

**Guidance Notes<sup>1</sup> for:**

- **Students whose studies as a candidate for the Degrees of Bachelor of Medicine and Bachelor of Surgery (MBChB);**
  - **Students whose studies for an intercalated degree within the Degrees of Bachelor of Medicine and Bachelor of Surgery (MBChB);**
  - **Students whose studies as a candidate for the Degree of Bachelor of Dental Surgery (BDS);**
  - **Students whose studies as a candidate for the Postgraduate Diploma in Physicians Associate Studies (PA);**
  - **Graduates of the University with the Degrees of MBChB during their pre-registration period of training;**
- who are being considered for suspension or termination on the grounds that they are not “Fit to Practise”.**

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<sup>1</sup> Version approved by Court on 24 February 2011

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## University of Aberdeen

Guidance Notes for Students whose studies as a candidate for the Degrees of Bachelor of Medicine and Bachelor of Surgery (MBChB)<sup>2</sup>, Degree of Bachelor of Dental Surgery (BDS) and Postgraduate Diploma in Physicians Associate Studies are being considered for suspension or termination on the grounds that they are not “Fit to Practise”. The Fitness to Practise Committee also has the power to consider the case of graduates of the University with the Degrees of MBChB who may be referred to it by the Postgraduate Dean during their pre-registration period of training.

These Guidance Notes apply if you are registered for the Degrees of MBChB (hereinafter referred to as a medical student) or Degree of Bachelor of Dental Surgery (hereinafter referred to as a dental student) or Postgraduate Diploma in Physicians Associate Studies (herein referred to as a PA student) or are a postgraduate doctor in training, and if an allegation has been made that you are unfit to practise in the relevant field of healthcare.

These Guidance Notes describe the procedures that must be followed in regard to any such allegations and include the investigations that will be undertaken, the mechanisms by which you can respond to such an allegation, the procedures by which the University will make a decision as to whether or not an allegation that you are unfit to practise in the relevant field of healthcare should be upheld, the consequences of any decision by the University that you have been judged unfit to practise in the relevant field of healthcare and your rights of appeal against such a decision.

Students are responsible for disclosing any investigations taken under these procedures to the GMC or GDC (See Note 20). The School of Medicine, Medical Sciences & Nutrition may also pass on personal information to the GDC, GMC, and other medical schools or postgraduate deaneries in accordance with GMC and GDC guidelines, if a student receives a warning or sanction (See Note 23 for interpretation).

Any reference to GMC and GDC Guidelines refers to the GMC document ‘Medical students: professional values and fitness to practise’, which can be found at: [http://www.gmc-uk.org/Medical\\_students\\_professional\\_values\\_and\\_fitness\\_to\\_practise\\_1114.pdf](http://www.gmc-uk.org/Medical_students_professional_values_and_fitness_to_practise_1114.pdf) and any relevant guidance provided by the GDC on the website: [https://www.gdc-uk.org/Newsandpublications/Publications/Publications/StudentFtPApril10web\\_260310\[1\].pdf](https://www.gdc-uk.org/Newsandpublications/Publications/Publications/StudentFtPApril10web_260310[1].pdf)

If you would like more help after you have read these Guidance Notes, please read Note 22 below.

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<sup>2</sup> Throughout this document, this includes students who are external candidates for the Degrees of MBChB and those students who are registered for the Intercalated Degree of Bachelor of Science in Medical Science (BSc Med Sci) in regard to their fitness to return to their MBChB studies on completion of their BSc Med Sci degree or other intercalated degree.

**Note 1. General**

- 1.1 The regulations for the MBChB degrees, PA diploma and the BDS degree specify, in Regulation 14, 11 and 10 respectively, the following in regard to your studies:

“Any health, conduct, behaviour or other issue that could bear on a candidate’s suitability or fitness to practise will be considered by the Fitness to Practise Committee (Medicine & Dentistry). However, where such a case relates to academic misconduct falling within the Code of Practice on Student Discipline, it may be referred to the Fitness to Practise Committee only after procedures under that Code are exhausted and an allegation has been admitted or found to be proved. All other forms of misconduct, where they relate to a candidate’s suitability or fitness to practise may be referred directly through the School of Medicine, Medical Sciences & Nutrition’s Fitness to Practise procedures. The Senatus Academicus, on the recommendation of the Fitness to Practise Committee (Medicine & Dentistry), may suspend or terminate the studies of candidates for the Degrees of MBChB or BDS, PA Diploma or postgraduate doctors in training, who, following a proper process of investigation, are judged not “fit to practise”. In exceptional circumstances only, the University may suspend the training/matriculation of, or exclude from specified activities of the University, candidates whose case has been referred to the Fitness to Practise Committee pending consideration of their case. In all cases, any such suspension or exclusion shall be subject to the procedures detailed in the University’s Code of Practice on Student Discipline, as these are prescribed by any Resolution of the University Court in force at the relevant time.

**Note 2. *What will happen if someone has concerns about my fitness to practise in the relevant field of healthcare?***

- 2.1 Any person or persons having concerns about your conduct or health which they believe may render you unfit to practise in the relevant field of healthcare should convey their concerns in writing to the Head of the School of Medicine, Medical Sciences & Nutrition /Postgraduate Dean. Anonymous disclosures will not be considered.
- 2.2 Where a person(s) lodging a concern about you asks that their identity should not be made known to you, this request will be honoured for as long as is considered to be reasonably justifiable. If it becomes necessary to release to you the name of the person(s) lodging a concern, this will only be undertaken following consultation with that person(s).
- 2.3 You should note that students/doctors in training wishing to raise a concern about another student/doctor in training are advised to approach the relevant Year Co-ordinator or Educational Supervisor in the first instance, who may decide to submit the students’ concerns, in writing to the Head of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Dean, on behalf of the student(s)/doctor(s) in training.

