

The Procedure for Consideration of Fitness to Practise is governed by Resolution No. 672, which at the time of publication was in draft form.

**Introduction**

36.0.1 Where a programme of study requires the student to act in the course of practical training in a quasi-professional role in relation to patients, children, clients or service-users or where the qualification provides a direct licence to practise, the University has a duty to ensure that the student is fit to practise. Students registered for these programmes of study are subject to separate fitness to practise procedures. The aims of the procedures are:

- a) to protect present or future patients, children, clients or service users;
- b) to comply with the requirements of professional bodies;
- c) to protect the health and wellbeing of students and to ensure that they are appropriately prepared for entry to the profession and clearly understand and demonstrate professional behaviour;
- d) to protect the institution against legal action brought by an individual, or the representative of an individual, claiming to have suffered loss as a result of a student proving during training or after qualification to be unfit to practise.

To these ends, fitness to practise is assessed not only in terms of academic attainment but is assessed in accordance with relevant professional concerns and expectations.<sup>1</sup>

**Principles****36.1 School Code of Professional Conduct and Fitness to Practise**

Schools and Research Institutes providing programmes of study leading to the degrees listed below shall prepare a School/Research Institute Code of Professional Conduct and Fitness to Practise<sup>2</sup> derived from any related code developed by the relevant professional or accrediting body for students, trainees or other members of the profession.

***School of Education***

MEduc

Postgraduate Diploma in Education

BTechEd

BTechS

MA with Teaching Qualification

Dip/MEd Community Learning & Development

BA Community Development

BA in Childhood Practice

***School of Interdisciplinary Studies***

MA Primary Education with Teaching Qualification

Postgraduate Diploma in Education

***School of Medicine, Dentistry & Nursing***

MBChB

MBChB graduates who are Foundation Year 1 doctors holding provisional registration with the GMC (the term "student" in this document also refers to these doctors)

BDS

BN

MSc (Dent Sci) (Endodontics; Oral & Maxillofacial Surgery)

***Institute of Health & Wellbeing***

Doctorate in Clinical Psychology

***School of Veterinary Medicine***

BVMS

Students will be made aware of the published guidance from professional/regulatory bodies which accredit the above degrees, and these should be read in conjunction with this procedure.

<sup>1</sup> The University's responsibilities under the Equality Act 2010 shall be taken into account in considering fitness to practise.

<sup>2</sup> From hereon referred to as the 'School Code of Professional Conduct and Fitness to Practise'.

### **36.2 Students and the Code**

- i) A student registered for one of the programmes of study which are subject to fitness to practise procedures may be treated differently from other students of the University if there is any question as to whether they are a fit and proper person to practise their intended profession.
- ii) All new entrants to programmes of study which are subject to fitness to practise procedures shall undergo training before the end of the first semester of the first year of study, designed to explain the nature and effect of the School Code of Professional Conduct and Fitness to Practise. The training shall address the relevance of compliance and non-compliance with the Code in respect of their progress on the programme.
- iii) Continuing students on programmes of study which are subject to fitness to practise procedures shall be provided with a copy of the current School Code of Professional Conduct and Fitness to Practise within the first five weeks of each session and their attention drawn to any changes.
- iv) Where a student has failed to comply with a School Code of Professional Conduct and Fitness to Practise the student may be required to leave the programme of study.
- v) All communication between the University and the student regarding Fitness to Practise cases will generally be conducted by email, to the student's University email address, unless the student advises that they prefer written communication. Committee documentation and the Committee outcome letter will both also be available in hard copy on request.

### **36.3 Fitness to Practise and the Criminal Law**

- i) Where the University believes that a criminal offence may have been committed, either on campus or off campus, it may report the matter to the police.
- ii) Where criminal proceedings against a student are on-going, the University may:
  - a) suspend action under this Procedure until the outcome of those proceedings is known;
  - b) postpone making a decision about whether to take action under this Procedure until the outcome of those proceedings is known; or
  - c) decide to continue with or commence action under this Procedure.
- iii) The University may still take action under this Procedure for an incident that has been considered by a criminal court, whether or not the student has been found guilty of any criminal offence by the court.
- iv) Where a student is convicted of an offence, the University may use this information as evidence in Fitness to Practise proceedings if it is directly relevant to the matter being considered.

### **36.4 Applicants and Publicity**

- i) Where fitness to practise procedures apply to a programme of study this shall be noted in the publicity material for the programme (including the University Prospectus) and a copy of the School Code of Professional Conduct and Fitness to Practise shall be made available on request.
- ii) Applicants shall be made aware when fitness to practise procedures apply to the programme of study for which they have applied and the implications of this. A copy of the School Code of Professional Conduct and Fitness to Practise shall be provided with the final confirmation of admission.

