, balanced and transparent way, the allocation between the individuals or professional groups on our register.

3.2 In order to help shape those decisions and frame a more informed public discussion, we propose a principles-based approach to setting fees.

3.3 The principles that we will apply when determining the fee levels that we charge in any year are:

- **Fee levels should be primarily determined by the cost of regulating each registrant group:** we will seek to minimise the ways in which registrants fund regulatory activity that is not generated by them by removing, as far as practicable, cross subsidy between different groups. We will do this by allocating costs, as far as possible, where they fall. Where a degree of cross subsidy is necessary, we will explain this through our policy.
- **The method of calculating fee levels should be clear:** we will be open with registrants about how we allocate the income we receive from them and why, and provide sufficient information about cost drivers, giving them the opportunity to contribute to the debate. We will seek to show a clearer link between fee income and regulatory activity.
- **Supporting certainty for registrants and the workability of the regulatory framework:** we need to make sure that decisions on the allocation of costs do not lead to undesirable outcomes in the form of unacceptably high or variable costs for some groups of registrants. For example, in determining whether cross subsidy is necessary or desirable we will need to consider the impact on the volatility of fee levels (i.e. how much small changes in workload would cause the fee to change). This is likely to be of particular relevance to small registrant groups, where distribution of costs among small numbers of registrants has the potential to give rise to significant levels of volatility (and therefore uncertainty) and/or prohibitively high fees.

#### Question 1

**Do you agree that these principles should underpin decision-making with regard to fee-setting for dental professionals?**

#### Question 2

**What, if any, other key matters do you think should affect decision-making on fees?  
Please explain your rationale.**

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3.4 The remainder of this document seeks to translate these key principles into a policy proposal for fee-setting.

## 4. Calculating the amount to be raised

4.1 We know that for many registrants, fees can represent just one of a number of significant financial costs. For example, indemnity and insurance premiums may also be a very significant, yet necessary, cost of professional life in dentistry.

4.2 The benefits delivered for that cost are also significant. They include securing a right to practise dentistry in an environment in which the public is broadly confident in dental services and in which action is taken against those who do not meet the standards of the majority.



- 4.3 We are, nevertheless, conscious of the need to remove undue burdens. Delivering efficiencies in how we discharge our statutory obligations and other priorities will, therefore, continue to be paramount. Increasing fees will always be a last resort. **Our first consideration in calculating fee levels will be ensuring that we have the necessary resources to secure our statutory objectives of public protection and maintaining public confidence, while removing undue burdens imposed on registrants.**

### Delivering a broad statutory remit

- 4.4 As explained earlier, Parliament has set very broad objectives for the GDC to achieve on behalf of the public. While the relevant legislation sets out some functions that we *must* carry out in pursuit of those objectives, the full range of activity to achieve those objectives is largely at the Council's discretion. As we describe in *Shifting the balance*, we are proposing to move our focus increasingly towards measures designed to prevent harm before it occurs, bringing benefits for both patients and the professions. As a result, we are likely to adopt a broader range of regulatory tools, reducing our need to rely on enforcement action, which can be onerous and stressful for the registrant and which is a complex and costly activity. The proposed approaches to regulation have the potential to be more cost-effective than pursuing cases against individual registrants through fitness to practise investigations. Where risk to patients or public confidence is best managed by restricting a registrant's ability to practise, such investigations must, of course, remain a focused part of the regulatory toolkit, albeit in a more focussed way.
- 4.5 For example, a more upstream approach to regulation is likely to include improved partnership with the profession and others to promote a vision of professional life that inspires those joining the profession to deliver for patients primarily because they want to, and not because they fear regulatory enforcement action or litigation.
- 4.6 One implication of this is that decisions about fee levels will be based on an assessment of all our proposed activity, both obligatory and discretionary, in pursuit of our statutory objectives of protecting patients and ensuring public confidence in dental services.
- 4.7 Our commitment to date has been to consult registrants and stakeholders on our fees only when we are proposing a change. We do not think this offers sufficient opportunity to help shape the GDC's programme of regulatory activity. In future, therefore, **we will consult every three years on the high-level objectives and associated expenditure plans that will underpin the ARF. The consultation documents will be reasoned and costed, and will be clear about the assumptions on which they are based, particularly in relation to efficiency gains. The consultation documents will be informed by our corporate planning process.** The cost of the work programmes necessary to deliver the high-level objectives will represent the overall amount we seek to recover from fees over the three-year period.
- 4.8 In addition, basing fee levels on a three-year programme of activity will bring certainty to registrants, prospective registrants and the GDC about the likely costs and income over the period, subject to any action necessary to manage exceptional circumstances (see section 8 of this document). Fluctuations in the GDC's financial position, whether due to variations in cost or income received, which lie within identified parameters will be smoothed using reserves.