**Note 3.            *What will happen if someone alleges that I am unfit to practise in the relevant field of healthcare?***

- 3.1        If the Head of the School of Medicine, Medical Science & Nutrition/Postgraduate Dean receives a written concern about you that falls within the remit of the University's Code of Practice on Student Discipline, e.g. academic misconduct such as cheating or plagiarism (for definition of Plagiarism see Code of Practice on Student Discipline 2.1), he/she will forward the allegation to the Academic Registrar for investigation under the Code of Practice on Student Discipline. In such cases, if the allegation against you is either admitted by you or found proved, the Investigating Officers appointed by the Head of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Dean<sup>3</sup> will be sent a copy of the letter that informs you of the outcome of the investigation under the Code of Practice on Student Discipline. The Investigating Officers shall then decide whether your fitness to practise in the relevant field of healthcare is in question by following the procedures in paragraph 3.2.2 and Note 4 below. The Investigating Officers may therefore ask to meet with you to discuss your case and will decide whether any further action should be taken, in addition to any penalty imposed as a consequence of the investigation under the Code of Practice on Student Discipline. If a complaint or allegation of academic misconduct brought against you under that Code is not found proved or upheld, the Investigating Officers will be informed of that decision and no further action will be taken against you.
- 3.2        If a written concern about you concerning your suitability or fitness to practise in the relevant field of healthcare does not fall within the remit of the Code of Practice on Student Discipline, e.g. issues of professional behaviour as outlined in the General Medical Council's Guidance Notes on fitness to practise; or the General Dental Council's guidance on Fitness to Practise, the Investigating Officers will apply the School of Medicine, Medical Sciences & Nutrition's Fitness to Practise procedures to investigate the concern, as follows:
- 3.2.1      The Investigating Officers will contact the person(s) who has lodged the concern to ascertain that the grounds for the concern are clear and are appropriate. At this point, the Investigating Officers may decide to take no further action other than to keep a record of the concern and of the discussion with the person(s) who has lodged the concern.
- 3.2.2      If, following the outcome of 3.2.1 above, the Investigating Officers believe that a case appears to exist that you may not be fit to practise in the relevant field of healthcare, they will write to your Year Co-ordinator/Educational Supervisor or relevant person to inform them of the grounds for concern if appropriate and to request a written report on your general conduct and/or health. They will be informed that their report will be sent to you. The Investigating Officers will also obtain a copy of your academic record and any other relevant information that has previously been supplied to the School of Medicine, Medical Sciences & Nutrition/Postgraduate Deanery. Following the receipt of such information the Investigating Officers may decide that it is appropriate to apply sanctions in the form of warnings or undertakings in accordance with the GMC/GDC Guidelines or School policy if your misconduct is of a less serious and/or remediable nature and there is good cause to believe you genuinely regret and have learned from your mistake and are not likely to repeat it, and there is no risk of danger to the public or your colleagues. Such lower level sanctions

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<sup>3</sup> Any reference to the Investigating Officers can be taken to refer to the Head of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Dean, and/or any senior member(s) of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Deanery appointed by him/her to undertake a particular investigation. Each case will be allocated a panel of two Investigating Officers.

as warnings and undertakings are not appropriate if the offence involves dishonesty, a lack of insight or offences of a sexual nature. Sanctions in the form of conditions may be applied where there is significant concern about your behaviour, performance or health, but again are not appropriate where dishonesty or sexual offences are concerned and are dependent upon patients not being put at risk, and upon you understanding and showing genuine regret for the seriousness of your offence. (See Note 23 for definitions of Sanctions and Warnings)

- 3.2.3 Exceptionally, the Investigating Officers may recommend that your status as a matriculated student/trainee doctor be suspended immediately, or that you be excluded from specified activities of the University/training programme, pending consideration of your case by the Fitness to Practise Committee, in accordance with the procedures detailed in the University's Code of Practice on Student Discipline (paragraphs 1.1 and 19.1 of these Guidance notes refer).

**Note 4.            *How will I know that my fitness to practise is being investigated?***

- 4.1 If the Investigating Officers consider that your fitness to practise in the relevant field of healthcare is in doubt following receipt of information and subsequent investigation in accordance with paragraphs 3.1 and 3.2 above, they will write to you to request that you meet with them to discuss the concerns.
- 4.2 You will also be sent, in writing, the following:-
- a copy of the formal written concern that prompted the investigation (anonymised where considered appropriate – paragraph 2.2 above refers);
  - a copy of all written reports obtained in accordance with paragraph 3.2.2 above.
- 4.3 Normally, you will be given at least five working days notice of the meeting with the Investigating Officers.

**Note 5.            *What will happen at the meeting with the Investigating Officers? Will I be able to make representations against the alleged concern as to my fitness to practise?***

Any reference to the Investigating Officers can be taken to refer to the Head of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Dean, and/or any senior member(s) of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Deanery appointed by him/her to undertake a particular investigation. Each case will be allocated a panel of two Investigating Officers.

- 5.1 The meeting with the Investigating Officers is to allow you to respond orally to the concerns that have been expressed about you and to allow them to reach a judgement as to whether or not you are fit to practise in the relevant field of healthcare.

- 5.2 You may also send the Investigating Officers a written response to the concerns in regard to your fitness to practise, together with any supporting documentary evidence (Notes 9 and 10 refer). Written responses must not contain abusive, threatening or offensive language and/or comments which could be interpreted as being defamatory or derogatory in nature. You should ensure that any such written information reaches the Investigating Officers before the meeting.

