

<b>Title:</b> General Dental Council (GDC) Case Examiner S60 Order <b>IA No:</b> DH8058 <b>Lead department or agency:</b> Department of Health <b>Other departments or agencies:</b> Non Applicable	<b>Impact Assessment (IA)</b>	
	<b>Date:</b> 07/07/2015	
	<b>Stage:</b> Final	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Secondary Legislation	
<b>Contact for enquiries:</b> Kelly Craig, Professional Standards Branch, Department of Health		
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> Pending

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
25.1	17.7	-1.62	Yes	Out

**What is the problem under consideration? Why is government intervention necessary?**

The duties and processes by which the GDC must abide, as set out in the Dentists Act 1984, are lacking in flexibility and restrict the ability of the GDC to respond efficiently and effectively to the significant challenges of recent years. These have been characterised by a significant rise (110% over the last three years) in the number of fitness to practise complaints being raised against dental and dental care practitioners with the GDC.

This has negatively impacted on the GDC's ability to fulfil its roles both regarding patient protection and providing fitness to practise proceedings that the public and registrants alike have confidence in.

**What are the policy objectives and the intended effects?**

The policy objective is to improve the GDC's administrative procedures, as set out in legislation, of their fitness to practise activities to enhance patient safety, enable efficiency savings to be made by the regulator and speed up the fitness to practise complaints process for registrants, the GDC and other interested parties.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1 – Do nothing.

Option 2 – Introduce secondary legislation to enable the GDC to modernise the administrative processes embedded in their fitness to practise activities. This is the preferred option as it is the only way in which the policy objectives (minimising the risk to patient safety and enabling the GDC to take a flexible, proportionate approach to fitness to practise cases) can be achieved.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date:** 2019

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible Minister:  : 20 July 2015

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Do nothing: The GDC will remain unable to modernise and increase the flexibility of their fitness to practise processes.

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

**Description and scale of key monetised costs by 'main affected groups'**  
Zero. This is the do nothing option and consequently no additional costs will be incurred by any party.

**Other key non-monetised costs by 'main affected groups'**  
Zero, please see above.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

**Description and scale of key monetised benefits by 'main affected groups'**  
Zero. This is the do nothing option and consequently no additional benefits will accrue to any party.

**Other key non-monetised benefits by 'main affected groups'**  
Zero, please see above.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount Rate</b>	N/A
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## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b> Costs: 0	<b>Benefits:</b> 0	<b>Net:</b> 0	<b>In scope of OITO?</b> No	<b>Measure qualifies as</b> Out of Scope
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# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Introduce secondary legislation that will enable the GDC to make changes to the administrative proceedings of their fitness to practise activities. This would include the introduction Case Examiners with the power to agree warnings and undertakings with registrants.

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 19.1	High: 31.1	Best Estimate: 25.1

COSTS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.7	2.2	19.3
High	0.7	2.3	20.3
Best Estimate	0.7	2.3	19.8

**Description and scale of key monetised costs by 'main affected groups'**  
 Transition costs of £0.7 million will be generated by the GDC in implementing new procedures. These will accrue to the GDC. Rise in fitness to practise hearings as a result of the power to review will generate ongoing costs of approximately £0.7 million in year one to the GDC and are expected to rise by 7% per annum in line with expected growth in caseload. Employing Case Examiners to replace the Investigating Committee will generate ongoing costs of around £0.8 million in year one, rising by approximately 7% per annum in line with expected growth in caseload. These will accrue to the GDC, as will minor costs (of £14k in year one) from reviewing decisions to issue warnings. We also anticipate ongoing costs of circa £0.07 million in year one (rising in line with expected growth in caseload) to accrue to registrants who are suspended from practise following the reopening of their case for review.

**Other key non-monetised costs by 'main affected groups'**  
 No other non-monetised costs have been identified.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	4.7	39.3
High	0	6.0	50.4
Best Estimate	0	5.3	44.8

**Description and scale of key monetised benefits by 'main affected groups'**  
 The GDC will save approximately £2.4 million in year one by only utilising the Investigating Committee for cases where unanimous agreement has not been reached by the Case Examiners. Furthermore, the GDC expect to save between £0.9 million and £1.9 million in year one on final fitness to practise hearings resulting from the Case Examiners' power to agree undertakings with registrants, with additional very minor savings (between £3k and £13k in year one) from the right to appeal reducing the number of judicial reviews. Benefits are also expected to rise by 7% per annum in line with expected growth in caseload.

**Other key non-monetised benefits by 'main affected groups'**  
 Registrants subject to less serious fitness to practise hearings will benefit from a swifter and more proportionate resolution of their case. This may reduce stress for the registrant and complainant as oral evidence will not be required in all cases. There should also be greater consistency in decision-making. The individuals undertaking the role of Case Examiners will be officers of the GDC, and will deal with a greater number of cases than each of the current panellists therefore gaining a greater depth of expertise and experience. This may increase both the public's and registrants' confidence in the process as a whole and reduce the risk of challenges to decisions via greater consistency. A more proportionate appeal route for registrants issued with a warning will also be beneficial.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5
The savings generated by reducing the number of final fitness to practise hearings will vary between years according to the nature of the cases received in the future. Estimates provided by the GDC, and utilised here, assume that cases currently dealt with at a final practice hearing via suspension, conditions order or admonishment would be suitable for an undertaking following the GDC implementing the powers conveyed to them in option 2. There are no official statistics that estimate the proportion of total dental professionals that practice in the private sector. The best available data has been utilised to estimate this.		

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>	<b>In scope of OITO?</b>	<b>Measure qualifies as</b>
Costs: 1.2	Yes	Out
Benefits: 2.8		
Net: 1.6		

# Evidence Base (for summary sheets)

## Issue under consideration

1. For several years, the Law Commissions have been undertaking a review of health, and in England, social care professional regulation matters to streamline and simplify the existing regulatory framework. The review has now concluded, but due to the limited amount of Parliamentary time and other measures needing to take priority, it has not been possible to secure a slot to take through a Bill putting in to legislation the Law Commission's recommendations.
2. During the period of review only minimal changes were made to the regulatory bodies frameworks, given the original intention to implement the Law Commissions' recommendations once made. Along the way the regulators identified a number of areas in which improvements could be made to their governing sets of legislation, both for the protection of the public and in terms of efficiency savings. However, any change requests made during the review period were deferred until its findings were known and published.
3. This has been particularly problematic for the GDC whose duties and processes are set out within the Dentists Act 1984, which cannot be deviated from. The GDC has also seen a 110% increase in its fitness to practise complaints case load within the last 3 years, putting a significant strain on the GDC's resources (it has recently increased its registration fees). To counterbalance this, and to ensure a satisfactory level of public protection, the GDC need to be able to expedite complaints received to prevent an unmanageable backlog of cases and curtail the need for more substantial fee increases in the future.
4. As way of background, the GDC is responsible for regulating dentists and dental care professionals (DCPs, comprised clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists and orthodontic therapists) working in the United Kingdom and is independent of the professions it regulates, employers and from Government. It operates solely to protect the public. However, the GDC remains dependent on Government and Parliament in relation to the rules and regulations under which it operates i.e. the Dentists Act and subsequent secondary legislation. This system was originally designed in this way to ensure the GDC regulates in a way that delivers cost-effective healthcare regulation and satisfactory levels of public protection. Also, legislation provides that, in addition to Parliament, the Privy Council is responsible for clearing any changes to the GDC's governing legislation, therefore making the regulator independent of Government.

## Rationale for intervention

5. As set out above the GDC's processes, duties and the way it should operate are set out in the Dentists Act 1984. Through discussions with the GDC it has been identified that in order to maintain the correct level of public protection, confidence in dental regulation and efficiency savings, changes need to be made to the GDC's early investigatory stage fitness to practise processes. It should be noted that the Department has undertaken a public consultation on these measures and the vast majority of responses agree that the measures will be beneficial in the ways outlined (see Annex E for a summary of the relevant responses).
6. Ministers also recognise the difficulties for the GDC in operating the existing legislation given its rigidity, especially where there is a need to ensure prompt action can be taken where a complaint has been raised about a registrant's practice which presents a risk, for example, to patient safety.
7. However, these changes cannot be brought about by the GDC alone. Whilst it has already made a number of efficiency savings, for example introducing an expanded in house legal team to reduce the amount payable for legal expertise, the GDC are unable to further improve the efficiency of their early investigation processes in the absence of legislative change.

8. Consequently, it is our intention to take forward amendments in a small number of priority areas to the Dentists Act 1984 via secondary legislation. Overall, the implementation of these measures will ensure that the GDC is able to fully discharge its duties in the most efficient manner, thereby contributing to minimising potential risks to patient safety.

### **Policy objective**

9. Each of these amendments will contribute to the realisation of different policy objectives. These are outlined below, listed by amendment:

#### *The Introduction of case examiners to exercise the powers of the Investigating Committee*

10. Upon introduction case examiners will be able to make the decision about how a case should proceed at the end of the investigation stage of fitness to practise procedures. It is anticipated this will lead to the swifter resolution of fitness to practise cases, as a full Investigating Committee will not need to be convened for every case that reaches this stage, as well as greater consistency in decision-making.
11. However, it is not our intention that regulation of dentists and DCPs as currently implemented will be watered down. It is only our intention to allow the GDC to progress its case load without the need to convene a full Investigating Committee for each case that reaches this stage. The current criteria for onward referral to a Practice Committee utilised by the Investigating Committee will continue to be used. This will therefore not create any patient safety implications.
12. This is a provision that is already applicable to the General Medical Council and General Optical Council, it has also recently been introduced for the Nursing and Midwifery Council (NMC) through its S60 Order. All of whom have seen, and in the case of the NMC expect to see, a positive impact from the introduction of this measure on the speed of completion of fitness to practise cases.

#### *The ability for both case examiners and the Investigating Committee to have the power to agree undertakings with registrants*

13. Undertakings are applied at the end of an investigation by a regulatory body into allegations of impairment of fitness to practise made about a registrant. The introduction of this change will mean that some cases which are currently referred to a Practice Committee may not need to be, if it is determined that the agreement of undertakings would lead to the resolution of a case in a way which is sufficient to protect patients and the public. Therefore, if the Investigating Committee or Case Examiners consider that an allegation indicates that the registrant's fitness to practise may be impaired, but that the matter need not be considered by a Practice Committee, they would have the power to agree undertakings with the registrant. For example, if it is alleged that a registrant is deficient in a particular clinical skill, an undertaking to complete specific retraining could be agreed. This may be more proportionate than referring the case for a full hearing, which would increase the time and cost of reaching a decision.
14. Similarly, if a case involved an allegation that a registrant's health was affecting their fitness to practise, it may be possible to agree undertakings that would address any risks posed to the public and to the registrant themselves as a result of this health condition. This would also avoid the anxiety, time and cost incurred by referring the case for a full hearing.
15. It should be noted that undertakings will only be used where the undertaking applied satisfactorily protects the public and addresses the concern about the professional. Undertakings would not be proposed where the Investigating Committee or case examiners felt that there was a possibility that, if the case was referred to a Practice Committee, the Practice Committee would erase his or her name from the register. However the introduction of this change will ultimately allow members of the

GDC's Practice Committee greater capacity to consider more serious cases by dealing with those that are less serious earlier in the process.