### Making the most of opportunities across the system to reduce upward pressures on cost

- 4.9 Under the current model of professional regulation in healthcare, including in dentistry, the costs of regulation overall are driven very significantly by the costs of enforcement. Investigating and prosecuting allegations of impaired fitness to practise can be very costly and time consuming.

- 4.10 In 2016, for example, the average cost of a fitness to practise case reaching a practice committee was around £55,000, having reduced steadily from more than £80,000 in 2012. Even small fluctuations in enforcement caseload can have a very significant impact on the GDC's finances. Indeed, the very significant increase in caseload that occurred between 2010 and 2014, when incoming cases more than doubled, exposed very serious weaknesses in the GDC's structures, processes and finances in place at the time.
- 4.11 As we set out in *Shifting the balance*, dentistry in the UK operates in a very complex system that has emerged in a somewhat fragmented fashion over a long period of time. As a result, there is a wide range of influences that affect the volume of enforcement cases. Similarly, there is a wide range of opportunities for all those involved in the system to help reduce the need for enforcement. For example:
- The comparatively weaker clinical governance in NHS dentistry compared to, say, medicine, may be resulting in the GDC having to deal with a larger proportion of patient concerns, and hence costs, than might otherwise be the case. This, and other gaps, might provide opportunities for the profession itself to help reduce pressures on costs, while at the same time providing benefits to the public in terms of safe and effective care.
  - Bolstering leadership in the profession to facilitate the further development of a strong and clear model of professionalism could contribute effectively to the prevention of the sorts of problems that often generate regulatory enforcement action.
  - We think there is significant scope for improving the approach to patient feedback and complaints in dentistry, so that effective engagement with patient issues becomes something to be valued and promoted, rather than feared and avoided. While we understand that confidence in the GDC as a regulator has an important part to play, many of the barriers are cultural and overcoming them will likely require significant leadership effort by the profession and employers.
- 4.12 In setting out our corporate plan we will, therefore, aim to highlight opportunities across the regulatory system to improve harm prevention and, as a result, reduce the need for costly enforcement activity.

## 5. Distributing the costs of regulation

### Allocating costs where they fall

- 5.1 As a matter of policy, as far as possible we attribute costs according to the effort we incur in regulating different registrant groups. That is why, for example, our fee structure does not reflect the differing income profiles of different registrant groups.
- 5.2 That effort and its costs and benefits do not fall equally across all registrants or registrant groups. For example, the costs we incur in pursuing enforcement activity (fitness to practise investigations and prosecutions) are heavily skewed towards dentists, at 85% of the expenditure, as opposed to DCPs, and there is nothing to suggest that balance will change significantly in the foreseeable future. What that means is that we allocate a considerably greater proportion of those costs to dentists than we do to DCPs, resulting in a higher ARF for dentists.

- 5.3 On the other hand, the costs and benefits of maintaining a register, for example, are much more evenly distributed across all registrant groups and we therefore allocate them more evenly between registrant groups. That is one of the reasons why the fee we charge to different groups and subgroups of registrants will always, without cross subsidy (see below), be subject to a minimum level: the amount that reflects a fair contribution to the costs of activity that deliver a shared benefit. **We will continue to pursue a policy in which costs are allocated, as far as possible, where they fall.** However, work in recent years to improve our financial management has generated greater clarity about where cross subsidy might lie within our financial structures.

