

## STUDENT FITNESS TO PRACTICE

**This document has been produced to support course providers should a student fitness to practice issue arise during the student's course with Dental Training Ltd.**

### **Declaring student fitness to practise proceedings.**

If a student has been subject to fitness to practise proceedings during their training they must provide details on their application for registration with the GDC.

They will need to include a description of the proceedings undertaken or contemplated, including the approximate date of the proceedings. They must declare warnings, undertakings, conditions, and suspension from the course information. The character referee would also be expected to declare these and provide relevant information.

Declaring criminal convictions and cautions as well as student fitness to practise proceedings, students also need to declare criminal convictions and cautions when applying. This is the case for both current and past convictions and cautions, before or during their training.

### **Students must inform the GDC of any of the following:**

- being charged with a criminal offence
- being found guilty of a criminal offence
- receiving a conditional discharge for an offence
- accepting a criminal caution (including a conditional caution), or otherwise formally admit to committing a criminal offence
- accepting the option of paying a penalty notice for a disorder offence (in England and Wales), a penalty notice under the Justice Act (Northern Ireland) 2011 or a fixed penalty notice under the Antisocial Behaviour etc. (Scotland) Act 2004
- receiving a formal adult warning in Scotland. Students do not need to inform the GDC of the following:
  - a fixed penalty notice for a road traffic offence;
  - a fixed penalty notice issued by local authorities (for example for offences such as dog fouling, or graffiti);
  - an anti-social behaviour, preventative justice, or other social order

Failure to declare criminal convictions and cautions is viewed as dishonest and incompatible with professional behaviour and being on the register.

Convictions/cautions considered spent should still be declared. It is likely to lead to

referral to a committee and can affect their registration. Again, the character referee would also be expected to declare these issues and provide relevant information

## **Examples of allegations:**

### **Criminal conviction or caution**

- Theft, including shoplifting
- Serious driving offences
- Financial fraud
- Possession of illegal substances
- Child abuse or any other abuse
- Child pornography
- Physical violence

### **Drug or alcohol misuse**

- Drink driving
- Alcohol consumption that affects clinical
- Work or environment
- Dealing, possessing or misusing drugs even
- if there are no legal proceedings

### **Aggressive, violent or Threatening behaviour**

- Assault
- Physical violence
- Bullying
- Abuse

### **Cheating or plagiarising**

- Cheating in exams or logbooks
- Passing off others' work as one's own
- Forging a supervisor's name on Assessments

### **Dishonesty or fraud, including dishonesty Outside the professional role**

- Falsifying research
- Financial fraud
- Fraudulent CVs or other documents
- Signing in for other students at lectures

### **Unprofessional behaviour or attitudes**

- Failure to raise concerns about your own or others behaviour, health or work
- Breach of confidentiality
- Failure to keep appropriate records

- Misuse of social media - posting information, including photographs and videos which would bring you, colleagues and/or the profession into disrepute
- Misleading patients about their care or treatment
- Culpable involvement in a failure to obtain proper consent from a patient
- Failing to adhere to cross contamination/infection procedures
- Sexual harassment
- Inappropriate examinations or failure to keep
- Appropriate boundaries in behaviour
- Persistent rudeness to patients, colleagues

### **Health concerns**

- Mental health issues
- Failure to seek medical attention or other support
- Refusal to follow medical advice or care plan Including monitoring/reviews
- Failure to recognise limits and abilities
- Refusal to follow medical advice or care plan including monitoring/reviews
- Failure to recognise limits and abilities

### **Issues with clinical/technical performance**

- Failure to meet level required, learning outcomes or patient safety at risk
- Failure to recognise limits and abilities

### **The roles of personal tutors, investigators and panel members**

Those responsible for supervising students should understand that their own fitness to practise can be called into question if they fail to follow this guidance. A student's personal tutor should not also act as an investigator or as a member of the fitness to practise panel.

This allows the tutor to support the student and ensures the objectivity of the investigator and the panel members who will be making decisions about the student's future. The role of the investigator is to determine whether there is enough evidence to indicate that a student's fitness to practise is impaired.

An investigator should not be a member of the fitness to practise panel. During the course of an investigation, if there is evidence of misconduct but fitness to practise is not impaired, the investigator may issue a warning and a way forward should be agreed with the student.

All outcomes should be recorded, the appropriate person informed of the decision in order to monitor any further issues, and the student should be made aware that the outcomes must be disclosed to the GDC at the point of registration.

Appropriate appeal procedures will need to be established in the event that a student wishes to appeal against the findings of an investigation. The role of panel members is to deliberate on the evidence presented by the investigator, the student, expert advisers and witnesses (if applicable).

The panel should set out its determination in writing, which should include reasons for their such as decision, warnings or sanctions, and the requirement to disclose the outcome to the GDC and other organisations such as postgraduate deaneries.

### **Applying the threshold of student fitness to practise criteria**

Providers should have clear criteria for judging the threshold of fitness to practise. This should cover health, behaviour, clinical/technical/academic performance and also relate to Standards for the Dental Team. The criteria should be published in the provider's student fitness to practise policy. The criteria should be applied when evaluating all cases.