**Note 6.            *Who will attend the meeting with the Investigating Officers? Can I be accompanied or represented at the meeting? What will happen if I do not attend the meeting?***

- 6.1 You may be accompanied or represented at the meeting by any one person of your choice.
- 6.2 The Investigating Officers may also ask a member of staff to attend the meeting to take notes.
- 6.3 If you are unable to attend the meeting and provide, in writing before the meeting, a satisfactory reason for doing so (e.g. illness supported by a letter or note from your General Practitioner) and if you ask that the meeting be postponed, the Investigating Officers normally will agree to postpone the meeting on one occasion only. If, however, you fail to attend the meeting without good cause, or if you indicate that you do not wish to attend the meeting, or to send a representative to act on your behalf, the Investigating Officers will be entitled to consider the allegations and any documentary evidence submitted, including your written submission, in your absence.

**Note 7.            *What are the possible outcomes of the meeting with the Investigating Officers?***

- 7.1 After the meeting, the Investigating Officers will undertake one of the following courses of action within five working days:-
- (i) to inform you, in writing, that no further action will be taken;
- or
- (ii) to issue you a formal, written, warning indicating that your behaviour was not acceptable and that a recurrence of the concern, if found proved, will most likely result in the Investigating Officers recommending to the Fitness to Practise Committee (see Section 8 below) that you are not fit to practise in the relevant field of healthcare; or where appropriate, to issue you with a sanction appropriate to your misconduct in line with the GMC/GDC guidelines or School policy.
- or
- (iii) where there is a concern with your health or behaviour, to refer you to the Occupational Health Service to allow a report to be made on your fitness to practise in the relevant field of healthcare in regard to health or behavioural concerns. In such cases, the Investigating Officers may also decide to recommend to the Fitness to Practise Committee (Medicine & Dentistry) that your studies/training be suspended, or that you be excluded from specified activities of the University/training programme forthwith, in accordance with MBChB Regulation 14, PA Regulation 11 and BDS Regulation 10 (see paragraph 1.1), pending receipt of the report;

or (iv) to inform you that it is the judgement of the Investigating Officers that you are not fit to practise in the relevant field of healthcare and that they will be recommending to the Fitness to Practise Committee (Medicine & Dentistry) that your training/studies for the Degrees of Bachelor of Medicine and Bachelor of Surgery or the Degree of Bachelor of Dental Surgery or Diploma in Physician Associate Studies should be terminated in accordance with Regulations 14, 10 & 11 respectively for those Degrees/Diploma (see paragraph 1.1).

7.2 You will have the right of appeal to the Fitness to Practise Committee (Medicine & Dentistry) if you disagree with a decision of the Investigating Officers made under 7.1(ii) above or a decision to refer you to Occupational Health under 7.1(iii) above. In such an instance the procedures would follow those outlined below for a full hearing of the Fitness to Practise Committee (Medicine & Dentistry).

7.3 If the Investigating Officers recommend to the Fitness to Practise Committee (Medicine & Dentistry) that your training, or studies should either be suspended or terminated, they will send full written details to the Clerk to the Fitness to Practise Committee (Medicine & Dentistry), for consideration by the Committee, within five working days of your meeting with the Investigating Officers. The documents will include a report of the investigation undertaken by the Investigating Officers, copies of all written reports considered by the Investigating Officers in reaching their decision and an explanation why they have judged that you are not fit to practise in the relevant field of healthcare.

**Note 8. *What happens if my case is referred to the Fitness to Practise Committee (Medicine & Dentistry)? Will I be able to submit representations against the recommendations of the Investigating Officers?***

8.1 If your case is referred to the Fitness to Practise Committee (Medicine & Dentistry) following investigations as described above, you shall be required to attend a meeting of the Committee. Normally, you will be given at least five working days' notice during term-time and ten working days' notice during out-of-term time of the date, time and venue of the meeting.

8.2 The Senate has delegated authority to the Fitness to Practise Committee (Medicine & Dentistry) to consider, in accordance with the relevant Regulations, recommendations concerning your fitness to practise; to hear representations submitted by you against any such recommendations; and to take decisions, on behalf of the Senate, in regard to whether sanctions should be issued against you; or you should be excluded from specified activities of the University/training programme; or whether your studies as a medical, dental or PA student/doctor in training should be suspended or terminated.

8.3 You will be sent copies of all documentation to be considered by the Fitness to Practise Committee (Medicine & Dentistry) and shall be informed that you (a) may be accompanied or represented at the meeting by any one person of your choice; (b) may bring witnesses; and/or (c) may submit further documentation e.g. medical reports or further written representations: the latter must reach the Clerk to the Fitness to Practise Committee (Medicine & Dentistry) no later than 4 p.m. on the day before the date of the Fitness to Practise Committee meeting.



- 8.4 It is in your own best interests to make sure that any written representations that you submit are clear and concise and that, as far as possible, all supporting documentation is submitted with your representations by the required deadline. If your representations contain abusive, threatening or offensive comments about a member of staff and/or statements which could be interpreted as being derogatory or defamatory, they will be returned to you and you will be asked to submit revised representations refraining from the use of such language. Representations should not be used to make personal attacks against individuals.

**Note 9.           *What if I fail to submit supporting documentary evidence when intimating my representations?***

- 9.1 If you fail to submit documentation which you consider relevant in making your representations by the deadline indicated in paragraph 8.3 above, you will not be allowed to submit documentary evidence at the meeting unless you are able to satisfy the Convener of the Fitness to Practise Committee that you were not reasonably able to submit the documentary evidence earlier. While the Convener's decision shall be final in this regard, you will have the right to seek independent review of a decision not to consider supporting evidence that is submitted after the required deadline, as indicated in Note 18.

