MBChB

Advice for students who have been referred to Leicester Medical School Fitness to Practise Committee

2015-16
1. Introduction

Background

You have been referred to the Fitness to Practise (FTP) Committee. The Committee is very well aware that this is a difficult situation for any student to encounter. The Committee may appoint a Fitness to Practise Panel to investigate whether your fitness to practise is impaired. This practical guidance is intended to help explain what will happen, and to help you prepare for the Panel meeting. If you have been referred from the Health and Conduct Committee you will be appointed a mentor to help guide you through the process, if the referral has come from another source, the secretary to the Fitness to Practise Committee will appoint a mentor.

The FTP Committee is a University Committee

The FTP Committee meeting is not a court of law, nor is it the hearing of a professional body such as the General Medical Council (GMC). It is a University Committee, that has the power to appoint a Fitness to Practise Panel to consider the written evidence submitted and any information provided in answers to questions at the meeting. The Panel has the authority to make decisions about your future and address questions such as whether or not you are fit to practise and whether or not any special measures are needed either to guide and support you or in the public interest (see below).

The meaning of the term “the public interest”

This means three things:

1. Protection of patients
2. Maintenance of public confidence in the profession
3. Declaring and upholding proper standards of conduct and behaviour.

2. Before the FTP Panel Meeting

The Panel Secretary

Every FTP Panel has a Secretary, who organises the meeting, supplies copies of the papers, and who will supply you with the papers and notify you of the date, time and venue. The Secretary will be present throughout the meeting itself and will make a note of what is said, but the Secretary is not a member of the Panel and plays no part in the decision-making.

The FTP Committee Procedure is an important document

One of the first things the Secretary will send you is the written regulations (called the ‘procedure’) that govern all matters relating to FTP. It is important that you read and understand them because they explain how the Panel meeting will be conducted and they list the possible outcomes. The procedure can be downloaded from the link below (see section containing “guidance”):

The papers for the FTP Panel meeting
You will receive, well in advance of the FTP Panel meeting, two sets of papers, one for yourself and one for anyone who you ask to accompany you, or represent you, at the meeting. These papers will include the case from the School and information such as guidance from your professional regulatory body (e.g. GMC), which you should read because they set out the expected standards of behaviour of a health or social care professional. The Panel members will have received an identical set of papers – a fundamental rule is that they must not be given anything that has not been supplied to you. Make sure you read the papers carefully, and bring them with you to the Panel meeting because when asking questions the Panel is likely to make reference to the papers. You are welcome to make a list of any questions you have or any points with which you disagree, and to bring this list with you to the meeting, or you can include the list in your written submission (see next section).

Your written submission
The Secretary will invite you to prepare a written submission which must be received not less than 10 working days before the meeting to enable it to be circulated to, and read by, the Panel and the School representative. You are encouraged to use this opportunity to set out your full response to any allegations.

What to include in your written submission
The Panel needs to know in particular:

• whether or not you accept any allegations, criticisms or concerns;
• what explanations you have for your actions;
• how you plan to change your behaviour in the future (if you accept that change is needed);
• information about mitigating circumstances (events beyond your control, like a health problem, or financial or accommodation difficulties, or personal difficulties);
• favourable information such as previous good behaviour or evidence that your behaviour has improved;
• in cases of ill health how you plan to manage your health problems in the future.

The Panel cannot take into account information it has not received; if you are unsure whether or not something is relevant, it is better to mention it. This is your opportunity to ensure that your case is properly investigated and it would be unwise to omit information which could result in the Panel forming an impression which was not based on the whole truth.

Consider submitting additional evidence with your written submission
If you have mitigating circumstances, it is important that you supply documentary evidence. For example, if you (or a relative) have been ill and obtained medical treatment, and this has had an adverse effect on you, then make sure you obtain and supply a report from the doctor who has provided treatment.

