

Revocation of undertakings agreed under rule 10 – supplementary guidance for case examiners

1. The purpose of this guidance on the revocation of undertakings is to improve consistency in the approach taken by the GMC when considering the cessation of undertakings cases.
2. This guidance is designed to be used at two points. Firstly, during a review of the case when case examiners are considering what additional evidence they will need to inform a decision on revocation, and secondly at the point they are considering revocation.
3. The question of cessation of supervision is often raised in the first instance by those providing supervision to the doctor (usually but not always medical supervisors). Sometimes it is suggested that supervision can cease altogether and sometimes that restrictions can be relaxed. However, it is also entirely appropriate for the question of whether undertakings should be varied or revoked to be raised by the GMC – usually either by the case examiner or the caseworker.
4. Whilst in cases of conditions imposed by a Panel there is a clear procedure for a review of the case by the Panel after a set period, the rules covering undertakings are less prescriptive.
5. Rule 10 (7)(b) of the Fitness to Practise rules states that, as a result of information received by the GMC, the case examiners may inform the Registrar that the undertakings given by the doctor should no longer apply.
6. This guidance provides case examiners with a clear set of criteria to apply when considering cessation of undertakings. Caseworkers should ask the case examiners to consider the issue of revocation or variation of undertakings in accordance with this guidance at each annual review and whenever this issue is raised by the doctor or supervisor.

The test to be applied in considering whether to revoke undertakings

7. In order to revoke undertakings the case examiners must be satisfied that the doctor's fitness to practise is no longer impaired to a degree justifying any restrictions on his or her registration.

Undertakings for doctors with impairment through ill health

8. A fundamental principle underlying the offering of undertakings to doctors with impairment through ill health is that the undertakings will remain in place until such time as they are no longer required in order

to safeguard patient safety. The GMC's hope at the point of offering undertakings is that the undertakings will be in place for a limited period of time following which the doctor will return to unrestricted practice. This return to unrestricted practice will however be dependent on the progress that the doctor makes whilst in receipt of treatment for their health and supervision of their health and practice.

9. Most doctors subject to the GMC's health supervision process have either a mental illness or substance misuse related diagnosis. These conditions are long term and usually take several years to respond completely to treatment and rehabilitation. Revocation of undertakings, including the requirement to be under medical supervision, should not normally be considered unless undertakings have been in place for at least two years. Paragraphs 10 to 14 below will therefore normally apply to a continuous period of at least two years.
10. There should have been a documented, evidenced improvement in the doctor's health, which should now be stable, since the undertakings were first agreed. This documentation will have been in the form of positive medical supervision reports, and reports from treating physicians where appropriate.
11. For doctors who are working, positive workplace reports covering the period of undertakings should confirm that no significant concerns have been reported in relation to their clinical practice.
12. For doctors subject to announced and unannounced testing, all tests over the period of at least two years should demonstrate no prohibited substance use.
13. For doctors with alcohol dependency who continue to be prescribed disulfiram, whilst abstinence without the use of this agent is preferred it is not essential. We should consider the doctor's position in the round, taking account of their general condition, likelihood of relapse and insight into their health, and in some cases, notwithstanding the doctor remaining on disulfiram, where they meet the other requirements for ceasing supervision then consideration can still be given to revoking the undertakings.
14. Given that sometimes doctors under supervision lie to their supervisors, or avoid supervision meetings or chemical testing or otherwise pretend that their health is improving it is inappropriate for a decision to revoke undertakings to be reliant upon the opinion of the supervisor alone. For this reason undertakings will not be revoked without two further reports from independent health examiners being available to the case examiners. To avoid unnecessary examinations, when a supervisor or doctor suggests it is appropriate to cease supervision, the case examiner should initially advise on whether the evidence appears to support revocation. If so, the further health reports should be sought before the final decision is made. Rule 10(6) allows the Registrar to request a health assessment at this stage.
15. There may be exceptions to the continuous period of two years referred to in paragraphs 9 – 14 above. For example, if the diagnosis of ill health has reduced significantly since the original case examiner decision, and the new diagnosis is agreed by the supervising and

treating doctors, and the doctor otherwise meets the criteria set out in paragraphs 9 – 14 above. In all such cases, case examiners must provide detailed reasoning for considering the matter exceptional.