**Note 10.           *What if I have a medical condition or personal circumstance that I would wish to be taken into account?***

- 10.1 You may believe that any concerns with your conduct or behaviour were the consequence of a medical condition or personal circumstance. If you wish such a medical condition or personal circumstance to be taken into account by the Investigating Officers or the Fitness to Practise Committee, you must produce supporting evidence of your medical condition or personal circumstance.
- 10.2 If the concerns about your fitness to practise in the relevant field of healthcare relate to your health, it is particularly important that you ask a Medical Practitioner to send you a report, which you should submit to the Investigating Officers or to the Clerk to the Fitness to Practise Committee, as appropriate, detailing your medical circumstances and any treatment that you are undergoing. You should ask the Medical Practitioner to comment on the prognosis. The Investigating Officers may refer you to the Occupational Health Service for assessment and the investigation may be suspended pending the outcome of such an assessment. (See Paragraph 7.1(iii)).

**Note 11.           *Will I be able to appeal against the decision of the Fitness to Practise Committee?***

- 11.1 You will have the right of appeal under section point 11.6 of the Policy and Procedures on Academic Appeals against a decision of the Fitness to Practise Committee (Medicine & Dentistry), as specified in Note 17 below.
- 11.2 You will have the right to seek independent review of any decision regarding this appeal, as specified in Note 18 below.

**Note 12.      *What are my rights and responsibilities if I submit representations?***

- 12.1 If you submit representations to the Fitness to Practise Committee against the recommendations of the Investigating Officers, you will not suffer any disadvantage as a result of doing so, irrespective of the outcome.
- 12.2 It is in your own best interests to make sure that you have submitted your representations within the specified timescale; that your written statement gives reasons why you are challenging any concern or recommendations in regard to your fitness to practise; that your representations are expressed clearly and concisely; and that, as far as possible, all supporting documentation is submitted with your representations (see Notes 5, 8 and 9). If your representations contain abusive, threatening or offensive comments about a member of staff and/or statements which could be interpreted as being derogatory or defamatory, they will be returned to you and you will be asked to submit revised representations refraining from the use of such language. Representations should not be used to make personal attacks against individuals. However, if there are minor procedural deficiencies in your representations but otherwise your representations are well founded, you will be given the opportunity of revising your representations. It will be for the Convener of the Fitness to Practise Committee to determine whether you should be allowed to revise your representations. Whilst the Convener's decision shall be final, you will have the right to seek independent review of a decision not to allow you to revise your representations as indicated in Note 18.
- 12.3 You have the right to expect that everyone who responds to, investigates or adjudicates upon consideration of the issue of your fitness to practise will do so impartially and will not be permitted to act in any matter in which they have a material interest or in which any potential conflict of interest may arise<sup>4</sup>.
- 12.4 Your privacy and confidentiality will be respected at all stages of the process for considering your position, as far as possible. However, limited disclosure of any allegations against you and subsequent representations that you submit against recommendations as to your fitness to practise will be necessary in order to consider your position. The disclosure will be limited to members of any Committee that will consider your case on behalf of the University and to staff involved in the administration of your representations; and also, where appropriate, to the Investigating Officers, to the person(s) to whom your representations have been sent for comment (including your Phase or Year Co-ordinator/Educational Supervisor, if appropriate), and to any witnesses cited by you or the University who should attend a hearing. If it is considered necessary to send your representations to anyone else, you will be notified three days in advance of any such disclosure being made.
- 12.5 You have the right to attend the meeting with the Investigating Officers or any hearing of a Committee that considers your case on behalf of the University, unless the circumstances in paragraphs 6.3, 12.8 and 12.9 apply.
- 12.6 You have the right to expect that your case will be considered on its own merits and on its particular facts and circumstances so that justice may be done and may also be seen to be done. Consequently, no detailed rules about the conduct of any hearing in regard to your case are laid down.

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<sup>4</sup> See Section 23 for an example of material interest or potential conflict of interest

- 12.7 You will normally be given at least five working days' notice of a hearing with the Investigating Officers or of a sitting of the Fitness to Practise Committee to consider your representations against the recommendations of the Investigating Officers. If there is good reason<sup>5</sup>, you are entitled to ask the Investigating Officers or the Clerk to the Fitness to Practise Committee, as appropriate, that the period of notice be shortened. Any such request will be approved where possible, provided always that the Investigating Officers or members of the Fitness to Practise Committee, as appropriate, will still have sufficient time to study the papers circulated for the hearing and that they and any other member of University staff required at the hearing are able to attend the hearing at short notice.
- 12.8 If you do not wish to attend or be represented at a hearing with the Investigating Officers or with the Fitness to Practise Committee, the hearing will proceed in your absence.
- 12.9 If a date is arranged for the hearing of your case either by the Investigating Officers, the Fitness to Practise Committee (Medicine & Dentistry) or by a University Committee and you have indicated that you wish to, and have agreed to, attend the scheduled hearing, you are obliged either to attend the hearing in person or to arrange for someone to represent you at the hearing. If you cannot attend or refuse to attend on the agreed date, a new date will be set and you will be given one opportunity of attending a second scheduled hearing. If you cannot attend or refuse to attend the second hearing and you fail to send someone to represent you, the Investigating Officers or the relevant Committee will be entitled to consider your case, including any written representations that you have submitted, and come to a decision, in your absence, in regard to your fitness to practise in the relevant field of healthcare and your studies or candidature for the Degrees of MBChB or BDS, PA Diploma/postgraduate training.
- 12.10 If any member of the Fitness to Practise Committee (Medicine & Dentistry) or a Committee that will consider your case on behalf of the University or individual member of staff cannot respond within the time limits laid down for the different stages of the process, you will be sent a letter explaining the reason for the delay and the new time limit that has been imposed.
- 12.11 If you submit representations against recommendations that your studies/training be suspended or terminated, or that you be excluded from specified University/training programme activities, and these are upheld, you may be entitled to a refund of incidental expenses necessarily incurred in attending the hearing of your representations. See Note 21 below for details.

