

## Professional Capability and Fitness to Practise Regulations

### Introduction

1. These regulations are made by the Senate under the authority of Ordinance A15 (n) and Ordinance C4.

### General definitions

2. In these regulations:
  - a. Unless the contrary appears from the context, words implying the singular include the plural and vice versa.
  - b. Unless the contrary appears from the context, reference to a specific office-holder means that where such an office-holder is unable to act, their deputy, the person acting in the office or the office holder's nominee will act in their place.
  - c. Students refers to those defined as such in Ordinance C1.
  - d. Foundation Year One (F1) Doctor refers to a member of NHS staff who is undertaking Foundation Year One and is a member of the Foundation School.
  - e. Primary medical or dental qualification refers to awards that lead to a licence to practise medicine or dentistry: MBBS and BDS.
  - f. Professional dental care programme refers to programmes that lead to a licence to practise professionally in dental care: Diploma in Dental Hygiene and Dental Therapy and BSc in Oral Health.
  - g. Professional health care programme refers to programmes that lead to a licence to practise professionally in health care: MSc in Physician Associate Studies.
  - h. Professional Capability refers, in the broadest sense, to a student's health and behaviour being compatible with the expectations of the General Medical Council and General Dental Council and other applicable regulatory bodies. These are laid out in 'Achieving good medical practise: guidance for medical students' & 'Professional behaviour and fitness to practise: guidance for medical schools and their students' and 'Student professionalism and fitness to practise: Standards for the dental team Guidance for students' & 'Student professionalism and fitness to practise: Standards for the dental team Guidance for providers'. A student's Professional Capability is called into question when their behaviour and/or health raises concerns at any level about their ability to meet the requirements of their programme. Persistent concerns may give rise to a concern about the student's fitness to practise.
  - i. Fitness to practise refers to a student's health and behaviour being compatible with the requirements for professional practise as a doctor or dentist. A student's fitness to practise is called into question when their behaviour and/or health raises a serious or persistent cause for concern about their ability to continue on a programme leading to registration as a doctor or dentist and their ability to practise after graduation. This includes, but is not limited to, the possibility that they could put patients or the public at risk.

## Scope

3. The Professional Capability and Fitness to Practise Regulations apply to any person defined as a student of Queen Mary University of London in accordance with Ordinance C1 who is registered for a primary medical or dental qualification or professional dental care or health care programme. This includes students who have interrupted their study and/or are out of attendance, and students who are undertaking an intercalated programme whether or not their registration for a primary medical or dental qualification or professional health and dental care programmes is with Queen Mary; where the registration is with another institution, the outcome of Queen Mary's process will be reported to that institution.
4. For the purpose of fitness to practise, these regulations also apply to Foundation Year One doctors.
5. These regulations apply to any action whether it takes place on or off Queen Mary's premises. These Regulations also apply to actions that are electronic and occur in a virtual environment or through other communication technology methods such as mobile phones.
6. These regulations apply to all matters where a student's health may give rise to a concern about their professional capability or fitness to practise.

## Responsibility and authority

7. The General Medical Council and the General Dental Council require that graduates from primary medical and dental qualifications and professional health and dental care programmes be fit to practise. Queen Mary is required to certify its confirmation that a graduate from a primary medical or dental qualification or professional dental care programme has demonstrated that they are fit to practise upon graduation.

## Relationship to the Code of Student Discipline, other Codes of Practise, Policies and Procedures

### Code of Student Discipline

8. Misconduct that is proven under the [Code of Student Discipline](#) involving students studying for a primary medical or dental qualification or professional dental care programme is reported to the Professional Capability Committee for action as appropriate. Where the misconduct has been proven through the Code of Student Discipline, the Professional Capability Committee and/or Fitness to Practise Committee does not rehear the case but will instead focus on determining whether or not the student's fitness to practise is currently impaired and, if so, consider the appropriate outcome(s).
9. Where a student registered on a relevant professional programme is expelled from Queen Mary by a Student Disciplinary Committee or a Misconduct Panel, they will be added to the applicable excluded student database and/or other external declarations may be made to the relevant PSRB.

### Codes of practise, policies and procedures of the School of Medicine and Dentistry

10. The School of Medicine and Dentistry has in place a number of codes of practise, policies and procedures that apply to students undertaking a primary medical or dental qualification or professional health and dental care programme and F1 doctors. These codes of practise, policies and procedures may include requirements of health care trusts where students undertake a part of their programme. Any breach of other codes of practise, policies and procedures may give rise to professional capability and fitness to practise concerns. These will be reported to the Professional Capability Committee for action as appropriate.