Recurrent illness

16. Many doctors have remitting and relapsing illnesses. Given that ill-health per se is not indicative of impaired fitness to practise, it cannot be necessary for the doctor to have made a full recovery from their illness – indeed in many cases where the health condition is recurrent, this may never be possible. In such cases the case examiners therefore need to be satisfied that the doctor's illness is being appropriately managed and addressed by the doctor, that there are no ongoing patient safety risks as a result of the doctor's ill health and that they are no longer in breach of the relevant provisions of Good Medical Practice.
17. Case examiners need to be satisfied that any future relapse of ill health will be managed appropriately. They will normally expect to see evidence of the doctor's insight into his or her condition, evidence of a management plan for recognising the early stages of relapse and assurance that they have access to a support network.

Undertakings for doctors with impairment through deficient performance

18. A fundamental principle underlying the offering of undertakings to doctors with impairment through deficient performance is that the undertakings will remain in place until such time as they are no longer required in order to safeguard patient safety. The GMC expects in these cases that the doctor will take all necessary steps to improve their identified deficiencies, and demonstrate to the GMC that they are fit to return to unrestricted practice.
19. Undertakings are offered to doctors in the expectation that they will take responsibility for a structured approach to improvement over a limited period of time, as evidenced through the documentation listed at paragraph 24 below. Where deficient performance led to the undertakings, employment as a medical doctor is a pre-requisite for this improvement to have taken place. For doctors who are not working in roles requiring medical registration it is unlikely that they will be able to demonstrate this improvement. Where the doctor is unemployed at the point of signing undertakings, the GMC expects them to have secured employment as a medical doctor, and to be working towards improving their practice, within one year of agreeing undertakings.

Doctors not working

20. If medical employment is not gained within one year, the GMC will expect to see evidence that the doctor has sought relevant employment

and is engaged in a structured remediation programme overseen by the postgraduate Deanery.

21. Where doctors have not secured employment or engaged in a structured remediation programme within one year case examiners should normally refer the doctor to a FTTP, without seeking a performance reassessment. Such a referral will be based upon the evidence of impairment in the original assessment report coupled with the evidence of a lack of any further employment or retraining.

Working doctors where improvement has been demonstrated

22. For doctors who have secured employment and who have demonstrated improvement, decisions on whether to revoke undertakings should not normally be considered until the undertakings have been in place for at least eighteen months.
23. Undertakings will not be revoked until a reassessment of the doctor's performance has taken place demonstrating that the doctor's performance is no longer deficient (or in exceptional circumstances other clear evidence has been received indicating that the doctor's fitness to practise is no longer impaired to a degree justifying any restrictions on his or her registration.)
24. Case examiners should not request a reassessment until they are in a position to consider revocation of the undertakings from an informed perspective. For this reason there should be a documented, evidenced improvement in the doctor's clinical practice over the period since the undertakings were first agreed. This documentation should be in the form of a combination of positive deanery, workplace/employer or contracting body supervision reports, remedial or educational supervisor reports, reports from any other person involved in the doctor's supervision & remediation, any relevant clinical audit or QOF reports and an up to date PDP with evidence of reflective learning.
25. Where sufficient documentation as at paragraph 20 is present, and a reassessment of the doctor's performance shows the doctor to be no longer deficient, undertakings should normally be revoked. Where the reassessment finds the doctor still deficient, case examiners will need to decide whether a further period of revised undertakings is indicated, or whether the doctor's lack of progress to the stage where they can return to unrestricted practice indicates that they should be referred to a FTTP.