### Managing cross subsidy: first registration

- 5.4 Cross subsidy arises when money raised from one group or subgroup of registrants is used to pay for regulatory activity from which others derive proportionately more benefit. In many fee systems, some cross subsidy may be inevitable, necessary or desirable. For example, if it is used to reduce complexity, and therefore overall costs, or minimise perceived unfairness. We will, however, aim to minimise cross subsidy. Where we consider that it is either necessary or unavoidable we will highlight and explain the rationale for it.
- 5.5 There are a number of ways in which cross subsidy can occur. One form of cross subsidy currently occurs on first registration, where unsuccessful applicants to the register are effectively subsidised by successful applicants, because we do not charge applicants for the effort incurred in processing an application. Currently, approximately 20% of applications to the register do not result in the applicant being registered, with some individuals making several unsuccessful applications. The cost of this work is borne by the GDC, using fee income from registrants. Not only does this create an arguably unfair cross subsidy, it also fosters an environment in which there is no disincentive to serially unsuccessful applicants who are unlikely ever to be registered in the UK.
- 5.6 Figure 3 shows the number of applications we received by category in 2016, and the percentage that were successful.

**Figure 3: Numbers of successful applications to the register received by the GDC in 2016<sup>6</sup>**

Applications from	Number received (2016)	Successful applications (%)
UK dentist	1275	95
UK DCP	6891	65
EEA dentist	1069	60
Assessed dentist	220	20
Assessed DCP	647	18

- 5.7 Until recently, the GDC has been unable to charge a fee in relation to the processing or assessment of applications, as opposed to fees in relation to registration itself. The Health Care and Associated Professions (Knowledge of English) Order 2015, in addition to allowing us wider latitude in the exercise of language controls in respect of applicants to the register, has broadened our regulation making powers, permitting us to charge fees *in connection with* registration. Figure 4 shows the fees charged by other regulators for processing applications to their registers.

<sup>6</sup> Applicants who are not successfully registered may re-apply to join the register, and may be accepted in the same or subsequent years.

**Figure 4: Approaches to application/scrutiny fees in professional healthcare regulation**

Regulator	Application/scrutiny fee
General Chiropractic Council	£0
General Medical Council	£90
General Optical Council	£0
General Osteopathic Council	£0
General Pharmaceutical Council	Application fee: £106/Scrutiny fee (EEA national with EEA qualifications): £201
Health & Care Professions Council	£63 (UK) £495 (non-UK)
Nursing and Midwifery Council	£0
Pharmaceutical Society of Northern Ireland	£0

- 5.8 We consider subsidy of unsuccessful registrants to be unnecessary and undesirable, and propose to eliminate it by **introducing a non-refundable application fee, payable by all applicants**. This fee will cover the cost of processing applications to the register, with the aim of removing this cross subsidy. We expect this also to reduce the number of poor quality or speculative applications to the register that the GDC receives.

### Question 3

**Do you agree that the cross subsidy between successful and unsuccessful applicants to the register should be eliminated?**

### Question 4

**Do you agree that the levying of a fee per application is an effective way of doing this?**

### Question 5

**What do you see as the advantages and disadvantages of such an approach?**

- 5.9 A further way in which cross subsidy arises on first registration relates to the level of effort required to assess and process different types of application, and therefore the cost incurred. There are some routes to registration, particularly for applicants from outside the UK/EU, in which applications require a considerably higher degree of scrutiny. The cost of processing these applications, whether successful or not, is currently borne by other registrants.
- 5.10 Such a cross subsidy could be maintained, reduced or entirely eliminated by implementing a model which sets different fees for different applicant groups, depending largely on their route to registration. We therefore **propose to develop a framework of non-refundable assessment fees for those applicants whose applications require greater scrutiny**. In developing such a framework, which will be based largely on country of qualification, we must remain mindful of our obligations under EU law in respect of free movement of EEA nationals, recognising that these may change in the medium term. We must also have in our minds the potential impact on the UK workforce.

### Question 6

Do you agree that the cross subsidy resulting from the difference in processing costs of the various routes to registration should be addressed?

### Question 7

Do you agree that the introduction of an assessment fee for certain types of application is an effective way of doing this?