*The introduction of a power to review cases closed at the end of the investigation stage, within 2 years of closure*

16. This is similar to the power that has been introduced for the NMC. It will allow the GDC to review a decision to close a case within 2 years of closure on the grounds of material error, or new information which would have made a difference to the outcome of the case and if the review is in the public interest.
17. The introduction of this measure will allow the GDC to ensure all allegations are addressed in the most appropriate way; if a case was closed and upon review it was determined that it should have been referred onwards, the original decision can be reversed and further action taken which could mean preventing someone from practising if necessary. This will add a further safeguard in to the system and by giving the GDC the power to take suitable action it will improve public protection and maintain confidence in dental regulation.

*The introduction of a more permissive power to ensure registrants can be referred to an Interim Orders Committee at any time during the fitness to practise process*

18. At present the powers around when a case can be referred to an Interim Orders Committee is ambiguous. The GDC has therefore requested that this is made unambiguous and a power is introduced whereby a referral can be made to the Interim Orders Committee at any point in the fitness to practise process where information comes to light, which suggests an interim order might be necessary. This will close a potential gap in the current legislation and maintain public protection and confidence throughout the entire fitness to practise process.
19. By making this change it will provide a higher level of patient protection, ensuring those who are potentially unsafe to practice can have their registration suitably restricted whilst enquiries and investigations are made. Public confidence in the regulatory regime will also be enhanced, by guaranteeing appropriate measures can be taken where necessary thereby safeguarding patients and the public and ensuring they are not exposed to inappropriate practice.

*The introduction of a power for the GDC to review decisions made by the Investigating Committee to issue a warning to a registrant*

20. If the Investigating Committee (IC) decide that a case does not need to be considered by a Practice Committee, the IC can issue a warning to the registrant concerned. At present, a warning issued by the IC can be published in the GDC's online register, or can be issued to the registrant by a private letter (although they will always also appear on the register). If it is published, this will be for a specified period of time. The fact that a warning was issued remains part of a registrant's registration history, and is disclosable to future employers. The registrant is offered the opportunity to comment on the allegation being made against them. However, they are not given the opportunity to comment specifically on the prospect of receiving a warning. There is currently no mechanism by which the decision to issue a warning can be reviewed by the GDC – the only means of revisiting a decision to warn a registrant is through an application for a Judicial Review of the decision.
21. Where a warning has been issued, we are proposing to enable the IC and case examiners to be able to review such a decision on the application of the registrant or the registrar and, if it thinks appropriate, revoke the warning and direct the Registrar to remove the warning from the registrant's entry in the register. We will set a two year time limit within which an application for a review can be made.

22. We do not propose to define particular criteria that a request for the review of a warning must meet before it will be considered. This will help to ensure the fairness of the process overall. There will not be a limit on the number of review applications a registrant may submit. However, as this is a permissive power, the GDC will not be required to undertake a review of a decision. They will therefore be able to refuse repeat requests for review from particular registrants which, coupled with the two year time limit for applications will serve to minimise the impact on the GDC's resources.
23. Ultimately all of these proposed amendments are designed to remove the inflexibility of the legislation surrounding the early investigation stages within the fitness to practise process, allowing the GDC to make necessary efficiency savings. These measures should also lead to the swifter resolution of fitness to practise complaints, as they will improve the efficiency of the GDC's processes, whilst also enhancing patient protection and public confidence in dental regulation. The power to review decisions to issue warnings to registrants will increase the fairness of the process and provide a more proportionate method of redress for registrants in cases where, for example, mitigating circumstances were not considered when the warning was issued.

### **Options Considered**

#### **Option 1: Do nothing.**

24. This would involve making no legislative change to the GDC's overarching legislative framework and it being unable to make any further efficiency savings, additional to those already made.
25. The present regulatory system within which the GDC must operate is inflexible. It provides very limited latitude to improve the efficiency of the fitness to practise process. As a result, it poses a significant obstacle to the GDC in reducing the amount of time it takes us to conclude a fitness to practise investigation. In the face of the expected rise in the number of fitness to practise cases the GDC receive, this will necessarily lead to a rise in its operating costs. The GDC's primary revenue stream is the registration fee paid by dental professionals. If its workload increases and provisions are not made to enable the GDC to make efficiency savings, the GDC may need to increase its income, by raising registration fees, to finance the additional activity<sup>1</sup>.
26. This lack of flexibility also limits the extent to which the GDC can improve the experience of a dental professional undergoing a fitness to practise investigation, and/or of individuals who have raised a complaint or concern.
27. The current set of circumstance would continue; an ever increasing fitness to practise complaint caseload, leading to an unmanageable backlog of cases, an increased budget deficit and registrants (some of whom count as small business as 68% of the dentistry population work in private practice) needing to foot the short fall. The do nothing option therefore results in a less favourable outcome for the GDC, its registrants and the general public. As such, it is not considered to be a satisfactory solution.

#### **Option 2: Introduce secondary legislation that will enable the GDC to make changes to the administrative proceedings of their fitness to practise activities.**

28. The preferred option is to introduce a new piece of secondary legislation granting the GDC the powers to:

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<sup>1</sup> The policy by which the GDC set out registration fees was established in 2014 following public consultation and is available at: <http://www.gdc-uk.org/GDCcalendar/Documents/GDC%20statement%20following%20the%20consultation%20on%20the%20Annual%20Retention%20Fee%20Policy.pdf>

- (i) introduce case examiners, who will exercise the functions of the Investigating Committee and therefore make decisions about how a case should proceed at the end of the investigation stage of the fitness to practise procedures;
  - (ii) create the ability for both case examiners and the Investigating Committee to have the power to agree undertakings with registrants;
  - (iii) introduce a power to review cases closed at the end of the investigation stage if the decision is materially flawed or new information has come to light which may have altered that decision; and
  - (iv) introduce a more permissive power to ensure registrants can be referred to an Interim Orders Committee at any time during the fitness to practise process;
  - (v) Introduce a power for the GDC to review decisions made by the Investigating Committee and case examiners to issue a warning to registrants.
29. This is necessary as the Dentists Act 1984 stipulates the processes the GDC should follow and how it should undertake its duties. It would be impossible for the GDC to introduce any of these items, or for the Government to grant new powers do so, without a regulatory intervention. Further detail is provided below:

#### *Case examiners*

30. The GDC's current legislative framework requires that following triage of a complaint, if that complaint falls within the GDC's remit it must be considered by an Investigating Committee, meaning a panel must be convened for every case that reaches this stage. At present there are no powers within the legislation allowing the GDC to delegate the functions of the Investigating Committee, if the GDC were to delegate in such a way without the authority, it would be a breach of the legislation. A legislative amendment is therefore required to allow for this.

#### *Undertakings*

31. Within the current system the Investigating Committee can either make a no case to answer decision, issue a warning or make a determination that the case ought to be considered by a Practice Committee. There is no flexibility within the legislation to allow the Investigating Committee to agree with the registrant under investigation that conditions should be applied to their registration. To do so without legislative authority would, again, be a breach of the Investigating Committee's powers. A legislative intervention is required to allow the Investigating Committee and case examiners (upon introduction) to agree undertakings.

#### *Review of cases closed at the investigation stage*

32. At present should a case be closed at the investigatory stage a review cannot be undertaken even if the decision was materially flawed or new information comes to light. This is an area where patient safety would be improved through the introduction of such a power but for the GDC to review a case and attempt to take further action on it without the necessary legislative authority would leave it open to legal challenge.

#### *Referral to an Interim Orders Committee at any time in the fitness to practise process*

33. At present there is some ambiguity within the legislative framework, meaning it is unclear that a referral can be made to an Interim Orders Committee at any point in the fitness to practise process. There are potentially a number of areas where the legislation remains silent in relation to interim orders as jurisdiction for cases passes through the various decision makers within the statutory scheme. Whilst there are no provisions preventing the individuals responsible for the various areas



making a referral, nor are there express provisions allowing a referral. This creates a loophole which requires legislation to solve.

*Investigating Committee and Case Examiners to review their determination to issue a warning*

34. At present there is no mechanism via which a registrant who is issued with a warning can appeal this decision with the GDC. Instead, the only route of appeal open to them is to apply for judicial review. Warnings can remain on an individual's record for a number of years and be accessed by patients and employers. Providing individuals with a route of appeal that does not require application for a judicial review is considered a more proportionate and fairer approach, which legislative change is necessary to provide for.

### **Alternatives to Regulation**

35. The General Dental Council (GDC) is responsible for regulating dentists and dental care professionals (DCPs) (clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists and orthodontic therapists) working in the United Kingdom. Under the Dentists Act 1984, the GDC has the responsibility for:
- Independently setting the standards of training, conduct and competence for dentists and DCP's to ensure the protection of the public.
  - Implementing effective measures to deal with individuals whose continuing practice presents an unacceptable risk to the public or otherwise renders them unfit to be a registered member of the profession.
  - Keeping registers of health professionals who are fit to practise in the UK.
  - The regulators can remove professionals from their registers and prevent them from practising if they consider this to be in the interests of the public.
36. The purpose of statutory regulation is to protect the public by ensuring that all who practise as a health professional are doing so safely and the framework for this is established in legislation. This is the optimal solution as the legislation sets out: what the GDC as a regulator may do; what registrants may expect from the GDC when registering for employment purposes; and what to expect where a fitness to practise concern is raised. Also, in a wider sense, the public's expectations of what they may do if they have a concern about an individual's fitness to practise are clarified.
37. Within the present system, Departmental Ministers are accountable for the regulatory framework that the GDC operates within, even though the body itself is independent of government. Without such a legislative framework there would be limited checks and balances, Parliamentary oversight would be lost, disproportionate costs may be incurred, registrants may be subject to an unfair framework or not know what to expect from the GDC. However, the major concern is that patient safety may be put at risk. It is within this context that an option providing an alternative to regulation is not appropriate, feasible or provided.

### **Costs and Benefits of the Options**

#### **Option One: Do Nothing**

38. Option one is the do nothing option against which all other options are measured. The additional costs and benefits generated by this option are therefore, by definition, zero.

**Option Two: Introduce secondary legislation that will enable the GDC to make changes to the administrative proceedings of their fitness to practise activities.**

39. Option 2 entails introducing a piece of secondary legislation that would enable the GDC to amend the administrative processes of their fitness to practise proceedings. The DH liaised with the GDC who provided an estimate of the impacts they expected to be generated, if they chose to exercise the additional powers granted in the legislation. These impacts would accrue solely to the GDC and thereby its registrants. There will be no impact on public sector finances and or the Department's budget. The anticipated monetary impacts are first discussed, followed by an assessment of the non-monetary impacts anticipated if the GDC exercised the new powers.
40. The GDC returned nominal estimates (available at annex A) of the monetary impacts this measure may generate, which were subsequently analysed in the attached workbooks. We have also identified 2 further mechanisms via which this policy may generate impacts on the GDC and its registrants. Table 1 below presents the high and low estimated costs and savings expected to accrue in year one if the GDC utilised the powers this measure proposes to give them and the following paragraphs provide the detail behind the estimates:

**Table 1: Summary of Estimated Year One Costs and Benefits of the GDC Implementing the Powers Transferred in Option 2, 2014 Prices, £ million**

	Policy measure	High Estimate (£m)	Low Estimate (£m)
(i)–(v)	Transition Costs	-0.7	-0.7
(i)	Investigating Committee	2.4	2.4
(i)	Case Examiners	-0.8	-0.8
(ii)	Fall in Final Fitness to Practise Hearings from Case Examiners Disposing via Undertakings	1.9	0.9
(iii)	Rise in Final Fitness to Practice Hearings from Cases Reopened for Review	-0.8	-0.7
(iii)	Loss of Earnings to Registrants Suspended Following their Case Being Reopened for Review	-0.07	-0.07
(v)	Case Examiners Reviewing Investigating Committee Decisions to Issue Registrants with a Warning	-0.014	-0.014
(v)	Savings from Right to Appeal Replacing Judicial Review Cases	0.013	0.003

Source: GDC Data Return and DH Estimates.