11. Students who are required to make declarations and disclosures during their time on a programme, such as during the annual declaration and disclosure process, may be referred for action under these regulations due to matters declared and disclosed. In such circumstances the Chair of the Professional Capability Committee may take action in line with paragraphs 45a and 45b or determine that the matter should be investigated as per paragraph 38 of these regulations.

#### Regulations governing the conduct of assessment and academic misconduct

12. If a complaint of misconduct is solely concerned with alleged examination or assessment irregularities, the matter is normally dealt with under the [Academic Misconduct Policy](#). Repeated and very serious breaches of these regulations may also be dealt with under the [Code of Student Discipline](#).
13. All outcomes from the Academic Misconduct Policy for students studying for a primary medical or dental qualification or professional health or dental care programme are reported to the Professional Capability Committee for action as appropriate. Where the misconduct has been proven through the Academic Misconduct Policy, the Professional Capability Committee and/or Fitness to Practise Committee does not rehear the case but instead focuses on determining whether or not the student's fitness to practise is currently impaired and, if so, consider the appropriate outcome(s).

#### Other Queen Mary regulations

14. Allegations of breaches of other Queen Mary regulations, for example Halls of Residence Regulations, Library Regulations and Computing Regulations, are normally dealt with in accordance with those regulations. Repeated or more serious misconduct or breaches of these regulations may also be dealt with under the [Code of Student Discipline](#) and reported to the Professional Capability Committee for action as appropriate.

#### Students' Union Disciplinary Procedures

15. Complaints of misconduct in relation to Students' Union affairs that fall within the remit of the [Students' Union Disciplinary Procedures](#) are dealt with by the Students' Union. The Students' Union includes the Barts and The London Students' Association. The Students' Union will report the outcomes of the operation of its disciplinary procedures to the Professional Capability Committee for action as appropriate.

#### Student support and pastoral care processes

16. Where information comes to light through any student support or pastoral care process provided by Queen Mary, whether through a central service or within the School of Medicine and Dentistry, that may give rise to a concern about a student's professional capability or fitness to practise, that information is reported to the Professional Capability Committee for action as appropriate.

#### Burden and standard of proof

17. It is the responsibility of Queen Mary to establish that there is a professional capability or fitness to practise concern. The standard of proof required is the balance of probabilities: it should be more likely than not that the alleged event occurred and/or the student's professional capacity is impaired.

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## Professional Capability warnings and actions, and Fitness to Practise actions, undertakings and conditions

18. When determining actions and warnings, undertakings and/or conditions, consideration will be given to:
- a. The severity of the behaviour and the seriousness of the implications for the student's professional capability and/or fitness to practise.
  - b. The maturity of the student and the year of study.
  - c. The student's previous conduct; repeated warnings, actions and conditions whether for the same or different issues may result in more serious action being taken by the Professional Capability Committee, including referral to the Fitness to Practise Committee.
  - d. The conduct of the student since the incident(s) being considered.
  - e. Whether the conduct has been acknowledged by the student or admitted in the case of misconduct.
  - f. Any mitigating factors or implications for the student's fitness to practise.
  - g. The sufficiency of the warning, action, condition and/or undertaking as a safeguard to protect the public and others.

## Instruction restricting activity, exclusion and suspension pending hearing

19. The Chair of the Professional Capability Committee, may suspend, exclude or instruct restriction of activity pending the completion of the investigation process for any student within its jurisdiction where there is a concern for the safety or wellbeing of patients or others. Any suspension, exclusion or restriction of activity will be kept under review until the investigation and any hearing have concluded. The Chair may suspend, exclude or instruct a restriction of activity pending hearing where the matter is being considered initially under the Code of Student Discipline and one of these actions has not occurred under the Code.
20. **Instruction restricting activity** means a requirement that a student refrain from contact with a specified individual or undertaking a specific form of action. The precise nature of the instruction restricting activity will be made to the student in writing.
21. **Exclusion** means selective restriction on attendance at or access to Queen Mary or prohibition on exercising the functions or duties of any office or committee membership in Queen Mary or the Students' Union. The precise nature of an exclusion order will be made to the student in writing.
22. **Suspension** means the total prohibition on attendance at, or access to, Queen Mary and on any participation in Queen Mary activities, but at Queen Mary's absolute discretion it may be qualified for example to permit a student to attend an examination. This includes teaching and learning in a clinical setting.
23. Suspension is only to be used where exclusion from specified activities or facilities would be inappropriate.
24. Suspension, exclusion or instruction restricting activity pending hearing are not penalties, and are not to be used as such. Their purpose is to enable Queen Mary to exercise its duty of care to patients and others while an investigation takes place. The reasons for any decision to suspend or exclude a student is