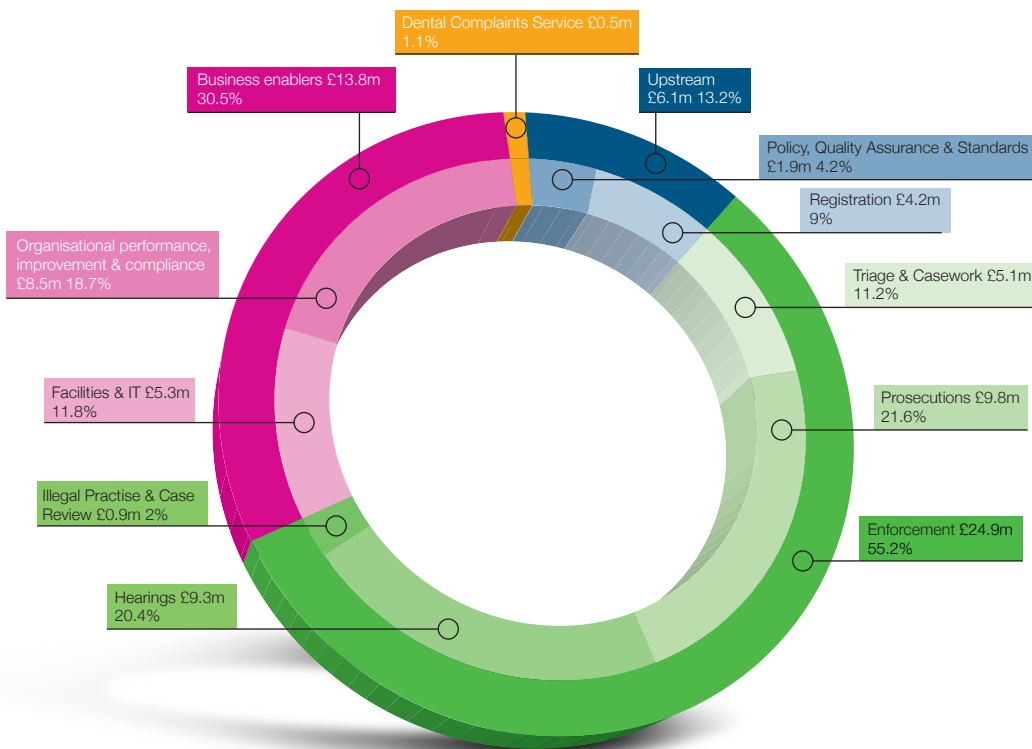
### Question 8

What do you see as the advantages and disadvantages of this approach?

## Attributing costs: enforcement activity

5.11 As noted above, the effort and therefore cost incurred as a result of enforcement activity is not attributable equally across the registers. As can be seen from the financial information provided in figure 5, prosecutions and hearings account for more than 40% of the GDC's total costs. The majority of these costs are generated, and therefore funded by, dentists. In developing our financial analysis, and the policy that emerges from it, we gave detailed consideration to the question of whether the current two-band system, with one fee for dentists, and another for DCPs, is still the best model. In doing so we explored the implications of dividing the registers differently, for example by individual title, or groups of titles.

**Figure 5: Breakdown of GDC spend by function**



#### Organisational performance, improvement and compliance

CEO and Executive Directors	Human Resources and Equality, Diversity & Inclusion
Compliance	Information Governance
Corporate Legal	Project Management Office and Reporting
Finance and Procurement	Risk

- 5.12 It is important that registrants have some degree of stability and certainty in relation to the fees that they will be expected to pay. Distributing costs among larger numbers of registrants is one way of achieving this. Introducing additional bands to the fee-charging structure, based on professional title, would introduce additional complexity to the structure, along with considerable instability in the fee level. This might particularly affect those professions which have small numbers of registrants. In those small professional groups, a very small increase or reduction in the number of fitness to practise cases would result in dramatic under or over-recovery of enforcement costs. Alternatively, dramatic increases or reductions in the fee would give fees an inappropriately punitive character for those professions. Such sharp increases might also create a disproportionate disadvantage to those smaller registrant groups if they raise legitimate concerns about the conduct or competence of their fellow professionals. As well as the impact on existing registrants, such volatility and the possibility of sudden and significant increases could act as a barrier to entry to some professions.
- 5.13 There were calls in response to the 2014 consultation on our fee-setting policy for higher fees to be charged to those registrants who have been through fitness to practise proceedings. We stated then, and still maintain, that such a system of fee-charging would be unfairly punitive and therefore undesirable. This is distinct from the *recovery of costs* from those subject to enforcement action, which we have the power to do but have not yet implemented.
- 5.14 Taking into account the impact on volatility in fees for smaller registrant groups, we therefore consider that there are benefits to sharing costs across the DCP register in order to promote certainty and stability for registrants, and therefore the workability of the regulatory framework. We also note that there are alternative, albeit not yet implemented, mechanisms available to recover costs from those subject to enforcement action. **We therefore propose to maintain the current two-band fee structure of dentists and DCPs.**
- 5.15 It may be possible in the future to adopt a more risk-based approach to the setting of fees based on, for example, the volume and/or nature of activity undertaken. While we must be clear that we do not currently have access to the necessary information or systems, we intend to continue to pursue the concept as a potential means of further improving fairness.