**Note 13.        *Fitness to Practise Committee (Medicine & Dentistry)***

- 13.1 The Fitness to Practise Committee (Medicine and Dentistry) that will consider, on behalf of the Senate, recommendations from the Investigating Officers in regard to your studies will be constituted as follows:

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<sup>5</sup> e.g. to permit graduation if your representations were successful.

- The Convener will be a Professor of the University from outwith the College of Life Sciences and Medicine.
  - The detailed composition of the Fitness to Practise Committee (Medicine & Dentistry) will be as approved annually by the Quality Assurance Committee
  - The Fitness to Practise Committee (Medicine & Dentistry) will be quorate provided that the Convener and at least three other members (who must include at least one relevant healthcare professional and one non-medical/non-dental member) are present.
  - The Convener will have the right to vote as a member of the Committee and, additionally, will have a casting vote if necessary.
- 13.2 The Convener of Fitness to Practise Committee has delegated powers to uphold representations without the need for the Committee to meet if, having considered your written representations and any response received, it is clear that your representations should be upheld.
- 13.3 The Convener of Fitness to Practise Committee has delegated powers to determine whether or not medical or other personal documentary evidence not submitted by the required deadline should be accepted (see paragraph 9.1).

**Note 14.      *What happens at the Fitness to Practise Committee?***

- 14.1 You have the right to attend a Fitness to Practise Committee meeting at which recommendations concerning your fitness to practise in the relevant field of healthcare are being considered. If you cannot, or do not wish to, attend the hearing, you can be represented by any one person of your choice. You and/or your representative, if any, have the right to put your case orally at the hearing of the Committee, in accordance with the procedures laid down for the hearing, unless your case is heard in your absence (see paragraphs 12.8 and 12.9).
- 14.2 The papers circulated for the Fitness to Practise Committee meeting will include:
- The University's *Policy on Fitness to Practise* and these *Guidance Notes*.
  - A copy of your Statement of Student Record that will include details of the courses for which you are registered and any results and marks awarded.
  - A report from the Investigating Officers concerning the investigation undertaken by them that has led to your fitness to practise being considered by the Committee, including any supporting documentation submitted to the Investigating Officers.
  - Your written representations against recommendations of the Investigating Officers in regard to your studies, including any supporting documentation that you wish the Committee to consider.
- 14.3 You may ask that a witness(es) attend the hearing of your case to provide evidence to support your representations, provided that you also inform the Clerk of the Committee no later than three working days before the date of the hearing. If you do, you will be responsible for ensuring that the witness(es) invited by you attend at the appropriate date and time and receive a copy of the papers for the hearing. Witnesses cannot be represented and cannot ask questions at the hearing.

- 14.4 The Committee may also request that a witness(es) attend the hearing and the Clerk will be responsible for arranging for any such witnesses attend on the appropriate date and time, and for informing you of the names of any such witnesses.
- 14.5 The people attending the hearing of your representations will depend on the circumstances of the case. People asked to attend either by you or by the Committee will not be members of the Committee hearing your representations.
- 14.6 The procedures followed in the hearing of your representations will be kept as informal as circumstances permit so that your case may be heard in the manner most appropriate to its particular facts and circumstances, and so that justice may be done and may be seen to be done. It shall be for the Convener of the Fitness to Practise Committee to ensure that all allegations made by you are fully and properly explored. In so doing, the Convener has an obligation to ensure that verbal or written statements do not contain abusive, threatening or offensive language, which could be interpreted as being defamatory or derogatory in nature, but are made in an appropriate manner, without constraining the rights of a student to submit representations.
- 14.7 In considering your case, the Committee will consider the representations submitted to it by the parties involved and will make such enquiries as it considers appropriate. The Committee will receive written and oral representations. All oral evidence will be taken in your presence or, if you are absent and with your approval, in the presence of your representative (if any), unless paragraphs 12.8 and 12.9 apply. Normally, you will be sent copies of all written submissions considered by the Committee no later than seven days before the hearing (unless you have asked that a hearing be held at short notice – see paragraph 12.7). Additionally, all members of the Committee, Head of School/Postgraduate Dean or other member(s) of academic staff who are asked to attend by the University, and those responsible for administering the process, will be sent copies of all written submissions, normally no later than five working days before the hearing.
- 14.8 If you submit new evidence by the deadline indicated in paragraph 8.3, this will also be made available to the Committee prior to the meeting. If, however, new evidence is submitted later than the required deadline, and if this is accepted by the Convener in accordance with paragraph 9.1 above, the hearing may be postponed to allow for proper examination of the evidence.
- 14.9 Before or at the start of the hearing of the Committee, if you know any member of the Committee and believe them unable to be impartial, you will be allowed to state your objection to the Committee. It will be for the Convener of the Committee to decide, in the interests of justice, whether that member of staff should remain or should be replaced by another member. Replacement would normally only be required where not to do so would render the Committee not quorate: this may result in the hearing being postponed, to allow the alternate member time to study the papers circulated for the hearing. If you do not declare your belief of lack of impartiality prior to or at commencement of the hearing, you will not be allowed to state your belief at a later stage, unless the Convener of the Committee decides that you could not reasonably have known or could not reasonably have stated that belief earlier.
- 14.10 If a member of the Committee has sat on a previous Students' Progress Committee or Fitness to Practise Committee hearing in regard to your studies, this will not be sufficient evidence of lack of impartiality to justify that member's exclusion from further hearings in regard to your studies e.g. in subsequent years of your studies.

