

UNIVERSITY OF ST ANDREWS
LEARNING AND TEACHING COMMITTEE
FITNESS TO PRACTISE MEDICINE POLICY

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This version supersedes all previous editions of the policy and is effective with immediate effect

1 Aug 2022

1. THE FITNESS TO PRACTISE POLICY

In relation to a doctor's fitness to practise the GMC states:

'To practise safely, doctors must be competent in what they do. They must establish and maintain effective relationships with patients, respect patients' autonomy and act responsibly and appropriately if they or a colleague fall ill and their performance suffers. 'But these attributes, while essential, are not enough. Doctors have a respected position in society and their work gives them privileged access to patients, some of whom may be very vulnerable. A doctor whose conduct has shown that he cannot justify the trust placed in him should not continue in unrestricted practice while that remains the case¹.'

Introduction

- 1.1 Medical students have certain privileges and responsibilities different from those of other students and, therefore, their behaviour must at all times justify the trust the public places in the medical profession. Because of this, special standards of professional behaviour are expected of medical students throughout their studies at the University of St Andrews. Students must be aware that their behaviour outside the clinical environment, including in their personal lives, may have an impact on their ability to gain provisional registration with the General Medical Council (GMC) with a licence to practise as a doctor. These extra requirements do not exempt medical students from other rules and policies of the University of St Andrews.
- 1.2 This Policy is informed, and should be read in conjunction with, general GMC guidance on issues of Fitness to Practise, particularly the publications; *Achieving good medical practice*, *Professional behaviour and fitness to practise*, *Good Medical Practise* and *Tomorrow's Doctors*. The School of Medicine publishes Fitness to Practise guidelines for students and a School policy.
- 1.3 The authority to employ this policy stems from Senate Regulations which stipulate that a degree in Medicine is conditional on both academic achievement and Fitness to Practise.

Scope of Policy

- 1.4 This Policy considers medical students' fitness to practise in relation to their behaviour and in relation to their health when appropriate. A student's fitness to practise is called into question when their behaviour or health raises a serious or persistent cause for concern about their ability to continue on a medical course, or to practise as a doctor after graduation. This includes, but is not limited to, the possibility that they could put patients or the public at risk, and the need to maintain trust in the medical profession.
- 1.5 A student's health may pose challenges to their eventual practising as a doctor but may not, in itself, be a University Fitness to Practise concern. A health condition may, however, become an issue if a student fails to recognise that they have a health problem, refuses to accept or employ reasonable adjustments, or fails to engage with recommended medical treatment. Poor health might also result in a student being unable to meet required competencies.
- 1.6 The GMC mandates that students who are demonstrably unfit to practice must be added to the GMC's excluded student database; a pre-requisite of which is a written FtP panel judgement. Accordingly students who have committed a substantial FtP breach while a student but who have subsequently been expelled from or left the University can have their Fitness to Practise considered once they are no longer a matriculated student.

¹ The meaning of fitness to practise, GMC policy statement, 2014, repeated in 'Professional behaviour and fitness to practise' at para 74

Defining the threshold of Fitness to Practise

- 1.7 The Fitness to Practise threshold relates to the point at which a student's conduct, behaviour, health or probity becomes the concern of a formal University Fitness to Practise process rather than the subject of on-going support and advice from tutors, Student Services or occupational health services. The threshold can be crossed in a single incident (where the said incident is of such severity that patient or public safety might be compromised, or trust in the medical profession might be undermined), or after the accumulation of a number of (related or unrelated) lower-level events. When evaluating the seriousness of an incident and in determining whether the Fitness to Practise threshold has been crossed, the University will make decisions on a case-by-case basis, considering as appropriate the severity of an event or events, the student's maturity and insight displayed, the likelihood of repeat behaviour, and the student's likely response to supportive measures.

In deciding whether to refer students to fitness to practise procedures, medical schools should consider how a student's behaviour or health might affect patient and public safety, or the public's trust in the medical profession. Investigators and panellists must consider, on a case-by-case basis, whether a student's behaviour or health has crossed the fitness to practise threshold².

The School's guidelines provide additional information on the Fitness to Practise threshold and the relationship between Fitness to Practise and health.

2. THE RESPONSIBILITIES OF THE SCHOOL OF MEDICINE

- 2.1 University medical schools have a responsibility to ensure that medical students have opportunities to learn and practise the professional standards expected of them as practising doctors. Medical students should have opportunities to seek support for any matter before it becomes a formal fitness to practise concern.

To meet these responsibilities, the School of Medicine aims to:

- a) provide applicants and students with clear guidance on health and expected behaviour standards;
- b) provide students with ongoing health advice and support as appropriate;
- c) provide a student support system via personal tutors, Pro-Deans and other University student support networks;
- d) provide appropriate guidance and training to University staff on Fitness to Practise issues;
- e) instruct and educate students on the importance of professional behaviour;
- f) perform Disclosure Scotland checks as appropriate;
- g) publicise to students the University's Fitness to Practise standards and procedures.

3. REFERRALS AND INITIAL ASSESSMENT

Referrals

- 3.1 Apart from routine Fitness to Practise cases involving admissions (see Section 10), all potential Fitness to Practise issues are referred in the first instance to the Dean of Medicine. A referral can originate from a range of sources, including but not limited to: School of Medicine staff, NHS staff involved in teaching students, a University disciplinary committee (including Boards of Adjudication constituted to adjudicate

² Professional behaviour and fitness to practise; *para 79*
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Academic Misconduct), Student Services, the Occupational Health Service (for a medical matter), an external agency such as the police.

