

# GUIDANCE NOTES

The Role of the Investigating Officer

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

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# THE ROLE OF THE INVESTIGATING OFFICER

It is important for you to familiarise yourself with the following documents which may be applicable to your investigation:-

- Code of Practice on Student Fitness to Practise
- Code of Practice on Academic Integrity and Conduct
- 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

These documents can be found at:-

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

However based on the experience gained over the past few years and the feedback provided by Investigating Officers and subsequent Panels, this guidance serves to provide further support for this important role. In addition to the experience within Hull York Medical School, this guidance also draws on best practice across the sector and intends to clarify the requirements of this role to ensure a consistent and rigorous approach.

## BEFORE ANY INVESTIGATION

**An investigation can be undertaken on behalf of either the Case Management Group, Student Fitness to Practise Committee or in relation to a Student Complaint, the process of the investigation is similar for all. When you are asked to act as Investigating Officer you will be advised whether you will report back to the CMG, SFtP Committee or for a complaint to the Head of Quality & Standards.**

An Investigating Officer is appointed to report on factual accuracy of the concerns raised and to gather additional information. The decision to refer to an Investigating Officer must be informed by a full discussion on the boundaries of the investigation, and there should be agreement on the list of questions/issues to be addressed by the investigation. The scope of any investigation should be discussed with the Investigating Officer and agreed so that there is clarity to 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 allegations 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 should 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 which will need 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

There is a need to deal with the matter as quickly as possible without compromising on thoroughness and rigour and the need to minimise the time a student must wait for the matter to be resolved. This must also take into account any consequences for the student's ability to progress and/or complete their studies.

## THE INVESTIGATION

The Investigating Officer may request the following information from a number of different individuals connected with the case:-

- Comments on the student's conduct and/or health<sup>1</sup>
- Factual information about the student's professional progress on the programme, including any correspondence relating to the behaviour or incident causing concern. The Student Support Manager in the School will normally be able to provide assistance with this aspect of the investigation and/or the Chair of the CMG/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/SFtP Committee is always available for help and advice.

The Investigating Officer should interview the student and any other individuals relevant to the investigation.

The Investigating Officer does not make any decision about the case, their role is to record the evidence and its analysis.

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.

## POINTS TO REMEMBER

**At the beginning of the interview, it is a good idea to check that the student is fit and well to continue with the process.**

**If any recording is to be made of the interview, it must be made clear to the student how this information will be stored and that the electronic version will be destroyed once the transcript of the interview has been agreed by both parties. No recordings must be made unless both parties agree.**

- You must remain totally impartial throughout the investigation and maintain confidentiality.
- Remember, at this stage, these are allegations and not proven fact.
- You should keep in mind the balance between patient/service user and public safety, the overall interests of the student and the need maintain trust in the profession.

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<sup>1</sup> The student, in order that a report can be produced, 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

- You must try to seek out evidence to support the allegation(s).
- You will need to ascertain as much detail as possible, including a review of any incidents which had previously led to this investigation which may have already been resolved.
- It is important to 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.
- It is helpful for the Investigating Officer to 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 should not convey the interviewer's own opinion.
- Any interview with the student and other parties should ideally be held face to face. Where this is not possible, a telephone/Skype interview may be held but all records and summaries should be dealt with in the same way as if the interview was held face to face.
- A precis of any interview conducted as part of the investigation process will be prepared by the note taker. This record should be signed and dated by the Investigating Officer and the content agreed with the student/witness – this can be done electronically
- 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. By agreement, an interview may be recorded, especially where detail may be important. The purpose of the notes taken at the interview is to provide an account 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.
- 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.

- 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.
- When interviewing the student, you should ask if they are aware of anyone else who they feel can provide evidence related to the concern.
- As a check list, the interview should include:-
  - Making 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 or the Head of Quality & Standards 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 you must then prepare a formal written report of your findings.

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

Where appropriate the report should include positives about the student history and/or any relevant issues that should be brought to the attention of the Case Management Group, Student Fitness to Practise Committee or Complaints Panel.

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

Throughout all reports the student should be referred to only by their UCAS/SITS number without using their name or gender. Depending on the nature of the supporting evidence this may by its nature identify the student by name and therefore this should either be redacted or provided as a separate appendix.

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

The report should ideally follow the structure below:-

- **Matter under investigation** – a clear statement of the allegation or concern and why it is significant to the practice or study of the student.
  - **List of evidence identified and used.** This should include a list of those interviewed, where and when. Written evidence should be provided as an appendix to the report.
  - **Account of the factual investigation.** A description of the facts of the matter as revealed by the investigation. It is useful to keep this section confirmed to established fact with any matter of opinion clearly labelled as such.
  - **A chronological summary.** The chronology should not selectively include only adverse matters but include data on all basic aspects including ones that are favourable to the student.
  - **Observations.** This is where the investigator summarises their thought processes in relation to what the facts mean in term of the student’s study or fitness to practise. It can highlight discrepancies, weak explanations and the questions which emerge about the student’s underlying insight and ability to make decisions about their behaviour. The investigator is expressing an opinion but provided that follows from the facts determined and there is no prejudice, it is appropriate to do so in this section.
- Recommendation.** It is important to distinguish between the role of the Investigating Officer and the CMG/SFtP Committee. The Investigating Officer is in place to gather the factual evidence and the subsequent Group, Committee or Panel will make the final decisions. It may be necessary to take into consideration the maturity of the student, mitigation etc when writing the report.

## 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 of their report 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, 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

- Code of Practice on Student Fitness to Practise - <https://www.hyms.ac.uk/staff-and-students/regulations-policies-and-codes-of-practice>
  - Code of Practice on Academic Integrity and Conduct - <https://www.hyms.ac.uk/staff-and-students/regulations-policies-and-codes-of-practice>
  - Code of Practice on Investigation and Determination of Student Complaints - <https://www.hyms.ac.uk/staff-and-students/regulations-policies-and-codes-of-practice>
  - GMC professional behaviour and fitness to practise - ([http://www.gmc-uk.org/education/undergraduate/professional\\_behaviour.asp](http://www.gmc-uk.org/education/undergraduate/professional_behaviour.asp))
- GMC Achieving good medical practice - ([http://www.gmc-uk.org/education/undergraduate/achieving\\_good\\_medical\\_practice.asp](http://www.gmc-uk.org/education/undergraduate/achieving_good_medical_practice.asp))

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