

LONDON DEANERY

REVIEW AND APPEAL PROCEDURE RULES

1. INTRODUCTION

- 1.1 These Rules are to be applied in relation to reviews and appeals arising out of the award of Outcomes 2, 3 and 4 through the Annual Review of Competence Progression process, and Outcomes D and E in the Record of In Training Assessment process.
- 1.2 The Rules are based section 7 of the Department of Health Gold Guide and apply to all trainees bound by that Guide at the time the review or appeal in question was sought. In the interests of fairness and equity, they may also be applied to trainees on programmes managed by the London Deanery who are not bound by the provisions of the Gold Guide.
- 1.3 The Rules also apply to trainees referred to the ARCP panel by their Training Programme Director in consultation with their Postgraduate Dean pursuant to paragraph 7.123 of the 2010 edition of the Gold Guide.
- 1.4 In these Rules the following terms and abbreviations have the following meanings:
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| "ARCP" | means the Annual Review of Competence Progression; |
| "Appeal Panel" | the panel convened to carry out a Step 2 formal appeal hearing of an Outcome 3 or 4 decision; |
| "Deanery" | The London Postgraduate Department of Medical and Dental Education; |
| "Review Panel" | the panel convened to carry out a review of an Outcome 2 decision; |
| 'RITA' | means the Record of In Training Assessment; |
| "Discussion Panel" | the panel convened to carry out a Step 1 review of an Outcome 3 or 4 decision; |
| "TPD" | Training Programme Director. |
- 1.5 All references to paragraph numbers refer to paragraphs of the Gold Guide. All references to Outcomes bear the same meanings as they are given in the Gold Guide.
- 1.6 Outcome 4 is not linked to a specific RITA outcome. However, it is recommended that the principles for handling requests for reviews and appeals of an ARCP Outcome 4 should also be applied to recommendations made by a RITA panel that a trainee should be withdrawn from training before the completion of their training programme.
- 1.7 Appeals against Outcome 3 or Outcome 4 decisions can take place in two stages – Step 1 and Step 2. Step 1 is conducted by a meeting of the Discussion Panel and is dealt with under section three of these rules. Step 2 is conducted by way of a formal hearing before the Appeal Panel and is dealt with under section four of these rules. In these Rules the term "appeal hearing" means Step 2 appeal hearings. The term "meetings" means sittings of the Review Panel, the Discussion Panel and the Appeal Panel.

2. REVIEW PANEL

- 2.1 Outcome 2 decisions may only be reviewed by the panel that carried out the original ARCP. Such reviews give the trainee the opportunity to discuss the decision with the panel and provide any additional material that they consider relevant to the decision. The panel must take into account the trainee's representations and such additional evidence and in the light of such matters must review their previous decision to reconsider whether it was appropriate. The panel may reaffirm their previous decision or substitute it for a different decision.
- 2.2 Any review of an Outcome 2 decision must be undertaken by as many members of the original ARCP panel as possible. The quorum for such a review will be three of the original panel members, one of whom must be the Postgraduate Dean or nominated deputy (Head of School/Associate Dean) who chaired the meeting at which the original decision was made.
- 2.3 Requests for review of an Outcome 2 decision must be made in writing to the person who chaired the original panel, or to a nominated Deanery member of staff, within ten working days of the date upon which the trainee was notified of the Outcome 2 decision. The Outcome 2 review should take place within fifteen working days of receipt of the request for review or where such a timescale cannot be achieved as soon as is practicable.
- 2.4 Trainees have a right to be represented at the review hearing. Legal representation will be allowed at the Chair's discretion.
- 2.5 The procedure set out in section five of these rules must be followed in relation to the request for review and the procedure set out in section six of these rules must be followed in relation to the review itself.
- 2.6 Upon completion of the review the Review Panel will retire to consider its decision in private. It may then decide to:
 - (a) reaffirm its previous decision;
 - (b) substitute its previous decision with a decision that Outcome 1 has been reached and complete an Outcome 1 form or an Outcome 6 form if the trainee has completed their training; or
 - (c) amend the previous Outcome 2 decision by way of deletion, addition or amendment.
- 2.7 A representative of the Deanery will attend the review and keep an account of the proceedings and the decision made. The trainee will be notified of the decision and provided with the account of the proceedings within five working days of the review taking place. The decision will be recorded in the form set out at Schedule 2 to these rules.
- 2.8 There is no further internal right of appeal against the decision of the Review Panel.