- 3.2 Not all Fitness to Practise cases will be disciplinary matters, but if the matter is also an issue being pursued under University disciplinary procedures then the Dean of Medicine and the Proctor will judge whether the issue should be addressed under the discipline process or Fitness to Practise process first on a case-by-case basis. The same would be true of cases involving the police and the criminal justice system.
- 3.3 Section 3.2 notwithstanding, the Dean of Medicine may initiate a risk assessment in relation to a case being pursued through University or police procedures and may require measures to be put in place in order to protect the student and or patients; these measures may limit a student's progress. The measures will be without prejudice to the outcome of those other procedures.
- 3.4 The School of Medicine will maintain a register of all Fitness to Practise referrals. Formal outcomes will be reported to the University.

Initial Assessment

- 3.5 On receipt of a referral the Dean of Medicine will undertake an initial assessment of the case, particularly with a view to determining whether there is a *prima facie* case for a Fitness to Practise panel hearing. The Dean should consult the Pro Deans and other appropriate staff, for example the Disability Officer, with a view to better understanding the nature of the concerns or allegations relating to the case, but (s)he will not conduct his/her own formal investigation into the allegations or concerns.
- 3.6 The Dean of Medicine may also take into account any pre-existing information such as academic performance, non-academic performance, known health, discipline or welfare issues.
- 3.7 All referrals will be considered in the context that St Andrews medical students are at an early stage in their careers and that there are learning and developmental aspects to understanding the requirements of good professional practice.
- 3.8 The Dean of Medicine having considered the referral may take one or more of the following actions:
 - a) dismiss the concerns or allegations as lacking sufficient substance to take any further action at this time;
 - b) initiate a risk assessment in relation to the concerns or allegations;
 - c) refer the matter to the student's personal tutor for pastoral support;
 - d) refer the matter to the School Progress Committee;
 - e) refer the student to specific University support mechanisms or to occupational health;
 - f) require a regular review of the student's case, following the offer of support;
 - g) produce a record of the concerns to be placed on the student file, copied to the student in question, but taking no further action at this time;
 - h) issue a formal warning to the student;
 - i) agree undertakings with the student
 - j) initiate an investigation into the concerns or allegations with a view to consideration by a Fitness to Practise panel, which will subsequently be constituted.
- 3.9 Any medical students whose cases have been referred to the Dean of Medicine under fitness to practise procedures should also be directed to appropriate support services within the Faculty or University.
- 3.10 The outcome of a referral will normally be forwarded to Student Services.

Risk Assessment

- 3.11 If there are *prima facie* grounds to believe that the safety of staff, patients, or students (including the student under investigation) or that the reputation of the medical profession or the University may be compromised, the Dean of Medicine should conduct a risk assessment as soon as possible. This may be prior to the start of any formal investigation or hearing. Following a risk assessment, the Dean of Medicine may suspend the student from clinical placements or other activities in the School. The Dean of Medicine may also recommend to the University Vice-Principal (Proctor) that a wider form of suspension from studies or University facilities should apply.

Warnings

- 3.12 **Warnings.** A warning is designed to be formative rather than punitive. Medical students are held to a higher standard of behaviour than other students. Warning will be held on file at the Medical School indefinitely. They will not normally be passed to partner medical schools or the GMC unless requested. Previous warnings will be considered by the Medical School in the event of further professionalism or FtP breaches. The individual in receipt of a warning must inform any future medical school that they have received a warning at point of matriculation and also inform the GMC at the point of provisional registration. If the recipient of a warning is determined to challenge that outcome, then a formal FtP panel will be convened. The student should be aware that an FtP panel is empowered to award a more severe penalty than a warning.

4. INVESTIGATION

The Investigator

- 4.1 If the Dean of Medicine judges that there is a *prima facie* for a Fitness to Practise hearing to be held, (s)he will appoint an appropriate investigator, who will normally be a member of the staff of the School of Medicine. The investigator should have had no previous experience of the case in question. The investigator should also not be (or have been) a personal tutor of the student, or project supervisor, or someone in a role that has had significant previous dealings with the student, especially in small groups.
- 4.2 The investigator will be formally appointed in writing by the Dean of Medicine and directed to produce a written report at a date set by the Dean of Medicine. The Dean may alter this date at the request of the investigator if the availability of evidence or the complexity of the case requires it.
- 4.3 The role of the investigator shall be to establish clearly the evidence in relation to concerns or allegations about a student in so far as they may be relevant to Fitness to Practise. This should be done fairly and without prejudice. The investigator must be given access to all existing documentation. The investigator must also take into account the current GMC guidelines about Fitness to Practise. The initial referral from the Dean of Medicine shall set out the main concerns or allegations to be investigated, but the investigation shall be allowed to pursue other issues that are revealed in the course of the investigation.
- 4.4 More specifically, the investigator should:
- a) Examine the referral as an initial basis for establishing and collating the evidence that relates to the allegation, supposition or concern;
 - b) Examine all documentation (including confidential information) that the University holds relevant to the concerns or allegations, which may include liaison with Student Services;
 - c) Engage in correspondence or conduct interviews with all relevant parties to obtain further relevant evidence;

- d) Offer an interview to the student (who may be accompanied by another member of the University) with a view of establishing the facts of the case, but informing the student that any such material will comprise part of the investigation report;
- e) Prepare a written report as described in 4.5 below in advance of the Fitness to Practise hearing, including supporting documentation, which will be the basis for the issues to be addressed by the student and the Fitness to Practise panel;
- f) Speak to the report and respond to questions about it at the Fitness to Practise hearing;
- g) Arrange for witnesses to appear at the Fitness to Practise panel, where appropriate, to substantiate or clarify key elements of the findings in the report;
- h) Undertake any supplementary investigations required by the Fitness to Practise panel.