41. The figures in table 1 form the basis for our ten year forecasts. Please note that, going forward, these impacts are expected to rise by 7% per annum in line with the growth in fitness to practise caseload expected by the GDC. A detailed breakdown of the forecasts is available in table 4 whilst paragraphs 72 and 73 provide further information regarding the 7% annual growth figure.

*Transition costs*

42. The GDC expects to incur transition costs in year one of around £0.7 million as a result of implementing the new administrative procedures. These include: redundancy provision, recruitment costs for case examiners, 2 Full Time Equivalent (FTE) project and implementation managers, 1 FTE Business analyst, 1 FTE IT developer, 2 FTE Corporate Lawyers, 1 FTE Policy manager and 1 FTE Communication officer. On an ongoing basis, the GDC estimated that employing Case Examiners would cost around £0.8 million per annum.
43. There were no transition benefits identified by the GDC. However, ongoing savings are generated in each year (including year one) which significantly outweigh the expected costs. These are generated by the GDC needing to finance the Investigating Committee only for cases where unanimous

agreement has not been reached by the case examiners and a fall in final fitness to practise hearings being convened, as a result of the GDC having the power to agree undertakings.

*Introducing case examiners and giving power to agree undertakings (measures (i)-(ii))*

- 44. The data for the assessment of the impact of these policy measures was provided by the GDC and their assumptions and figures are outlined in Annex A. The GDC expect savings in Year 1 of £2.4 million from replacing the Investigating Committee with case examiners, but additional costs of £0.8 million from employing the case examiners themselves. They expect savings of between £0.9 million and £1.9 million in Year 1 from the use of undertakings to dispose of cases.
- 45. We also sought to ascertain whether the swifter resolution of cases by case examiners would feed through to speed up the resolution of proceedings at full fitness to practise hearings. The GDC have advised that they do not expect referring fewer cases to the practice committee would in itself result in faster processing of the cases that are in fact referred. This is due to the fact that their hearings are not backlogged. Increasing the resources allocated to this aspect of their work (such as more panellists, more hearing venues and similar) has enabled the GDC to operate with much greater scheduling flexibility. Cases are not currently being held idle in the system awaiting a hearing, and there is no backlog stressing the system and causing delays. The time taken to resolve cases is instead indicative of the work and preparation required. Therefore, running fewer cases through the system will not enable those cases to be heard more quickly.

*Difference between high and low estimates*

- 46. As demonstrated in table 1 above, the only significant difference between the high and low benefit scenarios arises from the estimated savings from reduced final fitness to practise hearings. These estimates were provided by the GDC based on the number of cases which are disposed of by a final practice hearing by way of a suspension, conditions order or admonishment. The high scenario is based on a reduction in current hearings of 20%. This was modelled by the GDC based on the proportion of practice committee hearings disposed of by the agreement of conditions to the registrant's registration. The 20% figure represents the median average of the latest five years of data, as demonstrated below in table 2:

**Table 2: Total Number of Practice Committee Hearings Concluded plus the Number and Proportion of These that were Disposed of Via Agreeing Conditions**

<b>Year</b>	<b>Total Concluded Hearings</b>	<b>Number and Percent of Hearings Concluded Via Application of Conditions</b>
<b>2014</b>	<b>200</b>	<b>36 (18%)</b>
<b>2013</b>	<b>159</b>	<b>31 (19%)</b>
<b>2012</b>	<b>147</b>	<b>30 (20%)</b>
<b>2011</b>	<b>134</b>	<b>37 (28%)</b>
<b>2010</b>	<b>138</b>	<b>35 (25%)</b>

*(Source: General Dental Council)*

- 47. The low scenario is based on a reduction in full hearings of 10%. This was calculated by the GDC solely to provide a more conservative estimate of the expected benefits for the purposes of sensitivity analysis and was not based on any underlying data or trend. Any future fall in hearings will be dependent on the nature of the complaints received by the GDC.
- 48. In the absence of information on future cases we consider it to be prudent and proportionate to base the best estimate of the monetary benefits on the mid-point between the low and high estimates. From this point onwards, the best estimate impacts are presented. Please see annex B for the presentation of additional scenarios.

*Impact of reopening cases for review (measure (iii))*

49. As identified in table 1, the measure relating to the reopening of cases initially closed at the investigation stage has the potential to generate minor costs to registrants of approximately £70k per annum. These would accrue where a registrant's case is reopened and it is subsequently deemed necessary by the GDC for them to be suspended from the register or have conditions applied to their practise. The registrant in question would consequently face a loss of earnings until their case reached a final hearing, as they would be unable to, or restricted in their, practice, regardless of whether they were ultimately found to have been at fault or not. We have liaised with the GDC to ascertain the frequency with which they expect this situation to occur and used various ONS data sets to estimate the expected monetary impact on registrants. The full methodology for our calculations is included at paragraphs 5 – 10 of annex C.
50. DH analysis of GDC data indicates that, of the 144 cases expected to be reopened for review, approximately 22 might proceed to a full fitness to practise hearing in the best estimate scenario. This figure was reached by applying the mean average proportion of complaints received by the GDC that are referred to a fitness to practise hearing to the 144 cases reopened figure. The GDC estimate the average cost of a full fitness to practise hearing at around £34,000 per case. **Our resulting best estimate of the costs that handling these additional cases would generate to the GDC is approximately £0.7 million per annum.**

*Power to ensure registrants can be referred to an Interim Orders Committee at any time (measure (iv))*

51. The measure giving the GDC a more permissive power to refer to an Interim Orders Committee at any point in the fitness to practise procedures is a technical amendment to enable the existing process of referral to an Interim Orders Committee to work more efficiently and effectively. The proposal will close potential gaps in the legislation around referral to an Interim Orders Committee and will also streamline the GDC's administrative processes around the management of new information received after a decision to refer a practitioner to a Case Examiner. The GDC have advised that the impact on their resources will be negligible.
52. For example, at present, if the Registrar decides to refer an allegation to the Investigating Committee without also referring to an Interim Orders Committee, but further information comes to light after referral which suggests an interim order might be appropriate but before that Committee has begun to consider the case, the Registrar can still refer to the Interim Orders Committee but it would necessitate the creation of a second case.
53. The GDC referred 131 cases to the Interim Orders Committee in 2013 and, having consulted their operational teams, have reached the view that only a marginal number of these had required creation of a second case, because the "IOC information" had been received after the initial complaint. Therefore, the GDC asserts the new provision would be used very seldom. The GDC have confirmed that it would be reasonable to assume that approximately 5% of cases referred to the IOC may necessitate the creation of a second case. This equates to a total of seven cases in year one. Furthermore, the GDC have confirmed that removing this administrative burden would save around one hour of time per case for one administrative member of staff and one caseworker.
54. Applying mean average hourly earnings estimates from the Annual Survey of Hours and Earnings (ASHE) 2014 generates an estimated value of this time saved of £157. The marginal nature of this saving meant that it was not included in table 1 above, nor in table 4. However, it has been factored in to the overall calculations. This provision was not sought to bring about significant cost savings, rather it was sought to remove a perceived gap in the legislation.

*Power to review decisions by the Investigating Committee to issue a warning (measure (v))*

55. Providing the GDC with the power to review the issuing of a warning will generate increased costs to the GDC because the IC and/or case examiners will experience an increase in workload as a result of undertaking the reviews. We liaised with the GDC to develop estimates of the likely scale of this additional cost.
56. To begin we sought data on the number of warnings issued by the GDC and the number of expressions of dissatisfaction they subsequently received from registrants wishing to challenge the warning. This was with a view to using the proportion of registrants who complain about being issued a warning as a proxy for the proportion of registrants issued with a warning who might appeal in the future.
57. However, the GDC advised that they receive so few complaints from registrants who are issued with warnings that they do not record the number received. In the overwhelming majority of cases complaints relating to the issue of a warning are from the complainant in the fitness to practise case, rather than the registrant.
58. The GDC advised that the best available substitute would be the proportion of currently appealable decisions that are challenged/appealed by the registrant in question. Currently, the GDC's registrants can appeal decisions made by the Practice Committee to the High Court. We note that appealing to the High Court will be a more costly exercise for a registrant, in terms of both time and money, than lodging an internal appeal to the GDC. This may mean that individuals issued with warnings would be more likely to lodge an appeal than individuals whose cases were settled by a practice hearing.
59. When we queried this with the GDC they acknowledged this may be the case, however they highlighted the importance of the differing impacts of the types of decisions. Practice Committees impose sanctions of greater severity than a warning (including suspension or erasure from the register), and in doing so make findings of fact, including that someone's fitness to practise is impaired. Therefore an individual may be more likely to appeal a Practice Committee's decision given the more detrimental impacts of not doing so, balancing out the fact that the appeals process is more onerous than that envisaged for warnings.
60. For the purposes of our best estimates, and with confirmation from the GDC that there is no more robust proxy available, we have therefore applied the proportion of registrants who appeal Practice Committee decisions to the number of warnings issued by the GDC in 2014 to estimate the number of reviews the GDC would undertake in year one.
61. Over the last three years, the GDC's Practice Committee made a total of 643 decisions, of which 25 were appealed. This yields an average rate of appeal to decisions made of 4%. In 2014 the GDC issued a total of 204 warnings, suggesting a reasonable best estimate that in year one of the policy eight appeals to the issue of a warning might be lodged with the GDC.
62. The GDC estimate that the cost to the IC or case examiners of reviewing a decision to issue a warning would be approximately 50% of the cost of considering a case in the first instance. This is based on the assumption that requests for review will not concern the totality of information considered in the case initially, but will focus on a particular aspect or aspects. The amount of casework/admin time incurred is likely to be less than that incurred during an initial investigation as: preparing the case for review will involve correspondence with fewer parties than the initial investigation; and it is likely to involve fewer investigative steps. The average cost of considering a case (this is average figure for all IC decisions, not specifically for decisions to issue a warning as the GDC have told us that this data is not available) is £3,473.