recorded and made available to the student along with details about the length of the suspension/exclusion/restriction of activity.

25. A student who has been suspended, excluded or received an instruction restricting activity pending hearing may make representations against the decision to the nominated Vice-Principal or Deputy Vice-Principal who will respond in writing.
26. Where immediate suspension, exclusion or instruction restricting activity is necessary to preserve good order or to protect staff or students from harm, it may be imposed with immediate effect. In such cases, the student may make representations against the decision within five days of its notification.
27. A student may request a review of a suspension, exclusion or instruction restricting activity should new information come to light. In such circumstances, the student makes the request to the nominated Vice-Principal who will respond in writing.

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## Professional Capability and Fitness to Practise Procedure

### Raising a concern about Professional Capability and/or Fitness to Practise

28. A concern about a student's professional capability or fitness to practise may arise from one or more of a number of routes. These routes include, but are not limited to, tutorial systems, pastoral support, teaching and learning activities, disclosure as required by the GMC's 'Achieving Good Medical Practise' and GDC's 'Student professionalism and fitness to practise', the operation of the Code of Student Discipline, the outcome of examination results and external routes. External routes may include reports from members of the public, public authorities and students. In the first instance, concerns are sent to the Chair or Secretary of the Professional Capability Committee.
29. Singular, low-level professionalism concerns (for example lateness, late submission of assessments and absence from scheduled teaching sessions), that do not require referral through this Fitness to Practise procedure, shall be managed through developmental and supportive measures in accordance with local procedures.
- 30.
31. Records of low-level professionalism concerns shall be kept on the student's record and persistent low-level concerns may result in referral through the Fitness to Practise regulations.

### Concern Review

32. Upon receipt of a referral under these regulations, the Chair of the Professional Capability Committee shall review the concern and, having regard to the considerations under paragraph 18, determine which one or more of the following actions is appropriate:
  - a. dismiss the concern, in which case the matter is closed and no further action taken;
  - b. decide that the matter should be dealt with under the Code of Student Discipline, other Codes of Practise, Policies or Procedures;
  - c. decide that the matter presents a low-level concern which is most appropriately addressed through developmental and supportive measures in accordance with paragraph 29;
  - d. conduct an investigation to assist the Chair of the Professional Capability Committee in determining the next steps;
  - e. address the concern by way of undertakings;
  - f. issue a warning where the student's fitness to practise is not impaired but their behaviour has significantly departed from expected standards and there is not a requirement for further actions that can only be imposed by a Professional Capability Committee or Fitness to Practise Committee;
  - g. refer the matter for a hearing of the Professional Capability Committee
  - h. refer the matter to the the Fitness to Practise Committee for consideration, giving notice of the decision to the Professional Capability Committee.
33. The Chair of the Professional Capability Committee may consider that it is unnecessary to conduct an investigation where:
  - a. A student has been found to have acted in breach of the Code of Student Discipline, other Codes of Practise, Policies or Procedures and the findings of that investigation have given rise to the concern.
  - b. A student is referred to the Fitness to Practise Committee following a criminal ~~caution~~ or conviction which gives rise to a concern, and no other concern exists.
  - c. Clear evidence exists to support a concern and the Chair of the Professional Capbility Committee is satisfied that no further investigation is needed.
34. Following initial review of the concern, the Chair of the Professional Capability Committee may meet with the student (or ask a nominee to meet with the student) or ask the student to submit a written statement before determining action under paragraph 31.