### **36.5 Breaches of the Code - Overview**

#### ***Informal resolution***

- i) Where a concern is reported about a potential breach of the Code or where there is a pattern of behaviour or an issue of persistent ill health, which may have a bearing on fitness to practise, the School shall document the issue and agree with the student appropriate action and a deadline by which any action must take place. Where possible the matter shall be dealt with informally. The School shall ensure that the student is made aware of the support services which are available: such as Adviser of Studies or equivalent, the Barclay Medical Centre, Counselling & Psychological Services, Student Disability Service and the Students' Representative Council.

#### ***Formal procedure***

- ii) If the agreed action is not carried out or there has been a repetition of the behaviour causing concern or the alleged behaviour is considered to be unprofessional and of sufficient seriousness that the informal process is inappropriate, the matter will be referred for formal consideration by the School Fitness to Practise Committee and the Head of School Administration, or nominee, shall write to the student informing them of the referral and of the reason(s) for the referral.
- iii) Any such referral shall follow the procedure set out below.

#### ***Appeal process***

- iv) A student who wishes to appeal against any decision of the School Fitness to Practise Committee may appeal to the Senate Fitness to Practise Appeals Committee in accordance with the procedure set out below.

### **36.6 Members of Committee**

- i) Schools providing a programme of study leading to any of the degrees listed in §36.1 shall establish a School Fitness to Practise Committee<sup>3</sup> the members of which are appointed annually. Members shall normally serve for three years and may be re-appointed after this term.
- ii) The Senate shall establish a Senate Fitness to Practise Appeals Committee, the members of which shall be appointed annually. Members shall normally serve for three years and may be re-appointed after this term.
- iii) Members of School Fitness to Practise Committees and the Senate Fitness to Practise Appeal Committee, including external members, shall be given appropriate guidance.
- iv) The membership of School Fitness to Practise Committees and the Senate Fitness to Practise Appeals Committee shall be reported to the Senate annually.

### **Procedure for Consideration of Fitness to Practise**

#### **36.7.1 Roles within the Procedure**

- i) The Head of School shall appoint members of senior University staff with an appropriate clinical/professional background (which may include themselves) to the following roles within the procedure:

Fitness to Practise Officer;<sup>4</sup> considers cases in the first instance and determines which aspect of the procedure should be applied (for example informal route, or referral to School Fitness to Practise Committee); may also appoint an appropriate Fitness to Practise Investigating Officer or may undertake this role themselves (in terms of §36.7.6), and may take interim action such as temporary suspension from studies or professional placement.

Convener of School Fitness to Practise Committee.

- ii) The roles of Fitness to Practise Officer and Convener of School Fitness to Practise Committee shall be undertaken by separate individuals at all times.

#### **36.7.2 Initial (informal) Procedure**

- i) Any person(s) having a concern about the conduct or health of a student which they believe may constitute or result in unprofessional behaviour and/or a breach of a School Code of Professional Conduct and Fitness to Practise should report their concern in writing to the Fitness to Practise Officer of the School in which the student is studying. The report must be signed and dated by the person or persons responsible for making the report. In exceptional circumstances, the Fitness to Practise Officer may permit the identity of the person making the report to remain confidential where it is considered necessary to protect the interests of the person making the allegation.
- ii) On receipt of the written report referred to above, the Fitness to Practise Officer may refer the matter to the appropriate Programme Director, or Head of Subject, who shall investigate the matter, interview the student and consult such persons as it is deemed necessary to determine the facts of the case. Where possible the matter shall be resolved informally with the agreement of the student and any one affected.
- iii) At this informal stage, a student may be accompanied by a supporter such as a family member, friend, member of staff, or member of the SRC, but shall not normally be permitted to be represented by a formally appointed individual at any interview relating to fitness to practise.
- iv) A record shall be kept of any written reports received by the Fitness to Practise Officer under (i), any referral made under (ii), of any interview(s) concerning the referral and of any action subsequently taken.

#### **36.7.3 Referral to the School Fitness to Practise Committee**

- i) A student shall be referred to the School Fitness to Practise Committee in the following circumstances:
  - a) where a minor incident is repeated and is considered by the Fitness to Practise Officer to constitute a pattern of behaviour which is unprofessional and/or not compliant with the School Code of Professional Conduct and Fitness to Practise;
  - b) where a review of the progress made by the student following action agreed under the informal procedure indicates that there remains a concern about unprofessional behaviour and/or a potential breach of the School Code of Professional Conduct and Fitness to Practise;
  - c) where a reported concern is deemed by the Fitness to Practise Officer to be of sufficient seriousness to warrant immediate referral to the School Fitness to Practise Committee rather than resolution by the informal procedure.
- ii) In the event that the case has involved two or more students, the Fitness to Practise Officer has the option to recommend to the Convener of the Fitness to Practise Committee that the cases of the students be heard collectively.