63. We therefore estimate that the cost arising from reviewing decisions to issue warnings in year one would be approximately £13,895. Even if the rate of appeals were significantly higher, the costs would remain modest e.g. a 25% appeal rate (rather than the 4% we have used) implies an annual cost of less than £87k. Mirroring the approach taken throughout, we assume that this figure will increase by 7% per annum for forecasting purposes, in line with the expected rise in the total number of fitness to practise cases the GDC will receive.
64. These costs will be at least partially offset by savings that will accrue to the GDC as a result of their having to defend fewer Judicial Review cases. As noted previously, the only current route of appeal for registrants against the issue of a warning is via Judicial Review. Over the past three years the GDC have been challenged through Judicial Review on five occasions following their issuing a warning.
65. In their impact assessment “Reforms to Judicial Review” (IA Number MoJ2122) at page 30, paragraph A11 the Ministry of Justice reference Treasury Solicitors’ initial illustrative assumption that the cost to a public body of defending a Judicial Review case might range between £8,000 and £25,000. This estimate refers to non-immigration and asylum cases and will depend on how far the case progresses through the Judicial Review process, as well as the nature of the case.
66. As a warning would only be applied where there was no finding of fact by the Investigating Committee, it seems reasonable to assume that these will represent relatively simple and potentially less serious cases. In this context, we have utilised the lower cost estimate of defending a judicial review in our calculations estimating the savings that this mechanism might generate to the GDC.
67. In their consultation response the GDC noted that the introduction of a power to review is expected to reduce the number of Judicial Review cases they will be subject to going forward. However, they did not state the proportion by which they expect the number of cases to fall. A range of potential savings depending on the extent of the fall in the number of Judicial Review cases is therefore presented below in table 3.

**Table 3: Range of Forecast Potential Cost Savings to the GDC from Falls in Judicial Review Cases as a Result of Introducing Power to Review, £000’s, by year**

	1	2	3	4	5	6	7	8	9	10	TOTAL
25% fall JRs	3.3	3.6	3.8	4.1	4.4	4.7	5.0	5.4	5.7	6.1	46.1
50% fall JRs	6.7	7.1	7.6	8.2	8.7	9.4	10.0	10.7	11.5	12.3	92.1
75% fall JRs	10.0	10.7	11.4	12.3	13.1	14.0	15.0	16.1	17.2	18.4	138.2
100% fall JRs	13.3	14.3	15.3	16.3	17.5	18.7	20.0	21.4	22.9	24.5	184.2

*Source: MoJ IA No. MoJ212, GDC data and DH Assumptions*

68. Table 3 demonstrates the relatively minor scale of these impacts. Additionally, the extent to which they might occur will depend on future decisions made by individuals regarding whether or not to instigate a Judicial Review which cannot be robustly forecast. In this context we deem it proportionate to use the mid-point estimate (a 50% fall in the number of Judicial Review cases the GDC receives in relation to the issue of warnings) in our best estimate scenario.
69. The introduction of a power for the GDC to review decisions to issue warnings will be beneficial to those registrants who are issued with warnings. It will provide a more proportionate route of redress where a registrant is dissatisfied with the outcome of their case resulting in a warning being added to

<sup>2</sup><https://consult.justice.gov.uk/digital-communications/judicial-review>

their record. As warnings have the potential to negatively impact an individual's reputation and employability, in some cases a number of years after it was issued, providing registrants with the right to apply for a review of the decision also increases the fairness of the system. However, there is insufficient data to allow this benefit to be monetised.

#### Overall costs and benefits by year

70. Table 4 below presents the disaggregated best estimates of the anticipated costs and benefits this policy will generate, forecast out to a ten year timeframe. This is followed by table 5 which presents the aggregated costs and benefits. Please note that the aggregated net benefit figures presented below in table 5 differ from those returned by the GDC (available at annex A). This is because it was noted that the impact of the expected transition costs was not removed from the GDC's net benefit estimates after year one. The figures presented in the main body of this IA have been adjusted to correct for this error and the GDC's nominal figures have been converted in to real terms (2014 prices). The effects of the additional impacts discussed above have also been incorporated in to the estimates at table 5.

**Table 4: Best Estimate Costs and Benefits (Split by Measure, Excluding Transition) of Implementing the Powers Conveyed to the GDC in Option 2, 2014 Prices, £ million**

		1	2	3	4	5	6	7	8	9	10	Total	Ave. Annual
<b>Costs</b>	Employing Case Examiners	0.8	0.9	0.9	1.0	1.1	1.2	1.2	1.3	1.4	1.5	<b>11.4</b>	1.1
	Additional Hearings Where Cases Opened for Review	0.7	0.8	0.8	0.9	0.9	1.0	1.1	1.2	1.2	1.3	<b>10.0</b>	1.0
	Lost Earnings of Suspended Registrants Where Cases Opened for Review	0.07	0.08	0.08	0.09	0.10	0.10	0.11	0.12	0.13	0.13	<b>1.0</b>	0.1
	Reviewing Decisions to Issue a Warning	0.014	0.015	0.016	0.017	0.018	0.019	0.021	0.022	0.024	0.026	0.2	0.019
<b>TOTAL COSTS</b>		<b>1.6</b>	<b>1.7</b>	<b>1.9</b>	<b>2.0</b>	<b>2.1</b>	<b>2.3</b>	<b>2.4</b>	<b>2.6</b>	<b>2.8</b>	<b>3.0</b>	<b>22.6</b>	<b>2.3</b>
<b>Benefits</b>	Reduced Use of Investigating Committee	2.4	2.6	2.8	3.0	3.2	3.4	3.7	3.9	4.2	4.5	<b>33.6</b>	3.4
	Fall in Hearings from Power to Agree Undertakings	1.4	1.5	1.6	1.7	1.8	2.0	2.1	2.3	2.4	2.6	<b>19.4</b>	1.9
	Fall in number of Judicial Review cases from Power to Review Warnings	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	<b>0.09</b>	0.01
<b>TOTAL BENEFITS</b>		<b>3.8</b>	<b>4.1</b>	<b>4.4</b>	<b>4.7</b>	<b>5.0</b>	<b>5.4</b>	<b>5.8</b>	<b>6.2</b>	<b>6.6</b>	<b>7.1</b>	<b>53.1</b>	<b>5.3</b>

(Source: DH Analysis of GDC Data Return (via BIS IA Calculator). Totals may not sum due to rounding.)

**Table 5: Aggregated Total Costs (Including Transition) and Benefits of Implementing the Powers Conveyed to the GDC in Option 2, 2014 Prices, £ million**

<i>Year</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>Total</i>
<b>Cost</b>	2.4	1.7	1.9	2.0	2.1	2.3	2.4	2.6	2.8	3.0	<b>23.3</b>
<b>Benefit</b>	3.8	4.1	4.4	4.7	5.0	5.4	5.8	6.2	6.6	7.1	<b>53.1</b>
<b>Net Benefit</b>	1.5	2.4	2.5	2.7	2.9	3.1	3.3	3.6	3.8	4.1	<b>29.8</b>

(Source: DH Analysis of GDC Data Return (via BIS IA Calculator). Totals may not sum due to rounding.)

71. Furthermore, table 6 presents the present value of the above, discounted at the standard (for a ten year forecast) 3.5%:

**Table 6: Present Value of the Costs (Including Transition) and Benefits of Implementing Powers Conveyed to the GDC in Option 2, measured in 2014 Prices, £ million, 3.5% Discount Rate**

<i>Year</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>Total</i>
<b>PV Cost</b>	2.4	1.7	1.7	1.8	1.9	1.9	2.0	2.1	2.1	2.2	<b>19.8</b>
<b>PV Benefit</b>	3.8	4.0	4.1	4.2	4.4	4.5	4.7	4.9	5.0	5.2	<b>44.8</b>
<b>NPV Benefit</b>	1.5	2.3	2.4	2.4	2.5	2.6	2.7	2.8	2.9	3.0	<b>25.1</b>

(Source: DH Analysis of GDC Data Return (via BIS IA Calculator). Totals may not sum due to rounding.)

#### *Trends in the number of complaints received*

72. Please note that a further key determinant of the value of these forecasts is the change in the number of complaints received by the GDC regarding their registrants' fitness to practise. The GDC estimate that, over the next ten years, they will see an average annual increase in fitness to practise complaints of 7% year on year. As the scale of the impacts identified will depend on the number of fitness to practise cases the GDC processes, our year one figures have been updated by 7% per annum to account for this in the forecasts.

73. In the context of an estimated 110% rise in fitness to practise cases over the last three years we queried the 7% increase figure with the GDC. Effectively, the GDC have modelled the future numbers of FTP cases based on recent trends (since 2011). The very latest data shows a levelling off of the large increases seen in 2012 and 2013. On the basis of this, the GDC predict annual increases of around 10% over the next 5 years, falling to around 5% over the subsequent 5 years, equating to an average 7% increase over the period. Given that any prediction of volume over a 10 year period is necessarily uncertain, this was provided by the GDC for illustrative purposes.

**74. Overall, the data suggests a net (present value) benefit of around £25 million will be generated by the implementation of the policy outlined in option 2.**

75. In addition to those discussed above, we have identified a further four impacts that were not monetised in the consultation stage IA. These are described below in table 7, which also details the progress we have currently made with quantification.

**Table 7: Summary of Potential Non-Monetary Impacts Identified and Impacts that were not Quantified in the Consultation Stage IA :**

<b>Mechanism</b>	<b>Impact</b>	<b>Progress with Quantifying</b>
Quicker Decisions Made by Case Examiners to Refer a Case to a Full Hearing or Not (i)	Time Saving to Registrant – Approximately One Month per Case Where a Decision on Referral Can be Agreed	Decisions being made (regarding whether to refer a case to a full hearing or not) approximately one month earlier than they would have been in the do nothing scenario will positively impact the wellbeing of registrants by reducing the length of a potentially stressful and uncertain period. No further impacts have been identified and we therefore consider this a non-monetary impact.
Quicker Disposal of Cases	Time Saving to Registrant –	Disposal of cases approximately 10 months



by Case Examiners Via Agreed Undertakings (ii)	Approximately 10 Months Per Case	earlier than they would have been in the do nothing scenario will positively impact the wellbeing of registrants by reducing the length of a potentially stressful and uncertain period. No further impacts have been identified and we therefore consider this a non-monetary impact.
Attendance at a Hearing Where a Case has been Reopened for Review (iii)	Time Loss to Registrant – Approximately 4 Days (average length of a hearing)	The GDC have advised that differing employment arrangements (e.g. employed or self-employed) will impact whether or not practitioners will lose income from attending a hearing. Our estimates indicate that around 144 cases per annum may be opened for review, of which 22 cases per annum may proceed to a full hearing. The scale of this impact is therefore strongly anticipated to be minor.
Travel and Accommodation for Attendance at a Hearing Where a Case has been Reopened for Review (iii). All Cases are Heard in Central London.	Travel and Accommodation Costs to Registrant	We have sought information from the GDC regarding the regional spread of their registrants to estimate the proportion that are outside central London (where all their appeals are held). Our estimates indicate that around 144 cases per annum may be opened for review, of which 22 cases per annum may proceed to a full hearing. The scale of this impact is therefore strongly anticipated to be minor.

76. Taking in to account the nature and scale of the (currently) non-monetised impacts, it seems reasonable to assert that, overall, the benefits are likely to outweigh the costs.