3. DISCUSSION PANEL

- 3.1 The Discussion Panel will deal with Step 1 of the appeal process available in relation to an Outcome 3 or Outcome 4 decision. It is intended to provide the trainee with the opportunity for discussion with regional advisers within the relevant College or Faculty and programme directors in an attempt to resolve matters. The purpose of this step is to reach a common understanding of a trainee's issues and to decide upon the best course of action.
- 3.2 The Discussion Panel will be comprised of a Postgraduate Dean or nominated deputy (who will be Chair), a regional adviser from the relevant College or Faculty and the relevant TPD / GP educators. The relevant Deanery senior manager will be present at the hearing to advise the Chair and to record the proceedings. As part of the Deanery's ARCP Quality Management Framework a Lay Assessor should also be present

- 3.3 Trainees have a right to be represented at the hearing. Legal representation will be allowed at the Chair's discretion.
- 3.4 Appeals against an Outcome 3 or Outcome 4 decision must be made in writing to the person who chaired the original panel, or to a nominated Deanery member of staff, within ten working days of the date upon which the trainee was notified of the Outcome 3 or Outcome 4 decision.
- 3.5 The Discussion Panel will deal with Step 1 of the appeals procedure – the discussion stage. The procedure set out in section five of these rules must be followed in relation to the request and the procedure set out in section six of these rules must be followed in relation to this stage of the appeal.
- 3.6 Upon completion of Step 1 of the appeal the Discussion Panel will retire to consider its decision in private. It may then decide to:
- (a) substitute the previous decision with a decision that Outcome 1 has been reached, and complete an Outcome 1 form or an Outcome 6 form if the trainee has completed their training;
 - (b) substitute the previous decision with a decision that Outcome 2 has been reached, and complete an Outcome 2 form outlining the further steps that must be taken.
 - (c) develop an action plan, including identification of the criteria against which achievement of competencies will be assessed and a revised indicative date for completion of training, and issue an Outcome 3 form accordingly;
 - (d) amend the previous Outcome 3 decision by way of deletion, addition or amendment; or
 - (e) reaffirm the previous decision.
- 3.7 Where the Discussion Panel proposes, either by reaffirming the previous decision or by developing an action plan, that a further period of training is required, such period may not exceed 12 months when aggregated with any previous extensions granted in respect of the trainee. This 12 month period may only be exceeded in exceptional circumstances (to be determined at the absolute discretion of the Discussion Panel) up to a maximum total period of 24 months further training in respect of any individual trainee. This will be a maximum of 6 months for trainees on Core Training (CT) programmes and for trainees on GP training programmes, with a possible extension up to 12 months in exceptional circumstances.
- 3.8 A representative of the Deanery will attend this stage of the appeal and keep an account of the proceedings and the decision made. The trainee will be notified of the decision and provided with the account of the proceedings within five working days of the appeal taking place. The decision made will be recorded in the form set out in Schedule 3 to these rules.

4. APPEAL PANEL

- 4.1 If a trainee who has received an Outcome 3 or Outcome 4 decision does not accept the outcome of the Step 1 process (i.e. that conducted by the Discussion Panel) he may invoke Step 2 of the appeals process. Step 2 is automatically invoked following the Step 1 Discussion Panel stage in relation to a trainee who has received an Outcome 4 decision. Step 2 is dealt with by way of a formal hearing which is heard by the Appeal Panel.
- 4.2 If a trainee does not accept the decision of the Discussion Panel and wishes to proceed to Step 2 he must inform the Postgraduate Dean, or a nominated Deanery member of staff, in writing within ten working days of the date upon which he was notified of the Step 1 decision. The appeal hearing should take place within fifteen working days of receipt of the request or where such a timescale cannot be achieved as soon as is practicable.