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<sup>3</sup> Schools/Research Institutes may agree to establish a joint School Fitness to Practise Committee covering more than one area. The School of Medicine, Dentistry & Nursing Fitness to Practise Committee will cover any cases from the Institute of Health & Wellbeing, and will include representatives from the Institute on its membership.

<sup>4</sup> The Head of School may appoint a further member of senior University staff with an appropriate clinical/professional background to deputise for the School Fitness to Practise Officer or to consider individual cases jointly with the Fitness to Practise Officer as necessary.

#### **36.7.4 Referral to the Senior Senate Assessor for Student Conduct**

- i) If on receipt of a reported concern over fitness to practise or in the course of investigating such a concern, the Fitness to Practise Officer considers that both unprofessional behaviour and a breach of the University Code of Student Conduct may have occurred, they shall advise the Senior Senate Assessor for Student Conduct accordingly, in writing. The Fitness to Practise Officer and Senior Senate Assessor for Student Conduct will then determine how the cases shall be considered. Cases based on behaviour within the professional context, such as activities on professional placement, or involving interaction with patients or clients, will normally be referred under the Procedure for Determining Fitness to Practise in the first instance. Cases concerning misconduct which could also be perpetrated by students in non-professional areas, such as academic misconduct (plagiarism, cheating in examinations), disruptive or anti-social behaviour, or behaviour which may harm the reputation of the University, would normally be referred under the Code of Student Conduct in the first instance. In all cases, the University reserves the right to consider a student's behaviour under both the Procedure for Determining Fitness to Practise and the Code of Student Conduct if it has good reason to believe that there has been or may have been both a fitness to practise concern, and a breach of the Code of Student Conduct.<sup>5</sup>

#### **36.7.5 Referral by the Senior Senate Assessor for Student Conduct to the Head of School**

- i) If on receipt of a report of misconduct, or in the course of investigating such conduct, the Senior Senate Assessor considers that there is both a fitness to practise concern and that a breach of the Code of Student Conduct may have occurred, they shall advise the relevant School's Fitness to Practise Officer accordingly, in writing. A determination will then be made as per §36.7.4 about how the cases shall be considered.

#### **36.7.6 Suspension of Study**

- i) The Head of School or Fitness to Practise Officer may temporarily suspend the student's studies and may limit access to University facilities or to placement premises pending investigations under any of the provisions relating to the procedures for determining fitness to practise where suspension is justified to protect the interests of patients, children, clients or service users, the student concerned, other students or members of staff of the University.
- ii) The decision to suspend a student should, whenever practicable, be communicated in person to the student by the Head of School or Fitness to Practise Officer, in liaison with advising support (welfare) for the student. The student will be invited to bring a supporter or representative to the meeting. In all cases, the student shall be given written notice of the suspension.
- iii) The student shall have the right to call for a review of the suspension by the Head of School or Fitness to Practise Officer after 20 working days.<sup>6</sup>
- iv) The review of the suspension shall be conducted by a senior member of the College who has not been involved in the referral or the investigation of the referral and who is not a member of the standing School Fitness to Practise Committee.

#### **36.7.7 Investigation of a breach of the School Code of Professional Conduct and Fitness to Practise or other unprofessional behaviour**

- i) In the event of a student being referred to the School Fitness to Practise Committee on one or more of the grounds referred to at §36.7.3, the Fitness to Practise Officer shall appoint an Investigating Officer, or may undertake this role themselves. The Investigating Officer shall be a senior member of the School and may also be a member of the School Fitness to Practise Committee, in which case, they will not sit on the panel hearing for the specific case under investigation.
- ii) The Fitness to Practise Officer shall inform the student in writing of the reasons for the referral to the School Fitness to Practise Committee and the name of the Investigating Officer and shall state the procedure for the investigation. The student shall be invited to provide a written statement to the Investigating Officer within 10 working days concerning the matters raised in the referral. The student shall have the right to representation by a member of the SRC or other formally appointed representative or to be accompanied by a family member or friend at any meeting with the Investigating Officer.
- iii) The Investigating Officer in the presence of another member of staff may interview the student and may interview any person or persons named in the referral or responsible for the referral. Details of the student's academic record and any other relevant documentation shall be made available to the Investigating Officer. The notes of the interviews shall be retained in the record of the investigation and a reference to the investigation shall be held in the student file.
- iv) The student may be required by the Investigating Officer to attend an appointment with a relevant University support service in order to ascertain their fitness to practise.
- v) Strict confidentiality shall be observed throughout the course of the investigation.

<sup>5</sup> A matter will not normally be referred to the second procedure until the time permitted for an appeal under the first procedure has elapsed without any appeal being lodged or until any appeal has been heard and a decision has been reached.