### **Estimating the Costs to Business of Policy Implementation**

77. A proportion of the GDC's registrants practise in the private sector and therefore are classified as businesses. This impact assessment presents the best estimate of impacts on business that will arise as a result of policy implementation. These are strongly expected to be monetary benefits as discussed below.
78. Estimating the potential costs to business of option 2 required an assessment of the proportion of the GDC's total registrants (individuals) that practise in the private sector and would therefore count as businesses. This information is not collected by the regulators, nor is it contained in any official statistics the Department is aware of. Consequently, a bespoke breakdown of the Office for National Statistics (ONS) Annual Population Survey (APS) dataset, available up to 2013, was requested.
79. The data shows the number of individuals employed in dental occupations (as defined by four digit standard occupation classification (SOC) codes) split by whether they work in the public or private sector, plus the number of employees versus the number of self-employed individuals.
80. Employment data is the most appropriate for this analysis, and therefore used throughout, as the impacts will be on individual healthcare professionals, rather than on businesses as a whole. The fees charged by the GDC are charged per professional as opposed to per dental practice. This means data estimating the number of dental professionals practising in the private sector best informs an assessment of the impacts on business of this policy. In addition it should be noted that a question has been included within the public consultation exercise requesting information from respondents on the potential impact the measures may have on them/their organisation.
81. APS data for the professions listed below is the best available source for the required data.

- Dental Practitioners (SOC Code 2215);
- Medical and Dental Technicians (SOC Code 3218); and
- Dental Nurses (SOC Code 6143).

It is assumed that figures for these professions are a reasonable proxy for the GDC as a whole. Any judgements made in the absence of full information pose a risk to the robustness of further estimates. However, this is the best available method to produce evidence based estimates of the proportion of the GDC's registrants practising in the private sector.

82. The estimated percentage of the GDC's registrants practising in the private sector was then calculated in line with table 8 below. This was with a view to estimating the proportion of the GDC's registrants that would be classified as businesses for the purposes of the Better Regulation framework.

**Table 8: Estimated Percentage of the GDC's Registrants Practising in the Private Sector, 2013**

Regulator	Total Employment	Private Employment	Public Employment	% in Private Sector
GDC	124,143	84,867	39,276	68%

(Source: DH Analysis of 2013 ONS APS Data)

83. The costs of policy implementation (shown at tables 4 and 5) were then multiplied by the percentage of the GDC's registrants practising in the private sector. This produced the estimated benefits to business that would arise from the GDC using the powers conveyed to them in option 2, displayed below in table 9. Table 10 presents the present value of the estimated benefits to business.

**Table 9: Best Estimate of Impacts on Business if the GDC used the Powers Conveyed to them in Option 2, 2014 Prices, £ million**

Year	1	2	3	4	5	6	7	8	9	10	Total
Cost	1.6	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	2.0	15.2
Benefit	2.6	2.8	3.0	3.2	3.4	3.7	3.9	4.2	4.5	4.8	36.2
Net Benefit	1.1	1.7	1.8	1.9	2.0	2.2	2.3	2.5	2.7	2.9	21.0

(Source: DH analysis of ONS APS data, ASHE data and Authority baseline figures. Totals may not sum due to rounding)

**Table 10: Best Estimate Net Present Value Impacts on Business if the GDC used the Powers Conveyed to them in Option 2, 2014 Prices, £ million, 3.5% Discount Rate**

Year	1	2	3	4	5	6	7	8	9	10	Total
PV Cost	1.6	1.1	1.1	1.2	1.2	1.3	1.3	1.3	1.4	1.4	12.9
PV Benefit	2.6	2.7	2.8	2.9	3.0	3.1	3.2	3.3	3.4	3.5	30.6
NPV	1.1	1.6	1.7	1.7	1.8	1.8	1.9	2.0	2.0	2.1	17.7

(Source: DH analysis of ONS APS data, ASHE data and Authority baseline figures. Totals may not sum due to rounding)

84. Finally, the Equivalent Annual Net Cost to Business (EANCB) expected to arise from the implementation of option two was calculated as outlined in the Better Regulation Manual by applying the formulas to the direct impacts on business of this policy:

$$EANCB = PVNCB/a_{t,r}$$

$$a_{t,r} = \left(\frac{1+r}{r}\right) * \left(1 - \left(\frac{1}{1+r^t}\right)\right)$$

Where:

EANCB = Equivalent Annual Net Cost to Business

PVNCB = Present Value of Net Costs to Business

$a_{t,r}$  = Annuity Rate

t = Time period covered in the policy appraisal

r = Discount rate

## Classification of Impacts

85. Tables 9 and 10 present the total direct and non-direct impacts on business that we estimate will be generated by the implementation of this policy. For the purposes of calculating the EANCB, only the direct impacts are counted as per paragraph 1.9.33 of the Better Regulation Framework Manual. The table below presents the policy impacts and whether they have been assessed as direct or non-direct in nature, plus the rationale for our assessment.

Description of Impact	Classification as Direct or Indirect	Rationale for Classification
Transition Costs	Direct – included in EANCB	It is expected that the GDC will implement these changes in full and will therefore incur the transition costs estimated to achieve this.
Cost to GDC Employing Case Examiners	Direct – included in EANCB	It is expected that the GDC will implement these changes in full and will therefore incur the costs of employing case examiners. As the GDC is funded by its registrants (68% of whom practise primarily in the private sector and therefore count as businesses), this is counted as a direct impact to business.
Cost to GDC Additional Hearings Where Cases Opened for Review	Direct – included in EANCB	It is expected that the GDC will implement these changes in full and will therefore incur the costs of holding additional hearings where cases are reopened for review. As the GDC is funded by its registrants (68% of whom practise primarily in the private sector and therefore count as businesses), this is counted as a direct impact to business.
Cost to GDC of undertaking internal reviews of decisions to issue a warning	Direct – included in EANCB	It is expected that the GDC will implement these changes in full and will therefore incur the costs of reviewing decisions to issue warnings. As the GDC is funded by its registrants (68% of whom practise primarily in the private sector and therefore count as businesses), this is counted as a direct impact to business.
Benefit to GDC Reduced Use of Investigating Committee	Direct – included in EANCB	It is expected that the GDC will implement these changes in full and will therefore accrue monetary benefits from reduced use of their Investigating Committee. As the GDC is funded by its registrants (68% of whom practise primarily in the private sector and therefore count as businesses), this is counted as a direct impact to business.
Benefit to GDC Fall in Hearings from Power to Agree Undertakings	Direct – included in EANCB	It is expected that the GDC will implement these changes in full and will therefore accrue monetary benefits from a reduced number of hearings from the power to agree undertakings. As the GDC is funded by its registrants (68% of whom practise primarily in the private sector and therefore count as businesses), this is counted as a direct impact to business.
Benefit to GDC of a fall in the number of Judicial Review cases it must defend as a result of the power to review decisions to issue warnings internally	Results from registrants' behaviour change following the introduction of the regulations – not included in the EANCB.	This benefit will accrue to the GDC if, as a result of being able to appeal decisions to issue a warning directly to the GDC, registrants do not subsequently choose to instigate Judicial Review proceedings. As such, the savings will be generated by a change in registrants' behaviour as a result of the policy measure as opposed to the change to regulations themselves. This impact is therefore not included in the EANCB.
Benefit to Registrants Quicker Decisions Made by Case	Results from the GDC enforcing the	This benefit of the GDC utilising case examiners would be incurred by registrants only if a fitness

Examiners to Refer a Case to a Full Hearing or Not (i)	regulation – not included in EANCB	to practise allegation were made against them and the GDC had enforced the provisions laid out in this policy measure. It would not accrue from the change to regulation itself and as such will not be included in the EANCB.
Benefit to Registrants Quicker Disposal of Cases by Case Examiners Via Agreed Undertakings (ii)	Results from the GDC enforcing the regulation – not included in EANCB	This benefit of the GDC utilising case examiners would be incurred by registrants only if a fitness to practise allegation were made against them and the GDC had enforced the provisions laid out in this policy measure. It would not accrue from the change to regulation itself and as such will not be included in the EANCB.
Cost to Registrants of Lost Earnings due to Suspension Where Cases Opened for Review	Results from the GDC enforcing the regulation – not included in EANCB	This cost to registrants would only be generated if an individual's case were opened for review and the case was subsequently deemed serious enough to warrant suspension pending its conclusion. As such, it would not be generated by the change to the regulation and have not been included in the EANCB.
Cost to Registrants of Attendance at a Hearing Where a Case has been Reopened for Review (iii)	Results from the GDC enforcing the regulation – not included in EANCB	This cost to registrants would only be generated if an individual's case were opened for review and found to merit referral on to a hearing. As such, it would not be generated by the change to the regulation itself and has therefore not been included in the EANCB.
Cost to Registrants of Travel and Accommodation for Attendance at a Hearing Where a Case has been Reopened for Review (iii). All Cases are Heard in Central London.	Results from the GDC enforcing the regulation – not included in EANCB	This cost to registrants would only be generated if an individual's case were opened for review and then found to merit referral on to a hearing. As such, it would not be generated by the change to the regulation itself and has therefore not been included in the EANCB.

**Table 11: Disaggregated Nominal Direct Impacts on Business Included in the EANCB, £ million:**

	Year	1	2	3	4	5	6	7	8	9	10	TOTAL
<b>Costs</b>	Transition	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5
	Employing Case Examiners	0.6	0.6	0.6	0.7	0.7	0.8	0.8	0.9	1.0	1.0	7.8
	Review Closed Cases	0.5	0.5	0.6	0.6	0.6	0.7	0.7	0.8	0.8	0.9	6.8
	Review Warnings Issued	0.009	0.010	0.011	0.012	0.012	0.013	0.014	0.015	0.016	0.017	0.1
	<b>Total</b>	<b>1.6</b>	<b>1.1</b>	<b>1.2</b>	<b>1.3</b>	<b>1.4</b>	<b>1.5</b>	<b>1.6</b>	<b>1.7</b>	<b>1.8</b>	<b>2.0</b>	<b>15.2</b>
<b>Benefits</b>	Savings on Investigating Committee	1.7	1.8	1.9	2.0	2.2	2.3	2.5	2.7	2.9	3.1	23.0
	Reduced Hearings from Introduction Undertakings	1.0	1.0	1.1	1.2	1.3	1.3	1.4	1.5	1.6	1.8	13.3
	<b>Total</b>	<b>2.6</b>	<b>2.8</b>	<b>3.0</b>	<b>3.2</b>	<b>3.4</b>	<b>3.7</b>	<b>3.9</b>	<b>4.2</b>	<b>4.5</b>	<b>4.8</b>	<b>36.2</b>
<b>Net Nominal Direct Benefit to Business Overall</b>		<b>1.1</b>	<b>1.7</b>	<b>1.8</b>	<b>1.9</b>	<b>2.0</b>	<b>2.2</b>	<b>2.3</b>	<b>2.5</b>	<b>2.7</b>	<b>2.9</b>	<b>21.0</b>

86. Inputting the estimated values for the six direct impacts of this policy measure in to the latest version of the Department for Business, Innovation and Skills' IA Calculator (attached to the covering email for this IA) produced an estimated EANCB for Option Two of -£1.62 million.
87. The EANCB figure was the final step in the calculations required for this impact assessment and thus represents the conclusion of the costs and benefits section for option two.