The Panel will wish to learn of favourable information about you, such as positive reports from supervisors or testimonials (see below) from those who have taught you or employed you, so please feel free to include such material even if it has no direct bearing on the case against you.
Testimonials – who to consider

The best people to consider are individuals who can provide an objective opinion about you, and who have had direct contact with you during your studies as a student in Leicester. Friends and relatives, your former school teachers, and fellow students do not meet these dual criteria and are not recommended. It is permissible for people who know you in a capacity that has nothing to do with your studies, particularly someone who has employed you, to provide support. However, in terms of your future professional career, the views of an individual not connected with health or social care may be less helpful.

If the student wished to obtain character references and or letters of support, the contact details of the referee/supporter should be e-mailed to the Secretary top the Panel. The Secretary will contact the referee/supporter to request references and will circulate copies of any documents received the student and the panel members.

Testimonials – two types

The writer of a testimonial will either know, or not know, the full circumstances of the case and the FTP-related concerns. Please tell anyone that you approach for a testimonial that it should be made clear in the document that is supplied what the writer knows about your case. There is no compulsion to tell the writer about the concerns, and it is perfectly valid and helpful, for example, to have a report about how excellent your performance was on a particular clinical placement – the fact that you subsequently did something wrong does not detract from an objective assessment of your performance at the time. However testimonial writers often wish to make broad statements about your character, and it is vital that the document makes it quite clear whether or not these opinions are being made in the full knowledge of the FTP-related concerns.

Testimonials – basic details always needed

Testimonials should include the name, address and contact details of the author should, if possible, be signed and should explain how the author knows you. When you submit testimonials, please make sure that your covering letter mentions if any testimonials were originally prepared for another reason (for example to support you at an attendance of a School’s Health and Conduct Committee).

Unexpected new material may cause the Panel to have to adjourn the case

We have produced separate guidance regarding the potential consequences of submitting unexpected new material or information very late (for example a few days before the meeting, or during, or at the very end of, an FTP Panel meeting). The risk of suddenly producing new documents is that the Panel may have to adjourn the meeting, to allow for these new items to be considered, and it is likely to take some months to re-convene and conclude the meeting, which will inevitably delay the outcome and conclusion of the case. Each person’s circumstances are different, and you should check with your Phase Lead if you need clarification about how such a delay (should it arise) might affect your studies. A copy of the guidance on the need to avoid the late submission of new material will be included in the papers which are sent to you.
You may have to attend the Occupational Health Department

In cases where there are possible health, drug or alcohol related problems, either before an FTP Panel meeting, or sometimes following an FTP Panel meeting, you may be required to attend the Occupational Health Department. In addition, you may need to be seen by an independent expert, whose report would need to be available for the FTP Panel. It is particularly important that you attend any appointments with the Occupational Health Department and fully co-operate with the Department. When a student is referred to the FTP Committee, the student remains entitled to choose not to disclose specialist reports about their health to the FTP Committee. However unwillingness to disclose medical reports is likely to prevent the FTP Panel from making a decision about your FTP, which in turn is likely to have one or more consequences, which are explained in a separate item of guidance entitled “Student Fitness to Practise: Co-operation with Medical Assessments and Disclosure of Specialist Reports

3. Help and support is available

Please do not try to go through this process entirely on your own – take advice

Preparing for and attending an FTP Panel meeting is not something you should try to do on your own. Here is a list of possible sources of help and advice:

• The mentor appointed to guide you through the Fitness to Practise processes
• The Medical School Pastoral Support Unit:
• Your personal tutor or mentor
• Student Union Representative

Obtaining legal advice and representation

Legal representative under Fitness to Practise is not allowed. However free membership of the Medical Protection Society and the Medical Defence Union is available to medical students and all medical students should have joined one or other of these organisations. You are strongly encouraged to make contact with your defence society and do so without delay. They are likely to want to meet you, and to discuss the case with you, and it is vital that they have as much notice as possible as they will need time to help prepare your case including your written submission. In addition to helping you prepare for the FTP Panel meeting, your defence society may send a medico-legal adviser.