<sup>6</sup> For the purposes of this Procedure, Monday to Friday are counted as working days except when the University is closed for a Public Holiday (as listed at <https://www.gla.ac.uk/myglasgow/humanresources/all/worklife/public/holidays/public/>). Saturdays and Sundays are not counted as working days.

- vi) The Investigating Officer shall prepare a written report of the investigation normally within 20 working days of their appointment. If it is not practicable to provide the written report within this timescale, the student shall be informed of the reason for the delay and a new timescale shall be provided.

The report shall include a recommendation relating to the continuation or otherwise of any suspension from study. The Fitness to Practise Officer shall determine, on the basis of the Investigating Officer's report, whether to refer the case to a School Fitness to Practise Hearing or to manage the case by the informal procedure or alternatively that no breach of the School Code of Professional Conduct and Fitness to Practise has occurred.

- vii) The Fitness to Practise Officer shall inform the student and their representative in writing of their decision within five working days of the availability of the Investigating Officer's report.

#### **36.7.8 Retention of Records during the Investigation**

All papers relating to an allegation under investigation shall be held in a file clearly marked 'under investigation' in the office of the Head of School Administration. A reference to the investigation shall be held in the student's file.

#### **36.7.9 Constitution of the School Fitness to Practise Hearing**

- i) A Fitness to Practise Hearing (a 'Hearing') shall take place before a panel which will be drawn from the membership of the School Fitness to Practise Committee. In particular the panel who will make up the Committee for the purposes of the Hearing shall be constituted as follows:
  - a) the Convener, as appointed by the Head of School (see §36.7.1);
  - b) four members drawn from the membership of the School Fitness to Practise Committee as appointed by the School in which the student is studying, one of whom may be a lay member of the relevant professional body or lay member of the University;
  - c) a representative member or registrant of the relevant professional body concerned who is not a member of the University.
- ii) A junior member of the relevant professional body concerned may also join the membership of the panel for the Hearing.
- iii) No person who has signed or co-signed a referral or report or who undertook the investigation of the alleged breach or was involved in an informal consideration of the alleged breach may sit on the panel hearing the case.
- iv) The Committee may have the assistance of a legal adviser.
- v) The Head of School Administration or their nominee shall act as Clerk to the Committee.

#### **36.7.10 Arrangements for a Hearing**

- i) Timing of a Hearing

Where a Hearing is required, it shall normally take place within 20 working days of the date of the letter of notification from the Fitness to Practise Officer to the student intimating the decision following the investigation.

- ii) The student will have the opportunity to meet with the Clerk to the Committee (or nominee) within five working days following the recommendation to proceed to a Hearing. The student will be invited to bring a supporter or representative to this meeting where they will receive advice regarding the procedural aspects of the Hearing and the documentation to be submitted.
- iii) Preparation of the papers

The Clerk to the Committee shall:

- a) provide the student (or their representative) with a copy of the original report submitted to the Fitness to Practise Officer subject to any action taken to protect the anonymity of the person making the report in terms of §36.7.2;
  - b) provide the student (or their representative) with a copy of the report if one has been prepared by an Investigating Officer;
  - c) invite the student (or their representative) to submit a written statement in response to the statements contained in the report(s);
  - d) invite the student (or their representative) to submit any other documentation which the student wishes the Committee to consider at the Hearing.
- iv) The student (or their representative) shall be provided no less than 10 working days in advance of the Hearing, with a copy of all papers which shall be before the Committee at the Hearing.
  - v) The Clerk to the Committee shall notify the student (or their representative) no less than five working days prior to the Hearing of the date, time and location of the Hearing and the names of the panel who will make up the Committee for the purposes of the Hearing.

#### **36.7.11 Attendance at Hearing**

- i) The student shall be required to attend the Hearing in person. Where the student is prevented from attending by ill health, the Hearing shall normally be deferred on submission of medical evidence. If the student does not attend on

the date appointed and no notification of the absence has been received, if the Convener is satisfied that the student has received due notice of the hearing, the Committee may proceed to deal with the case and to reach a decision in the student's absence.