### Question 9

**Do you agree that we should maintain the current two-band fee structure for fee setting?**

### Cross subsidy as a mechanism for reducing the burden on particular groups

- 5.16 We know that while regulation delivers significant public benefit, for some registrants paying for those benefits can represent a significant cost. Previous consultations saw calls for considering the introduction of lower fees for certain groups; for example, those on low incomes, working reduced hours or for those who are not currently practising in the UK. We have also received requests to introduce systems which enable registrants to manage their fee contributions through, for example, a facility to pay by instalments. We continue to receive enquiries on these topics.

## Varying the fee according to income, hours worked etc

- 5.17 As a starting point for discussion, as a matter of organisational policy, the GDC has chosen to adopt a fee structure based on effort expended and not on the income or other circumstances of registrants. While there is, of course, scope to debate and indeed change this policy choice, it is one that has been reflected in other fee regimes and we propose to continue to pursue this policy, for a range of reasons, set out below:
- Reducing the fee for one group will, all else being equal, require other groups to pay more. We have not seen an overwhelming demand across the professions for the fee system to be used to redistribute income in this way, and there is a very strong argument that it would be inappropriate to do so.
  - Introducing special arrangements for particular groups can give rise to an additional 'cost of compliance'. For example, for a fee based on income or hours worked, checking that registrants were within the prescribed limits would incur costs, and those costs must either be borne by the groups concerned, which defeats the object, or by other registrants.
  - Such systems very often lead to additional complexity, which entails additional cost of collection (for example in a system with a more granular subdivision of fees between different categories of DCP).
  - One benefit of registration is that it confers an unlimited right to practise for the year of registration, a right that is not modified according to hours worked, income or other factors.
- 5.18 We do not propose, therefore, to implement such mechanisms. If there is clear and unequivocal support across all registrant groups to use the fee system as a means of redistributing income in this way, we may review the position in more detail, including a detailed examination of what powers would be necessary to enable such a scheme.

### Question 10

**Are the reasons for not introducing mechanisms to vary the fee according to income, hours worked etc sufficiently clear?**

## Paying by instalments

- 5.19 At first sight, the many calls we receive from the profession and membership organisations to facilitate the payment of fees by instalments appear perfectly reasonable and straightforward, particularly as the subscriptions to those membership organisations are often capable of being paid in instalments. However, the GDC is bound by its legislation and rules, and is currently required by these to receive payment for registration and retention on the register in advance. Development of a system to facilitate payment by instalments would therefore almost certainly have to rely on procuring financial services partners that would pay the GDC the full amount of the fee in advance and spread the cost for individual registrants over the course of a year. In order to make such a scheme financially viable, any such partner would need to secure a margin to cover both the risk it would be taking on and an element of profit. That additional cost would inevitably need to be passed on to participating registrants. This pre-supposes that a viable business case could be developed for this activity. Our early enquiries tend to suggest that this would be unlikely, particularly in relation to the DCP fee.

- 5.20 We do not propose, therefore, to introduce a facility for registrants to pay by instalments. If there is clear and unequivocal support across all registrant groups to adopt such a system and to bear the costs associated with that, we may, review the position in more detail, subject to legal advice.

#### Question 11

**Are the reasons for not introducing mechanisms to reduce the burden of paying fees for certain groups sufficiently clear?**

#### Question 12

**What, if any, other key matters do you think should affect decision-making on introducing a system for paying by instalments? Please explain your rationale.**

### Non-practising registers

- 5.21 Some regulators operate registers for those who are not currently practising in the UK, for example for maternity/paternity leave, illness, overseas work/travel or having retired. Membership of such registers does not confer a right to practise, and carries a correspondingly lower fee. We have faced calls, often from retired registrants, to establish such a register. While there are some good arguments in favour of such registers, we do not consider that the benefits of operating them are sufficiently clear, particularly in relation to our overarching objective of protecting the public. We note that the PSA has reached similar conclusions<sup>7</sup>. We do not, therefore, propose to introduce a non-practising element to our registers.