## Investigation

35. The Chair of the Professional Capability Committee conducts proportionate and necessary investigations before determining whether any further action is required under paragraph 31. This may include the appointment of an investigating officer. In such cases, the student is notified of the name of the investigator.
36. The purpose of the investigation is to gather evidence relevant to the concern raised to enable the Chair of the Professional Capability Committee to determine what further action is appropriate. At any point during the course of an investigation into a professional capability concern, the Chair of the Professional Capability Committee may refer the matter for action under the Code of Student Discipline.
37. The investigation normally involves the following stages:
  - a. Notification to the student of the professional capability or fitness to practise concern.
  - b. Request for written statements from those involved in the case and collection of any other factual evidence.
  - c. Interviews with the relevant individuals and witnesses.
  - d. Interview with the student concerned to provide them with an opportunity to present their case. In certain circumstances it may be more appropriate to request a written statement from the student.
  - e. A written report of the investigation and the details of evidence gathered. The details of the completed investigation will normally be shared with the student, who will be invited to comment upon the factual accuracy of the report and any additional evidence relating to the case.
38. In all cases, witnesses' evidence and/or statements are made available to the student unless there is a concern for the safety of the witness.
39. At any point during an investigation a student may be referred to the occupational health service for relevant assessments. In such circumstances an investigation is normally placed on hold whilst the assessments are conducted.
40. The Chair of the Professional Capability Committee or appointed Investigating Officer keeps notes of meetings held with witnesses and the student. These notes may be made available to the student unless there is a concern for the safety of a witness.
41. Should a student fail to engage with an investigation, and reasonable attempts have been made to contact them, then the investigation and further procedures under these regulations will continue.
42. If a student withdraws from their programme of study before the formal Professional Capability or Fitness to Practise procedures are complete, the relevant process will continue in the student's absence. Students will be advised of the outcome which will also be communicated to the relevant professional body.
43. An investigation shall normally be completed within two calendar months from the notification of referral. Where an investigation is likely to take longer than two months, students shall be notified to this effect.

When the investigation is complete or the Chair of the Professional Capability Committee considers that sufficient evidence has been gathered, they determine which one or more of the actions under paragraph 31 is appropriate.



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## The Professional Capability Committee

### Constitution

44. Members of the Professional Capability Committee are agreed by Senate on the nomination of the Vice-Principal (Health) & Executive Dean and serve on the committee for a period of up to three years, after which their membership may be renewed for further periods. A greater number of nominations are made to enable some flexibility in the membership in order to respond to the different professional areas of medicine and dentistry and to avoid conflicts of interest but at the same time ensure a consistent pool of individuals to serve on the Committee.
45. The members of the Professional Capability committee are:
  - a. A chair, drawn from a pool of three potential chairs, nominated by the Vice-Principal (Health).
  - b. One member of academic staff who is a registered doctor or dentist drawn from a pool depending on whether the student being considered is from a medical or dental programme. The pool may include clinicians appointed on Honorary Contracts.
  - c. One member of academic staff from the Faculty of Medicine and Dentistry.
  - d. The President of BLSA, QMSU President or nominee.
46. The Secretary to the Professional Capability Committee is a member of administrative staff of the Faculty.
47. The absence of one member of the Committee does not prevent the hearing taking place, or invalidate its outcome. The Chair of the Committee may, at any time between the initial appointments and the date of the hearing, appoint a replacement member, should any of the initial members be unable to attend the hearing.
48. No person who has any close personal connections with the student due to appear before the Committee, or with the alleged event(s), is eligible for appointment to the Committee.
49. Where the Professional Capability Committee considers a report of a decision of another body, it does not rehear the details of the case leading to the decision being considered.

### Action by the Chair of the Professional Capability Committee

50. The Chair has authority to take action in accordance with paragraph 31. Chair's actions are reported to the Professional Capability Committee.
51. In cases where the proven concern relates solely to a student's management of their health the Chair, with reference to the head of appropriate student support services, may take Chair's action to set a series of conditions and undertakings to ensure the student can appropriately manage their health. The conditions and undertakings will be reported to and monitored by the Committee and appropriate student support services.

### Professional Capability Committee procedure

52. Where the Chair of the Professional Capability Committee considers that they are unable to take action themselves then a full meeting of the Professional Capability Committee will be convened.
53. A student or F1 Doctor whose case has been referred to the Professional Capability Committee is normally informed of this within five working days.