- ii) The Fitness to Practise Officer or their appointed representative shall attend the Hearing to present the circumstances of the referral and shall have the right to name any person or persons they wish to be present to provide evidence relating to the referral.
- iii) The student shall have the right to be accompanied, assisted or represented at the hearing by one of the following: a parent or guardian; a fellow student or other friend; an Adviser from the Students' Representative Council Advice Centre; a member of University staff, or any other person. The student shall inform the Clerk to the Committee at least five working days before the hearing of the name of any legal representative. Where the student seeks to have two individuals in attendance, one shall attend as an observer only.
- iv) The student may name any person or persons they wish to be present to provide evidence on their behalf; however any such person is under no obligation to attend the hearing or provide written evidence. The name of any person or persons, called by the student, who have agreed to provide evidence shall be provided to the Clerk to the Committee no later than 10 working days before the date of the Hearing. The student shall be responsible for arranging the attendance of such persons at the Hearing with the exception of members of staff of the University who shall be notified of the date, time and location of the Hearing by the Clerk to the Committee.
- v) If any person or persons are unable or unwilling to attend the Hearing, the Convener shall be responsible for deciding if the Hearing should proceed on the date arranged or be deferred. A written statement may be presented by any person who has been invited to attend the hearing but is not available at the date specified. In considering such written statements, the Committee shall note that it will not be possible to pursue or clarify any issues arising from them, and in such cases the weight of such evidence may be limited.
- vi) The Hearing shall be held in private. Strict confidentiality shall be observed.

#### **36.7.12 Professional Advice**

- i) Where the Committee requires the advice of an expert to deal with a question of fact or special difficulty, such an expert shall provide a written report and where appropriate shall be invited to attend the Hearing to provide evidence.

#### **36.7.13 Procedure for the Conduct of a Hearing**

- i) The Committee shall rely only on the papers which have been prepared for the Hearing, and evidence presented at the Hearing. Unauthorised electronic recordings of previous meetings or events will not be admissible as evidence at the hearing.

#### **ii) Statements**

At the Hearing:

- a) the Convener shall invite the student and their representative to make a statement. If the student declines the invitation to make a statement, the Committee shall reserve the right to question the student directly;
  - b) the Fitness to Practise Officer or their nominee shall present the circumstances of the case. The Committee shall then address any questions to the relevant parties including those appearing to advise the Committee or called to provide evidence and shall afford the student and their representative an opportunity to question the persons involved through the Convener;
  - c) the Committee shall consider any request from any person present at the hearing to make a statement or to put questions through the Committee to anyone whom the Committee has examined;
  - d) the Committee shall afford the student an opportunity to make a final statement or to have one made on their behalf;
  - e) the Convener shall seek confirmation from all parties that all necessary information has been conveyed to the Committee, that, in their opinion, the questioning is complete and that in the opinion of the student, the hearing has been conducted in a fair and reasonable manner.
- iii) Thereafter all persons except the Fitness to Practise Committee, its Clerk and any legal adviser(s) appointed to advise the Committee shall retire while the Committee considers its decision. The Committee shall reach its decision or defer the decision pending further investigations.
  - iv) In reaching its decision the Fitness to Practise Committee shall not be bound by the rules of evidence. The Committee shall attempt to ascertain all relevant facts with a view to coming to a reasonable disposal.
  - v) At any stage the Convener may adjourn the hearing if they consider this to be necessary.
  - vi) Any unauthorised electronic recording of the hearing is expressly forbidden by the University, and may constitute a student conduct offence in terms of the Code of Student Conduct.

#### **36.7.14 Disposal**

- i) The Committee shall decide the matter at the conclusion of its consideration of the referral or as soon as possible thereafter.

- ii) The Committee may decide by a majority and the Convener will have the casting vote in any decision relating to the student if necessary.
- iii) The following outcomes are open to the Committee following a hearing:

- a) The student receives no warning or sanction.
- b) The student receives a warning as there is evidence of misconduct but the student's fitness to practise is not impaired to a point requiring any further sanction.
- c) The student receives a sanction. Sanctions are as follows:

*Undertaking* – A promise given by the student in writing to the Committee that there will not be a repeat of the circumstances or behaviour leading to the referral.

*Undertaking and Conditions* – A promise given by the student in writing to the Committee that there will not be a repeat of the circumstances or behaviour leading to the referral and that they agree to the conditions or actions which may be imposed or applied. These include but are not limited to:

- remedial tuition; or
- repeat of specified part(s) of the programme of study; or
- increased supervision.

*Suspension* – This prevents a student from continuing on their programme for a specified time and stops them from graduating at the expected time. During the period of suspension, the student may undergo a medical assessment or medical treatment, or other form of remedy and thereafter be required to demonstrate fitness to practise to the satisfaction of the Fitness to Practise Officer.

*Expulsion* – The Committee can expel a student from the programme if they consider this is appropriate for ensuring the protection of the patient, or client group, or the public. It is applied where the student's behaviour is fundamentally incompatible with continuing on a professional programme.

- iv) Where a student is unable to demonstrate fitness to practise to the satisfaction of the Fitness to Practise Officer at the conclusion of a specified period of supervision or completion of medical treatment or other form of remedy, the case shall be referred to the School Fitness to Practise Committee for further consideration.
- v) The Committee's decision and the reasons for the decision, with reference to any findings of fact, shall be provided in writing to the student by email normally within 10 working days of the decision being determined. If it is not practicable to provide the decision and the reasons for the decision within this timescale, the student shall be informed of the reason for the delay and a new timescale shall be provided.

