

Compiling and Presenting the Case Papers for a Medical Student Fitness to Practise Committee Meeting – A Toolkit

Student Fitness to Practise Training Conference
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INTRODUCTION

This is intended to be a practical guide to help those faced with the task of assembling a set of papers for a Fitness to Practise Committee meeting. Clearly the nature of the papers required will to some extent depend upon the type of case, two police cautions for shoplifting being simpler than a lengthy saga of complex difficulties spanning many years.

The main people involved in assembling such papers are, in the first instance, from the referring School. The Secretary to the Committee will then be responsible for any collation and the addition of papers such as professional body regulations or codes of conduct, and any material brought forward by the student or their representative. The latter normally takes the form of a written statement giving the student's perspective on the circumstances that have led to the hearing, and may also include a response to the School's case.

UNDERLYING PRINCIPLES

THE PAPERS SHOULD BE CIRCULATED IN A TIMELY MANNER

A key underlying principle is that the papers should be circulated well in advance to give the Committee plenty of time to study them. To allow this, the student (or their representative) will need to be given sufficient time to prepare a response. Late arrival of the student's submission, coupled on occasion with a very large so-called "defence bundle" (which may run to many hundreds of pages), as well as enhancing the anxiety of the Committee Secretary can cause a number of difficulties, one of which is the need to adjourn and re-schedule the Committee because of the unexpected arrival of new material.

EVERYONE MUST HAVE THE SAME SET OF PAPERS

For a Fitness to Practise Committee meeting, it is essential that the student, the School representative and the Committee members all have an identical set of papers and are therefore considering exactly the same material on the day.

Linked to this principle, there are at least two potential problems to be avoided because they are unfair to the student. One is the School representative who comes armed with the entire student record file, from which new items of information adverse to the student are suddenly and unexpectedly produced during the meeting. The other is the enthusiastic Committee member who does his or her own research either on the student records or on some aspect of the case (for example newspaper reports of a case) and then unexpectedly produces this new material at the meeting. Student representatives should also be made aware that the submission of unexpected new information during a hearing itself (for example during the representative's summing up on behalf of the student) can jeopardise its timely completion.

THE SCHOOL MUST PROVIDE A CLEAR LIST OF ALLEGATIONS/ CONCERNS AND BACK THIS UP WITH THE APPROPRIATE DETAIL

Students attending a Fitness to Practise Committee must be given a very clear exposition of the concerns. Without this, the whole process is undermined, for without knowing the details of the allegations it is impossible for students properly to defend themselves.

There is a particular need to avoid using broad categories such as “poor attendance” or “unprofessional behaviour” without giving specific details of the alleged problem. Instead of just saying “poor attendance”, the concerns should be expressed in as much detail as possible e.g. “Poor attendance, namely that in the 8 week Year 4 ‘Mind and Movement’ block from 9.1.12-2.3.12, student X failed to attend the tutorials held on 10.1.12, 25.1.12, 7.2.12, 15.2.12, 21.2.12, 27.2.12, thereby missing 6 of the 10 scheduled tutorials”.

When students are on clinical placements, there may be practical problems relating to records of attendance. For example, a supervising doctor may be less likely to keep records of student attendance than an academic colleague responsible for tutorials during the pre-clinical years. Another practical problem is that during clinical placements the expected timetable may include a degree of flexibility. For these reasons it may be difficult to obtain precise data about attendance, but for the same reason one needs to bear in mind that it may be difficult or impossible for students to defend themselves against vague allegations of “poor attendance”.

Instead of the unqualified term “unprofessional behaviour”, it is important to spell out the actual behaviour that caused concern, and give the date and location where it happened. Similarly, “Failure to attend appointments” should be replaced by details of actual appointments missed.

The general principle to be applied is that the standard or regulation or ethical principle or guidance that has been breached should serve only as an introductory statement, to be followed by sufficient detail to enable the way in which the breach is said to have occurred to be understood.

There is no problem at all in asserting that a whole group of concerns are regarded as (say) representing “unprofessional behaviour” so long as the details of the individual concerns have been provided.