Working doctors where improvement has not been demonstrated

26. Where there is not good evidence of improvement, or evidence exists of a failure to improve to an acceptable level after a period of further employment or retraining case examiners will need to decide whether a further period of revised undertakings is indicated, or whether the doctor's lack of progress to the stage where they can return to unrestricted practice indicates that they should be referred to a FTTP.

27. This decision should not normally be made until the undertakings have been in place for at least eighteen months, and until a reassessment of the doctor's performance has taken place.
28. In these circumstances where the reassessment confirms continuing deficient performance case examiners will normally refer the doctor to a FTPP. Only in exceptional circumstances, for example where the doctor has only recently secured employment and there is some evidence of improvement will undertakings be extended for a further period.

Undertakings for doctors with impairment through misconduct ("consensual disposal" cases)

29. Doctors in this category have usually accepted responsibility for an identified practice failing or mistake, but there are not global performance concerns leading to a finding of deficient performance. A fundamental principle underlying the offering of undertakings to doctors with impairment through misconduct is that the undertakings will remain in place until such time as they are no longer required in order to safeguard patient safety. The GMC expects in these cases, as with those involving deficient performance, that the doctor will take all necessary steps to improve in the areas of their practice identified by the case examiners, and demonstrate to the GMC that they are fit to return to unrestricted practice.

Doctors not working

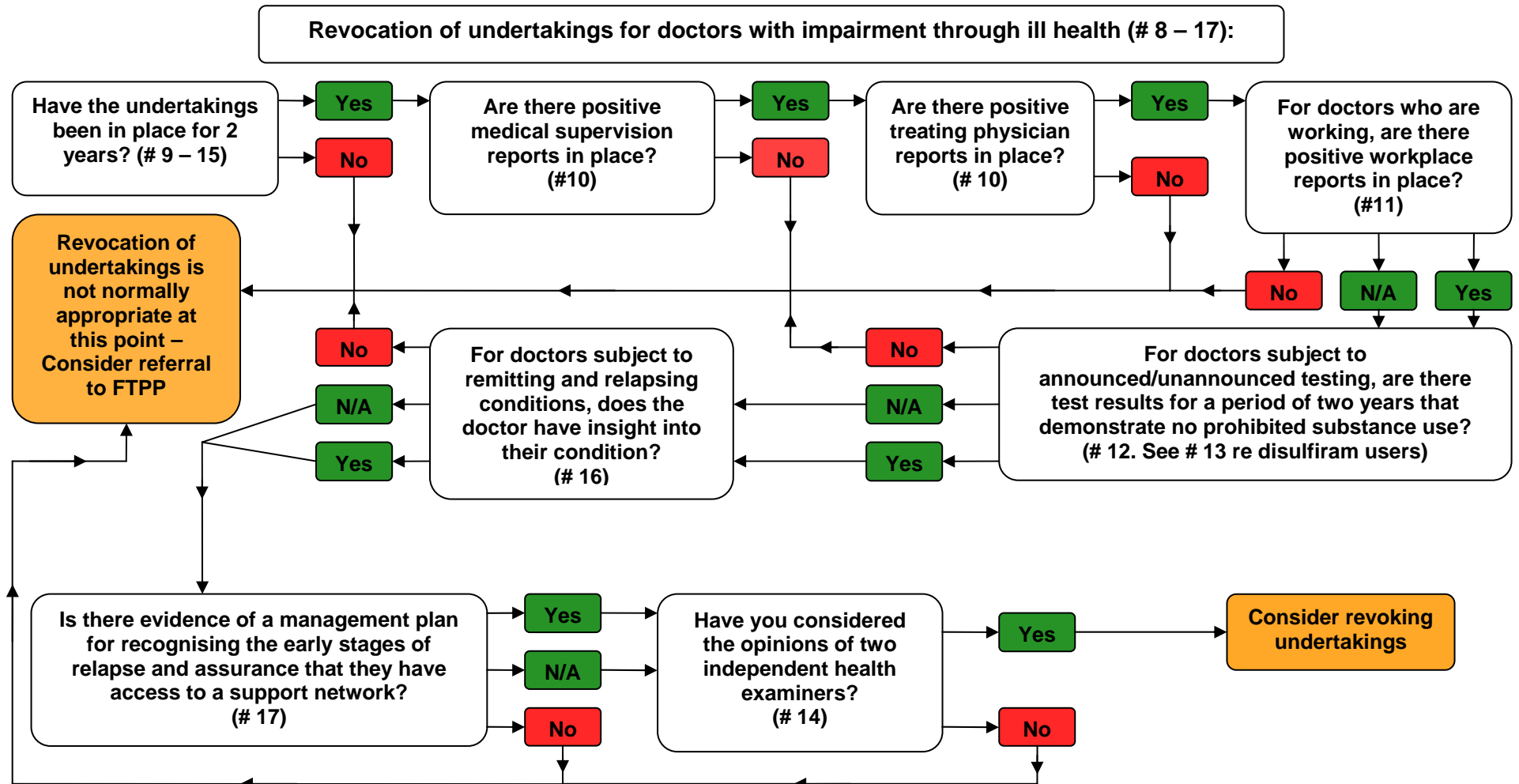
30. For doctors who are not working in roles requiring medical registration it is unlikely that undertakings relating to their clinical practice will be revoked. Undertakings are offered to doctors in the expectation that they will take responsibility for a structured approach to improvement over a limited period of time. Where problems with clinical practice led to the undertakings, employment as a medical doctor is almost always a pre-requisite for this improvement to have taken place.
31. Where the doctor is unemployed at the point of signing undertakings, the GMC expects them to have secured employment as a medical doctor, and to be working towards improving their practice, within one year of agreeing the undertakings. If medical employment is not gained within one year, the GMC would expect to see evidence that the doctor has sought relevant employment or is engaged in a structured remediation programme.
32. Where doctors do not demonstrate that they have achieved this case examiners should normally refer the doctor to a FTPP to consider whether they are fit to remain on the medical register. Such a referral will be based upon the evidence of impairment in the original complaint coupled with the evidence of a lack of any further employment or retraining.