54. The student or F1 Doctor is normally given ten working days' notice prior to the meeting of the Committee of the requirement to attend. On occasion it may not be possible to notify the student within this timescale where a matter requires consideration more urgently.
55. The student or F1 Doctor is normally sent a copy of these regulations, together with copies of all relevant documents to be presented at the hearing ten working days before the date set for the hearing.
56. The student or F1 Doctor is normally informed ten working days prior to the meeting of any witnesses the Committee intends to call. If a person is asked to appear as a witness but is unwilling or unable, for good reason, to attend a hearing, a written statement may be provided. Copies of any such statements are provided to the student or F1 Doctor. In circumstances where a witness is likely to be in distress, the Committee may permit the witness to be accompanied by any person, who will not participate in the proceedings in any way.
57. The student or F1 Doctor may be represented or accompanied by any person of their choosing. Normally, a maximum of two individuals are permitted to accompany a student at the meeting or hearing. The student or F1 Doctor is required to inform the secretary if they are to be represented or accompanied at the hearing at least three working days before the date of the hearing. Where a student or F1 Doctor brings a representative the Committee will normally seek to hear from the student or F1 Doctor in the first instance.
58. Where the student or F1 Doctor has been invited to attend the meeting, but is unable to do so, the case is heard in their absence.
59. The student or F1 Doctor may submit a written statement to the Committee which must be received at least three working days prior to the meeting.
60. The student or F1 Doctor is required to inform the secretary of any documents that they intend to present or refer to at the hearing and to provide copies of these at least three working days before the date of the hearing. The Chair of the Committee may, at their discretion, allow the student additional time in which to produce documents for a hearing; there is no appeal against any refusal to allow such additional time.
61. The student or F1 Doctor is required to inform the secretary of any witnesses they intend to call to at the hearing at least three working days before the date of the hearing. If a student wishes to call witnesses they must ensure that witness is available and provide the Committee with their name, three working days in advance of the Committee. If a person is asked to appear as a witness, but is unwilling or unable for good reason, to attend a hearing, a written statement may be provided. Copies of any such statements are provided to the Committee. In circumstances where a witness is likely to be in distress, the Committee may permit the witness to be accompanied by any person, who will not participate in the proceedings in any way.
62. At any time during its proceedings, the Professional Capability Committee may decide to refer the matter to a Student Disciplinary Committee or Fitness to Practise Committee.
63. The Chair of the Committee is responsible for the conduct of the hearing and does so in accordance with the process set out below and the provisions of these regulations. The Chair's rulings on matters of procedure are final. The Chair of the Committee may, having due regard to the particular circumstances of the case, take any reasonable action required to ensure the availability of all relevant facts and to facilitate a fair and just outcome. Any matter relating to the hearing which is not covered by these regulations will be decided by the Committee, whose decision shall be final.

64. The process for the hearing is normally as follows:

- a. The concern is presented to the Committee by the Investigating Officer. The Committee may ask questions.
- b. The student, F1 Doctor or their representative is invited to present their case. The Committee may ask questions.
- c. The Committee may call witnesses and ask questions. The student or F1 Doctor or their representative may question these witnesses but, if they do so, the Committee may ask further questions.
- d. The student or F1 Doctor may call witnesses. The Committee may question these witnesses but, if they do so, the student, F1 Doctor or their representative may ask further questions.
- e. The Committee may question the student or F1 Doctor.
- f. The student, F1 Doctor or their representative may address the Committee or F1 Doctor.

65. The Professional Capability Committee decides one or more of the following:

- a. That there is no professional capability concern, in which case the matter is closed and no further action is taken.
- b. That a professional capability concern exists and imposes an action available to it in the form of a warning, a requirement or an undertaking.
- c. To refer the matter for consideration under the [Code of Student Discipline](#).
- d. To refer the matter to the Fitness to Practise Committee.

66. The Professional Capability Committee records the reasons for its decision and provides its reasons in the outcome letter to the student or F1 doctor

67. The student is notified of the outcome and decision, normally, within three days of the date of the hearing or final meeting with the student. This decision will be put in writing within seven working days. The letter records the decision, the reasons for it, and the student's right of appeal.

### Professional Capability actions

68. Where the Professional Capability Committee considers that the concern is proven it may impose one or more of the following actions:

- a. A first written warning;
- b. A final written warning;
- c. Undertakings which may relate to health and conduct matters where the student acknowledges the professional capability concern and the Committee considers the concern can be resolved through the undertaking. Undertakings are accompanied by objectives and timeframes and criteria for determining whether or not they have been met;

- d. Conditions which may relate to health or conduct matters where the Committee considers that the professional capability concern can be resolved through the conditions. Conditions are accompanied by objectives and timeframes and criteria for determining whether or not they have been met;
- e. Actions in the form of suspension from the programme and Queen Mary for a period up to three months;
- f. Actions in the form of exclusion from part of the programme or Queen Mary facilities for a period up to three months.