### **One-In, Two-Out Assessment**

88. The measures proposed here have been deemed as in scope of OITO. The Department is taking forward these measures at the specific request of the GDC. Although we are not requiring the GDC to implement the measures outlined here, once given the power to do so, it is expected that they will implement the measures in full. Enabling the GDC to make these changes is therefore effectively ensuring that the changes will be made. As such, the responsibility for the impacts is conferred on to the Department and the associated impacts on business are consequently deemed to be direct.
89. The first two measures that comprise the substantive content of this policy (the introduction of case examiners and the power to agree undertakings) are deregulatory in nature with an expected net benefit to business of £17.2 million in present value terms, over a ten year period.
90. The third measure relates to the introduction of a power to review cases closed at the end of the investigation stage, within three years of closure. This aspect of the policy has been deemed regulatory and is estimated to generate costs to business via two mechanisms: £0.7m annual cost to the GDC of a rise in fitness to practise hearings resulting from the power to review closed cases which may be passed through to its registrants, 68% of whom practise primarily in the private sector and therefore count as businesses; and a minor cost to business of approximately £0.05 million in year one (rising by 7% year on year in line with expected increases in caseload) in terms of lost income if a registrant is suspended pending a hearing where their case has been reopened for review. Together these are expected to generate a net cost to business of around £9.2 million in present value terms over a ten year period.
91. The fourth aspect of this policy measure (more permissive power for referral to an Interim Orders Committee at any time during the fitness to practise process) is expected to generate administrative savings to the GDC of approximately £157 per annum, 68% of which may be passed through to business by the GDC.
92. This measure is therefore deregulatory overall and as such represents an "out" with an EANCB valued at approximately -£1.62 million.

### **Small and Micro Business Assessment (SaMBA)**

93. Small and micro businesses have not been exempted from the impacts of the policy options as, in this instance, the impacts 'to business' relate to the impacts on individual dental practitioners who practise mainly in the private sector. The measure will enable the GDC to amend the administrative procedures of their fitness to practise activities. The benefits to business will be comprised lower future fee rises and or swifter resolution of fitness to practise proceedings (the latter where applicable). The third measure of this policy (reopening of cases for review) may result in registrants losing income if their case is reopened and they are subsequently suspended or have conditions applied to their practice.
- 94.
95. In both cases, the impact would be on the individual rather than the business they work for. Exempting small and micro businesses would therefore, in this context, entirely negate the intention of the measure to improve the GDC's fitness to practise proceedings.

96. We have estimated the expected impacts of this policy on small and micro businesses using various ONS datasets and the estimates provided to the Department by the GDC. These are detailed in the tables below, whilst a full methodology can be found at annex D.

**Table 12: Best Estimate of Impacts on Small and Micro Businesses if the GDC used the Powers Conveyed to them in Option 2, 2014 Prices, £ million**

Year	1	2	3	4	5	6	7	8	9	10	Total
Cost	0.9	0.7	0.7	0.8	0.8	0.9	0.9	1.0	1.1	1.2	8.9
Benefit	1.5	1.6	1.8	1.9	2.0	2.2	2.3	2.5	2.6	2.8	21.3
Net Benefit	0.6	1.0	1.0	1.1	1.2	1.3	1.4	1.5	1.6	1.7	12.3

(Source: DH analysis of ONS APS data, ASHE data, ABS data and Authority baseline figures. Totals may not sum due to rounding.)

**Table 13: Best Estimate Net Present Value Impacts on Small and Micro Businesses if the GDC used the Powers Conveyed to them in Option 2, 2014 Prices, £ million, 3.5% Discount Rate**

Year	1	2	3	4	5	6	7	8	9	10	Total
PV Cost	0.9	0.6	0.7	0.7	0.7	0.7	0.8	0.8	0.8	0.8	7.6
PV Benefit	1.5	1.6	1.6	1.7	1.8	1.8	1.9	1.9	2.0	2.1	18.0
NPV	0.6	0.9	1.0	1.0	1.0	1.1	1.1	1.2	1.2	1.2	10.4

(Source: DH analysis of ONS APS data, ASHE data, ABS data and Authority baseline figures. Totals may not sum due to rounding.)

97. The data in the tables above demonstrates that, over a ten year period, we estimate this policy will generate approximately £12 million of benefits to dental practitioners in small and micro businesses who practise mainly in the private sector. The present value of this is approximately £10 million. It should be considered that the impacts of this policy will apply equally to all dental practitioners. The resulting EANCB figure for small and micro business specifically is estimated at -£0.95 million. Small and micro businesses will not be disproportionately impacted either positively or negatively.

### **Public Sector Equality Duty**

98. A separate assessment of any potential impacts on equality has been undertaken by the Department and has not identified any adverse impacts on any protected groups. To provide assurance, a question was included in the public consultation document seeking to confirm this view.

### **Timing of implementation**

99. The original timetable being worked towards was that Parliamentary and Privy Council approval to be given for the proposed measures contained within the Section 60 Order before the end of the 2014/15 Parliament, i.e. before March 2015. This was not possible due to complications. Therefore, we will now seek to progress the order as quickly as possible in this Parliament. For these provisions to take effect and for the GDC to utilise them, the GDC will also be required to consult and lay regulator rules, which require approval of the Privy Council. It is therefore expected that the measures should be fully implemented no later than Autumn 2015.

## **Annex A: Information Returned by the GDC to Inform the Production of this Impact Assessment**

### ***Section 60 Cost impact assessment - the introduction of Case Examiners with powers to agree warnings and undertakings.***

#### **Introduction.**

This note sets out the estimated costs and benefits of the introduction of case examiners with powers to agree warnings and undertakings.

The assessment is based on the following process:

- Decisions for onward referral of a case for investigation and prosecution will, in the main, be taken by Case Examiners exercising powers delegated by the registrar. These case examiners will be employed directly by the GDC and will be a registrant and a non-registrant. Case examiners will replace the Investigating Committee in taking the vast majority of decisions for onward referral. However, in the small number of cases where the case examiners disagree an Investigating Committee will be convened.
- Case examiners will also have the power to dispose of cases through agreeing with the registrant a warning or an undertaking. This method of consensual disposal will be suitable for those types of cases which would normally be disposed of by a final practice by way of a suspension, conditions order or an admonishment.
- All other aspects of the GDC process would continue in the same way as now except that it is intended that a referral can be made to the Interim Orders Committee at any point in the process once a Fitness to Practise investigation has begun.

#### **Assumptions:**

In carrying out this impact assessment, we have made the following assumptions:

- Replacing the Investigating Committee with case examiners will reduce the expenditure on decision making itself, by replacing a costly Committee with less expensive case examiners.
- The use of consensual disposal will also reduce the number of cases that will be referred to a final practice hearing which will reduce the costs of hearings each year and will also reduce the annual legal costs of prosecuting cases at a final hearing.
- We have assumed that the volume of cases which would be suitable for an undertaking are those which are disposed of by a final practice hearing by way of a suspension, conditions order or admonishment.
- We have assumed that there will be one-off transition costs associated with the implementation of this new process.
- We have assumed that our volumes of cases will continue to rise by 7% each year and that inflation is 2% per annum.



## Methodology.

- We have looked at our projected FTP costs for 2015 and modelled the impact of introducing the changes to our current processes as the best way of illustrating the impact of the changes. We have yet to determine a date for implementation, however, we recognise that the Year 1 benefits that we project are unlikely to be fully realised in 2015.
- In relation to the impact of undertakings on the final number of hearings we have modelled two scenarios 1) where the number of current hearings is reduced by 20% 2) where the number of current hearings is reduced by 10%
- We have taken these costs and benefits and projected them into Years 1 – 10 by assuming a circa 9% uplift in the budget each year. This is driven by a circa 7% average increase in the receipt of complaints and a circa 2% increase in inflation.<sup>3</sup>
- We have not applied a discount rate or calculated the overall savings in terms of Net Present Values.

### Year One cost savings \*– Scenarios 1 and 2:

Cost item	Current model	s.60 Model	Savings/ (cost)	
	£'000	£'000	£'000	
Investigating Committee	£2,466	£33	£2,433	We assume that under the new model the IC will meet 6 times a year to discuss cases where there is no unanimity between Case examiners
Case Examiners	-	£823	(£823)	This includes the following: 8 x Case Examiners (salary of £70k assumed, plus on-). There are also support costs for case examiners which we assume will be equivalent to 2x Committee Secretaries and 1 x Senior Committee Co-ordinator
Hearings (Scenario 1 20% reduction)	£10,834	£8,962	£1,872	Assuming a 20% reduction in the number of final practise hearings due to the use of undertakings to dispose of cases. This would lead to cost savings arising from 20% of secretaries, officers, ushers and 20% of non-staffing costs
Hearings (Scenario 2 10% reduction)	£10,834	£9,898	£936	Assuming a 10% reduction in the number of final practise hearings due to the use of undertakings to dispose of cases. This would lead to cost savings arising from 10% of secretaries, officers, ushers and 10% of non-staffing costs
Transition Costs	-	£734	(£734)	Includes: redundancy provision, recruitment costs for case examiners, 2 FTE project and implementation managers, 1 FTE Business analyst, 1 FTE IT developer, 2 FTE Corporate Lawyers, 1 FTE Policy manager and 1 FTE Communication officer.
<b>Total Scenario 1</b>	<b>£13,300</b>	<b>£10,552</b>	<b>£2,748</b>	
<b>Total Scenario 2</b>	<b>£13,300</b>	<b>£11,488</b>	<b>£1,812</b>	

<sup>3</sup> The predicted annual % increase in the number of complaints that we will receive over 10 years has been calculated using a decomposition method. In doing this, the actual data for cases received in between 2011 and 2013 have been used as the basis for the forecast. The decomposition method reviews activity from this period and projects forward year by year up to 2025. The method is based on a calculation which takes into account the following factors that are evident in the actual data; the overall trend of the data from start to end, the seasonality of the data to identify short term trends, cycles evident within the data over a long term time frame, and; random variations within the data set. Given that any prediction of volume over a 10 year period is necessarily uncertain this is only used for illustrative purposes.

\*These figures are based on the budget projections for 2015 based on an estimated number of complaints of 3500 for both the current and the s.60 model. In the current model we estimate that there are an estimated 323 final practice hearings.

### **Costs savings ongoing over 10 years – Scenarios 1 and 2\*:**

	<b>Year 1 £'000</b>	<b>Year 2 £'000</b>	<b>Year 3 £'000</b>	<b>Year 4 £'000</b>	<b>Year 5 £'000</b>	<b>Year 6 £'000</b>	<b>Year 7 £'000</b>	<b>Year 8 £'000</b>	<b>Year 9 £'000</b>	<b>Year1 £'000</b>
<b>Scenario 1</b>	£2,748	£2,996	£3,266	£3,559	£3,880	£4,229	£4,610	£5,024	£5,477	£5,970
<b>Scenario 2</b>	£1,813	£1,976	£2,153	£2,347	£2,559	£2,789	£3,040	£3,313	£3,612	£3,937

\*Savings are calculated as a proportion of the overall budget - it is assumed that as the budget increases the proportion of the savings achieved will remain the same. We estimate that the budget will increase by circa 9% each year – the two drivers of this are a circa 7% increase in the number of complaints and a circa 2% increase in inflation. We have not subjected this to any sensitivity analysis.

### **Non monetised benefits**

In addition to the costs savings which we will gain as a result of these changes we also consider that there will be additional benefits to patients and GDC registrants. These are as follows:

**Faster and more effective decision making** – Parties will receive decisions regarding cases more quickly as a result of the replacement of the investigating committee with case examiners. This is because, in the current system, a substantial proportion of the time between referring a case to the IC and the IC reaching a decision on that case is lost to the administrative process that necessarily surround committee meetings. Scheduling, empanelment and the 'batching' of cases are unavoidable parts of the current arrangement. This necessitates cases being held, inactive, as they await their turn to be considered by the panel. Any cases which the IC adjourn are bound to repeat this process and delays. Replacement of a committee with case examiners will enable us to operate a much more flexible system, which will minimise these administrative delays.