## 6. Prioritising resources

- 6.1 As we have made clear in this consultation, we have a duty to our registrants to minimise the burden on them and ensure value for money by seeking efficiencies wherever possible. We will deploy all of our resources in pursuit of our statutory objectives. In doing so, however, we must fulfil the following prior requirements:

- **Ensuring that the GDC is viable as an organisation** so that we are capable of delivering the objectives set for us by Parliament on behalf of the public, and in a position to manage normal year-on-year fluctuations in cost. This involves securing an appropriate degree of financial resilience in the form of reserves and other mechanisms. Improvements in our financial stewardship in recent times have led the GDC to conclude that it needs a new approach to financial reserves, to provide greater clarity about why we must maintain them and how we use them. This is the subject of separate, but related work.
- **Complying with legal and other obligations, including delivering our obligatory functions and high standards of performance against the PSA's standards of good regulation.**

- 6.2 When we are satisfied that these criteria have been met, **we will consider investing in measures to deliver public protection more efficiently by reducing the costs and burdens of enforcement action. One element of this is likely to be greater focus on preventative measures.**

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<sup>7</sup> [Right-touch reform - A new framework for assurance of professions](#)



## 7. Future approach to consultation

- 7.1 Across the field of professional healthcare regulation there is a wide range of different approaches to consulting stakeholders on fees, with some consulting when they are changing, and others publishing business plans but without inviting views on fee levels.
- 7.2 In 2014, the GDC adopted a fee policy that was based largely on publishing a detailed annual budget for consultation. With the benefit of hindsight, that policy has not succeeded in generating a broad public debate about approaches to, and costs and benefits of, regulation. The complexity of the regulatory system, and the opportunities for its many components, including the profession itself, to reduce costs has tended to be obscured by a somewhat narrower and less productive discussion of individual budget lines.
- 7.3 In addition, consultation on the basis of a detailed annual budget reduces the time available for the development of the budget, requiring early finalisation to enable the consultation process, and removing to a very large extent the flexibility enjoyed by comparable organisations to manage budgets effectively in-year.
- 7.4 As we set out earlier in this document, we therefore intend to **base future consultation on fees on a three-year corporate plan**, costed at programme level, which will articulate our strategy and how we propose to implement it. We will seek views on the content of that plan. While the detail of our annual budgets will still be available through published Council papers and our Annual Report and Accounts, **we do not intend to consult on a detailed annual budget**. Instead, we will engage the professions and our stakeholders in a more meaningful debate about how we propose to achieve our objectives, and the costs of doing so.
- 7.5 **We will consult on our proposals for allocating costs across different groups and subgroups of registrants, and will provide information on the rationale for that allocation.** However, as fee levels for individual groups and subgroups of registrants will be an arithmetic calculation based on the overall cost of the plan and the formula for distribution, **we do not intend to consult on fee levels themselves**, although we will be clear about what the fees would be under various distribution formulae.

## 8. Year-on-year fluctuations and exceptional circumstances

- 8.1 One implication of consulting based on a three-year corporate plan is that we limit our ability to adjust fees on an annual basis to respond to normal fluctuations in cost and income received. Instead, **we propose to smooth those fluctuations using financial reserves**.
- 8.2 It is possible that circumstances affecting our income or expenditure may arise, which we could not foresee or control. Where these cannot be accommodated through the deployment of reserves, our first step will be to examine our finances to see what savings can be made, while still meeting our statutory obligations. Should this not be sufficient, *exceptional* fee changes may be necessary within the three-year cycle. **Under such circumstances, which are likely to be very rare, and which we will make all reasonable efforts to avoid, we may adjust fees accordingly, without consultation.** We will always publish a full account of why such changes are necessary. We will also alert stakeholders at the earliest opportunity to emerging risks, for example large unforeseen increases in caseload, that may necessitate such exceptional changes to fees.