**Note 15.      *Conduct of Fitness to Practise Committee Meetings***

15.1    The following procedures will apply:-

- (i)      The Convener will invite the Investigating Officers to indicate why they believe that you are not fit to practise in the relevant field of healthcare and to describe the investigation undertaken by him/her in reaching that view.
- (ii)     The Convener will invite members of the Committee to address questions to the Investigating Officers.
- (iii)    The Convener will invite you (if present) or, if preferred, your representative (where applicable) to respond to the Investigating Officers' concerns and indicate why you believe you should be permitted to continue with your studies for the MBChB or BDS Degrees, or PA Diploma, or your postgraduate training.
- (iv)     The Convener will invite members of the Committee to address questions to you and/or your representative.
- (v)      The Convener will invite any witnesses to make a statement.
- (vi)     The Convener will invite members of the Committee to address questions to any witnesses.
- (vii)    The Convener will invite you and/or your representative to address questions to the Investigating Officers, through the Convener.
- (viii)   The Convener will invite the Investigating Officers to make a closing statement.
- (ix)     The Convener will invite you and/or your representative to make a closing statement.
- (x)      When the Convener is satisfied that you, any person representing or accompanying you, and the Committee members have no more questions to ask or statements to make, all those present except the Committee members and the Clerk will be asked to leave the room while the Committee considers its decision.

15.2    You will be informed in writing of the Committee's decision within five working days of the date of the hearing. If your representations are not upheld by the Committee, the letter will explain to you that you have a right of appeal against the Committee's decision to the University under section point 11.6 of the Policy and Procedures on Academic Appeals, as indicated in Note 17.

**Note 16.      *Possible Outcomes of Fitness to Practise Committee Meetings***

16.1    The following courses of action will be available to the Fitness to Practise Committee:

- (i)      to issue you a formal, written, warning indicating that your behaviour was not acceptable and where appropriate, to issue you with a sanction appropriate to your misconduct.

- or* (ii) where there is a concern with your health or behaviour, to refer you to the Occupational Health Service to allow a report to be made on your fitness to practise in the relevant field of healthcare in regard to the health or behavioural concerns. In such cases, the Fitness to Practise Committee (Medicine & Dentistry) may recommend that your studies/training be suspended, or that you be excluded from specified activities of the University/training programme forthwith, in accordance with MBChB Regulation 14, BDS Regulation 10 or PA Regulation 11 respectively (see paragraph 1.1), pending receipt of the report;
- or* (iii) to inform you that it is the judgement of the Fitness to Practise Committee that you are not fit to practise in the relevant field of healthcare and that your training or your studies for the Degrees of Bachelor of Medicine and Bachelor of Surgery or Dental Surgery or Diploma in Physicians Associate Studies should be terminated in accordance with Regulations 14,10 11 respectively (see paragraph 1.1). In this case, the matter will be referred to the Director of Undergraduate Programmes (Medicine & Dentistry)\_to determine whether you are eligible for the award of the Degree of Bachelor of Medical Science (BMedSci) or any other award in accordance with the Regulations or whether you are eligible to transfer to the Intercalated Degree of Bachelor of Science in Medical Science (BSc MedSci) but, in either case, with no subsequent right of re-admission to the MBChB or BDS Degrees or PA Diploma. Alternatively, you will be able to explore, with the relevant Admissions Selector, the possibility of transferring to another degree that does not lead to a registerable qualification with the General Medical Council or General Dental Council;
- or* (iv) in cases relating to health concerns, to delay a decision, provided that you agree to undergo medical treatment (as specified by the Fitness to Practise Committee, where appropriate): in the meantime, the Committee may (a) suspend your training, or studies, in accordance with Regulation 14 for the Degrees of Bachelor of Medicine and Bachelor of Surgery, Regulation 10 for the Degree of Bachelor of Dental Surgery and regulation 11 for the Diploma in Physicians Associates Studies, for a specified period, pending the outcome of medical treatment and confirmation from a medical practitioner that the treatment has been successful, or (b) decide that you should be permitted to continue with your studies/training;
- or* (v) as in (iv) above, but to request you to voluntarily withdraw from your studies/training pending medical treatment, with an entitlement to Associate Student status whilst withdrawn from studies and an entitlement to re-admission to your studies not later than the start of the relevant Year of the curriculum which falls in the next academic year but one following the date of withdrawal, or your postgraduate training, on condition that you obtain medical certification from the Occupational Health Service that the health issues have been resolved and that you are considered fit to resume your training or healthcare studies. Where you choose not to voluntarily withdraw from your studies/training, the Committee will confirm that you are not fit to practise in the relevant field of healthcare at that time and will terminate your training or candidature for the Degrees of MBChB or Degree of BDS or PA Diploma as in (iii) above, with you being entitled to Associate Student status and re-admission as described above if you do not transfer to another degree as described in (iii) above.

