

# GUIDANCE NOTES

The Role of the Investigating Officer

This guidance is focused on investigations undertaken on behalf of the Case Management Group, Academic Cases Committee, Student Fitness to Practise Committee and for Formal Complaints

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## INTRODUCTION

Based on the experience gained in recent years, and feedback provided by Investigating Officers this guidance has been developed to provide direction and support for those acting as Investigating Officers.

These notes are also informed by best practice in the sector and aim to clarify the requirements of this role and ensure a consistent and rigorous approach is taken.

Please familiarise yourself with the following documents relevant to your investigation:-

- Code of Practice on Student Fitness to Practise
- Code of Practice on Academic Misconduct
- Conditions of Training document – this is an extensive document which ensures that student conduct justifies patient trust in the professions for MBBS & PA students.
- Code of Practice on Investigation and Determination of Student Complaints
- Code of Practice on Fitness to Study

These documents can be found at:-

<http://www.hyms.ac.uk/staff-and-students/regulations-policies-and-codes-of-practice>

## BEFORE ANY INVESTIGATION

**An investigation can be undertaken on behalf of either the Case Management Group, Academic Cases Committee, Student Fitness to Practise Committee, or in relation to a Student Complaint; the process of the investigation is similar for all of these. When you are asked to act as Investigating Officer you will be advised whether you will report back to the CMG, ACC, SFtP Committee or for a complaint to the Board of Studies/Programme Director.**

The decision to refer to an Investigating Officer must be informed by a full discussion on the boundaries of the investigation, and questions/issues to be addressed by the investigation must be clearly defined. The scope of any investigation is outlined in a letter to the Investigating Officer to ensure clarity regarding the limits and extent of the investigation.

The student is advised of:-

- The Code of Practice which applies to the investigation
- The details of the concerns against them

- The identity of the Investigating Officer
- The scope and focus of the investigation
- Any suspension or limitation placed upon the continuance of their studies and/or clinical attachment during the period of the investigation if this is required.

## CHOOSING AN INVESTIGATING OFFICER

**NOTE:** The Investigating Officer must not be the student's current tutor, mentor, or supervisor.

The Investigating Officer is usually an academic member of staff (which includes honorary appointments within the NHS), a member of administrative staff of equivalent seniority, or a member of the Case Management Group or Student Fitness to Practise Committee.

Other factors to be taken into account include:

- Whether any particular personal qualities or experience and expertise would be relevant
- The need to distribute workload across appropriate staff
- The likelihood of completing the investigation on a reasonable timescale (preferably within 4 weeks)

The need to deal with the matter as quickly as possible to minimise the time a student must wait for the matter to be resolved must be balanced with the need for thoroughness and rigour. This must also take into account any consequences for the student's ability to progress and/or complete their studies.

## THE ROLE OF THE INVESTIGATING OFFICER

An Investigating Officer is appointed to establish, analyse and report on the factual accuracy of the concerns raised and to gather additional information. Detailed, clear, concise collation of the facts is the primary focus of the Investigating Officer's task; they are not required to make decisions about what action should be taken next. The Investigating Officer should adopt and maintain a neutral approach and remain impartial throughout the investigation. This impartial approach must also be reflected in the report submitted, presenting the facts as established whilst being neither advocate nor supporter for the student.

## THE INVESTIGATION

Usually an investigation will include:

- speaking to the person who raised the concern and any witnesses
- speaking to the student about whom the concerns were raised involved
- speaking with relevant individuals connected with the case

It may also require the Investigating Officer to:

Request information on the student's conduct and/or health<sup>1</sup>

Consider factual information about the student's professional progress on the programme, including any correspondence relating to the behaviour or incident causing concern. The Student Life and Wellbeing Officer in the School will normally be able to provide assistance with this aspect of the investigation and/or the Chair of the CMG/ACC/SFtP Committee. The need for additional information and further requests and/or other relevant documentation may become apparent as the investigation progresses.

The letter with regard to your appointment as Investigating Officer may recommend the most appropriate people for you to interview. Please remember that the Secretary to the CMG/ACC/SFtP Committee is always available for help and advice

If additional concerns come to light during the investigation process, please advise the School as this may be pertinent to the remainder of the investigation.

If you receive any information during the process which may indicate that an immediate suspension of the student should be considered, this should be brought to the attention of the Chair at the earliest possible time.

## THE INTERVIEW - POINTS TO REMEMBER

At the beginning of the interview, check that the student is fit and well to continue with the process.

Advise the student they can request a break at any time.

If they do not have a supporter present – ask if they are OK to continue

Encourage the student to be open and honest during the meeting and to challenge any allegation which may not be true

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<sup>1 1</sup> In order that a report can be produced, the student may be required to be assessed by a suitably qualified Health Practitioner as appointed by the School for this purpose. A low threshold for mental health issues should be considered for the purposes of referral

Advise the student that an audio/visual recording will be made of the interview and explain how this information will be retained and for how long retained at the beginning of the interview.

Investigating Officer meetings – retention for 2 years after student's graduation and stored securely within a Teams folder

Formal Meetings between Chair and students as part of CMG & ACC process - retention for 2 years after student's graduation and stored securely within a Teams folder

Formal Meetings between Chair and students as part of FtP process – retention for 6 years after student's graduation and stored securely within a Teams folder.

Panel Hearings - retention for 6 years after student's graduation and stored securely within a Teams folder.

No recording will be made without the full consent of all parties. Students will have the opportunity to check the accuracy of the minutes from the meeting and any disputes of facts can be checked using the audio/visual recording.