Consent is needed for communication with your representative

If you are professionally represented by someone from outside the University, for example by the MPS, the MDU, then your representative will almost certainly wish to communicate with the FTP Panel Secretary. However all student matters are confidential, and the University is not allowed to discuss your case with your representative without receiving a signed letter from you giving your written consent. So if one of these organisations agrees to help you, the first thing to do is to write to the Panel Secretary (if you do not already know the name and contact details see next paragraph) enclosing your written consent to communication between the University and your representative.
If you have queries or questions

The FTP Committee is managed by the College of Medicine, Biological Sciences and Psychology. If you have any queries or concerns your point of contact should be Mr David Parker, College of Medicine, Biological Sciences and Psychology, email dkp7@le.ac.uk or telephone 0116 223 1598.

4. At the meeting

Please do not come alone, but arrange for someone to accompany you

The FTP regulations explain who is allowed to accompany you to the Panel meeting. You are encouraged not to come alone, and do your best to make sure you are accompanied, as there are likely to be occasions when you would like to discuss things with someone.

You must make sure the Panel Secretary knows who will be accompanying you.

Examples of people who are allowed to accompany you would be a friend who may be a personal friend, a member of your family or a current member of the University (staff or student). Alternatively, you may choose to be accompanied by a representative who is a member of the University or from the relevant professional association. For the purpose of this procedure, “someone from the relevant professional association” is defined as a representative of the Medical Protection Society, Medical Defence Union, or similar medical defence organisation, the British Association of Social Workers, the College of Operating Department Practitioners or, in the case of DClinPsy students, the relevant trade union. If you are in difficulty (if for example a defence society is unwilling to support you) please contact the Panel Secretary.

You may not be accompanied by more than one person

You may only be accompanied by one person. Where possible a private room is provided for your use, and there is no objection, if you wish, in bringing along other people (for example a relative, a partner or a friend) who can use that room, and to whom you can speak during breaks in the meeting, but these additional individuals are not permitted to be present in the meeting. Usually the room provided cannot be locked, so do not leave any property in the room.

Be prepared to stay all day

It is impossible to predict how long an FTP Panel meeting will take, but it can last all day and it is best to prepare for this.

Bring food and drink

A lunch break is usually only for 30 minutes, leaving little time for you and your representative to go and get lunch, and it is sensible for you and your representative to come prepared with some food and drink.
Bring your copy of the papers

There is bound to be reference to the case papers, so make sure you bring along your own copy of the papers.

A basic outline of the FTP Panel meeting process

The School representative will be at the meeting to explain to the Panel the School’s concerns about you. You are there to respond to those concerns. The Panel is neutral. It is not on either side. The job of the Panel, having read the papers, and having put questions to the School representative and to you, is to understand the case, to arrive at conclusions about the facts of the case, and to make a decision about the outcome.

Questions for the School representative and for you

The running order for the meeting is:

1. after the School representative has introduced the case, the Panel will put questions, first of all to the School representative and then to you. It is a good idea to be ready to take notes while the School representative is being questioned, just in case something that is said is not clear, seems inaccurate, or in case any questions occur to you that you would like to ask when it is your turn to question the School representative. Remember that University disciplinary hearings must not be recorded.
2. when the Panel has finished questioning the School representative, you (or your representative) will be invited to question the School representative. Before this happens, you will be asked whether you wish to take a few minutes in order to prepare your questions with your representative, and the Chair will be very happy to accommodate such a request;
3. when the questioning of the School representative has been completed, it will be your turn to answer questions (which only you may answer, your representative will not be able to answer on your behalf), and then the School representative will be invited to ask you questions. If you wish, you (or your representative) may make an opening statement before you are questioned.
4. if you have a representative, then after the Panel and the School have questioned you, your representative may wish to put questions to you.