Working doctors where improvement has been demonstrated

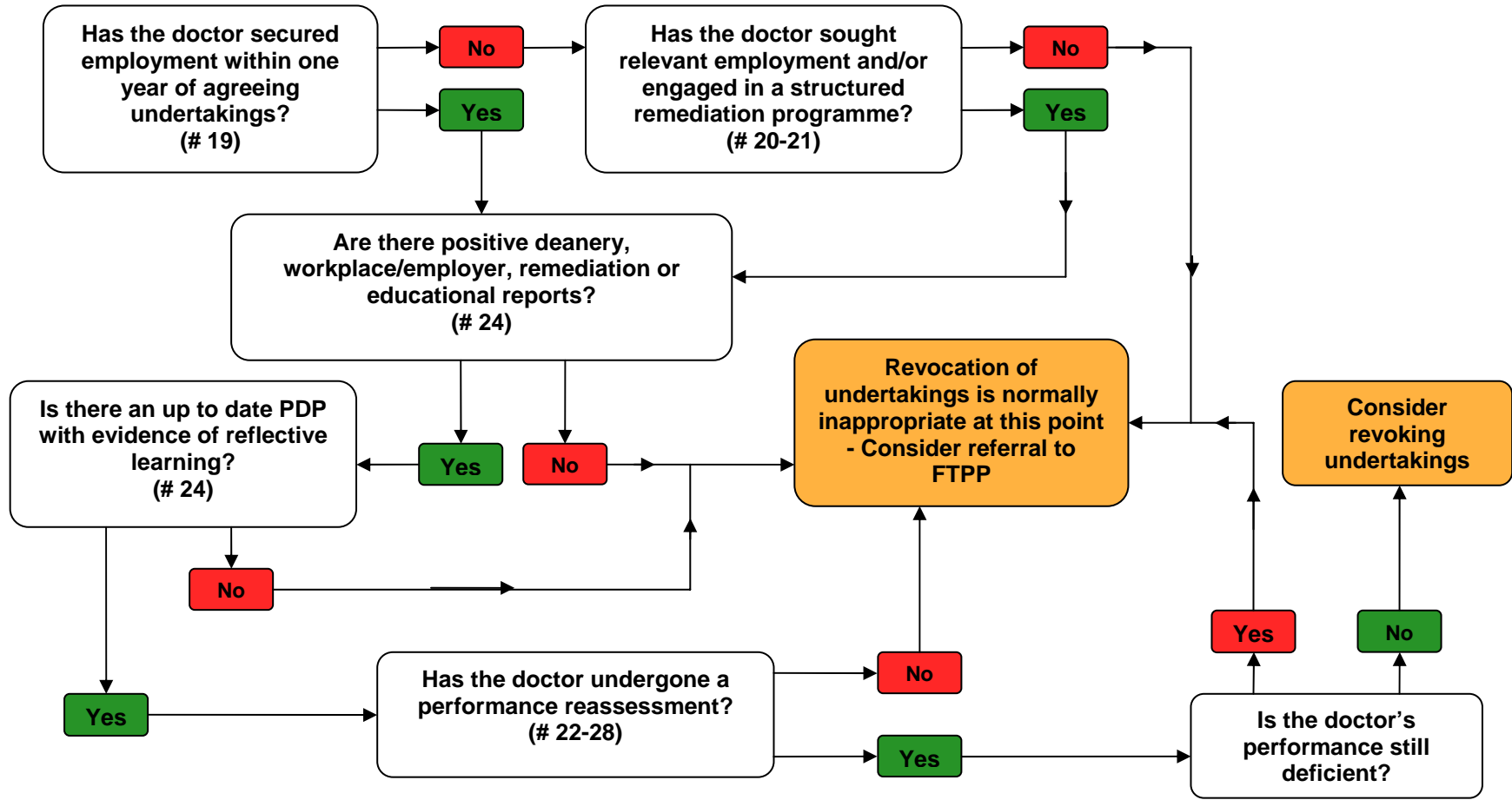
33. Cessation of undertakings should not normally be considered unless the undertakings have been in place for at least twelve months during which the doctor has been working as a doctor in a clinical environment.
34. There will no GMC assessment of the doctor's performance in these cases. For this reason it is especially important to have comprehensive documentation relating to the doctors attempts to improve their practice as set out at paragraph 24 above. This documentation should show an evidenced improvement in the doctor's clinical practice over the period since the undertakings were first agreed, and ideally the nature of this information will have been specified at the point the undertakings were set.
35. On receipt of this information case examiners need to consider whether there is evidence that the doctor has improved their practice to the point that either a variation, or revocation, is appropriate. Whilst the doctor can request the case examiners to consider revocation or variation of undertakings at any time, in the absence of such a request case examiners should consider these issues at each annual review.

Working doctors where improvement has not been demonstrated

36. If there is not evidence that sufficient improvement has taken place after 18 months case examiners will need to decide whether a further period of revised undertakings is indicated, or whether the doctor's lack of progress to the stage where they can return to unrestricted practice warrants referral to a FTTP.
37. Whilst it may be appropriate at this point to consider whether a performance assessment is indicated in advance of making this decision, case examiners are normally reliant upon the sources of information listed at paragraph 24. The presumption is that doctors who have failed to demonstrate sufficient improvement during the period of undertakings preceding this decision will be referred to a FTTP.



Revocation of undertakings for doctors with impairment through deficient performance (# 18 – 28):



Revocation of undertakings for doctors with impairment through misconduct (# 29 – 37):