**Note 17.      *Appeal to the University against decisions of the Fitness to Practise Committee (Medicine & Dentistry)***

- 17.1 If you disagree with the decision of the Fitness to Practise Committee, you have a right of appeal to the University, **but only if there are valid grounds to do so (under section point 2.1 of the Policy and Procedures on Academic Appeals)**. In this instance, you must submit an appeal against the Committee's decision to the University under section point 11.6 of the Policy and Procedures on Academic Appeals setting out the grounds of the appeal in writing within five working days of the date of the letter informing you of the decision of the Committee.
- 17.2 On receipt of the completed and submitted form, you will be given a case officer and a reference. A Grounds to Proceed Panel composed of the Case Officer and a senior academic or administrative staff member (depending on the nature of the case) will review the case to determine whether there are grounds for a further investigation or hearing to proceed. This will be completed in 5 working days.
- 17.3 If the Grounds to Proceed Panel consider that the appeal should proceed, they may refer the matter back to the Fitness to Practise committee if there is new evidence or a hearing of an Appeal Panel will be convened.
- 17.4 If you submit, as part of your appeal, new evidence, e.g. medical reports, to support your representations by the deadline stipulated in paragraph 17.1, this will be referred to the Convener of the Fitness to Practise Committee. The latter will decide whether your appeal should be upheld in accordance with paragraph 13.2 above or whether or not the new evidence would warrant that Committee re-convening. If the Fitness to Practise Committee is to be re-convened, you would be required to attend another meeting in accordance with Notes 8 and 13-16 above. If your new representations are not upheld by the Fitness to Practise Committee, an Appeal Panel will be convened.
- 17.5 Appeal panels will be convened within 20 working days and you will receive at least 10 working days notice, along with the composition of the panel and if you feel there is a conflict of interest you must inform the case officer no later than 5 working days in advance of the hearing.
- 17.6 You will receive papers at least 5 working days prior to the hearing.
- 17.7 Where a student or staff member is unable to attend a hearing on a given date, an alternative date for the hearing will be arranged. If the student or staff member is unable to attend this alternative date, the hearing will proceed in their absence and a note of the hearing will be taken.
- 17.8 The Appeal Panel will be comprised of three members (two staff and one student). The Case Officer will also be present at the hearing to take notes. Panel members will be drawn from a trained pool appointed by the University Senate including members of senior academic and senior administrative staff and representatives from the AUSA. One member of staff will be appointed as Panel Convener. The Panel Convener will, prior to the hearing, invite any witness(es) to attend as is deemed appropriate. The Panel Convener will also invite witness suggestions from the person who has made the appeal, and those who oppose it.
- 17.9 You may be accompanied by one person or be represented by a third party. You may also ask that witness(es) attend the hearing to provide evidence, where appropriate. You are responsible for ensuring



that these witnesses and representatives are informed of the date and time of the hearing, and for advising the Case Officer in a timely fashion whether any witnesses will be attending.

- 17.10 The Head of School of Medicine, Medical Sciences & Nutrition (or nominee) will be invited to be present at the hearing to present their response to the case and to respond to any questions. They may also be accompanied by relevant witness(es) where appropriate.
- 17.11 The Appeal Panel will consider the documentation included in the File Record and any evidence presented at the hearing. The Appeal Panel will agree an outcome and, where appropriate, a proposed remedy at the hearing, and will inform all those attending the hearing (excluding witnesses) of its decision at the conclusion of the hearing. Written confirmation of the outcome of the hearing will be sent to all parties no later than 3 working days after the hearing.
- 17.12 The only remedy available to the Appeal Panel is to refer back to the Fitness to Practise Committee to rehear the case – a decision on Fitness to Practise can not be taken by the Appeal Committee.
- 17.13 The outcome of the hearing will be recorded in the File Record and will include reference to the issues considered, parties involved, documents reviewed, and the reason for the decision. Where the matter requires review of staff behaviour, processes or standards within a School or Service, this will be referred to the person with responsibility for those matters. Any claim for compensation will be considered in accordance with the standard rates of compensation and may be offered subject to acceptance conditions. It will not be possible for you to make a further Appeal on the same matter.
- 17.14 This is the final stage of appeal available within the University and at any point in this process you fail you will be advised of your right to review by the Scottish Public Service Ombudsman (see note 18 below).

**Note 18.        *Independent review of a decision of the University***

- 18.1 In accordance with the Further and Higher Education (Scotland) Act, the Scottish Public Services Ombudsman (SPSO) has responsibility for investigating student appeals and complaints. The SPSO provides a route for those who have exhausted the University's appeals and complaints procedures, to refer their appeal or complaint for independent review, where they are dissatisfied with the handling of the internal appeals or complaints procedure. Once the SPSO has made a judgement, it would be for the University Court to decide whether or not to accept the judgement and on any remedial action to be taken.
- 18.2 Students/doctors in training whose appeals are not upheld by the University, or who have not submitted their appeal or documentary evidence by the required timescales (paragraphs 4.1, 5.1 and 6.3 refer), will be informed of the procedures for referral of their appeal to the Scottish Public Services Ombudsman for independent review.

**Note 19.        *What is my status pending the outcome of consideration of my representations against discontinuance of attendance/suspension or termination of studies/termination of candidature for an award?***

- 19.1 Generally, your status will not be affected while you await the outcome of consideration of your representations unless the Investigating Officers, exceptionally, have recommended either that your

matriculation/training be suspended or that you be excluded from specified activities of the University/training programme (see paragraph 3.2.3).

**Note 20.        *What are my responsibilities if I am investigated under these Fitness to Practise procedures?***

- 20.1    The *Medical Act* 1983 has been changed to allow the GMC to request proof of fitness to practise before a medical graduate can provisionally register as a doctor. This means there is no longer an automatic link between graduation and provisional registration, and it allows the GMC to consider the fitness to practise of graduates. This is done through a declaration form at the point of registration. You can see the declaration form on the GMC's website: [http://www.gmc-uk.org/doctors/registration\\_applications/uk\\_pr\\_p1.asp](http://www.gmc-uk.org/doctors/registration_applications/uk_pr_p1.asp)
- 20.2    Dental students are expected to comply with the GDC's publication 'Student Fitness to Practise', the student must declare any unprofessional behaviour or serious health problems and/or any Fitness to Practise processes during the time as an undergraduate dental student to the GDC who will consider this when processing any request for registration (See [https://www.gdc-uk.org/Newsandpublications/Publications/Publications/StudentFtPApril10web\\_260310\[1\].pdf](https://www.gdc-uk.org/Newsandpublications/Publications/Publications/StudentFtPApril10web_260310[1].pdf) )