At the end of the questioning, you will be able to make some concluding remarks, an opportunity for you to tell the Panel anything you wish. Whoever accompanies you will also be asked if he/she wishes to say anything on your behalf.

If you need a break during the FTP Panel meeting just ask

The Chair will try to ensure that there are regular breaks, but if for any reason you are finding it difficult please feel free to ask for a short break. If you become emotional do not be afraid to ask for some time to compose yourself.
Try to speak slowly and clearly

The Panel Secretary, and some members of the Panel, will be making notes, so please speak clearly and do not speak too fast. It is not permitted to make a recording of the meeting.

If you have a disability

If you have a disability and need special arrangements please let the Panel Secretary know well in advance of the meeting.

The Panel membership

In addition to the Chair, there will be at least one Panel member from your School. Panel membership may also, depending upon the case, include other members of staff, staff from service partners (e.g. the NHS) and lay people.

The Panel should not include anyone with whom you have had significant personal contact (e.g. a tutor, Academic Advisor or supervisor). If a panel member had given you one or more lectures, that would not be a problem. However someone who has been involved in making decisions about you (e.g. the decision to refer you to the FTP Panel) or who has complained about you should not be on the Panel.

If you are on a very small programme where all the staff know all the students very well, then instead of the Panel including at least one individual from your School, to ensure that the Panel is independent it may be necessary for the Panel to include one or more members from another institution.

You will be notified in advance of the names of the Panel, and if there is anyone with whom you have had significant contact, or to whom you object, you should let the Panel Secretary know immediately, explaining the reasons for your concern.

The powers of the Fitness to Practise Panel

The powers of the Panel are listed in the FTP regulations. The powers range from dismissing the case (and allowing the student to continue on the programme) to excluding the student (and terminating the studies of the student). The Panel can require a student to attend a further FTP Panel meeting, which happens where there is a need to review a case after a period of time has elapsed.

Attendance at the Fitness to Practise Panel is obligatory

You must attend the Panel meeting. If you are too ill to attend, you will need to have supplied a medical certificate to the Panel Secretary. If you do not attend without a reasonable explanation, the Panel has the power to consider the case in your absence.
5. Be honest

Being Honest

It is most important that you tell the truth at all times, both when preparing your written submission and when you are answering questions at the meeting itself. Honesty and trustworthiness are virtues that the panel will be looking for when they are considering your case.

Being honest is more than telling the truth

Acting honestly means more than simply answering questions truthfully. It would be dishonest to allow a Panel to gain a false impression of a situation even if one did not actually lie to do so.

6. After the meeting

The outcome of the case

The outcome is not likely to be available on the day of the meeting.

Occasionally the Panel will need additional time to make its decisions. If this occurs and means that the outcome letter will be delayed, you will be notified.

Within five working days of the FTP Panel making its decision, you should be sent a letter from the Secretary to the Panel which explains the outcome. To ensure this reaches you without any delay you should make sure that the Panel Secretary has your correct and up-to-date mail and email address. A copy of the letter will be sent to the Head of School, the Director of your programme, in the case of clinical medical students your Hospital Dean, and, if you wish, any legal advisor who accompanies you. Depending upon the circumstances, a copy will also be sent to staff in student support, the Occupational Health service, the Disability Support Office, the relevant health/social care regulator and/or (in the case of a medical student) the Dean of Postgraduate Medical Studies.

If you are unhappy with the outcome letter

As explained in the FTP Procedure, if you are unhappy with the contents of the outcome letter you have the right to appeal. The details of how to do this are explained in the FTP Procedure. If you are unhappy with the outcome of an appeal, then you have the right to make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA), a national body the function of which is to consider complaints by students. The Students’ Union provides advice on the appeals process and dealing with the OIA.