## 9. Equality, diversity and inclusion considerations

- 9.1 The proposed policy will apply to all registrants, irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief, sex/gender, sexual orientation or race.
- 9.2 Our initial view is that there are no differential impacts as a result of the proposed policy. Consultation, however, is an important element of undertaking a full equality impact assessment. We will therefore use the responses to this consultation to inform a full assessment, and the subsequent implementation of the policy.

### Question 13

**Are there any aspects of the proposed policy and our approach to charging fees that you believe are likely to have a differential impact on certain groups of registrants? If so, please explain this impact and how you think this could be addressed.**

## 10. Consultation process and next steps

- 10.1 This consultation document sets out a number of proposals and questions relating to the policy underpinning our fee structure for professional regulation in dentistry. The consultation will run for a period of 12 weeks. The closing date for the consultation is 15 May 2018.

The closing date for the consultation is 15 May 2018. Responses can be sent to [policyinbox@gdc-uk.org](mailto:policyinbox@gdc-uk.org). Alternatively, you can complete the consultation online via our [consultations page](#). A consolidated list of questions can be found at Annex B.

## Fee-setting policy

### Key principles

The system of professional regulation in dentistry is, and will continue to be, funded almost entirely from fees paid by registrants. We have a duty to our registrants to **minimise the burden on them by seeking efficiencies wherever possible**. We will incorporate and adhere to the following principles:

- **Fee levels should be primarily determined by the cost of regulating each registrant group:** we will seek to minimise the ways in which registrants fund regulatory activity that is not generated by them by removing, as far as practicable, cross subsidy between different groups. We will do this by allocating costs, as far as possible, where they fall. Where a degree of cross subsidy is necessary, we will explain this through our policy.
- **The method of calculating fee levels should be clear:** we will be open with registrants about how we allocate the income we receive from them and why, and provide sufficient information about cost drivers, giving them the opportunity to contribute to the debate. We will seek to show a clearer link between fee income and regulatory activity.
- **Supporting certainty for registrants and the workability of the regulatory framework:** we need to make sure that decisions on the allocation of costs do not lead to undesirable outcomes in the form of unacceptably high or variable costs for some groups of registrants. For example, in determining whether cross subsidy is necessary or desirable we will need to consider the impact on the volatility of fee levels (i.e. how much small changes in workload would cause the fee to change). This is likely to be of particular relevance to small registrant groups, where distribution of costs among small numbers of registrants has the potential to give rise to significant levels of volatility (and therefore uncertainty) and/or prohibitively high fees.

### How we calculate the amount that needs to be raised

Parliament has set out the GDC's statutory objectives in the Dentists Act 1984 (as amended).

Our overarching objective, in common with all other healthcare professional regulators, is the protection of the public, in pursuit of which we must pursue the three following objectives:

- To protect, promote and maintain the health, safety and well-being of the public.
- To promote and maintain public confidence in the regulated professions.
- To promote and maintain proper professional standards and conduct for members of those professions.

Parliament has also set out four functions (our 'statutory functions') that we *must* carry out in pursuit of these objectives. They are:

- To maintain a register of dental professionals who are 'fit to practise.'
- To set standards for the dental team.
- To set standards for dental education.
- To investigate allegations of 'impaired fitness to practise' and take appropriate action where necessary.

However, the law leaves us with considerable discretion as to other activities that we may elect to carry out in pursuance of the objectives. For example, we invest significantly in engaging with the profession and other stakeholders; we investigate and prosecute illegal practice; and we run a resolution service for complaints about private dental care.

We will pursue activity that is designed to:

- Improve public protection, including through measures designed to prevent harm from occurring.
- Reduce the burdens of the regulatory system on registrants and make it fairer.
- Reduce the costs of regulation.

We will publish, maintain and update a rolling three-year corporate plan, which will be costed at programme/function level, and will outline clear objectives. The plan will set out:

- How we will deliver the obligatory functions that we *must* carry out.
- How we will use the discretion we have to fulfil our broad statutory objectives.

The plan will be accompanied by key assumptions, including those relating to our own efficiency gains and will set out the amount we seek to recover from fees over a three-year period.

In formulating the corporate plan, we will take full account of the impact of fees on registrants.

Every three years we will therefore invite views on the strategic priorities and overall resourcing of our corporate plan before approving it.