**More proportionate and effective regulation** – the disposal of cases through warnings and undertakings also is a faster way of concluding a case than a final practice hearing. This measure will free up resources to concentrate on taking more serious cases to final practice hearing in a more timely fashion. It will have benefits to complainants and those awaiting the outcome of a fitness to practise decision and will permit the GDC to take action to mitigate risk much quicker than is now the case. Undertakings will only be used where there is no prospect of a registrant being removed from the register. As a result, the process encourages the re-remediation of the registrant, which is a more proportionate way of managing risks to patient safety.

## Annex B: DH Calculations and Further Sensitivity Analysis

1. The GDC provided the data in tables B1 (unless otherwise specified) in their return to the Department's request for information on the impacts they expected to be generated if they implemented the powers conveyed to them in option 2.

**Table B1: Baseline Estimates for Year 1 Impacts if the Powers Conveyed to the GDC in Option 2 were to be Fully Utilised**

	Low Estimate		Best Estimate*		High Estimate	
	£m	% Total Budget*	£m	% Total Budget	£m	% Total Budget*
Lower Use of Investigating Committee	2.4	18.3%	2.4	18.3%	2.4	18.3%
Employing Case Examiners	-0.8	-6.2%	-0.8	-6.2%	-0.8	-6.2%
Fall in Final Fitness to Practise Hearings	0.9	7.0%	1.4	10.6%	1.9	14.1%
Transition Costs	-0.7	-5.5%	-0.7	-5.5%	-0.7	-5.5%
Gross Benefits	3.4	25.3%	3.8	28.8%	4.3	32.4%
Gross Costs	-1.6	-11.7%	-1.6	-11.7%	-1.6	-11.7%
Net Benefit	1.8	13.6%	2.3	17.1%	2.7	20.7%

(Source: GDC Data Return, unless \* which are DH estimates derived from GDC data)

2. In addition to the above, the GDC provided estimates of the expected net benefits from their implementing of the powers to be transferred in option 2 forecast out to year ten of the policy. The full return can be found at annex A and estimates the future net benefits copied below for ease in table B2.

**Table B2: GDC Forecast of Nominal Net Benefits Estimated if the Powers Conveyed in Option 2 Were to be Fully Utilised**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Scenario 1	£2,748	£2,996	£3,266	£3,559	£3,880	£4,229	£4,610	£5,024	£5,477	£5,970
Scenario 2	£1,813	£1,976	£2,153	£2,347	£2,559	£2,789	£3,040	£3,313	£3,612	£3,937

3. The benefits were calculated according to a set of assumption relating to the number of cases that would be disposed of by the case examiners. The costs are generated by the GDC's transition to the new system and the costs of employing the case examiners (only the latter are ongoing).
4. The figures relating to years 2 through to 10 had not been adjusted to take account of the transition costs only occurring in year 1, and so we have amended this. Removing this had a positive impact on the estimated net benefits in each year from year 2 onwards. Additionally, a 2% per annum adjustment had been applied to account for inflation, which needed to be removed in order for 2014 prices figures to be estimated. The adjustments can be found in table 3 of the 'Sensitivity Figures' tab in the attached Excel file titled "GDC Summary and Impacts Note". The results are displayed below in table B3.

**Table B3: GDC Forecasts of Net Benefits Adjusted to Remove Impacts of Inflation and so Transition Costs are Incurred in Year One Only:**

Year	1	2	3	4	5	6	7	8	9	10
Net Benefit Low (£m)	1.8	2.7	2.9	3.1	3.3	3.6	3.8	4.1	4.4	4.7
Net Benefit High (£m)	2.7	3.7	4.0	4.3	4.6	4.9	5.2	5.6	6.0	6.4

5. There is often a risk that optimism bias will lead to under-estimated costs and over-estimated benefits. This section therefore moves on to look at the margin where the estimated net benefits (to both the GDC and business) would become net costs. By assessing the scale of change to the original assumptions this switch would require, we can inform an assessment of the whether there is a plausible risk that this might occur.

6. Table B4 shows our best estimates of the potential costs and benefits of this policy in the low, high and best estimate scenarios. This followed by tables B5 and B6 which demonstrate the percentage change in costs and benefits that would be required to reduce the estimated net benefit of option two to zero in the best estimate and worst case scenarios respectively. Note that the 'worst case' scenario combines the high cost estimates with the low benefit estimates.

**Table B4: Low, High and Best Estimate Costs and Benefits of Option 2:**

Year	1	2	3	4	5	6	7	8	9	10	Total
<b>Total Cost Scenarios</b>											
Best Estimate	2.4	1.7	1.9	2.0	2.1	2.3	2.4	2.6	2.8	3.0	23.3
Low (i.e. best)	2.3	1.7	1.8	1.9	2.1	2.2	2.4	2.6	2.7	2.9	22.7
High (i.e. worst)	2.4	1.8	1.9	2.1	2.2	2.3	2.5	2.7	2.9	3.1	23.9
<b>Present Value Total Cost Scenarios</b>											
Best Estimate	2.4	1.7	1.7	1.8	1.9	1.9	2.0	2.1	2.1	2.2	19.8
Low (i.e. best)	2.3	1.6	1.7	1.8	1.8	1.9	1.9	2.0	2.1	2.1	19.3
High (i.e. worst)	2.4	1.7	1.8	1.9	1.9	2.0	2.0	2.1	2.2	2.3	20.3
<b>Total Benefit Scenarios</b>											
Best Estimate	3.8	4.1	4.4	4.7	5.0	5.4	5.8	6.2	6.6	7.1	53.1
Low (i.e. worst)	3.4	3.6	3.9	4.1	4.4	4.7	5.1	5.4	5.8	6.2	46.6
High (i.e. best)	4.3	4.6	4.9	5.3	5.7	6.1	6.5	6.9	7.4	7.9	59.7
<b>Present Value Total Benefit Scenarios</b>											
Best Estimate	3.8	4.0	4.1	4.2	4.4	4.5	4.7	4.9	5.0	5.2	44.8
Low (i.e. best)	3.4	3.5	3.6	3.7	3.9	4.0	4.1	4.3	4.4	4.5	39.3
High (i.e. worst)	4.3	4.5	4.6	4.8	4.9	5.1	5.3	5.5	5.6	5.8	50.4

**Table B5: Switching Values for Costs and Benefits to Reduce the Net Benefit of Option 2 to Zero in the Best Estimate Scenario**

	1	2	3	4	5	6	7	8	9	10	Total
Total Costs	2.4	1.7	1.9	2.0	2.1	2.3	2.4	2.6	2.8	3.0	23.3
Total Benefits	3.8	4.1	4.4	4.7	5.0	5.4	5.8	6.2	6.6	7.1	53.1
Net Benefit	1.5	2.4	2.5	2.7	2.9	3.1	3.3	3.6	3.8	4.1	29.8
% Change in Cost for Zero Net Benefit	62%	135%	135%	135%	135%	135%	135%	135%	135%	135%	128%
% Change in Benefit for Zero Net Benefit	-38%	-58%	-58%	-58%	-58%	-58%	-58%	-58%	-58%	-58%	-56%

**Table B6: Switching Values for Costs and Benefits to Reduce the Net Benefit of Option 2 to Zero in the Worst Case Scenario**

	1	2	3	4	5	6	7	8	9	10	Total
Total Costs	2.4	1.8	1.9	2.1	2.2	2.3	2.5	2.7	2.9	3.1	23.9
Total Benefits	3.4	3.6	3.9	4.1	4.4	4.7	5.1	5.4	5.8	6.2	46.6
Net Benefit	1.0	1.8	1.9	2.1	2.2	2.4	2.5	2.7	2.9	3.1	22.7
% Change in Cost for Zero Net Benefit	40%	101%	101%	101%	101%	101%	101%	101%	101%	101%	95%
% Change in Benefit for Zero Net Benefit	-29%	-50%	-50%	-50%	-50%	-50%	-50%	-50%	-50%	-50%	-49%

7. Even in year one (where the costs are highest due to the transition costs) of the worst case scenario the costs would need to increase by around 40% for the estimated net impact of option two to be zero. For each subsequent year of the forecast, the equivalent figure is 101%. Alternatively, in year one of the worst case scenario the benefits would need to fall by 29% for the estimated net impact of option two to be zero. For each subsequent year of the forecast, the equivalent figure is a fall of 50%.
8. In this context, we are confident that the overall impacts of the implementation of option two will be beneficial overall, even in the worst case scenario.

## Annex C: Calculating the Expected Impacts of Amending the Powers to Review Cases Closed at the Investigation Stage

1. Two mechanisms were identified via which the power to review and reopen cases previously closed at the investigation stage may generate impacts. The most significant of these will accrue to the GDC in the form of the cost of handling the cases opened for review. We analysed information provided by the GDC (as outlined below) to produce our estimates of the costs.
2. The GDC consider there is no evidence to suggest that the proportion of cases opened for review that will proceed to a fitness to practise hearing would differ significantly from the equivalent proportion of total complaints received by the GDC. Table C1 below presents these figures:

**Table C1: Total Cases Received and Total Cases Referred to a Fitness to Practise Committee, 2011 - 2013**

	Cases Received	Cases Referred to Practice Committee	% Cases Referred to Practice Committee
2011	1,374	230	17%
2012	1,042	124	12%
2013	1,236	289	23%
<i>Mean</i>	<i>1,217</i>	<i>214</i>	<i>18%</i>

3. The mean average percentage of total cases received that subsequently proceed to a fitness to practise hearing per annum is shown to be 18% for the period 2011 to 2013. A further adjustment was made to account for the impact of the introduction of case examiners (who would have the power to dispose of cases via undertakings and therefore reduce the required number of full hearings).
4. This yielded a best estimate of the proportion of cases opened for review that may proceed to a full fitness to practise hearing of 15%. Applying this to the 144 cases anticipated to be reopened for review gives an estimated additional 22 full fitness to practise hearings as a result of the power to review. The GDC advised the unit cost for a full fitness to practise hearing is approximately £34,000. Therefore, the additional costs in year one from a rise in full fitness to practise hearings as a result of the power to review are estimated at £0.7 million. In our analysis these are uprated by 7% annually to account for the expected rise in the number of fitness to practise complaints received by the GDC.
5. We further identified that the provisions to amend the GDC's ability to reopen cases initially closed at the investigation for review may generate costs to the GDC's registrants. These would only accrue in reopened cases deemed potentially serious enough to suspend the registrant in question, or attach conditions to their continued practice, pending a decision from a fitness to practise panel. We expect that any registrant to whom suspension or conditions are applied would experience a loss of income as a result as this would prevent them from or place restrictions on their practising.
6. To estimate a monetary value for this impact, average pay data<sup>4</sup> was first sourced from ONS Annual Survey of Hours and Earnings (ASHE) for the SOC codes related to the dentistry sector, comprised:
  - Dental Practitioners (SOC Code 2215);
  - Medical and Dental Technicians (SOC Code 3218); and
  - Dental Nurses (SOC Code 6143).

