



HEALTHCARE PLAY SPECIALIST EDUCATION TRUST

FITNESS TO PRACTICE POLICY & PROCEDURE

Executive Summary

The fitness to practice hearing policy is aimed at ensuring that issues of misconduct are managed and dealt with in a fair and consistent manner.

HPSET promotes high standards of behaviour and conduct for all registrants and students. HPSET takes appropriate corrective action where those standards are not met.

Fitness to practice hearing rules and procedures are designed to assist in setting of standards for conduct and behaviour. It is important that registrants and students understand them.

The fitness to practice hearing process is not intended to be punitive in nature. The procedure therefore describes the steps to be taken to deal with each situation reasonably and, wherever possible, to help the person concerned to improve their standards of conduct and behaviour to reach acceptable standards.

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1. Scope

This procedure applies to all registrants and students. When a formal disciplinary process is being undertaken by the employer or the University, registrants and students must inform HPSET. HPSET will await feedback from the employer or university before undertaking any formal investigation.

2. Definitions

In this procedure registrants and students are people who are registered or indexed with HPSET, and those who have lapsed their registration or are undertaking a return to practice process.

3. Objectives

The purpose of this document is to set out the procedures to be followed when standards of conduct give rise to problems which have been raised with HPSET. This procedure is intended to provide consistency in the treatment of registrants and students, to ensure matters are dealt with promptly. HPSET will take fitness to practice hearing action against registrants and students only in accordance with the provisions of this procedure.

4. General principles

- **Fairness:** The application of this procedure will be consistent, prompt, impartial, reasonable and applied without discrimination.
- **Confidentiality:** Information relating to an allegation of misconduct will not be divulged to any parties not involved in the fitness to practice hearing process. Statements, letters and other communications will be strictly confidential to those involved in the fitness to practice hearing procedure and records will be kept in accordance with the General Data Protection Act 2018.
- **Natural justice:** At every formal stage of the fitness to practice hearing procedure, the registrant or student will be advised of the nature of the complaint and will be given the opportunity to state his / her case. Where a warning is given, the registrant or student will be provided with appropriate advice to improve his / her conduct.
- **Equal opportunities:** This policy will be applied without any distinction to protect characteristics as defined by the Equalities Act 2010. HPSET monitors the use of its fitness to practice hearing procedure by the protected characteristics of those against whom action is taken to ensure that its implementation does not impact unfairly on any one group.
- **Representation:** The registrant or student has the right to be accompanied by a companion or trade union representative at every stage of the formal procedure.

The companion shall have an opportunity to address the hearing, put and sum up the registrant's or the student's case, respond on behalf of the registrant or student to any views expressed at the meeting, and confer with the registrant or student during the hearing. The companion does not have the right to answer questions on the registrant or student's behalf, address the hearing if the registrant or student does not wish it, or prevent HPSET from

explaining the case.

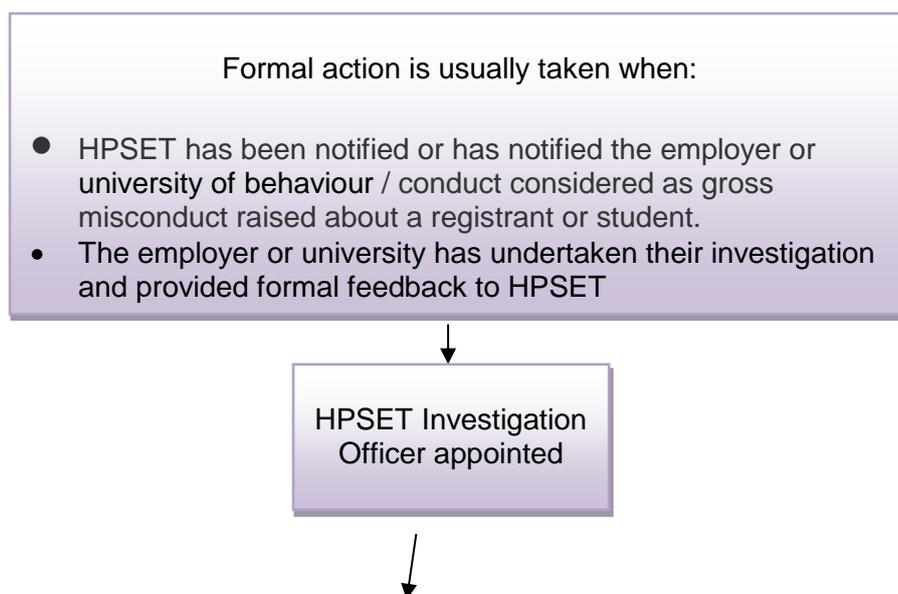
Any request to be accompanied at a meeting must be reasonable i.e. the companion should not be someone who may have a conflict of interest or who may prejudice the hearing. The registrant or student should notify the chair of the panel of his / her chosen companion prior to a meeting.