4.5 The report of the investigator should include, *inter alia*:

- a) A detailed chronology for the matters under investigation and for the investigation itself, including any actions taken by the School or the University as a result of a risk assessment prior the hearing;
- b) A detailed description of the concerns or allegations;
- c) A description of the evidence and findings in relation to each individual concern or allegation, referenced to appended documentation of that evidence;
- d) References to any applicable policies or codes that are found to have been violated;
- e) The investigator's own analysis of the strengths and/or weaknesses of the evidence that has been found;
- f) The investigator's own analysis of how the specific findings relate to matters of Fitness to Practise and to the 'Fitness to Practise threshold' described by the GMC;
- g) For cases where there is a considerable portfolio of issues then these should be tabulated in terms of 'event, evidence, interpretation'.

4.6 If allegations involve claims of dishonesty on the part of the student, the investigator should seek to address both the 'objective' evidence of such dishonesty (actions generally accepted to be dishonest, such as forging a signature) and 'subjective' evidence of dishonesty (in terms of what, if anything, can be reliably determined regarding the student's intentions in committing an act).

4.7 If allegations involve departure from Good Academic Practice (as defined in the University's policy), then the normal University procedure for adjudicating such cases should be completed prior to the Fitness to Practise hearing. The submissions to and report of the Board of Adjudication should be provided to the Fitness to Practise panel as part of the evidence gathered by the investigator, however this is routinely taken into consideration where Fitness to Practise is at case. 'Intention' is normally excluded from considerations under the University's policy covering academic misconduct; however, intent may be considered under Fitness to Practise process. For these cases the investigator should attempt to supplement the outcome of the academic misconduct process with further information regarding the intention behind any such misconduct, where possible, in the Fitness to Practise written report. If the student has been found guilty of academic misconduct and their studies have been terminated, then there will not be a Fitness to Practise hearing but the School will report the episode to the General Medical Council.

4.8 When conducting interviews with witnesses in preparation for the written report, the investigator must make clear to the interviewees (1) the reason for the investigation, (2) the need to maintain confidentiality about the investigation so as not to cause undue harm or distress to the student, (3) the importance of evidence and facts above impressions or suppositions, and (4) the fact that the interviewee will be asked to sign an agreed transcript of the information presented in the interview. For all interviewees, the investigator should seek to establish basic facts on their professional background, knowledge of the student in question, and any other contextual information.

- 4.9 The investigator and the panel may consider anonymous evidence if it adds to or suggests an existing pattern of behaviour and there is confidence that it is reliable and not vexatious. It should be clear to all concerned that the evidence is anonymous and is therefore unable to be tested. Anonymised evidence may be considered if the investigator confirms the source is credible, has valid reasons for remaining anonymised and the information can be triangulated with other evidence to provide a clear picture. It should be made clear to all concerned that the evidence is anonymised and is therefore unable to be tested at a hearing. Should the student wish to test this evidence this can be addressed as a written question for the investigator to explore with the witness and this reported to the student at the panel.
- 4.10 The investigator is not required or expected in the written report to make a recommendation to the Panel regarding the outcome of the hearing, but may be asked at the hearing by the Panel to indicate what the School would consider an appropriate outcome. The investigator should either have obtained such information in advance of the hearing from appropriate authorities in the School or have arranged for an authority representing the School to be called as a witness during the hearing in order to address such a question.
- 4.11 The investigator's written report shall provide the formal basis for the concerns or allegations to be addressed by the Fitness to Practise panel and by the student. A copy of the report must be made available to the student so that the student can prepare a response in advance of the Fitness to Practise hearing. Depending on the complexity of the case, the student should have access to the written report at least 10 working days in advance of the Fitness to Practise hearing. It shall be at the discretion of the Chair of the Fitness to Practise panel to extend this period.
- 4.12 Following a full investigation, if the investigator is of the clear and unqualified view that there is no case to answer, the investigator must still produce a full report of his/her findings. The investigator's written report and letter should be presented to the Dean of Medicine. The Dean of Medicine may decide:
- a) Not to proceed with a Fitness to Practise hearing and to apply one or more of the outcomes in 3.8 above; or
 - b) To initiate a new investigation under a new investigator; or
 - c) To proceed with a Fitness to Practise hearing using the report that has been received, in which case the Dean should append a letter of his/her own explaining the reason for so doing.
- 4.13 After the investigation has reported the Proctor will be notified of the decision made by the Dean of Medicine as to progression of the case.

5. THE FITNESS TO PRACTISE PANEL

The Standard Panel

- 5.1 The Fitness to Practise panel will be selected by the Dean of Medicine. Each panel should be established with at least a chair and 3 members, chosen from within or out with the University. The panel should comprise at least one male and one female member. At least one panel member should be GMC registered with a license to practise. Where the case involves a student health issue then the panel might include a health professional with a relevant background as long as they are not treating the student. In the exceptional circumstance that a panel member is forced to withdraw at very short notice then the panel may sit with a Chair and 2 members. Should a panel member be required to withdraw permanently for any reason the School will normally identify a replacement.
- 5.2 No member of the Fitness to Practise panel should have had previous involvement with any aspect of the case to be considered.