#### **36.7.15 Records and Reports**

- i) The Clerk to the Committee shall prepare a written report of the Hearing. The report and the papers presented to the School Fitness to Practise Committee shall be held in a confidential file in the office of the Head of School Administration. A reference to the report shall be held in the student's file until the conclusion of the programme of study after which the report shall be archived and retained for the anticipated professional life of the individual. The School Fitness to Practise Committee shall decide whether a report shall be submitted to the professional body.

#### **36.7.16 Annual Review**

- i) The School Fitness to Practise Committee shall review its proceedings annually and shall provide an annual report to Senate.

### **Review by the Senate Fitness to Practise Appeals Committee**

#### **36.8.1 Jurisdiction of the Senate Fitness to Practise Appeals Committee**

- i) The Senate Fitness to Practise Appeals Committee ("the Appeals Committee") shall consider appeals by students against a decision of a School Fitness to Practise Committee which falls within the scope of grounds for an appeal to Senate.

#### **36.8.2 Lodging an appeal**

##### ***Time within which an appeal is to be lodged and late appeals***

- i) Where an appeal lies against a decision of the School Fitness to Practise Committee in terms of §36.8.3, the appeal or an intimation of intention to appeal shall be submitted in writing to the Director of the Senate Office within 10 working days of the intimation to the student of the decision against which the student is appealing. Where an intention to appeal is submitted, the full appeal shall be submitted within 20 working days of the date of the letter intimating the intention to appeal.
- ii) An application for an extension of time for submitting an appeal beyond 20 working days shall be made in writing to the Director of the Senate Office for the attention of the Clerk of Senate and shall include sufficient information concerning the nature of the appeal, shall state the grounds on which an extension of time is sought and be accompanied by such evidence of medical or other adverse personal circumstances as are relevant to the application.

- iii) An application for extension of time for submitting an appeal shall not be granted unless the Clerk of Senate is satisfied that the student was precluded from appealing within 20 working days as a result of serious illness or other circumstances which are both exceptional and relevant to the appeal.

### **36.8.3 Grounds for an appeal**

- i) An appeal may be made to the Appeals Committee against a decision of a School Fitness to Practise Committee only on the grounds that:
  - a) new evidence has emerged which could not reasonably have been produced to the School Fitness to Practise Committee;
  - b) there has been defective procedure at School level;
  - c) the disposal by the School Fitness to Practise Committee was manifestly unreasonable.
- ii) In the case of a claim of unfair or defective procedure, evidence in the form of written statements or formal documents must be provided. Advice on a subject data access request can be obtained from the Data Protection Office at:  
<https://www.gla.ac.uk/myglasgow/dpfooffice/a-ztopics/subjectaccessrequestsar/>
- iii) Where the student claims that the disposal at School level was unreasonable; the student must state in writing the respects in which they believe that the School Fitness to Practise Committee erred in coming to its decision or was mistaken in that decision.

### **36.8.4 Content of a letter of appeal**

- i) The letter of appeal shall state:
  - a) the name and address of the student and the telephone number and email address;
  - b) the decision appealed against;
  - c) all the grounds for the appeal: additional grounds may be admitted subsequently only at the discretion of the Convener; additional grounds presented at the hearing may lead to adjournment of the hearing;
  - d) the remedy or remedies which the student seeks;
  - e) the name and address of any person whom the student has appointed as a representative or who will accompany the student at the hearing.

### **36.8.5 Constitution of the Senate Fitness to Practise Appeals Committee**

- i) The Appeals Committee shall be constituted as follows:
  - a) the Clerk of Senate as Convener;
  - b) the Senior Senate Assessor for Student Appeals or their deputy;
  - c) two members drawn from a panel made up of two nominees from each School with a fitness to practise procedure;
  - d) two representative members of the profession concerned who are not members of the University.
- ii) These six members shall constitute the quorum.
- iii) A representative of the student body may attend the hearing in the role of observer unless the subject of the referral has expressed the wish that no such representative shall be present.
- iv) No member of a School Fitness to Practise Committee shall be entitled to serve on the Appeals Committee. Where a member of the Appeals Committee has participated directly in the decision appealed against, that member shall not sit for that appeal.
- v) The Appeals Committee may have the assistance of a legal adviser.
- vi) The Director of the Senate Office or their nominee shall act as Clerk to the Appeals Committee.

### **36.8.6 Consideration of appeals**

#### ***Power to give directions***

- i) Upon receipt of a letter of appeal, the Convener may direct the student (or their representative) or any party to the proceedings, to furnish additional evidence, information or explanation as may be thought to be appropriate.
- ii) A direction to the student (or their representative) shall state the period of time by which the student shall respond in writing following which the appeal may be dismissed by the Convener.