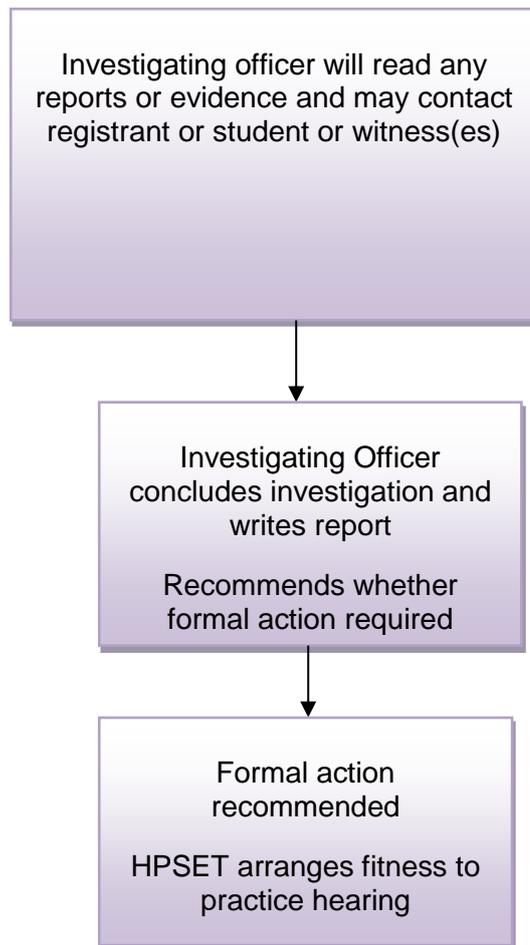
Where the chosen companion is not available at the time proposed for the meeting, the registrant or student has the right to request that the meeting be postponed and to suggest an alternative time within five working days of the original hearing date and all such reasonable requests will be agreed on one occasion only. In exceptional circumstances where the postponement of a meeting is due to circumstances beyond the registrant or student's control, a second postponement will be agreed and a third meeting arranged.

- **Right of appeal:** A registrant or student has a right of appeal against any formal fitness to practice hearing sanction and appeals will be heard by HPSET Trustee representatives not previously involved in the case. Please refer to the Appeals Policy for further information.
- **Recordings:** Audio / Visual recordings of the proceedings by the registrant or student, his/her companion or HPSET is acceptable at any stage of the fitness to practice hearing procedure, provided all parties agree.
- **Discipline and Grievance:** Any concerns that a registrant or student has regarding fitness to practice hearing action being taken against her or him should be raised as part of his / her response to the fitness to practice hearing action and will normally be considered within this procedure.

The Fitness to practice hearing Procedure / Process

5. Fitness to practice hearing process – Formal Action





6. Formal Action - Investigation

HPSET will notify the registrant or student that a formal investigation is being undertaken. Fitness to practice hearing action will not be undertaken until the necessary facts have been established.

7. Conducting an investigation

The investigating officer will conduct an investigation which is confined to establishing the facts of the case and will include all aspects of the allegation including who made the allegation. There may be exceptional circumstances where the identity of the person making the complaint will not be revealed as part of the investigation report i.e. where someone may be put at risk.

The investigation will also include the collation of evidence for a possible fitness to practice hearing. The investigating officer will prepare a report based on the findings of his / her investigation, including where evidence was not found.