- 5.3 No member of the Fitness to Practise panel should be (or have been) a personal tutor of the student, or project supervisor, or someone in a role that has had significant previous dealings with the student, especially in small groups.
- 5.4 No St Andrews student should serve as a panel member except a (non-medical) sabbatical student officer who may be appointed to the Fitness to Practise panel, in which case the student officer has the full rights of any other panel member.

The Chair of the Panel

- 5.5 The Chair of the Fitness to Practise panel should be a senior academic from another Medical School, who is a current or retired clinician. A current or retired academic clinician from another Medical School who holds an honorary appointment at the University of St Andrews may be appointed if (s)he has had no previous involvement with the student or the case.

Secretary of the Panel

- 5.6 A Secretary to the Fitness to Practise panel, from within or out with the University, will be appointed. The Secretary is not a member of the panel and has no voting or other rights of a panel member. The Secretary will, however, be in attendance at panel hearings.
- 5.7 The role of the Secretary to the Fitness to Practise panel is to make the administrative and organisational arrangements for the hearing. This includes gathering documentation for the hearing from all parties, taking notes for the panel at the hearing and preparing the outcome letters for approval by panel members.
- 5.8 At the request of the Chair, the Secretary will also provide information on process and protocols, previous cases and current GMC guidelines.

Legal Representation

- 5.9 In some cases, and particularly where the student has legal representation, the Chair of the Fitness to Practise panel may request legal support for the panel. This may involve a legally-qualified adviser to the panel being present at panel hearings, but such an adviser will not be a member of the panel and will have no voting rights. The role of the legal adviser will be to advise the panel and not to interrogate witnesses or the student.

6. THE PANEL HEARING

Initial Notification

- 6.1 When the Dean of Medicine initiates a Fitness to Practise investigation, with a view to a Fitness to Practise hearing, he will write to the student under investigation notifying him/her that an investigation is being carried out under Fitness to Practise procedures. The student will be provided with a copy of the Fitness to Practise policy, procedures and written advice on what to expect, who should accompany them to the hearing and where they can find support. The student will be informed of the main concerns or allegations to be investigated, but also of the fact that the investigation will be allowed to pursue other issues that are revealed in the course of the investigation. Thus the student should be notified that the formal basis for a Fitness to Practise hearing that follows will be set out in the investigator's report, a

copy of which the student will receive at least 10 working days in advance of any Fitness to Practise hearing.

- 6.2 The Dean of Medicine must ensure that the student is offered pastoral support at this time. This may come from a tutor, a Pro-Dean, the University Student Services, or another appropriate source. The Dean must also establish whether the student requires any reasonable adjustment to the standard procedures for Fitness to Practise investigations.

Pre-Hearing Submissions and Procedures

- 6.3 The Secretary of the Panel will be responsible for the arrangements and preparations for the Fitness to Practise hearing.
- 6.4 All persons required to attend the Fitness to Practise hearing shall be given at least 10 working days' notice of the date of the hearing.
- 6.5 The student shall have the right to present their case in person before the Panel at the hearing, and students are entitled to be accompanied at the hearing by one or both of the following:
- a) A supporter, who must be a member of the staff of the University or Students' Association or a fellow matriculated student. The supporter's role is to provide general counsel and reassurance, but not to act as the representative of the student.
 - b) A representative, who may be from within or outwith the University, and which may include legal representation. Students must give notice to the Secretary of the Panel if they intend to be legally represented, because the University would require time to arrange legal counsel to support the Panel.
- 6.6 The investigator's report (with any supporting evidence) will form the basis of the hearing. Any additional written submissions or supporting documents from the School or the investigator should be made to the Secretary no later than 7 working days before the hearing. The investigator must also confirm to the Secretary no later than 7 working days before the hearing which witnesses or School representatives are being asked by him/her to give evidence to the hearing in person. The investigator is responsible for contacting such individuals and arranging for their presence at the hearing.
- 6.7 The student must submit to the Secretary no later than 7 working days before the hearing the following:
- a) any written submissions and supporting documents to be considered by the Panel as the student's response to the investigator's report;
 - b) confirmation as to which supporter (as indicated in 6.5 above), if any, will attend the hearing with the student;
 - c) confirmation as to which representative (as indicated in 6.5 above), if any, will attend the hearing to represent the student;
 - d) the names of any persons they wish to give evidence on their behalf. Students should note that they are responsible for contacting such individuals and arranging their attendance at the hearing.
- 6.8 Students are strongly advised to ensure that their written submissions and documentation are complete and as full as possible. Late submission of evidence will not normally be allowed, other than as provided in Section 6.11 below.
- 6.9 After sight of the Fitness to Practise submissions and list of persons giving evidence, the Chair of the Panel may request additional written statements or additional persons to present evidence in order to allow the Panel to have full access to the information required for a decision.

- 6.10 The Secretary of the Panel will ensure that such other documentation as may be reasonably considered relevant to the case will be provided to the Panel. This will normally include a copy of the student's academic record to date.
- 6.11 Requests for an extension of time for written submissions or supporting documents will be considered and granted at the sole discretion of the Chair of the Panel. Similarly, requests for a delay in the Panel hearing will be considered and granted at the sole discretion of the Chair of the Panel.
- 6.12 Efforts should be made to schedule hearings on a mutually agreed date and time. If the student fails to attend the hearing on the scheduled day and time, it will be at the discretion of the Chair of the Panel regarding whether to re-schedule the hearing or to proceed (with the student's permission) in the absence of the student but with the presence of the student's representative. If neither the student nor a representative of the student attends the hearing on the scheduled day and time, then the Chair should normally seek to re-schedule the hearing for another mutually agreed time. If neither the student nor a representative of the student attends a hearing that has been so re-scheduled, then the Chair may proceed with the hearing in the absence of both. It will also be open to the Chair to allow a hearing to be scheduled at any stage where the student and/or the student's representative (if one has been chosen) are 'present' through telecommunications or the internet.