#### ***Preliminary Disposal***

- iii) The Convener after consultation with two members of the Appeals Committee may make a preliminary disposal in order to accelerate a decision. The Convener may:
  - a) dismiss the appeal because the subject-matter of the appeal does not fall within the scope of §36.8.3;

- b) dismiss the appeal because no competent grounds have been stated or because the appeal is frivolous or vexatious or because the appeal is out of time or because the student failed to comply with a direction made in terms of §36.8.6(i) and (ii);
  - c) dismiss the appeal because it does not establish a *prima facie* case that disposal at School level involved defective or unfair procedure, or a failure to take relevant evidence of medical or other adverse personal circumstances into account or was manifestly unreasonable;
  - d) dismiss the appeal because the new evidence submitted by the student could reasonably have been presented to the School Fitness to Practise Committee;
  - e) refer the appeal to the School Fitness to Practise Committee with whatever guidance or direction it considers appropriate, which may include a direction that the case is heard again by a Committee which is not constituted by any member who was involved in the first decision;
  - f) refer the appeal to the Senate Fitness to Practise Appeals Committee for a full hearing.
- iv) The Convener may also take such other interim action by way of direction as they deem appropriate.
  - v) The Clerk to the Appeals Committee shall state in the letter to the student (or their representative) intimating the outcome of the preliminary disposal the reasons for the decision and shall provide the papers which were considered by the Appeals Committee.
  - vi) An appeal which has been dismissed under preliminary disposal may be reinstated if the student (or their representative) makes representation stating that the Appeals Committee overlooked an aspect of the original appeal. The representation and the reasons shall be made in writing within 10 working days of the date of the letter intimating the outcome of preliminary disposal. An appeal can only be reinstated if it is shown that the Appeals Committee did not consider one or more aspects of the original appeal.

#### **36.8.7 Arrangements for a Hearing before a Senate Fitness to Practise Appeals Committee**

##### i) Timing of the hearing

When a full hearing is required, the Appeals Committee shall meet within 20 working days of receipt of the letter of appeal or as soon thereafter as is practicable.

##### ii) Preparation of the papers

The Clerk to the Appeals Committee shall:

- a) request a copy of the papers which were before the School Fitness to Practise Committee and a report of the hearing including information relating to the manner in which the decision appealed against was reached;
- b) request any other reports or information relevant to the appeal;
- c) request the Convener of the School Fitness to Practise Committee to provide a written response to the statements made in the letter of appeal and to name any person or persons whom they wish to appear to provide evidence;
- d) provide the Appeals Committee and the student normally 10 working days before the hearing with a copy of all papers relevant to the appeal;
- e) notify the student no less than five working days before the hearing of the date, time and location of the hearing and the names of the members of the Appeals Committee who will consider the case.

#### **36.8.8 Attendance at Hearing**

- i) The student shall be required to attend the hearing in person. Where the student is prevented from attending by ill health, the hearing shall normally be deferred on submission of medical evidence. If the student does not attend on the date appointed and no notification of the absence has been received, if the Convener is satisfied that the student has received due notice of the hearing, the Appeals Committee may proceed to deal with the case and to reach a decision in the student's absence.
- ii) The student shall have the right to be accompanied, assisted or represented at the hearing by one of the following: a parent or guardian; a fellow student or other friend; an Adviser from the Students' Representative Council Advice Centre; a member of University staff, or any other person. The student shall inform the Clerk to the Appeals Committee at least five working days before the hearing of the name of any legal representative. Where the student seeks to have two individuals in attendance, one shall attend as an observer only.
- iii) The student may name any person or persons they wish to be present to provide evidence on their behalf. The name of any person or persons called by the student to provide evidence shall be provided to the Clerk to the Appeals Committee no later than 10 working days before the date of the hearing. The student shall be responsible for arranging the attendance of such persons at the hearing with the exception of members of staff of the University who shall be notified of the date, time and location of the hearing by the Clerk to the Appeals Committee.
- iv) If any person or persons are unable or unwilling to attend the hearing, the Convener shall be responsible for deciding if the hearing shall proceed on the date arranged or be deferred. A written statement may be presented by any person who has been invited to attend the hearing but who is not available at the date specified. In considering such

written statements, the Appeals Committee shall note that it will not be possible to pursue or clarify any issues arising from them, and in such cases the weight of such evidence may be limited.

- v) The hearing shall be held in private. Strict confidentiality will be observed.

#### **36.8.9 Expert Advice**

- i) Where the Appeals Committee requires the advice of an expert to deal with a question of fact or special difficulty, such an expert shall provide a written report and where appropriate shall be invited to attend the hearing to provide evidence.