**Note 21.        *Can I claim expenses?***

- 21.1    If your appeal is successful, you may be entitled to a refund of incidental expenses necessarily incurred in attending a hearing(s). However, you must contact the administrator arranging the hearing before you commit yourself to any expenditure, to receive confirmation that the expenditure proposed is eligible for refund if your appeal is successful. Details are given in the document, *Payment of expenses incurred by a successful appellant or complaint: Guidance Note*. You can download this document from the University website (<http://www.abdn.ac.uk/registry/quality/appendix5x21.pdf>) or obtain a copy from the Infohub on the ground floor of the Hub.

**Note 22.        *If you are still unsure what to do***

- 22.1    You may find it useful to consult the University's Equality and Diversity Policy Statement. You can download this at: <http://www.abdn.ac.uk/ppg/index.php?id=95&sub=93&top=67> or obtain copies from the Infohub on the ground floor of the Hub.
- 22.2    If, once you have looked at these *Guidance Notes* and the above documents, you feel that you have a serious concern that is not covered by any of them, you should consult the *Code of Practice on Whistleblowing* (<http://www.abdn.ac.uk/personnel/whistle.hti>) which "...is designed to allow employees and all other members of the University to raise concerns or to disclose information which, the complainant or informant believes, shows malpractice."
- 22.3    If you would like more help after you have read these *Guidance Notes*, please contact any of the following:

- the relevant Registry Officer (Tel: (01224) 273506; fax (01224) 272050; e-mail: [undergraduate@abdn.ac.uk](mailto:undergraduate@abdn.ac.uk))
- Student Support Services, University Office (Tel: (01224) 273935; fax: (01224) 273569; e-mail: [student.support@abdn.ac.uk](mailto:student.support@abdn.ac.uk))
- the Students' Association, Information and Advice Centre in the Butchart Centre on University Road (Tel: (01224) 274200; e-mail: [infoadvice@abdn.ac.uk](mailto:infoadvice@abdn.ac.uk))

22.4 The way in which the University's *Policy on Fitness to Practice* is implemented is monitored by the University Committee on Teaching and Learning and, through that Committee, by the Senate and the University Court. The University is committed to equality for all students to ensure there is no discrimination. There are nine 'protected characteristics' in equality and diversity related legislation that make it unlawful to discriminate on the grounds of: sex; age; race; disability; religion & belief; sexual orientation; gender reassignment; pregnancy & maternity; and marriage & civil partnership. The University will monitor these processes relating to students' studies to ensure, so far as possible, that no discrimination exists.

### **Note 23 Interpretation**

#### **Conflict of Interest:**

An example would be where a member of the Committee has been involved (e.g. in reporting your non-attendance at classes) in the decision against which representations are being made.

#### **Investigating Officers:**

Any reference to the Investigating Officers can be taken to refer to the Head of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Dean, and/or any senior member(s) of the School of Medicine, Medical Sciences & Nutrition/Postgraduate Deanery appointed by him/her to undertake a particular investigation. Each case will be allocated a panel of two Investigating Officers.

#### **Material Interest:**

An example would be where a member of the Committee considering your representations against termination is related to you.

#### **Minor Procedural Deficiencies:**

An example would be where you have unwittingly made an incorrect claim or assertion through a misunderstanding of University procedures.

#### **Personal Circumstance:**

A personal matter which, you believe, has affected your performance or attendance and which has indirectly resulted in a recommendation that you should not be permitted to progress to the next stage of your programme/training, that you be required to discontinue attendance on courses, or that your training/studies or candidature for an award be terminated on academic grounds. An example would be where you have had an ongoing medical problem which has affected your performance.

**Relevant Committee:**

Either the Fitness to Practise Committee or a University Committee.

**Sanctions:**

There are four types of sanctions. Beginning with the least severe, the sanctions are:

- Undertakings
- Conditions
- Suspension from the relevant course
- Expulsion from the relevant course.

The purpose of the four types of sanction is to ensure that students whose fitness to practise is impaired are dealt with effectively, including possibly being removed from their course. A sanction also gives the student the opportunity to learn from their mistakes.

**Undertakings:**

An undertaking is a promise given by the student in writing to the Investigating Officers that they will not behave in a certain way in the future. This sanction applies when there is a finding that the student's fitness to practise is impaired.

**Conditions:**

Conditions are appropriate when there is significant concern about the behaviour of the student. This sanction should be applied if the panel is satisfied that the student might respond positively to remedial tuition and increased supervision. The panel should consider any evidence such as reports on the student's performance, health or behaviour.

**Suspension from medical or dental course:**

Suspension prevents a student from continuing with their course for a specified period and graduating at the expected time. Suspension is appropriate for misconduct that is serious but not so serious as to justify expulsion from the School of Medicine, Medical Sciences & Nutrition.

**Expulsion from course of study:**

The panel can expel a student from the School of Medicine, Medical Sciences & Nutrition if they consider that this is the only way to protect patients, carers, relatives, colleagues or the public. The student should be helped to transfer to another course if appropriate. However, the nature of the student's behaviour may mean that they should not be accepted on certain courses, or even on any other course.

**Warnings:**

Warnings are formal statements that indicate that the student's behaviour is unacceptable. Warnings should be given when a student's behaviour raises concerns but it is not so serious that their fitness

to practise is impaired. There should be adequate support for the student to address any underlying problems that may have contributed to their poor behaviour.