Conduct of the Panel Hearing

- 6.13 The following outlines the normal procedure for the Hearing. The Chair of the Panel, however, has discretion reasonably to vary these arrangements to suit the needs of individual cases.
- a) The Panel will meet in private prior to hearing evidence and submissions to agree the issues to be addressed and the details of how the Hearing will be conducted.
 - b) Throughout the main part of the Hearing all parties will normally be present (excluding witnesses) to promote a full and open discussion of all points that are raised with the Panel. Such parties will include the Panel members, the Secretary to the Panel, the legal adviser to the Panel (if relevant), the student, the student's supporter (if relevant), the student's representative (if relevant), and the School investigator.
 - c) If there are a series of allegations or issues to be addressed, each matter must be considered by the Panel separately prior to considering their collective significance.
 - d) No audio or visual recording of the Hearing will be permitted, although the Secretary to the Panel will take notes of the hearing and the Panel's deliberations for the purposes of aiding the Panel.
 - e) At the start of the Hearing the Chair will introduce the Panel members, explain the powers of the Panel and summarise the process to date, the procedures for the Hearing and the evidence received. The Chair will confirm that all the submissions have been shared with all the members present. If a submitted item has not been shared due to issues of confidentiality, this will be intimated at this stage.
 - f) The Chair will confirm that the student is well enough to proceed with the hearing and whether any additional support is required.
 - g) The Chair will explain that wherever possible the Panel will wish to hear directly from the student.
 - h) The Chair will invite the student or his/her representative to make a statement in relation to the procedures that will be followed or to seek clarification on matters of procedure.
 - i) The student or his/her representative will then be invited to make an opening statement and to add any information to that already provided in the written submissions.
 - j) The School Investigator will be invited to make an opening statement in response and to add any information to that already provided in the written submissions.
 - k) At each stage the Chair has discretion to allow reciprocal questioning, through the Chair, by the various parties.
 - l) The Chair will invite any other person(s) called upon to attend the Hearing to make their statement(s), and will invite the Panel to ask questions.

- m) Once the Chair is satisfied that the Panel has completed its questioning and the student has had a full opportunity to convey the information to the Panel, the Chair will invite closing statements from the Investigator and finally from the student or his/her representative. The Chair will ask everyone but the Panel, the Secretary to the Panel and the legal adviser to the Panel (if relevant) to withdraw.
- n) The Panel will discuss the case and make its decision. If for any reason the Panel requires further clarification on any aspect of the case from any participant, the Panel will normally adjourn at this point and reconvene as soon as the information/clarification is available. Where an adjournment takes place that may affect the timetable for communicating the final decision, all parties will immediately be informed by the Secretary to the Panel. In some cases, the Panel may wish to obtain clarification of a point without formally adjourning, in which case all participants must be invited back into the meeting whilst any further questioning takes place.
- o) A panel hearing will not normally be held in public unless exceptional circumstances suggest that this is appropriate and subject to the approval of all parties.
- p) The panel hearing may occur in person or via video conferencing at the discretion of the Chair.

The Decision

- 6.14 The Panel will reach a decision when they are confident that no further evidence is required. In the event that the Panel members are unable to reach a majority decision or are equally divided about the outcome, the Chair will have a casting vote. If the decision is not unanimous, then a record must be made of both the minority and majority views of the Panel.
- 6.15 In reaching a decision the Panel must first decide whether or not a student's fitness to practise is impaired and then consider the effect of mitigating circumstances or factors.
- 6.16 If a student is under consideration for a serious FtP concern that may result in their being excluded from Medicine and the student elects to leave the course before the case is concluded then a FtP panel should consider the case in order to establish whether that student's name should be added to the Medical Schools Council's database of excluded students. This panel hearing may take place if the student refuses to attend.

7. THE OUTCOMES OF A FITNESS TO PRACTISE HEARING

- 7.1 The judgement of the Fitness to Practise Panel is not a punishment, but rather a measure or measures imposed to protect patients and the public from unfit practitioners and to preserve the public trust in the medical profession. By awarding a medical degree, the awarding body is confirming that the medical graduate is fit to practise as a Foundation Year One doctor to the high standards that are set by the medical profession. University medical schools have a responsibility to the public, to employers and to the profession to ensure that only those students who are fit to practise as doctors are allowed to complete the medical curriculum and gain provisional registration with a licence to practise. This responsibility covers both the thorough assessment of a student's knowledge, skills and behaviour towards the end of the course and the appropriate consideration of any concerns about a student's performance, health or conduct.
- 7.2 Evidence will be considered by the Panel according the civil standard of proof, that is, on the balance of probabilities.
- 7.3 The Fitness to Practise Panel has the power to impose one or more of the following outcomes:
 - a) The dismissal of any case against the student without any warnings or sanctions.
 - b) A formal warning, where a student's fitness to practise is not considered to be sufficiently impaired so as to require further sanctions.