#### **36.8.10 Procedure for the Conduct of a Hearing**

- i) The Appeals Committee shall rely only on the papers that have been prepared for the hearing and evidence presented at the hearing. Unauthorised electronic recordings of previous meetings or events will not be admissible as evidence at the hearing.
- ii) Any unauthorised electronic recording of the hearing is expressly forbidden by the University, and may constitute a student conduct offence in terms of the Code of Student Conduct.

#### **36.8.11 Statements**

- i) The procedure shall be as follows:
  - a) at the hearing, the Convener shall invite the student and their representative to make a statement. If the student declines the invitation to make a statement, the Appeals Committee shall reserve the right to question the student directly;
  - b) the Appeals Committee shall then address any questions to the relevant parties including those appearing to advise the Appeals Committee and shall afford the student and their representative an opportunity to question the persons involved through the Convener;
  - c) the Appeals Committee shall consider any request from any person present at the hearing to make a statement or to put questions through the Appeals Committee to anyone whom the Appeals Committee has examined;
  - d) the Appeals Committee shall afford the student an opportunity to make a final statement or to have one made on their behalf;
  - e) the Convener shall seek confirmation from all parties that all necessary information has been conveyed to the Appeals Committee, that the questioning is complete and that in the opinion of the student, the hearing has been conducted in a fair manner.
- ii) Thereafter all persons except the Appeals Committee, its Clerk and any legal adviser appointed to advise the Appeals Committee shall retire while the Appeals Committee considers its decision. The Appeals Committee shall reach its decision or defer the decision pending further investigations.
- iii) In reaching its decision, the Appeals Committee shall not be bound by the rules of evidence. The Appeals Committee shall attempt to ascertain all relevant facts with a view to coming to a reasonable disposal.
- iv) At any stage the Convener may adjourn the hearing if they consider this to be necessary.

#### **36.8.12 Disposal**

- i) The Appeals Committee shall decide the matter at the conclusion of its consideration of the appeal or as soon as possible thereafter.
- ii) The Appeals Committee may decide by a majority and the Convener will have the casting vote in any decision relating to the student if necessary.
- iii) The Appeals Committee may:
  - a) dismiss the appeal because the subject matter does not fall within the scope of §36.8.3;
  - b) dismiss the appeal because the new evidence produced by the student could reasonably have been produced to the School Fitness to Practise Committee;
  - c) dismiss the appeal because the disposal by the School Fitness to Practise Committee did not involve defective or unfair procedure or was not manifestly unreasonable;
  - d) refer the appeal to the School Fitness to Practise Committee with whatever guidance or direction it considers appropriate;
  - e) uphold the appeal and grant whatever remedy it considers reasonable and practical in the circumstances.
- iv) Where an appeal is upheld, the University shall defray reasonable and proportionate expenses.
- v) The Appeals Committee's decision and the reasons for the decision, with reference to any findings of fact, shall be provided in writing to the student by email normally within 10 working days of the decision being determined. If it is not practicable to provide the decision and the reasons for the decision within this timescale, the student shall be informed of the reason for the delay and a new timescale shall be provided.

### **36.8.13 Reference back to a School**

- i) The Appeals Committee may refer a case back to a School Fitness to Practise Committee where it considers:
  - a) that evidence made available to the Appeals Committee had not been presented to the School Fitness to Practise Committee; or
  - b) that there had been defective procedure at the School level.
- ii) In the first case, the Appeals Committee may decide to refer the matter to the School Fitness to Practise Committee as originally constituted to hear the appeal in order to permit that Committee to hear the case *afresh*.
- iii) In the second case, the matter shall be considered by a newly constituted School Fitness to Practise Committee.
- iv) Where an appeal is made to the Appeals Committee against the decision of the School Fitness to Practise Committee following a reference back, it shall be competent for the Convener, in consultation with at least two other members of the original Appeals Committee, either to dismiss the appeal or to recall the Appeals Committee to hear the case.

### **36.8.14 Reports to Senate and Annual Review**

- i) The Clerk to the Appeals Committee shall report the outcome of a hearing to the Senate at the Senate's next regular meeting. The report shall not identify the student. It shall detail the nature of the appeal. In the report, the Appeals Committee may if it desires include any recommendations related to the matter which has given rise to the appeal.
- ii) The Appeals Committee shall review its proceedings annually and shall provide an annual report to Senate.
- iii) This shall conclude the internal processes of the University.

### **Independent External Review**

- i) If the appellant is dissatisfied with the outcome of an appeal to the Appeals Committee, they shall have the right to an external review,<sup>7</sup> details of which shall be available from the Senate Office.

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<sup>7</sup> External review will be provided by the [Scottish Public Services Ombudsman](#).