

# Undertakings

## Introduction

- 1 The GMC is responsible for registering doctors to practise in the UK. Our statutory purpose is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine. Our fitness to practise procedures focus on whether a doctor's fitness to practise is impaired to such an extent that we need to take action on registration. This means that we are looking to see whether the issues are so serious that the doctor's registration should be restricted or removed – in effect, whether the doctor should be prevented from working, or allowed to work only under certain conditions.
- 2 Any doctor wanting to practise medicine in the UK must, by law, be both registered and hold a licence to practise. Our fitness to practise powers extend to all registered doctors, whether or not they hold a licence to practise. Following the introduction of licensing, the GMC's Fitness to Practise sanctions will continue to attach to a doctor's registration. Where a doctor's name is suspended or erased from the Register by a Fitness to Practise Panel, we will automatically withdraw a doctor's licence. Where a doctor's registration is subject to conditions or undertakings which restrict their practice they will still be entitled to hold a licence but must continue to comply with any conditions or undertakings on their registration. If they do not, their registration and licence may be at risk.
- 3 In December 2007 we implemented a change to our fitness to practise procedures that widened our powers to dispose of cases of any type consensually, at the investigation stage of the procedures, by agreeing binding undertakings with the doctor, rather than referring for a public hearing.

## Consensual disposal – agreeing undertakings

- 4 Undertakings are an agreement between the GMC and a doctor about the doctor's future practice. Undertakings may include restrictions on a doctor's practice or a commitment to practise under medical supervision or to undergo retraining. They allow the GMC to deal effectively with certain types of case without having to refer the matter to a Fitness to Practise Panel.
- 5 Undertakings may be appropriate in cases involving doctors who are registered both with and without a licence to practise.
- 6 At the end of our investigation of concerns about a doctor, the case will be considered by two senior GMC staff known as case examiners (one medical and one non-medical). They can:
  - conclude the case with no further action
  - issue a warning
  - refer the case to a Fitness to Practise (FTP) Panel
  - agree undertakings.
- 7 Undertakings will only be appropriate if the case examiners are satisfied that they are sufficient to protect patients and the public and are an effective way of addressing the concerns about the doctor. Case examiners have detailed guidance on the types of cases in which undertakings are likely to be appropriate. They cannot agree undertakings if there is a realistic prospect that a Fitness to Practise Panel might erase the doctor from the register if the case was referred forward for a full hearing.
- 8 A doctor who is subject to undertakings is still entitled to hold a licence to practise, however will need to comply with the terms of the undertakings.

## The process

- 9** For those cases that are not founded on a health or performance assessment, the case examiners will take a preliminary view on whether undertakings are appropriate. If they consider that undertakings are likely to be appropriate, we will write to the doctor:
- setting out the allegations that the case examiners will consider
  - indicating that the case examiners are minded to invite the doctor to agree undertakings
  - setting out details of the suggested undertakings.
- 10** We will also write to the complainant, explaining that we are minded to conclude the case by agreeing undertakings and give them a chance to comment.
- 11** If we have already carried out an assessment of the doctor's health or performance we will not carry out the steps at 9 and 10 above.
- 12** The case examiners will then take a final decision on whether it would be appropriate to conclude the case by agreeing undertakings.
- 13** If the case examiners decide to invite the doctor to agree undertakings, he or she will have a further 28 days to indicate whether they are willing to accept them.
- 14** We will inform the doctor's employers of any undertakings that have been agreed. Undertakings that relate solely to a doctor's health are confidential. All other undertakings, such as restrictions on practice, will be disclosed to any enquirer in the same way as conditions or restrictions on a doctor's registration.
- 15** We review the undertakings agreed by the doctor regularly and consider whether they should be varied or, where there are no longer concerns about the doctor's fitness to practise, whether they should be lifted. Doctors with undertakings as a result of deficient performance will normally need to undergo a further performance assessment before the undertakings are lifted.

## Failure to agree to or comply with undertakings

- 16** If the doctor does not agree to the undertakings, or if the doctor subsequently fails to comply with the undertakings, the case will normally be referred for a hearing by a Fitness to Practise Panel. Similarly, if a doctor's health or performance has deteriorated, or if further concerns as to their fitness to practise arise, the case will be referred to a Fitness to Practise Panel.

## Further information

- 17** This leaflet is only intended as a guide to our procedures. Doctors who have been invited to agree undertakings should consider obtaining independent advice from their defence organisation or solicitors.
- 18** Our guidance for decision makers on agreeing undertakings at the investigation stage is available on our website.