

Monitoring of unlicensed doctors by the Case Review Team

Background

- 1** Undertakings are designed to protect patients or the public, or on occasion the doctor, while they address concerns about their practice or as a result of ill health. Monitoring of undertakings ensures both that the doctor is adhering to the restrictions and that the restrictions continue to be appropriate.
- 2** To ensure that our approach to monitoring is proportionate, we only monitor doctors who hold a current licence to practise, other than in exceptional circumstances. This guidance sets out those exceptional circumstances.
- 3** Doctors are entitled to apply to restore their licence at any time so, in and of itself, the lack of a licence does not manage fitness to practise risks. However, where a doctor with restrictions relinquishes their licence to practise a flag is attached to their record so that if they apply to restore their licence, the Case Review Team will receive a notification to enable them to review the restrictions and ensure that appropriate monitoring is put in place.

How do we decide whether or not to monitor?

Risk to patient safety

- 4** Where a doctor relinquishes their licence or it is withdrawn, and they are therefore unable to practise, there is rarely likely to be a risk to patients or the public. However, there may continue to be a risk to public confidence or to the doctor.
- 5** The guidance below sets out the considerations that should be taken into account when determining whether or not to continue monitoring, in cases where a doctor has relinquished their licence or it has been withdrawn.

Risk to public confidence

- 6** There are some cases, primarily those involving an element of misconduct, where the undertakings have been agreed partly in order to protect public confidence. In these cases, it will be necessary to consider whether or not the removal of monitoring might impact on public confidence.

Risk to the doctor

- 7** Undertakings can provide doctors with a supportive framework which can help facilitate a return to unrestricted practice.
- 8** In cases where a doctor has undertakings in place, we've identified that they are vulnerable, and they wish monitoring to remain in place, we are likely to continue to monitor their undertakings if all of the following factors are present:
 - a** The doctor has expressed a reasoned desire to return to practice within the next 12 months.
 - b** We believe there is a reasonable likelihood that the concerns can be sufficiently addressed within the next 12 months to support a return to practice.
 - c** Continued monitoring will help the doctor return to practice.

Approach in cases where we continue to monitor

What is the role of the medical supervisor in cases where we continue to monitor a doctor without a licence?

- 9** The medical supervisor's role is to monitor the doctor's health and to advise the GMC of any significant changes or issues relating to adherence to the restrictions.

Drug/alcohol testing

- 10** As we will only monitor a doctor in cases where we believe that they are likely to return to practice within 12 months, in most cases it will be appropriate to continue with drug/alcohol testing. However, this testing might be less frequent than if the doctor was in clinical practice.
- 11** In cases where the doctor is likely to return to clinical practice within 12 months, testing will be important to provide evidence of stability of the doctor's health condition and adherence to the restrictions.
- 12** In such cases, circumstances may arise where the medical supervisor may agree to pause testing, for example if the doctor:
 - a** Becomes more unwell.

- b Goes abroad for an extended period of time (for more than a month).
- c Goes on maternity leave.

13 In the above cases, the medical supervisor should inform us of the change in circumstance and advise if they think it's appropriate to pause testing. It is then for the GMC to consider matters and decide whether or not testing should be paused.

Approach to cases where we stop monitoring

Giving the doctor notice

- 14** The doctor should be given at least a month's notice that we intend to cease monitoring.
- 15** When we communicate that we intend to cease monitoring, we need to clearly communicate that;
- a The undertakings remain effective and will continue to be published on LRMP.
 - b The doctor must continue to comply with their undertakings.
 - c The doctor must tell their Case Review Investigation Officer if they accept a position for which registration with the GMC is required or if they apply to restore their licence.
- 16** The decision to stop monitoring will be reviewed if the doctor fails to adhere to the undertakings, and monitoring may be reinstated.

What if the doctor has obtained work in a registration only post?

- 17** If the doctor informs us (or we otherwise become aware) that they have obtained work in a post which requires registration but not a licence to practise, we will consider whether or not to resume monitoring on a case-by-case basis. Our decision will be based on any risks to patients or the public or to public confidence.

What if the doctor is undertaking non-medical work, for which neither a licence to practise nor registration is required?

- 18** As this activity does not require registration or a licence, we would not need to reinstate monitoring for such doctors.

What happens if we become aware that a doctor has failed to adhere to their restrictions?

- 19** If we become aware that a doctor has failed to adhere to their undertakings at any stage, including the period when they were not being monitored by the GMC, we will review our decision to cease monitoring and may reinstate monitoring. We will consider our approach on a case-by-case basis, taking account of any risks to patients or the public or to public confidence.

What happens if a new case is opened in Investigations while the doctor is not being monitored?

- 20** If a new case is opened in Investigations while the doctor is not being monitored, we will need to consider whether or not it is appropriate to resume monitoring the undertakings. We will need to consider:
- a** Whether there is any link between the matters that led to the undertakings and the new case, that requires monitoring to be reinstated.
 - b** Whether risks to patients or the public require that we resume monitoring given the new information we have received.
 - c** Whether public confidence requires that we resume monitoring given the new information we have received.

What if the doctor's licence is reinstated?

- 21** It is important to note that a doctor who does not currently hold a licence is entitled to apply for a licence at any time. When we cease monitoring, a flag will be placed on the doctor's record so that if they apply to restore their licence the Case Review Team will be notified. If the licence is restored, and the undertakings are still in place, monitoring will be reinstated.

Will the doctor need a health assessment?

- 22** In cases where the doctor's licence is reinstated, we will resume monitoring the undertakings. Where the undertakings relate to health concerns, we will ensure that a medical supervision appointment is held as early as possible.
- 23** As the medical supervisor will be able to assess the doctor's health, their level of insight and adherence to restrictions, a health assessment is unlikely to be necessary at this stage.
- 24** A health assessment will only be required if one or more of the factors listed in paragraph 10 of the [*Guidance for decision makers on directing a health assessment*](#) are present.

Other considerations

What happens when a case is transferred to the Case Review Team and the doctor doesn't have a licence to practise?

- 25** These cases should not be monitored, unless they meet the exceptions outlined in paragraphs 6, 7 and 8 above.