#### Further Reporting

69. Professional Capability Committee outcomes, including those taken by Chair's action, may be reported to the relevant regulatory body.

## The Fitness to Practise Committee

### Terms of Reference

70. The Fitness to Practise Committee shall meet to consider cases referred to it by the Professional Capability Committee or its Chair.

### Constitution

71. The composition of the Fitness to Practise Committee will include: .

- a. The Chair of the Fitness to Practise Committee shall normally be a senior member of staff from the School of Medicine and Dentistry, appointed by Senate.
- b. One member of the academic staff from the School of Medicine and Dentistry, drawn from a list of those staff appointed for a term of three academic years by Senate.
- c. One member of the academic staff of the School of Medicine and Dentistry, nominated by the Vice-Principal (Health) & Executive Dean, who is either a registered doctor or dentist depending on whether the student being considered is from a medical or dental programme.
- d. An external member who is a registered doctor or dentist and is normally a senior member of staff of a university or college other than Queen Mary University of London.
- e. The BLSA or QMSU President, or nominee.

72. A member with relevant specialist medical knowledge may be appointed to consider cases relating to health matters.

73. The secretary to the Fitness to Practise Committee is the Academic Registrar, or nominee.

74. No person who has any close personal connections with the student due to appear before the Committee, or with the alleged event(s), is eligible for appointment to the Committee.

75. Should the pool of academic staff from the School of Medicine and Dentistry and those nominated by the Vice-Principal (Health) & Executive Dean all have close personal connections with the student due to appear before the Committee, or with the alleged event(s), their role will be replaced by additional external members as described in 63.d. above .

76. The absence of one member of the Committee does not prevent the hearing taking place, or invalidate its outcome. The Chair of the Committee may, at any time between the initial appointments and the date of the hearing, appoint a replacement member, should any of the initial members be unable to attend the hearing.

### Fitness to Practise Committee Procedure

77. The Committee meets as soon as reasonably practical to consider a concern referred to it. This meeting will be called a hearing. The hearing will normally be held within eight weeks of the referral to the Fitness to Practise Committee.

78. If it is deemed appropriate, the Chair of the Committee may refer a case back to the Professional Capability Committee for conditions and undertakings to be applied in the first instance. Failure to comply with the conditions and undertakings set will result in referral to Fitness to Practise Committee.

79. At least ten working days before the date set for the hearing, the secretary to the Committee sends the student a copy of these regulations, together with copies of all relevant documents to be presented at the hearing.
80. The student or F1 Doctor is normally informed ten working days prior to the meeting of any witnesses the Committee intends to call. If a person is asked to appear as a witness but is unwilling or unable, for good reason, to attend a hearing, a written statement may be provided. Copies of any such statements are provided to the student or F1 Doctor. In circumstances where a witness is likely to be in distress, the Committee may permit the witness to be accompanied by any person, who will not participate in the proceedings in any way.
81. The student or F1 Doctor may be represented or accompanied by any person of their choosing. Normally, a maximum of two individuals are permitted to accompany a student at the meeting or hearing. The student or F1 Doctor is required to inform the secretary if they are to be represented or accompanied at the hearing at least three working days before the date of the hearing. Where a student or F1 Doctor brings a representative the Committee will normally seek to hear from the student or F1 Doctor in the first instance.
82. The student or F1 Doctor is required to inform the secretary of any documents that they intend to present or refer to at the hearing and to provide copies of them at least three working days before the date of the hearing. The Chair of the Committee may, at their discretion, allow the student additional time in which to produce documents for a hearing; there is no appeal against any refusal to allow such additional time.
83. The student or F1 Doctor is required to inform the secretary of any witnesses they intend to call to at the hearing at least three working days before the date of the hearing. If a student wishes to call witnesses they must ensure that witness is available and provide the Committee with their name, three working days in advance of the Committee. If a person is asked to appear as a witness but is unwilling or unable, for good reason, to attend a hearing, a written statement may be provided. Copies of any such statements are provided to the Committee. In circumstances where a witness is likely to be in distress, the Committee may permit the witness to be accompanied by any person, who will not participate in the proceedings in any way.
84. Normally, the hearing is held in private, however, it may be held in public where the student or F1 Doctor specifically requests it.
85. The Chair of the Committee is responsible for the conduct of the hearing and does so in accordance with the process set out below and the provisions of these regulations. The Chair's rulings on matters of procedure are final. The Chair of the Committee may, having due regard to the particular circumstances of the case, take any reasonable action required to ensure the availability of all relevant facts and to facilitate a fair and just outcome. Any matter relating to the hearing which is not covered by this Code will be decided by the Committee, whose decision shall be final.
86. Where the student has been invited to attend the meeting, but is unable to do so, the case is heard in their absence.
87. The process for the hearing is as follows:
  - a. The concern is presented to the Committee by the Chair. The Committee may ask questions.
  - b. The student or F1 Doctor or their representative is invited to present their case. The Committee may ask questions.