Regarding dishonesty, a fundamental principle of fairness is that an allegation of dishonesty should be unambiguously formulated and adequately particularised. Not only is it important to be specific about the details of any allegations of dishonesty, but it is essential that the word “dishonesty” is specifically mentioned. This is because it is impermissible (for example) for an allegation of “unprofessional behaviour” to result in a finding of fact of dishonesty. If a student is to mount a defence against dishonesty, he or she must know at the outset that dishonesty is the accusation. The same requirement for unambiguous formulation applies to allegations of inappropriate sexual behaviour or sexual motivation.

Underpinning all of this is the need for the School to maintain, as a matter of course, clear and consistent records of meetings with students.

THE MAPPING OF CONCERNS TO REGULATIONS AND GUIDANCE

Some concerns are self-evident, so, for example, if a student has been caught cheating in an examination by reading from a textbook which has been smuggled in to the examination room, or if a student has been thrown out of a Hall of Residence because of repeated bad behaviour, then there may be no need to state the details of the relevant University regulations which have been breached.

However in general, if possible, it is helpful to map allegations or concerns to specific University (or other) regulations (for example “failure to provide a medical certificate in relation to a 3 week absence with illness from 6 February to 27 February 2012 was in breach of the programme regulations which require the production of a medical certificate for any sickness absence of 5 days or more – see pages 29-30 of the MB ChB Programme Handbook 2011-2012”).

However, the words “regulations” and “guidance” do not mean the same thing. Caution is required when making reference to guidance when framing allegations, whether from the GMC, the University or any other body. It is now regarded as best practice not to include failure to follow guidance into an allegation, as guidance is just that, and whilst departures from it may need some explanation, it is not a source of legal obligation. Once a finding of fact has been made regarding an allegation, then the Fitness to Practise Committee is at liberty to explain (in its written determination) why the student’s behaviour is unsatisfactory, and this might include reference to, for example, the General Medical Council’s published guidance.

SELECTING THE DOCUMENTATION

WHAT CONTENT TO SELECT

A student’s file may run to many hundreds of pages, possibly starting with documentation of the UCAS form and the application and selection process, working forwards through the years.

For a single issue or narrowly focussed concern, then the documentation of that matter may well be sufficient. For more complex or longstanding problems, which can sometimes drag on at a low level for some years before finally coming to a head, the

Committee may need to see far more extensive documentation, and quite possibly the entire student record file.

The context is likely to be important, whether this is low level problem behaviour or a generally favourable record. When compiling the papers one should avoid selecting only adverse material and excluding favourable items, for the Committee is likely to need to know about good as well as bad.

It is important to ensure that included in the papers is documentation of any previous complaints (and their investigation), disciplinary hearings (e.g. Health & Conduct Committee, Progress Committee, University Disciplinary Committee), Fitness to Practise Committee meetings, and warnings.

OTHER HELPFUL INFORMATION

It will be helpful to those responsible for setting up the Fitness to Practise Committee to know the names of staff who have already been involved with the student, either in a support or advisory role, or as someone involved in making the decision to refer the student to the Fitness to Practise Committee, to help ensure that no individual with previous involvement is a member of the Fitness to Practise Committee (the exception being if the meeting is a reconvened meeting following a previous adjourned hearing).

CASES INVOLVING ILL HEALTH

A subset of fitness to practise cases involves students with significant health problems, and it is likely that these students will have been referred to the University Occupational Health Department which in turn may have arranged for a report from an independent specialist. If the Fitness to Practise Committee is to consider the student's fitness to practise, then it will need to have sight of any such independent report(s).

COMPILING THE DOCUMENTATION

PAGINATION & STRUCTURE

The absence of pagination can lead to delays at the hearing while those present are turning the pages of the papers searching for the item to which reference is being made. The need for pagination will to some extent depend upon the structure of the papers. Paginating the papers is good practice in all cases, but should definitely be considered if they run to (say) more than 20-50 pages. The use of a contents list is also good practice, particularly with longer documents.