<sup>4</sup> 'Average earnings' are defined in the data as: Mean weekly pay, gross (£'s) for all employee jobs, UK.

This was then combined with APS data on employment figures (for the same SOC codes as listed above) to produce a weighted average earnings per week figure for individuals practising in the dentistry sector. This is shown below in table C1:

**Table C1: Employment and Earnings Figures for Dental Practitioners**

Description	SOC Code 2010	Number of Practitioners	% Total Practitioners	Mean Average Gross Weekly Pay
Dental Practitioners	2215	38,660	31%	781.90
Medical & Dental Technicians	3218	35,983	29%	511.30
Dental Nurses	6143	49,500	40%	297.00
Total Dental Practitioners	N/A	124,143	100%	510.12*

Source: DH Analysis ONS APS data (2013) and ASHE data (provisional 2014)

\*Please note this is a weighted average figure calculated via DH analysis of ONS data.

- Having estimated a weighted average weekly pay for individuals practising in the dentistry sector, data provided by the GDC on cases they received in 2013 was used as the basis for the further calculations shown below in tables C2 and C3:

**Table C2: GDC Data on Number of Cases and Incidence of Specified Outcomes, 2013**

Total Cases*	2,990
No. IOC Cases 2013	132
Of which:	
Suspension	34
Conditions	33
No order	65
Ave. Time to get to Hearing - Months	10.2 months

**Table C3: DH Calculations Based on Data in Table C2**

% Total Cases sent to IOC	4.4%
% total cases where suspension or conditions were applied	2.2%
% Cases at IOC Resulting in Suspension or Conditions	50.8%
10.2 months as % of 1 Year	85%
Ave. Time to get to Hearing - Weeks	44.2

Source: Table C2 - GDC Returns and where\* GDC Annual Report 2013. Table C3 – DH Calculations Based on Table C2.

- Furthermore, the GDC have advised they expect 144 cases per annum to be reopened for review under the new powers this policy proposes to provide. If we assume that the total proportion of cases received referred to an Interim Orders Committee (IOC) would also apply to the number of cases reviewed that would subsequently be referred, we estimate that around six cases ( $144 * 4.4\%$ ) opened for review may end up at IOC.
- There is no available information regarding how serious these potential future cases may be, and therefore the potential stringency of any conditions imposed. Because of this we have applied the assumption that, as with suspension, conditions will result in a total loss of income for the registrants to which they are applied. Although this will result in an over-estimate of the potential costs to registrants generated by this measure, this was deemed the preferable approach in the context of the information available.
- Finally, by applying the proportion of total cases heard by an IOC in 2013 that resulted in conditions or suspension (51%) to the estimated six cases that will be heard by the IOC as a result of this provision we calculate that:
  - As a result of the new power to review cases this policy will provide, approximately three registrants per annum will lose income of around £510 per week for a period of 44 weeks.
  - This equates to a cost of approximately £73,000 per annum of which 68% (£50,000) will accrue to businesses and 40% to small and micro businesses (£29,000).

## Annex D: Estimated Impacts on Small and Micro Businesses Arising as a Result of Policy Implementation

1. In order to estimate the potential impacts on small and micro businesses, data on the size structure of enterprises within the private healthcare sector<sup>5</sup> was sourced from ONS Annual Business Survey (ABS). Data for the private healthcare sector is the highest level of disaggregation available in the data set which we note may not be representative of the dentistry sector which is the focus of this policy measure. However, this was deemed the best data available.
2. To maintain comparability, the figures utilised related to employment by sizeband with small and micro businesses defined as businesses in the employment sizeband one to 49. The employment numbers for these size bands were added together before being divided by the total employment figure for the sector, to give an estimated proportion of employment in the private healthcare sector that is in small or micro businesses of 29%.
3. Returning to the figures sourced from the APS, all self-employed individuals practising dental occupations in the private sector were automatically categorised as working in a small or micro business. The proportion calculated from ABS data was then applied to the private sector employee figures for the dental occupations (estimated from the APS data) to produce approximate small and micro business employment figures. These are shown below in table D1:

**Table D1: Employment Estimates for Private Sector Small & Micro Enterprises**

Regulator	Number Employed in Private Sector Small & Micro Enterprises	Percentage of Total Employment in Private Sector Small & Micro Enterprises
GDC	49,793	40%

*(Source: DH Analysis of ONS ABS and APS data)*

4. Once the proportion of the GDC's registrants operating within private sector SMEs had been estimated, this was then multiplied by the impacts expected to accrue to the GDC as a result of them implementing the four measures that comprise this policy. The results of these calculations are shown below in tables D2 (undiscounted) and D3 (discounted at 3.5%) as shown at tables seven and eight in the main body of this IA:

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<sup>5</sup> Defined in the data as: Human health and social work activities excluding NHS Trusts, Local Authorities and Central Government Bodies

**Table D2: Best Estimate of Impacts on Small and Micro Businesses if the GDC used the Powers Conveyed to them in Option 2, 2014 Prices, £ million**

<i>Year</i>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>Total</b>
Cost	1.6	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	2.0	15.2
Benefit	2.6	2.8	3.0	3.2	3.4	3.7	3.9	4.2	4.5	4.8	36.2
Net Benefit	1.1	1.7	1.8	1.9	2.0	2.2	2.3	2.5	2.7	2.9	21.0

*(Source: DH analysis of ONS APS data, ASHE data, ABS data and Authority baseline figures. Totals may not sum due to rounding.)*

**Table D3: Best Estimate Net Present Value Impacts on Small and Micro Businesses if the GDC used the Powers Conveyed to them in Option 2, 2014 Prices, £ million, 3.5% Discount Rate**

<i>Year</i>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>Total</b>
PV Cost	0.9	0.6	0.7	0.7	0.7	0.7	0.8	0.8	0.8	0.8	7.6
PV Benefit	1.5	1.6	1.6	1.7	1.8	1.8	1.9	1.9	2.0	2.1	18.0
NPV	0.6	0.9	1.0	1.0	1.0	1.1	1.1	1.2	1.2	1.2	10.4

*(Source: DH analysis of ONS APS data, ASHE data, ABS data and Authority baseline figures. Totals may not sum due to rounding.)*



## **Annex E: Analysis of Consultation Responses**

### **Level of Agreement with Proposed Powers from Respondents**

1. The Department consulted on each of the policy measures covered by this IA. In each case, the majority of respondents agreed that the GDC should be given the proposed powers. More specifically:
  - 74% of respondents to the question agreed that the GDC should have the power to introduce Case Examiners;
  - 88% of respondents to the question agreed that Case Examiners and the Investigating Committee should have the power to agree undertakings with registrants;
  - 64% of respondents to the question agreed that the GDC should have the power to reopen closed cases for review; and
  - 88% of respondents agreed that the GDC should have the power to review decisions to issue warnings to registrants.
2. The level of agreement from respondents regarding whether they agreed the GDC should have the power to refer individuals to the Interim Orders Committee at any point in the process was sought in two questions within the consultation:
  - 84% of respondents to the question agreed that the GDC should have the power to refer cases to an IOC at any time provided that, in cases which are referred to the IC, the IC has not commenced its considerations; and
  - 79% of respondents to the question agreed that the GDC should have the power to refer cases to an IOC at any time provided that, in cases which are referred by the IC to a Practice Committee, the Practice Committee has not commenced its considerations.

### **Responses to the Question Relating to Potential Cost Impacts**

3. Question eight of the consultation document sought respondents' views on how the proposed changes might impact respondents and/or their organisations in terms of financial or administrative burden. It asked:
  - "Will the proposed changes affect the costs or administrative burden on your organisation or those you represent, by way of: an increase; a decrease; stay the same; or unsure. Please explain your answer."
4. 30% of respondents to the question (13 respondents) stated that the proposed changes would reduce the financial or administrative burden on their organisation. This initially seemed a surprisingly low proportion. However, the comments provided by respondents who did not indicate they expected a fall in costs suggests this was not due to disagreement that the policy will generate savings for the GDC and its registrants.
5. The following section consider how the remaining 70% of responses were split between expecting an increase in costs, costs to stay the same, or respondents who were unsure, and looks at the rationales for these expectations.

## **Responses Stating an Expectation that Costs would Increase**

6. 7% of (or three) respondents to question eight stated they thought that the costs may increase, however, it was clear from the text of one of the responses that one of the respondents had misunderstood the policy intent and so this response should be discounted.
7. With regard to the other two responses; the public consultation exercise on the measures contained in this Order was undertaken shortly after the GDC announced its intention to increase its annual retention fee (ARF). This therefore led to a number of respondents taking the opportunity to raise concerns about the performance of the GDC generally or to complain about the increase in the ARF, throughout their submissions. This is demonstrated through the comments made by these two individuals:
  - “The GDC is the only health regulator currently proposing a massive hike in their registration fees.”
  - “The GDC has lost control over spending and I cannot see how it will be different this time.”
8. Therefore, it is clear the comments made do not relate to the projected costs and benefits of the measures contained within this Order, but to the fact the GDC has recently increased its fees. In addition these are the only comments made by these individuals. They do not provide any statistical evidence to corroborate their claim of an increase in the costs or administrative burden to them or their organisation from the measures contained within this Section 60 Order.

## **Responses Stating Unsure Regarding the Impact of the Changes on Costs**

9. 35% of (or 15) respondents to question eight stated that they were ‘unsure’ as to whether the costs or administrative burden on their organisations would be affected by the proposed changes. One of these, however, one returned an ‘unsure’ opinion because there was no ‘not applicable’ option available.
10. Of the remaining 14 the majority were generally in favour of the changes proposed. Eight of the 14 respondents (61%) were however concerned that where the savings were achieved they would not be passed onto the registrants – with the only winner being GDC.

## **Responses Stating No Expected Change to Administrative or Financial Burdens**

11. 23% (or 10) of the 43 responses received to question eight stated they expected administrative and financial burdens to remain the same following the implementation of the proposed changes.
12. The comments focused on whether the expected savings would accrue to the individual respondents/their organisations, rather than whether the respondent agreed the policy would generate savings to the GDC and its registrants. In some cases the comments also seemed to indicate that the respondents agreed the GDC’s costs would reduce but not how or whether the cost savings would be passed through.
13. Table E1 below provides a summary of the consultation responses stating they expected financial and administrative burdens to stay the same as a result of the changes.

**Table E1: Details of Responses Indicating they did not Expect the Proposed Changes to have any Impact on Administrative or Financial Burdens**

<b>Number of Respondents</b>	<b>% Respondents Expecting No Change</b>	<b>% All Respondents to Q8</b>	<b>Rationale for Expectation that Financial and Administrative Burdens Would Stay the Same</b>
2	20%	5%	Did not provide a reason or further comment
4	40%	9%	Did not raise any challenge regarding whether or not the changes would decrease costs for the GDC and its registrants. Instead they stated that they would not be affected by a change in cost burden on the GDC and/or its registrants.
3	30%	7%	Agreed that the changes should reduce costs faced by the GDC. Two respondents hoped registrants would benefit (one in general and one from the prevention of further fee increases) and the third expressed doubt regarding whether savings to the GDC would be passed through
1	10%	2%	Did not provide comments tailored to the question, instead stating that any rise in the Annual Retention Fee should be capped at the rate of RPI inflation.
10	100%	23%	N/A