- 4.3 The Appeal Panel will be comprised of a Postgraduate Dean or a nominated representative (who will be Chair), a representative of the relevant College or Faculty from an adjacent region, two consultants / GP educators from the same Deanery area as the trainee, at least one of whom should be from a different specialty to the trainee, and a senior trainee from a different specialty. As part of the Deanery's ARCP Quality Management Framework a Lay Assessor should also be present. No member of the original panel or the Discussion Panel may sit on the Appeal Panel.
- 4.4 When arranging panel members, the Deanery will ask all proposed panel members to make a declaration with regard to any possible conflict of interests. In the event of a potential conflict of interest arising, the panel Chair will make a determination regarding whether the panel member is able to hear the appeal.
- 4.5 The relevant Deanery senior manager will be present at the hearing to advise the Chair and to record the proceedings.
- 4.6 Trainees have a right to be represented at the appeal hearing. Legal representation will be allowed at the Chair's discretion.
- 4.7 The procedure set out in section six of these rule must be followed in relation to the request and the appeal hearing.
- 4.8 Upon completion of the appeal hearing the Appeal Panel will retire to consider its decision in private. It may then make one of the determinations listed at section 3.4 above, save in the case of Outcome 4 decisions where one of the following determinations may be made:
- (a) substitute the previous decision with a decision that Outcome 1 has been reached, and complete an Outcome 1 form or an Outcome 6 form if the trainee has completed their training;
 - (b) substitute the previous decision with a decision that Outcome 2 has been reached, and complete an Outcome 2 form outlining the further steps that must be taken;
 - (c) substitution of the previous decision with a decision that Outcome 3 has been reached and complete an Outcome 3 form outlining the further steps that must be taken and develop an action plan, including identification of the criteria against which achievement of competencies will be assessed and a revised indicative date for completion of training; or
 - (d) reaffirmation of the previous decision.
- 4.9 Where Appeal Panel proposes, either by reaffirming the previous decision or by developing an action plan, that a further period of training is required, such period may not exceed 12 months when aggregated with any previous extensions granted in respect of the trainee. This 12 month period may be exceeded in exceptional circumstances (to be determined at the absolute discretion of the Appeal Panel) up to a maximum total period of 24 months further training in respect of any individual trainee. This will be a maximum of 6 months for trainees on Core Training (CT) programmes and for trainees on GP training programmes, with a possible extension up to 12 months in exceptional circumstances.
- 4.10 The trainee will be notified of the decision and provided with the account of the proceedings within five working days of the appeal hearing taking place. The decision shall be recorded in the form set out in Schedule 3 to these rules in relation to appeals against Outcome 3 decisions or Schedule 4 in relation to appeals against Outcome 4 decisions.
- 4.11 There is no further internal right of appeal against the decision of the Appeal Panel.

5. PROCEDURE PRIOR TO A MEETING

- 5.1 The provisions of this section shall apply in relation to all reviews and appeals conducted by the Review Panel, the Discussion Panel and the Appeal Panel.
- 5.2 Any request made by a trainee for a review or appeal (including Step 1 and Step 2) must set out the ground or grounds upon which the review or appeal is sought, indicating which aspects of the decision to be reviewed or appealed against the trainee wishes to challenge, with reasons.
- 5.3 In setting the date for a meeting of the Review Panel, Discussion Panel or Appeal Panel, whenever possible the Deanery will consult with the trainee and their representative regarding their availability before finalising a date. The final decision as to meeting dates will rest with the panel Chair
- 5.4 As soon as practicable after a date for a meeting of the Review Panel, Discussion Panel or Appeal Panel has been set the Deanery shall send the trainee a Notice of Meeting in the form set out in Schedule 1. The Deanery shall send a copy of this Notice to any other person reasonably considered by the Deanery to have an interest in the proceedings.
- 5.5 At least 3 working days before the meeting of the Review Panel, Discussion Panel or Appeal Panel is due to take place the trainee shall:
 - 5.5.1 provide the Deanery with copies of any additional evidence they wish to be considered as part of the review or appeal, in electronic form where possible;
 - 5.5.2 in relation to an appeal hearing, provide the Deanery with the name, contact details and the professional capacity (if applicable) of any representative or adviser who will be attending.
- 5.6 The trainee may apply to the Deanery for a postponement of the meeting due to consider their case, in writing, setting out the reasons for the application. The Deanery may also seek a postponement of a meeting. The person who is due to chair the panel that will conduct the meeting will determine such applications and may allow a postponement of the meeting. In those circumstances the Deanery shall as soon as practicable send notification of the decision to postpone the hearing and any date fixed for the reconvened meeting to all persons to whom the original Notice of Meeting was sent.