- c) Undertakings to be met by the student.
 - d) The imposition of one or more conditions upon the student in order for the student to be allowed to proceed with the medical programme. The consequences of a failure to meet such conditions or satisfy such undertakings should also be indicated.
 - e) Suspension from the medical programme for a defined period or for a period to extend until certain conditions are satisfied.
 - f) Expulsion from the medical programme.
- 7.4 The Panel should ensure that any warning or sanction is proportionate to the behaviour or condition and that it will effectively deal with the fitness to practise concern. Normally the Panel's consideration will move from the least severe outcome, moving to the next higher outcome in severity until satisfied that the warning or sanction is strong enough to protect patients and the public.
- 7.5 Conditions are appropriate when there is significant concern about the health or behaviour of a student. This sanction should be applied only if the Panel is satisfied that the student might respond positively to remedial help and/or increased supervision and has displayed insight into his or her problems.
- 7.6 An undertaking normally takes the form of an agreement between a student and the Medical School when the Panel and the student both acknowledge that the student's fitness to practise is impaired. Undertakings should be applied only if there is reason to believe that the student has the ability and motivation to comply with them and that the situation will improve as a result of the undertakings.
- 7.7 Suspension requires the student to withdraw from his or her programme of studies for a specified period of time, following which the Dean of the Medical School will review the situation and decide whether to readmit the student. Suspensions would be appropriate where there has been a risk assessment and there are health or behavioural concerns that are judged to be serious, but not so serious as to justify permanent expulsion from the medical programme. Suspension should be applied only if there is reason to believe that a period of absence will clarify the situation or allow the situation to improve such as an improvement in health. The student bears responsibility for any financial or visa consequences resulting from such an interruption to studies.
- 7.8 Expulsion will result in the student's medical studies being terminated with no right of readmission to their programme of study. The student may, in certain circumstances, seek admission to another non-medical Faculty, but such admission is not guaranteed. This outcome is appropriate only if required to protect patients, carers, relatives, colleagues or the public.

8. THE REPORTING OF OUTCOMES

- 8.1 The Dean of Medicine will inform in writing the student and all other parties concerned of the outcome of the hearing normally within 10 working days of the Panel reaching a final decision. The student will also be informed of the appeal process and the appeal timeframe (see Section 9).
- 8.2 The outcome letter and report should also include the following information:
- a) The student's name, date of birth and matriculation number.
 - b) The date, time and location of the hearing(s).
 - c) The names and titles of the Chair and other Panel members who have taken the decision.
 - d) The names of any supporter and representative accompanying the student.
 - e) A summary of the reasons for the decision taken by the Panel, including any mitigating or aggravating factors that were taken into account. This rationale should explain why all other potential outcomes were not considered appropriate, and the intended purpose of the warning or sanction imposed.

- f) A clear statement of the outcome (see Section 7 above), including any recommendations, the intended purpose of the recommendations, conditions and follow-up requirements. Any timeframes that may apply should also be clearly specified, along with an explanation of why a particular length of sanction was considered necessary.
- g) The consequences of a failure to comply with any undertakings or sanctions, as well as the consequences of further unprofessional behaviour or misconduct (if appropriate).
- h) The time for which any formal warnings (if relevant) will be held on file and may be referred to or taken into account in any future consideration of the student's fitness to practise. This will be at least the length of time it usually takes for a student to obtain provisional registration with the GMC, but may be until such time as it is clear that the student has abandoned any intention to seek provisional registration.
- i) Information regarding declaring the outcome to the GMC at the time when applying for provisional registration with a licence to practise. Students must be aware of their own responsibilities for disclosure when applying to the GMC for such provisional registration.
- j) The status of the student pending any appeal, and any options for the student leaving the University with a lesser exit award.

8.3 In all cases where a student's fitness to practise has raised concern and there is a likelihood of risk to the public if that information was not disclosed, the outcome of a Fitness to Practise hearing will be shared with partner Medical Schools and other relevant medical and educational or professional bodies. If a student receives a warning or sanction, or if the outcome prevents a student progressing to clinical studies, this personal information may be shared with the student's allocated clinical Medical School, other UK clinical schools or postgraduate deaneries and the GMC as soon as any appeal process (if relevant) has been exhausted.

8.4 The outcome of any Fitness to Practise hearing will be reported as appropriate and may result in the case being pursued through other University procedures. This information is for the purposes of a wider risk assessment and possible disciplinary or non-disciplinary action under normal University procedures. The student may be subject to any other processes that may have been initiated and suspended during the conduct of the Fitness to Practise investigation.

8.5 If a student is excluded from Medicine their name will be added to the Medical Schools Council's database of excluded students. If a student withdraws from the programme for academic or non-academic reasons after a significant FtP process has started then that case will be continued to a conclusion; which may include any of the outcomes set out in 7.3 above including exclusion

8.6 Where a medical student is expelled from the University as a result of University Disciplinary procedures other than the Fitness to Practise process their name will be added to the Medical Schools' Council register of excluded medical or dental students by the School of Medicine.

9. APPEAL PROCESS

Grounds for appeal

9.1 A student may submit an appeal, to the University Senatus Academicus (the Senate) against the decision of the Fitness to Practise panel if they can clearly demonstrate the permissible grounds prescribed in Section 9.2.

9.2 An appeal against a decision of the Fitness to Practise panel may **ONLY** be made on the grounds of:

- (a) extenuating personal circumstances, or new evidence of which

- (i) the Fitness to Practise panel was not aware when its decision was taken; and
 - (ii) which could not reasonably have been disclosed to the Fitness to Practise panel by the student at that stage (an explanation for earlier non-disclosure is always required); and
 - (iii) such circumstances or new evidence must be of such a nature as to be likely to have had a material (relevant and significant) impact on the decision reached by the Fitness to Practise Panel; and /or
- (b) defective, improper or irregular adherence to University procedure by the Fitness to Practise panel of such a nature as to be likely to have had:
- (i) a material (relevant and significant) impact on the decision reached by the Fitness to Practise panel; **and**
 - (ii) to cause reasonable doubt as to whether the panel's decision might have been different had such a procedural error not occurred.

