

## **RULE 9 INFORMATION FACTSHEET**

1. This factsheet is intended to help you better understand the review process, and should be read in conjunction with the **Rule 9 Guidance**, available [here](#).
2. There are terms used in this factsheet which may be unfamiliar; to help you understand what they mean, there is a short definition section at the back of this document.

### **WHAT TO EXPECT IF YOU MAKE AN APPLICATION FOR A REVIEW**

3. The Rule 9 review process enables you to challenge the way in which a decision has been made. The process will look at whether the original decision-maker correctly applied the law, and followed the right procedures. Crucially, it is not an opportunity for the same arguments and evidence to be presented to an entirely new decision-maker, whom you hope may have a different perspective and will take a different view.
4. There are only three possible outcomes of a Rule 9 Review application:
  - (1) no review will be conducted
  - (2) a review is conducted, but the decision being complained about will be upheld, or
  - (3) a review is conducted and a fresh determination is ordered.
5. Even if a fresh determination is ordered, the Registrar does not have the power to change the decision, or order another decision-maker to do so. This means that, even if a fresh determination is ordered, the new decision-makers may arrive at the same conclusion as the previous ones. What is important is that they arrive at that conclusion in the right way.

### **WHAT IS THE RULE 9 REVIEW PROCESS?**

6. In summary, the Registrar has the ability to look at the way certain decisions have been made and decide whether a fresh decision is necessary. It is a **two-stage process**.

## Stage 1

7. At the first stage (the “initial review”), the Registrar asks:
  - a) is there reason to believe that the decision may be **materially flawed**?
  - b) is there **new information** which may have led to a different determination?
  - c) If the answer to a) and/or b) is “yes”, then **is a review necessary**?
8. If the answer to either question (a) or (b) and (c) is “yes”, then (and only then) does the Registrar have the power to conduct a review.
9. If the Registrar answers “no” to (a) or (b), then the Registrar does **not** have any power to conduct a review. If the Registrar answers “yes” to (a) or (b), but “no” to (c), then the Registrar does **not** have any power to conduct a review.
10. If the Registrar does not have any power to conduct a review, then there is no further action that the GDC can take. The Registrar has no power to change the “initial review” determination, and no power to conduct any other type of “appeal” or “review”.
11. It is therefore essential that in your application you provide all information that you wish the Registrar to consider, as there are no “second chances”.

## Stage 2

12. If Stage 1 is passed successfully, then the case goes forward for a full review. The parties have the opportunity to submit representations. It is important to understand that this is your opportunity to comment on the matters which the Registrar will have to consider. You are not permitted to submit new evidence at this stage – this should all have been sent in with your application for the review.
13. At this second stage (the “final review”), the Registrar will be asking:
  - a) Was the decision **materially flawed**?
  - b) Is there **new information** which probably would have led to a different determination?
  - c) If the answer to (a) and/or (b) is “yes”, then **is a fresh determination necessary**?

14. Although these questions might look similar to those asked at Stage 1, these questions set a much higher threshold. It is therefore important to remember that a decision at the initial stage that the decision may be materially flawed or that there is new information which may have led to a different determination, does not amount to a guarantee that the higher threshold is met.
15. If you would like more information and examples of where the tests may be satisfied, please see the Rule 9 Guidance.
16. If the Registrar answers “no” to (a) or (b), then the original decision will be upheld. If the Registrar answers “yes” to (a) or (b), but “no” to (c), then the original decision will be upheld. If the Registrar answers “yes” to (a) or (b) and “yes” to (c), then the Registrar will order a fresh determination.

## **COMPLAINTS ABOUT THE RULE 9 DECISION**

17. As stated above, it is important to understand that the Rule 9 review process is the last opportunity that the Registrar has to consider a case, or part of a case, which has been closed.
18. This means that if the Registrar concludes
- a) at the first stage, that there are no grounds for a review; or
  - b) at the final stage, that there are no grounds for a fresh determination,

### **the Registrar has no legal power to:**

- **change the original decision which is the subject of the review;**
- **conduct a further review; or**
- **change the conclusion of the initial or final review.**

19. In other words, the Rule 9 decision is final.

20. What this means is that if you wish to complain about the outcome (as opposed to, for example, the length of time it took to make that decision), the response the GDC can give will be limited to a reminder that the Rule 9 process is the final decision that the GDC can make.

## WHAT IF I AM STILL NOT HAPPY?

21. We understand that a decision that the original decision will be upheld can often be disappointing for people. As set out in the Rule 9 Guidance, if you are not satisfied with a decision that a review will not be conducted, or a decision that the original decision will be upheld, you can submit an application for judicial review. The GDC cannot help you with this, as it is a legal process which involves a formal claim against the GDC. You may wish to seek advice if you decide to pursue this option.

## CONCLUSION

22. We hope this information helps you to understand the process, including its limitations. If you have any further queries, please send them via email to: [Rule9review@gdc-uk.org](mailto:Rule9review@gdc-uk.org) or via post to: Rule 9 Legal Adviser, General Dental Council, 37 Wimpole Street, London, W1G 8DQ.

## TERMINOLOGY

1. We understand that the terms we use throughout the fitness to practise process can sometimes be difficult to follow. We hope these definitions will help.

PEOPLE	
The Informant	The person who has made the complaint. Usually the patient, but not always; for example, it can be a relative, or colleague.
The Registrar	This is the Chief Executive of the General Dental Council, Ian Brack. He is responsible for discharging all duties and responsibilities required in order to maintain the register of dentists and dental care professionals. For fitness to practise decisions, the Registrar delegates authority to certain decision-makers. The person who makes the decision as to whether all or part of a case is referred for further investigation or is referred to the Case Examiners is “the Registrar”. Equally, in the Rule 9 process, “the Registrar” refers to two people: the person who makes the initial determination as to whether there are grounds for a review (usually the Rule 9 Legal Adviser), and the person who conducts the review (usually the Director of Fitness to Practise).
The Registrant	This is the dentist or dental care professional about whom the complaint has been made.
Interested Parties	This is anyone who has a legitimate interest in the case, such as an employer, or NHS Trust.
The Parties	The parties to a case are all of the above-named people.
Clinical Adviser	The clinical adviser is the independent dentist who provided clinical advice at the early stages of our fitness to practise process.
The Applicant	This is the person who has made the application for a Rule 9 review.

TERMS	
Initial Review	This is the first stage of the Rule 9 process, where a decision is made as to whether there are grounds for a review by the Registrar.
Final Review	This is the second stage of the Rule 9 process, where a decision is made as to whether a fresh determination is necessary.
Material Flaw	This is explained at paragraphs 17-20 and 24-25 of the Rule 9 Guidance.
New Information	This is explained at paragraphs 21-23 of the Rule 9 Guidance.
Standards	The Standards for the dental team set out the standards of conduct, performance and ethics that govern dental professionals. These are set out <a href="#">here</a> .
Reasonable	This is given its ordinary dictionary meaning.
Gold Standard	This is a term used to describe the very highest aspirational standard of performance against which someone may be measured by the Registrar.