- c. The Committee may call witnesses and ask questions of the witnesses. The student or F1 Doctor, or their representative, may question these witnesses but, if they do so, the Committee may ask further questions.
  - d. The student or F1 Doctor or their representative may call witnesses. The Committee may question these witnesses but, if they do so, the student or F1 Doctor or their representative may ask further questions.
  - e. The Committee may question the student or F1 Doctor.
  - f. The student or F1 Doctor or their representative may address the Committee or F1 Doctor.
  - g. Any member of the Committee may question the Academic Registrar, or nominee and the student or F1 Doctor. The student, F1 Doctor or their representative, may question the Academic Registrar, or nominee.
88. Only the individuals party to the case and the Committee attend the hearing. The Committee, sitting alone, determines the outcome.
89. The Committee's decision is notified in writing within seven days of the hearing. The letter gives the decision, the reasons for the decision and the student's or F1 Doctor's right of appeal.
90. The Committee may either:
- a. **Dismiss the fitness to practise concern**, in which case the matter is closed.
  - b. **Rule that the fitness to practise concern should not be subject to further action** under the Professional Capability and Fitness to Practise Regulations and, where considered appropriate, take informal action by way of caution or otherwise.
  - c. **Decide that the fitness to practise concern is proven and impose one or more actions** from those available.

#### Fitness to Practise actions

91. Where the Fitness to Practise Committee considers that the concern is proven it may impose one or more of the following actions:
- a. A first written warning;
  - b. A final written warning;
  - c. Undertakings which may relate to health and conduct matters where the student acknowledges the professional capability concern and the Committee considers the concern can be resolved through the undertaking. Undertakings are accompanied by objectives and timeframes and criteria for determining whether or not they have been met;
  - d. Conditions which may relate to health or conduct matters where the Committee considers that the professional capability concern can be resolved through the conditions. Conditions are accompanied by objectives and timeframes and criteria for determining whether or not they have been met;

- e. Actions in the form of suspension from the programme and Queen Mary for a period up to one year;
- f. Actions in the form of exclusion from part of the programme or Queen Mary facilities for a period up to one year;
- g. Terminate the student's registration on the programme leading to a primary medical or dental qualification or professional health or dental care programme but permit the student to register for or be considered for an alternative programme and award with Queen Mary;
- h. Recommendation to the Principal that the student's registration on the programme be terminated and the student excluded from Queen Mary;
- i. In the case of a F1 Doctor, the Fitness to Practise Committee may impose one or more of the actions listed above with the exception of [e], [f], [g], or [h]. The Fitness to Practise Committee may also impose one of the actions listed below;
- j. recommendation that Foundation Year One period be extended;
- k. A recommendation that certification be refused;

#### Exclusion from Queen Mary

92. Where a Fitness to Practise Committee recommends to the Principal that the student's registration be terminated and the student be excluded from Queen Mary, the Principal considers the recommendation.

#### Further reporting

93. All suspensions, warnings or sanctions will be reported to the relevant professional body at the time of application for provisional registration. Students are also expected to report relevant outcomes to the relevant professional body.
94. Students who have been deregistered from their programme following Fitness to Practise proceedings will have their deregistration reported to Medical or Dental Schools Council.