6. PROCEDURE AT MEETINGS

- 6.1 The Deanery shall provide a bundle of papers to all parties present at the meeting which contains all material considered by the panel(s) that have considered the decision under review or subject to appeal, all material provided by the trainee in accordance with 5.5.1 above and copies of the relevant previous decisions made in relation to the trainee.
- 6.2 Should a postponement request not be submitted, or not granted, under 5.6 above, and the trainee then subsequently fails to attend the meeting, the panel is empowered to continue the meeting in the trainee's absence and to make a determination relying solely on any written submissions provided by the trainee and the Deanery bundle of papers. The decision to continue the meeting in the absence of the trainee shall rest with the panel Chair.
- 6.3 Any material produced to the meeting that has not been supplied in advance will only be admitted with leave of the Chair.
- 6.4 The Chair may postpone a meeting at any stage upon their own volition or upon an application by the trainee or any other party present on grounds including but not limited to the need to consider additional material not supplied in advance or to commission further inquiries. Where a meeting is postponed notifications will be sent in accordance with 5.6 above. Where additional materials, or further inquiries, are needed this will be confirmed in

writing to the trainee and their representative, with confirmation of what is being requested, why, from whom or where, and a proposed timeframe in which these further inquiries will be concluded. Upon conclusion of these inquiries, any results will be shared with the trainee in advance of the reconvened meeting, and the trainee afforded the opportunity to comment on the results.

- 6.5 The Deanery reserves the right to engage legal representation in connection with a Step 2 appeal and to be legally represented at an appeal hearing.
- 6.6 The procedure at meetings shall be as follows:
 - 6.6.1 the Chair shall read the grounds of review or appeal set out in the trainee's notice requesting the review or appeal and ask the trainee to confirm that these are his sole grounds. The leave of the panel shall be required to advance any additional grounds;
 - 6.6.2 the trainee will be invited to present his case and may make representations and refer to any material before the panel.
 - 6.6.3 the panel will be given the opportunity to ask questions of the trainee and any persons called to speak on his behalf where applicable;
 - 6.6.4 the trainee will be invited to make final representations before the panel retires to consider its decision. He will be invited to address the panel on any of the matters referred to in 6.7 below.
- 6.7 Panels must take into account any mitigating factors such as ill health or domestic circumstances or from the training environment such as changing circumstances or the supervision available.
- 6.8 Any procedural matters arising at a meeting shall be determined by the Chair.
- 6.9 The panel shall record their decision in the form set out in the relevant Schedule to these rules. This and the account of the proceedings shall be sent to the trainee within five working days of the meeting.

7. REFERRALS BY TRAINING PROGRAMME DIRECTORS

- 7.1 A TPD may request that a trainee's progress be reviewed by a panel at any time in accordance with paragraph 7.123 of the 2010 edition of the Gold Guide. The decision reached as a result of such a review may be subject to review by the Review Panel in the case of an Outcome 2 decision in accordance with section 2 or appeal to be considered by the Discussion Panel and / or the Appeal Panel in the case of Outcome 3 or 4 decisions in accordance with sections 3 and 4 respectively.