Submission of an appeal

- 9.3 Intimation of an intention to appeal must be made in writing to the Executive officer of the University Court & Senate Office (senate@st-andrews.ac.uk) within 10 working days of the date of the letter from the Dean of Medicine to the student communicating the outcome of the Fitness to Practise panel.
- 9.4 The written intimation of an intention to appeal must state:
- (a) the contact details of the student (name, address, email address, telephone number);
 - (b) the decision appealed against;
 - (c) the permissible section 9.2 grounds relied upon;
 - (d) the remedy sought by the student.
- 9.5 The student shall have a further 10 working days from the intimation of an intention to appeal to submit a full appeal together with all supporting documentary evidence. Students are strongly advised to submit all documentary evidence in support of their appeal at this stage as the review of the appeal will be undertaken on a 'documents only' basis (see paragraph 9.12 below). If any documentary evidence is in a language other than English, it must be accompanied by an independent certified translation, which may be checked for authenticity.
- 9.6 Students should be aware that failure to meet the timescale for submission of an intimation of intention to appeal or full appeal may result in a case being concluded without further consideration. Late submissions may be automatically rejected without further consideration or right of future appeal.

Extensions of time

- 9.7 Requests for an extension of time for submitting an intimation of an intention to appeal, or a full appeal should be made in writing to the Executive Officer of the University Court & Senate, prior to the expiry of the deadline. The request should state the reasons for requiring an extension and be supported by such evidence of medical or other circumstances as are relevant to the application for an extension of time.
- 9.8 Requests for an extension of time for the submission of an intimation of intention to appeal will not be granted unless the Executive Officer to the University Court & Senate is satisfied that the student was

prevented from intimating the appeal, within 10 working days as a result of serious illness or other circumstances which are exceptional or relevant to the appeal.

- 9.9 Requests for an extension of time for the submission of a full appeal will be considered by the Chair of the Appeal Assessment Committee and will only be granted where the Chair is satisfied that the student is precluded from submitting a full appeal within the stipulated timescale, as a result of serious illness or other circumstances which are both exceptional and relevant to the appeal.

Appeal Assessment Committee

- 9.10 Appeals against the decision of a Fitness to Practise Panel will be impartially considered by an Appeal Assessment Committee.

Composition of the committee

9.11 The Appeal Assessment Committee shall normally be comprised of:

- (a) the Master of the United College (or other delegated deputy of the Principal) who shall normally serve as Chair;
- (b) a clinician who is not a member³ of the University currently registered with the GMC;
- (c) a representative from another UK Medical School with appropriate Fitness to Practise experience.

None of the members of the Appeal Assessment Committee will have had any prior involvement with the case or have been closely involved in giving support to the student.

The Executive Officer to the University Court & Senate will serve as secretary to the committee.

- 9.12 The Appeal Assessment Committee will determine whether the appellant has established that grounds exist for it to exercise its powers under section 9.19 below to direct that the case be considered further, or to dismiss the appeal. In reaching its determination, the Appeal Assessment Committee will undertake a review of the Fitness to Practise **process** undertaken in the appellant's case. **The review will not constitute a rehearing of the original case or a reconsideration of the original facts of the case.**

9.13 The review by the Appeals Assessment Committee will be undertaken on a 'documents only' basis:

- a) the Appeal Assessment Committee will consider the appeal on the basis of the student's written submission and any accompanying supporting evidence;
- b) the Appeal Assessment Committee will be provided with a copy of the papers which were before the Fitness to Practise panel, the report of the hearing and the letter communicating the decision of the Fitness to Practise panel;

9.13.4 the Appeals Assessment Committee may seek further written clarification or documentation from any relevant party at its discretion but attendance in person by the student, any representative of the student or any representative of the School of Medicine will not be permitted.

³ Member of the University is defined as a person who is either presently matriculated as a student or is an employee of the University Court of the University of St Andrews, or who is elected as a sabbatical officer of or an employee of the Students' Association of the University of St Andrews.

- 9.15 Once a full appeal has been submitted to the Court & Senate Office, all relevant papers will be collated and circulated to the Appeal Assessment Committee.
- 9.16 The Appeal Assessment Committee will undertake its review within a reasonable timescale and without undue delay. The student will be informed of the timeframe for the review process and notified of any changes to this.
- 9.17 The Chair of the Appeal Assessment Committee may give such directions as to the conduct and procedure of the review as they consider appropriate to suit the needs of the individual case.

Disposal

- 9.18 The Appeal Assessment Committee shall decide the matter at the conclusion of its consideration of the appeal or as soon as possible thereafter.