Medical students must disclose having attended the FTP Panel when applying for provisional registration with the General Medical Council (GMC)

When applying for provisional registration with the GMC, the GMC will ask the applicant if he or she has attended a FTP Panel, and this question must be answered truthfully.
Where a medical student has attended an FTP Panel, and this has been disclosed to the GMC during the process of applying for provisional registration, the GMC will usually investigate the case, and will require sight of the full FTP Panel case papers.

Medical students who have attended a FTP Panel are advised to inform the GMC 6 months before the expected date of graduation, to give the GMC sufficient time to investigate the matter.

**The General Medical Council (GMC) is not bound by the decision of the FTP Panel**

The fact that an FTP Panel has found a medical student is fit to practise and permitted to continue does not guarantee that the GMC will agree and grant provisional registration. For a variety of reasons (for example a student who has not fully co-operated with the Medical School, or a student who has failed to disclose one or more criminal matters), every year the GMC declines to grant provisional registration to a small number of new UK medical graduates.

### 7. Frequently asked questions

**Am I suspended or interrupted while waiting for the Panel meeting?**

If your studies have been interrupted, or if you have been suspended, then you should already have been told this by your Programme Director. If there are any restrictions on what you can do, for example not being allowed to go on placements or use the University library, then you should have already been informed.

**Can I continue on the programme after the FTP Panel meeting?**

That will be a decision for the FTP Panel. The Panel is most reluctant to discontinue studies, and will always consider ways that this can be avoided if possible.

**What is the timescale – when will the meeting be held?**

The timetabling is in the hands of the College of Medicine, Biological Sciences and Psychology. Delays will be avoided as much as possible. However the College cannot begin to timetable the meeting until it has received the full case papers from the Medical School, which may take a while to prepare, and delays can occur if a student needs to be seen and assessed by Occupational Health and/or an independent specialist before being seen by the FTP Panel. A number of the members of the Panel will be working part or full-time in the NHS, and may need to cancel clinical commitments (such as out-patient clinics, surgeries or operating lists) which as a rule requires at least 8 weeks’ notice, and this means that in practice it is not usually possible to timetable a FTP Panel for less than 3 months after referral and receipt of papers. There may be reasons why the meeting needs to be held more speedily than this, in which case the Faculty will make every effort to expedite the meeting. Please note that the timetabling of an FTP Panel meeting is likely to be put on hold until the completion of (i) any outstanding academic appeals and student discipline cases (ii) the investigation of any complaints made by, or against, the student.

**What can I do to make myself look better?**

You should not feel under pressure to accept any allegations which you feel are untrue or incorrect,
but if you accept that the allegations are correct and fair then it is helpful to acknowledge this and explain what steps you have taken to improve or correct the position and what you will do in the future to prevent similar problems occurring.

Will tutors, supervisors, mentors or teachers be informed of my FTP referral?

Whilst your Programme Director is likely to be informed, other staff involved in supervising or teaching you will probably not be informed.

Will I have to tell anybody I have been referred to the FTP Committee?

It may be necessary for the FTP Panel outcome letter to be copied to others as explained above. If when applying for registration with a regulator, or when applying for a job, you are asked if you have been referred to an FTP Panel, then you must give an honest answer. It is a matter that may well be mentioned when a member of staff of the University writes a reference on your behalf.

Should I tell my employer I have been referred to the FTP Committee?

Many students have part-time employment. If that employment involves health or social care (for example working as a carer, or a nursing aide) or is in a health or social care environment, it is absolutely essential that you immediately notify your employer that you have been referred to the FTP Committee and the reasons for that referral. It would be considered dishonest to conceal this information.

Can a placement provider (such as a hospital trust) refuse to permit me a placement?

This is not uncommon at the stage your case is under investigation or awaiting consideration by a criminal court or by the FTP Committee. However NHS trusts can only consider the details of an individual student case, and the School can only discuss your case with a placement provider, if you have consented to this.

What if I withhold my consent for the School to discuss my case with a placement provider?

You need to be aware that if you withhold your consent for this discussion then the consequences could be to delay your return to the programme.