There are many different approaches to structuring the papers, which include:

- A main document setting out the concerns, with numbered appendices containing key evidence and documentation
- A file with multiple sections, each consisting of a document setting out the concerns supplemented by numbered appendices containing relevant evidence.

- The entire student record file, in chronological order

Pagination can be done by hand. An alternative is for the papers to be scanned, using Acrobat Standard or Acrobat Professional (but not Acrobat Reader) to create a pdf file, and then using the header/footer function which enables very simple, reliable and neat pagination. This software also allows the scanning of individual documents which can then be merged into a single pdf.

One advantage of having the whole case file as a pdf file, is ease of sharing the information between (say) the University and members of the Fitness to Practise Committee, provided that the file is not too large to transmit by email. Acrobat Standard and Acrobat Professional have the facility to password protect a document. However a potential drawback to password protection is that some organisations have systems that prevent receipt of password protected documents.

A FILE SUMMARY

In a case where multiple concerns span a significant period, it may be helpful for the School to construct a document, in effect a summary of the concerns, which numbers and lists each concern, providing brief details of the problem and the relevant page numbers in the bundle of papers. An example of one page from such a “file summary” is provided at the end of this toolkit.

REGULATIONS AND PROFESSIONAL GUIDANCE

All Fitness to Practise Committees follow a local set of University regulations, and it is important to include a copy of the regulations with the papers for the Committee meeting - partly to help ensure that the Committee adheres to its own regulations, but also so that from the outset the student is aware of the possible outcomes and sanctions.

It is common during Fitness to Practise Committee meetings to make reference to guidance from the General Medical Council, such as ‘Good Medical Practice’, ‘Medical students: professional values and fitness to practise’ and ‘Tomorrow’s Doctors’. There may also be a need to refer to local University and/or Trust regulations. It is helpful to include copies of these documents with the case papers.

Fitness to Practise File Summary - Jeremy Arkwright
3.11.08

No	Date	Issue	Evidence	School's interpretation
1	1.12.07	<p>a) attends communication skills session saying it was a pointless exercise as he was already experienced in communicating with patients</p> <p>b) very abrupt throughout</p> <p>c) walked out of session after 15 minutes saying that this part of the course was quite unnecessary</p>	File note from Susan Jones, Communication Skills trainer 1.12.07 (page 16 of file)	Demonstrates an arrogant and complacent attitude to his own professional development, a disregard for the views of others, and lack of insight into his own abilities (see other evidence indicating very poor communication skills)
2	14.1.08	<p>a) Attended urinary catheterisation skills training session (duration 60 minutes) but left after 5 minutes</p> <p>b) Jeremy's mobile telephone had rung & said he had to leave urgently but that he knew how to do catheterisation anyway.</p> <p>c) Signed the attendance register as leaving</p> <p>d) Refused to re-arrange session</p>	File notes from John Bentham, Clinical Skills trainer 14.1.08 (file page 28)	Further evidence of missed skills sessions, inappropriate attitude, and concern about probity (signing in for missed session).
3	15.2.08	<p>a) Asked by letter from Medical School office to make appointment to see Professor Simon Jones, Associate Dean, to discuss concerns.</p> <p>b) Did not respond</p> <p>c) Reminded by email to make appointment</p> <p>d) Still did not respond</p>	Letter from Susan Smith, Medical School office 15.2.08 (file page 39), email from Susan Smith 25.2.08 (file page 40)	Unprofessional uncommunicative behaviour. Failure to respond to official communications from Medical School.
4	14.3.08	<p>a) Failed to attend neurological examination skills training</p> <p>b) failed to contact anyone with reason for absence</p> <p>c) Failed to re-arrange session</p>	<p>File note from Prof Julian Hedges (14.3.08)</p> <p>Programme Handbook (pages 29-30) - regulations concerning arranging clinical skills training</p>	Poor attitude to attendance & learning requirements. Lack of explanation for absence (despite regulations requiring absences to be explained). Failure to re-arrange missed training session.