#### Appeal Process

95. Where professionalism concern under paragraph 63 or a fitness to practise concern under 88 has been proven, a student may appeal this decision and/or any remedial action imposed.
96. The appeal will be considered by an Appeal Chair, a nominated member of the Appeals, Complaints & Conduct Office who has had no prior involvement in the case.
97. A Fitness to Practise Appeal should be submitted on the proper form and must include explicit reasons for the appeal. The appeal must be received by the Appeals, Complaints and Conduct Office within 14 calendar days of the date of the outcome, and should include reasons and evidence that the appeal meets one of the applicable grounds letter. The Head of the Appeals, Complaints & Conduct Office has the discretion to allow and consider later requests where a student demonstrates good reason for the delay.
98. New evidence or issues will not be considered unless the student can demonstrate good reason why that information was not previously made available.



99. The appeal process will involve a review of the existing casefile by the Appeal Chair to determine whether:

- i. the procedures were followed appropriately, *and/or*,
- ii. the outcome was reasonable in light of the available evidence.

100. If it is determined that the case was not handled in accordance with the procedures and/or that the outcome was not reasonable in light of the available evidence, the decision maker may take corrective action where appropriate, refer the case back to the original decision-making body for reconsideration, or recommend that a new Committee be convened to rehear the concern.

101.

102. The student will be informed of the outcome of an appeal in a [Completion of Procedures letter](#). This is the final stage in Queen Mary's internal Professional Capability and Fitness to Practice Regulation.

103.

104. A Fitness to Practice Appeal will normally be concluded within 28 calendar days of receipt. The student will normally be notified if consideration of their appeal is likely to take longer than this.

105.

106. Where all stages of this regulation have been exhausted, the student is issued with a completion of procedures letter and may request a review by the [Office of the Independent Adjudicator for Higher Education](#).

## Approved

Academic Board: 4 December 2008

Senate: Updated November 2011

Further updated January 2012, June 2015, June 2017 & June 2020.

(Previous version approved by Council: July 2003 for implementation from September 2003)

## Appendix 1: Professional Capability Committee terms of reference

107. The membership of the Professional Capability Committee is set out in paragraphs 40 a and b of the above regulations with the addition of the Academic Lead for Governance and Secretary to the Committee.

108. The Committee meets on a termly basis and other staff who have had close involvement with cases may be invited.

109. The agenda for the Committee's termly meetings is normally as follows:

- a. To keep under review the professional capability of students registered for a primary medical or dental qualification or professional health or dental care programmes.
- b. To consider reports from the Dean for Education and other bodies within Queen Mary on students registered for a primary medical or dental qualification or professional dental or health care programmes and agree actions where a report may give rise to a concern about a student's professional capability and/or fitness to practise. Where the Professional Capability Committee considers a report of a decision of another body, it does not rehear the case.
- c. To consider other reports of professional capability and fitness to practise concerns.
- d. To receive reports of Chair's action taken under delegated authority from the Committee [see [paragraphs 45](#) and 46 above].
- e. To review outcomes reached under the regulations above.
- f. To monitor conditions and undertakings set as part of outcomes reached under the regulations above.
- g. To delegate authority to the Chairs of the Committee to take Chair's Actions as outlined in paragraphs 45, 52 and 53 above.

## Appendix 2: Alcohol and drug testing

110. As part of an investigation or outcome reached under these regulations a student may be required to undertake alcohol and/or drug testing.
111. All testing for alcohol and/or drugs will be conducted via referrals to the occupational health service which will follow a chain of custody procedure. The chain of custody procedure will be provided to students in advance.
112. It is expected that testing for alcohol and/or drugs will normally be conducted using hair follicles. The students will be informed of the testing method by the occupational health service.
113. The student will be informed of what they will be tested for as part of the referral.
114. The student is expected to comply with requests for alcohol and/or drug testing in support of their continued registration. Should a student decline to be tested or decline to share results, this may lead to a further referral under these regulations. The student will be asked to provide consent in advance of testing.
115. The student is expected to engage appropriately with any referral for testing for alcohol and/or drugs. Any missed or cancelled appointments will be flagged and may be treated as a concern to be considered under these regulations. Similarly, if the occupational health service is unable to obtain samples during an appointment this may be flagged and considered further under these regulations. If the occupational health service is unable to obtain samples due to a student's actions this will be flagged and considered further under these regulations.
116. All test results will be sent to the original referrer. In cases where a positive result is returned, the student will have the opportunity to respond to the original referrer before next steps are agreed. If the positive result breaches a specific undertaking or condition, then the student may be referred back to the Professional Capability or Fitness to Practice Committee as appropriate.