

## Indicative Sanctions Guidance for the Fitness to Practise Panel (April 2009) Supplementary Guidance, November 2009

### The relevance of whether a doctor holds a Licence to Practise

1. The Indicative Sanctions Guidance was developed by the GMC for use by its Fitness to Practise Panel when considering what sanction to impose following a determination that a doctor's fitness to practise is impaired. It is an authoritative statement of the Council's approach to sanction issues and aims to promote consistency and transparency.
2. The April 2009 version of the Guidance was produced prior to the introduction of the licence to practise. This supplementary guidance provides information about the licence to practise and the issues that the Panel should bear in mind when considering what action, if any, to impose in cases where the doctor does not hold a licence.
3. All doctors who hold registration are entitled to a licence to practise. Most doctors who appear before a Panel will hold a licence to practise but there may be cases where an unlicensed doctor appears before a Panel, either because he/she has never held a licence or because he/she has recently relinquished his/her licence.
4. Although doctors will require a licence to undertake activities involving contact with patients, the fact that a doctor does not currently have a licence does not replace the role of the Panel in ensuring patient safety where there are fitness to practise concerns.
5. Fitness to practise sanctions attach to a doctor's registration and not his/her licence. It is important the Panel bears this in mind when considering appropriate sanctions in cases where a doctor's fitness to practise has been found to be impaired. Submissions may be made suggesting that, as the doctor is currently unlicensed, there are no patient safety issues and that action is therefore not required. It is important to remember that:
  - a. A registered doctor is entitled to a licence unless their registration is currently suspended.
  - b. All registered doctors are expected to comply with *Good Medical Practice*, regardless of whether or not they hold a licence.
  - c. Taking action against registered doctors who have been found to be impaired will be important in maintaining public confidence and the integrity of the register.

6. If a doctor's registration is suspended or his/her name is erased by a Panel the doctor's licence will automatically be withdrawn. If conditions are imposed or undertakings agreed the doctor will continue to be entitled to hold a licence but will be expected to comply with any conditions or undertakings.
7. A Panel may impose conditions on or agree undertakings with unlicensed doctors in the same way as for licensed doctors. If an unlicensed doctor is subject to health related conditions or undertakings he/she will be subject to medical supervision in the same way as licensed doctors. Practice related conditions or undertakings may still be appropriate even though a doctor doesn't currently hold a licence.
8. The Panel will need to consider all potential sanctions starting from the position of whether it would be appropriate to impose no sanction and considering conditions, suspension and erasure in turn. The Panel should bear in mind that if it imposes no sanction on an unlicensed doctor, that doctor may at a later date successfully apply for a licence and would not be subject to any restrictions to protect patients.
9. If a Panel imposes conditions on or agrees undertakings which are practice related with a doctor who does not currently hold a licence, for example a requirement to work under medical supervision or to undertake a course of training, the conditions or undertakings will continue to attach to the doctor's registration during the period which they are unlicensed.
10. Should the doctor successfully apply for a licence at a later date, he/she will need to comply with the conditions when taking up any course of employment.
11. When imposing conditions on an unlicensed doctor, Panels should impose them for whatever term is appropriate in all the circumstances regardless of whether the doctor is licensed or unlicensed. A doctor's licensing status may be subject to change.
12. The points set out at paragraphs 5 a-c above also apply when a Panel is reviewing conditions or undertakings at a review hearing. The licensing process is not designed to replace the fitness to practise procedures in ensuring patient safety and the Panel will need to consider the most appropriate action taking account of all the circumstances of the case. Where a doctor has been unlicensed for some considerable period the panel may wish to explore whether the doctor wishes to take voluntary erasure or may consider whether more robust action may be required such as suspension depending on the individual circumstances.