## **How we distribute the costs among different groups and subgroups of registrants**

In distributing the costs among different groups and subgroups of registrants we will use the principles set out above to operate a system in which:

- Costs will be allocated as far as possible where they fall. We will set out in our corporate plan, where possible, the share of the costs for each item for each registrant group.
- We will seek to avoid cross subsidy between different groups and sub-groups of registrants. Where we consider a degree of cross subsidy to be necessary we will draw attention to it and explain the rationale.
- We will avoid implementing measures that would increase the cost of administering the fee, for example payment by instalments, unless there is clear and unequivocal support across all registrant groups for the increase in the fees that this would likely entail, all else being equal.
- We will avoid implementing measures that would introduce a compliance element, and therefore cost, to the system for collecting fees, for example reduced fees based on income or hours worked, unless there is clear and unequivocal support across all registrant groups for the increase in fees that this would likely entail.

## How we prioritise allocation of resources

We deploy all our resources to meet our statutory objectives of protecting patients and ensuring public confidence in dental services. In meeting that principle we will prioritise our resources as follows:

1. Ensuring the financial viability of the organisation: this means that we will ensure that we have appropriate cash flow and reserves, in line with the relevant policies and procedures, to operate the GDC as a going concern and to reduce the need for exceptional changes to the fees. We will benchmark the main financial parameters against a range of appropriate comparators.
2. Complying with our legal and other obligations, including meeting the PSA standards of good regulation.
3. Investing in measures designed to improve public protection, including preventative measures, with a view to reducing, where we can, the costs and burden of enforcement action.

After meeting these priorities, if we are confident that we can reduce fees while delivering our statutory objectives, we will do so.

## What we consult on, what we do not consult on, and why

- We will consult every three years on the high-level objectives and associated expenditure plans which will underpin the annual retention fee. The consultation documents will be reasoned, costed and clear about the assumptions on which they are based, particularly in relation to efficiency gains.
- We will consult on our proposals for distributing the costs of achieving the objectives among different groups and subgroups of registrants, including on any proposed cross subsidy, and any steps that might be taken to minimise the impact on those groups and subgroups.
- While we will provide information on how our distribution plans affect fees payable by different groups and subgroups of registrant, we will not consult on the level of the fees. Nor will we consult on a detailed annual operational budget, although information about the budget will be made public as part of the Council's budget setting process. This is for two reasons:
  1. The costs of regulation are influenced by a wide range of factors that go considerably beyond the GDC's detailed annual budget.
  2. Consulting on a detailed annual budget introduces severe constraints on the GDC's ability to manage resources efficiently and effectively.

## Exceptional circumstances

- Over any three-year period, we will seek to use reserves to smooth any in-year changes in cost. However, in *exceptional* circumstances we may need to increase fees to pay for significant unforeseen costs. We will not consult on such increases, although we will be clear about the reasons for them, and will provide as much advance warning as possible about potential risks.

### Questions

#### Question 1

Do you agree that these principles should underpin decision-making with regard to fee-setting for dental professionals?

#### Question 2

What, if any, other key matters do you think should affect decision-making on fees? Please explain your rationale.

#### Question 3

Do you agree that the cross subsidy between successful and unsuccessful applicants to the register should be eliminated?

#### Question 4

Do you agree that the levying of a fee per application is an effective way of doing this?

#### Question 5

What do you see as the advantages and disadvantages of such an approach?

#### Question 6

Do you agree that the cross subsidy resulting from the difference in processing costs of the various routes to registration should be addressed?

#### Question 7

Do you agree that the introduction of an assessment fee for certain types of application is an effective way of doing this?

#### Question 8

What do you see as the advantages and disadvantages of this approach?

#### Question 9

Do you agree that we should maintain the current two-band fee structure for fee setting?

#### Question 10

Are the reasons for not introducing mechanisms to vary the fee according to income, hours worked etc sufficiently clear?

#### Question 11

Are the reasons for not introducing mechanisms to reduce the burden of paying fees for certain groups sufficiently clear?

#### Question 12

What, if any, other key matters do you think should affect decision-making on introducing a system for paying by instalments? Please explain your rationale.

#### Question 13

Are there any aspects of the proposed policy and our approach to charging fees that you believe are likely to have a differential impact on certain groups of registrants? If so, please explain this impact and how you think this could be addressed.



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