8. The fitness to practice hearing

Where it is identified that a fitness to practice hearing is required, the fitness to practice hearing procedure should be conducted within the following timescales. In exceptional circumstances, it may be necessary to extend these time limits in discussion with both parties.

Fitness to practice hearing

Process	Timeframe
<p>HPSET Panel Chair notifies registrant or student in writing that she / he is required to attend a fitness to practice hearing</p> <p>Registrant or student is provided with details of the fitness to practice hearing allegations and names of any witnesses who will be called</p>	No later than 10 working days before the date of the hearing
Registrant or student contacts HPSET if they are calling any witnesses to the hearing. Registrant or student organises own witness statements, and their attendance at the hearing.	No later than 5 working days before the date of the hearing
HPSET invites all witnesses to be called by them to the hearing, providing a copy of this procedure. HPSET to provide a copy of this procedure to witnesses to be called by the registrant or student.	No later than 5 working days before the date of the hearing.
All further written submissions, including witness statements, or reports from the employer or university to be provided to the Panel Chair	No later than 5 working days before the date of the hearing
Both parties involved in the hearing to be provided copies of all written submissions received	No later than 3 working days before the date of the hearing
Hearing	
HPSET Panel Chair notifies registrant or student orally of outcome of fitness to practice hearing	Within 1 working day of the decision and no later than 48 hours of the hearing, unless it is agreed that further evidence is required.
HPSET Panel Chair notifies registrant or student of outcome of fitness to practice hearing in writing and informs registrant or student of his / her right to appeal	No later than 10 working days of the hearing
Right of appeal to Chair of HPSET or another nominated Trustee	Must be done no more than 10 days after the letter has been sent to the registrant or student.

9. Fitness to practice hearing

The HPSET Chair will ensure equal treatment of all parties and ensure they have received copies of all relevant papers. The HPSET Chair will also ensure that all aspects of the case are considered and may seek further clarification of the written submissions from whomsoever they feel appropriate. The HPSET Chair will decide if the hearing needs to be adjourned if new facts emerge that require further investigation.

Fitness to practice – format for hearing

- A. Introductions.
- B. HPSET Chair will explain the complaint / allegations.
- C. The investigating officer will present the findings of their report and present any witnesses and explain the evidence supporting the charges to the Panel.
- D. The Panel shall have the opportunity to ask questions of the investigating officer and any witnesses.
- E. The registrant or student (or his / her chosen companion) shall have the opportunity to ask questions of the investigating officer and witnesses and raise points about information provided by them.
- F. The registrant or student or his/her chosen companion will then set out his / her case and present any witnesses in response to the charges.
- G. HPSET Panel shall have the opportunity to ask questions of the registrant or student and any witnesses.
- H. The investigating officer shall have the opportunity to ask questions of the registrant or student and witnesses and raise points about information provided by them.
- I. The panel shall have the opportunity to ask any final questions of the registrant or student, investigating officer or witnesses.
- J. The investigating officer shall have the opportunity to sum up his / her case
- K. The registrant or student (or his / her chosen companion) shall have the opportunity to sum up his / her case.
- L. HPSET Panel Chair shall sum up the main points of the evidence put forward.
- M. If considered necessary by the HPSET Chair, the meeting shall be adjourned to allow further investigation into the matters raised or to ask questions of any witnesses who were unable to attend the hearing.
- N. If further evidence or witnesses are sought, and the HPSET Chair relies on this evidence to form a decision, they will reconvene the hearing to allow consideration of the evidence by both parties and / or cross-examination of witnesses.
- O. The hearing should end with the HPSET Chair asking the registrant or student if they have anything further to say.
- P. The HPSET Chair should advise the registrant or student when they might reasonably expect an outcome / decision within the timescales of this procedure.

Notes will be taken of all fitness to practice hearings which will be typed as soon as possible after the hearing. The typed notes will always be made available to all parties in advance of an appeal hearing. The Parties should raise any factual inaccuracies of notes with the HPSET Chair within five working days of receipt.