Powers of the Appeal Assessment Committee

- 9.19 After review of the appeal and the grounds on which it is constituted, the Appeal Assessment Committee shall have the following powers:
- a) to dismiss the appeal and confirm the Fitness to Practise panel's original decision, which shall be final;
 - b) to refer the case back to the School of Medicine with whatever guidance or direction it considers appropriate and instruct that the Fitness to Practise panel reconsiders its original decision in the light of the extenuating personal circumstances or new evidence disclosed in the course of the appeal. The subsequent decision of the Fitness to Practise panel shall be final; or
 - c) where material procedural error grounds have been established to refer the case back to the School of Medicine with whatever guidance or direction it considers appropriate, which may include a direction that a new Fitness to Practise panel be constituted, the membership of which will not include any member of the original Fitness to Practise panel. Where an appeal is made following a reference back against the decision of a new Fitness to Practise panel, the Executive Officer to the Court & Senate, in consultation with the Chair of the Appeal Assessment Committee, may as appropriate: dismiss the appeal; recall the Appeal Assessment Committee to review the appeal; or direct that the appeal should be reviewed by a new Appeal Assessment Committee;
 - d) the Appeal Assessment Committee may decide by majority.

Action post review

- 9.20 The decision of the Appeal Assessment Committee will be recorded. This record of decision will be approved by the Chair of Appeal Assessment Committee and will include a summary of the reasons for the committee's decision.
- 9.21 The secretary to the Appeal Assessment Committee may, at the direction of the Chair, notify all interested parties of the outcome of the appeal; whether successful or unsuccessful, pending the preparation of the record of decision.

- 9.22 The student will be formally notified in writing of the outcome of the Appeal Assessment Committee and provided with a copy of the record of decision within 10 working days of the conclusion of the committee's consideration.
- 9.23 The secretary to the Appeal Assessment Committee will notify all other relevant parties of the outcome of the Appeal Assessment Committee and provide them with the record of decision if appropriate.
- 9.24 This will conclude the internal procedures of the University.
- 9.25 The Court & Senate Office will maintain a record of the decision of the Appeal Assessment Committee in line with the University's retention policy.
- 9.26 A brief report on the proceedings of the Appeal Assessment Committee will be compiled and the Executive Officer to the Court & Senate shall report the outcome to the next regular meeting of the Senate.

External Ombudsman review

- 9.27 Any student who remains dissatisfied with the outcome of the University's internal procedures has the right to ask the Scottish Public Service Ombudsman to externally review how the University has handled the case. The Ombudsman can normally only review matters of procedure and is **not** a route of further appeal against the University's decision. Further information on the means of submitting a case to the Ombudsman will accompany notification of the outcome of the appeal and can be found at www.spsso.org.uk

10. ADMISSIONS FITNESS TO PRACTISE PROCEDURES

- 10.1 Concerns about Fitness to Practise may be raised as part of the procedures for admitting potential students to a medical programme. When considering applicants for admission to the School of Medicine concerns about health or previous conduct or both may be considered at the time of application or prior to entry to the medical course. Concerns will be considered by the School of Medicine Professionalism and Welfare Committee.

CONDUCT CONCERNS

Determination as not 'fit to practise' in a medical, other health or social care profession

- 10.2 Applications will not be considered from those who have been subject to a determination by a regulatory body responsible for regulation of a medical or other health or social care profession, either in the UK or overseas, to the effect that their 'fitness to practise' as a member of the profession is impaired.

Plagiarism or fraud

- 10.3 An application will not be considered if it is determined that the application contains false or purposefully misleading information or if information has been included that appears to have been copied from another source. See the University Admissions Policy: <https://www.st-andrews.ac.uk/study/policy/>

Disclosure

- 10.4 Applicants should declare in their application to study in the Medical School if they have in any country:
- a) received any criminal conviction or caution
 - b) ever been found guilty of, or pled guilty to, any criminal offence
 - c) been issued with a Police Caution (England and Wales) or equivalent
 - d) been issued with a recorded Police Warning (Scotland) or equivalent
 - e) been issued with a fixed penalty fine
 - f) been given a formal warning or reprimand
 - g) been given a fiscal fine (Scotland) or equivalent.
- 10.5 The Medical School may check an applicant's previous Police Cautions, cautions, reprimands and warnings (or equivalent), convictions (both spent and unspent), through national disclosure organisations. Where an applicant has disclosed past or pending criminal proceedings, these will be considered by the School of Medicine Professionalism and Welfare Committee. This includes all motoring convictions or fixed penalties other than parking tickets.
- 10.6 If one of the outcomes listed above has occurred or is pending after an application has been submitted, but before entry to the course, the applicant has a continuing obligation to tell the Medical School and to do so immediately. If disclosure does not occur prior to commencing the course, it is likely that this will be considered a 'fitness to practise' issue.
- 10.7 An applicant who has made a declaration relating to caution, warning or equivalent as described above, either in their application or at a subsequent time during the admissions cycle, will be contacted by a member of staff from the Medical School, and given a reasonable timescale in which to provide the following:
- a) Confirmation from the relevant authorities of the nature and date of the incident/occurrence declared;
 - b) A copy of any certificate of conviction/caution etc;
 - c) An explanatory letter, including personal reflection.
- 10.8 Any information provided will be treated in confidence and passed to the School of Medicine Professionalism and Welfare Committee for consideration. Consideration will be given to all documentation collated. The Committee may also seek further information from the applicant.

Outcomes

- 10.9 Following consideration, the Dean of Medicine will decide on one of the following outcomes:
- a) Approve an applicant to proceed to the next stage of the admissions process
 - b) Refer the case for further investigation
 - c) Conditions set for admission: typically involving a review on arrival
 - d) Rejection of the application, where it appears that the applicant is unlikely to pass the GMC conditions for full registration or where the applicant has displayed behaviour in the past that raises serious concerns about future 'fitness to practise'

11. ANNUAL REPORT

- 11.1 An annual report will be submitted by the Dean of Medicine to the Academic Monitoring Group indicating the types and numbers of cases considered during the academic session under Fitness to Practise processes.