## **Practicalities**

- Interview the person who made the allegation, the student and witnesses on both sides. The interviewees should ideally be provided with at least three working days' notice and informed that they may be accompanied at the interview by a friend, fellow student, member of staff or Student Union representative from the Universities of Hull or York.
- Details of any accompanying representatives attending the interview should be shared with the Investigating Officer prior to the interview. Students are not permitted to have legal representation at these meetings.
- Interviews can take place via Microsoft Teams or face to face. All records and summaries should be dealt with in the same way as if the interview was held face to face.
- The Investigating Officer should appoint a note taker so they can concentrate on listening and asking questions without having to keep a record of what is being said. The interview will be recorded and consent must be obtained for this from all parties. The purpose of the notes taken at the interview is to provide a summary that the interviewer and interviewee can agree as a true record and will be used as an aide memoire to assist in writing the report. Details of how to obtain administrative support will be provided in the letter from the Chair of CMG/ACC/SFtP Committee.

- A precis of any interview conducted as part of the investigation process will be prepared by the note taker. This record should be agreed by the Investigating Officer and then shared with the student so they can either agree the factual account or offer any recommended changes. This can be done electronically
- It may be necessary to interview the student at the beginning of the process and then again as part of the last stage of the investigation to address any issues which may have arisen as part of the investigation.

### **During the interview**

- Remain totally impartial throughout the investigation and maintain confidentiality; at this stage, the concerns raised are not proven fact
- Make sure the student you are interviewing understands the concerns that have been raised and that they are clear about the purpose of your investigation.
- Seek out evidence to support the allegation(s), ascertaining as much detail as possible, including a review of any incidents which had previously led to this investigation which may have already been resolved.
- Prepare a list of questions in advance of each interview. Questions should usually be open and not leading. A question should not suggest any particular answer and must not convey the interviewer's own opinion. However, it may also be necessary to ask specific, closed questions to establish the facts as tightly as possible
- When interviewing the student/witness, ask if they are aware of anyone else who they feel can provide evidence related to the concern.
- Is the student able to demonstrate how they may act differently in the future if a similar problem arose again.
- Does the student understand why the School must investigate the concern.
- If appropriate, does the student demonstrate insight into their behaviour.
- For all staff members who are interviewed, it is good practice to record a short summary of their role and contribution to the process.
- For MBBS and PA students – it may be important to remind the student of the Conditions of Training documents which is signed at the beginning of each academic year and reiterate the importance of honesty, accountability and integrity before the start of the interview

- If at any point during the interview, sensitive information is released by the student – it may be necessary to stop the meeting. Alternatives to consider at this point:-

Does the student need a time out with their supporter?

As Investigating Officer are you the appropriate person to deal with a personal and sensitive disclosure?

In some circumstances, it may be that another gender may be more appropriate to take this forward – in that case, the student could be offered the opportunity to stop the current interview, appoint another investigating officer – this would have an impact on timeline and should be discussed in detail with the student. It is imperative that the student feels supported during this time and they are signposted to the most appropriate sources of support.

## **Checklist**

Make sure the student understands what concern is being investigated and why it is important for the School to investigate this.

Get the student to recount the incident in their own words.

Discuss the information which emerges, taking into account other evidence, with the aim of getting agreement about the basic facts. There may then need to be further exploration about the behaviour involved and whether the student understands why it causes such concern.

Find out from the student whether they think there is any relevant evidence you should seek or witnesses to speak to before concluding the investigation.

The investigating process should be concluded as swiftly as possible. If it is looking likely that the process may be protracted then you must inform either the CMG, SFtP Committee, ACC or the Chair of Board of Studies if this relates to a complaint. Ideally the report should be submitted within 1 month.

After you have concluded all of the required interviews and collated appropriate evidence prepare a formal written report of your findings.

## **THE INVESTIGATING OFFICER'S REPORT**

Please remember that the report and appendices will be shared with the student.

Refer to the student throughout the report only by their UCAS/SITS number without using their name or gender. If you provide any appendices to the report, they must be redacted.

All relevant issues, positive and negative, that should be brought to the attention of the Case Management Group, Academic Cases Committee, Student Fitness to Practise Committee or Complaints Panel must be included.

The report will vary depending on the issues being explored and the complexity of the range of cases. However all reports need to provide a record sufficient to provide the major source of evidence for significant decisions about a student's progress/fitness to practise, which in turn may be subject to scrutiny through an appeal process.

As Investigating Officer you will be provided with a report proforma which uses the following headings:-

**Background, relevant experience and expertise of the Investigating Officer (IO)**

**Matter under investigation**

**List of evidence considered**

**Chronology**

**Factual summary of evidence considered:**

**Observations, reflections and opinion**

**Summary**

## **FOR THE ATTENTION OF THE SCHOOL**

When investigating concerns about a student, it is common for systems failures to come to light, and it is important that these are addressed in the investigator's report, as they may help to explain a student's actions and may provide important mitigation. If this is the case, it is important to include this at the end of the report.

## **AFTER THE SUBMISSION OF THE REPORT**

Should there be a Hearing to consider the case further, it is likely that the investigator will be required to present the report and be prepared to present a summary and answer questions put by the School and by the student and/or the student's representative. Having taken on the role of investigator and potentially case presenter, it is generally accepted that the investigator should not be invited to be a member of a decision making body (including the CMG, ACC, SFtP Panel Committee or Panel).

Feedback on the Investigating Officer Report and a short summary of the follow up action should be provided to inform the on-going development needs of this role and individual.

## **USEFUL DOCUMENTS**

All the Codes of Practice relating to the School are on the website

Code of Practice on Student Fitness to Practise

Code of Practice on Academic Misconduct

Code of Practice on Fitness to Study

Code of Practice on Investigation and Determination of Student Complaints

The GMC website also has useful documents:-

GMC professional behaviour and fitness to practise

Achieving good medical practice

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