10. Decision

After the fitness to practice hearing, the HPSET Panel, having fully considered the circumstances of the case and conducting further checks where necessary i.e. where there are disputes over the facts, will decide whether or not a fitness to practice sanction is justified. For a fitness to practice sanction to be justified in a situation where the facts of the case have been in dispute and a full investigation has been conducted, there must be a reasonably held belief on the grounds of probability, that the registrant or student committed the act in question.

10.2 The decision will be provided to the registrant or student orally within 1 working day of the decision being made (no later than 48 hours). Written confirmation with full reasoning for the decision will be provided to the registrant or student no later than 10 working days after the hearing.

11. Notification of outcome

Where fitness to practice hearing action is taken, the registrant or student will be informed of the outcome as soon as possible, including:

1. The nature of the misconduct.
2. The fitness to practice sanction awarded.
3. The reasons why the fitness to practice action was taken.
4. The consequences of any further failure to adhere to acceptable standards of conduct should be made clear.
5. The provision of any corrective action that is required and if not immediate, the time within which improvement will be expected.
6. The period given for improvement and the improvement expected.
7. The time period within which the sanctions will be considered to have lapsed
8. The fact that a record of sanctions will be kept.
9. The right of appeal, advising that this should be formally submitted in writing to the Chair of HPSET or nominated trustee, and the right to representation at any future appeal hearing.
10. HPSET Panel Chair will notify the employer and/or university of the outcome of the fitness to practice hearing.
- 11.

12. Levels of fitness to practice hearing sanction's

Fitness to practice hearing Action / Sanction	Details
Development of performance standards: <ul style="list-style-type: none">• Completion of specified practice hours with a trained mentor.• Specified competences to be signed off by mentor	Normally be issued if: <ul style="list-style-type: none">• misconduct is confirmed and the conduct is of such seriousness that a sanction is applied.• Timescale for completion of sanction to be set by panel.

<p>Suspension from the register for a specified period of time</p> <ul style="list-style-type: none"> • Suspension for a set period of time from the register • Undertake the return to practice process as part of the return to the register 	<p>Normally issued if:</p> <ul style="list-style-type: none"> • misconduct is confirmed and the conduct is of such seriousness that a sanction of supervised practice is not appropriate. • The level of misconduct would not justify a permanent removal from the register.
<p>Permanent removal from the register.</p>	<p>Normally occurs if:</p> <ul style="list-style-type: none"> • an allegation of gross misconduct is found to be proven. • another instance of misconduct has occurred during the currency of a previous sanctions.

13. Gross misconduct

Some acts termed gross misconduct are so serious in themselves or have such serious consequences that they may call for an immediate removal from the register.

This list is not exclusive or exhaustive.

- serious or gross negligence resulting in unacceptable loss, damage or injury.
- intentional serious breach of HPSET Code of Professional Conduct and Standards.
- serious breach of a professional code of conduct.
- bringing HPSET into serious disrepute.
- theft, fraud or deliberate falsification of records or documents.
- assault or attempted assault of a physical or sexual nature.
- a breach of health and safety rules which places a member of staff or others in danger.
- intentional misuse of confidential information.

14. Conviction or being charged with a criminal offence

Conviction or being charged with a criminal offence outside the workplace and normal working hours may be deemed as misconduct or gross misconduct depending on the nature of the offence, the effect of the charge on the registrant or student's suitability to do the job.

15. Appeal Procedure

Where a registrant or student is notified that a fitness to practice sanction has been awarded against him/her, she / he will also be notified of the right of appeal. Where a registrant or student feels the decision taken against him / her is wrong or unjust, she / he may appeal against the decision.

16. Training and Awareness

The Fitness to practice hearing process is available on the HPSET website

17. Equality

This policy will be equality impact analysed and can be found on the HPSET website

18. Review

This policy will be reviewed in 3 years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

19. Monitoring Compliance with this Policy

HPSET is responsible for managing the impact of fitness to practice sanctions against registrants and students to ensure that no group is disadvantaged by the policy. HPSET will report on the number of cases (not specific details) to the board for information purposes. The data has to be used fairly, ethically and confidentially and in accordance with the sensitive personal data provisions of the General Data Protection Act 2018.