Training should be provided on how the criteria should be applied. Review of their application/implementation should take place. Criteria should take into account whether the concern may affect their ability to continue with their course or to practise as a dental professional after qualifying.

This includes the possibility that they could put patients or others at risk. Evidence should be considered on the balance of probabilities. When considering this threshold, decision-makers may want to reflect on the following circumstances when a question of fitness to practise arises:

- a student's behaviour may have harmed patients or put patients at risk of harm
- harm or a risk of harm may be demonstrated by an incident or series of incidents that cause concern to personal tutors and academic or clinical supervisors. A series of incidents could indicate persistent failings or other repeated departures from good practice which are not being, or cannot be, safely managed through pastoral/student support or support has been tried and has failed
- a student is alleged to have shown a deliberate or reckless disregard of professional and clinical responsibilities towards patients and colleagues
- an isolated lapse from high standards of conduct - such as a rude outburst - would not in itself suggest that the student's fitness to practise was in question. But the sort of misconduct, whether criminal or not, which indicates a lack of integrity on the part of the student, an unwillingness to behave ethically or

responsibly or a serious lack of insight into obvious professional concerns will bring a student's fitness to practise into question

- a student's health or impairment may be compromising patient safety
- a fitness to practise procedure does not need to be initiated merely because a student is unwell, even if the illness is serious. However, a student's fitness to practise is brought into question if it appears that the student has a serious medical condition (including misuse of drugs or alcohol); AND the student does not appear to be following appropriate medical advice as necessary in order to minimise the risk to patients and colleagues.

### Panel composition and training

Student fitness to practise procedures should clearly describe the composition of the panel. In determining panel composition, providers should consider whether it would be practical to include:

- someone from outside the institution
- someone with legal knowledge
- a student representative who does not know the student being investigated (this might not be a dental professional student - where a course has a small number of students it may be appropriate to suggest someone from a student union/body or similar course that the provider has links with)
- a registered dental professional with experience of teaching on a programme leading to registration
- a representative from the clinical provider responsible for making a decision on whether the student may continue in the clinical practice environment e.g. NHS Trust or Employer placement
- a representative from a postgraduate deanery (if dentist). The panel should include a dental professional registered with the GDC. All panel members should receive training for their role, be appropriately experienced, and have access to all the relevant documentation.

Panellists should:

- know and understand the rules and regulations of fitness to practise and disciplinary matters at the educational institution
- know and understand relevant guidance such as 'Standards for the Dental Team', 'Preparing for Practice', this publication and GDC fitness to practise procedures

- be fair-minded and open to hearing the case before reaching a decision
- seek appropriate expert advice, especially in cases involving health or impairment issues
- ensure the fitness to practise proceedings are fair and proportionate
- know and understand legal requirements and good practice in relation to equality and diversity

## Hearings

Providers should make sure that their proceedings are fair.

This may include:

- ensuring the panel is unbiased and that there are no obvious conflicts of interest between investigators, panellists and students
- setting up appropriate procedures to avoid delays
- indicating how a hearing may proceed in the exceptional circumstances of the student being absent
- ensuring there is proper disclosure of information and equal opportunity to present evidence
- applying the civil standard of proof on the balance of probabilities
- making it possible to hold the hearing in public where the student so wishes, except that hearings involving health issues should be held in private
- ensuring decisions and sanctions are proportionate and that reasons for decisions are explained
- ensuring that the student is aware they are allowed to have legal representation or have a supporter present if they wish to do so.

## Appeals

Providers should have a clear appeals procedure for student fitness to practise decisions setting out what the process is and what can be considered. They should recognise that the criteria for fitness to practise for dental students and DCPs differ from those that apply to other students.

Appeals policy documents should include:

- limiting the appeals panel's remit to referring the case back to another fitness to practise hearing

- whether appeal hearings can reconsider the facts of the case or are limited to deciding whether due process was followed
- details on the composition of appeals panels taking on board the advice in this guidance regarding panel composition

Outcomes of a student fitness to practise hearing possible outcomes of a hearing include:

- the student receives no warning or sanction
- the student receives a warning as there is evidence of misconduct but the student's fitness to practise is not impaired and does not require any of the sanctions listed below
- the student's fitness to practise is judged to be impaired and they receive a sanction

Beginning with the least severe, the sanctions are:

- conditions or undertakings
- suspension from dental course
- expulsion from dental course. The purpose of the warnings and sanctions is not to be punitive but to protect patients and the public, although they may have a punitive effect

Investigators and the panel should consider the options available starting with the least restrictive and moving to the next only if satisfied that the warning or sanction is not sufficient to protect patients and the wider public.

Providers should consider whether it is necessary to suspend the student temporarily while an investigation or hearing into their fitness to practise takes place in order to protect patients, colleagues or other students. Providers should make sure the decision is proportionate, fair and evaluated on a regular basis.

Students who receive a warning or sanction, short of being expelled, should also receive supervision or monitoring, or both, to satisfy the provider regarding their fitness to practise. They should also be provided with remedial or pastoral support, or both. If the student is at the early stages of their dental education, it may be valuable to have the student reflect on their fitness to practise annually, at the very least.

It should be made clear to any student who receives a warning or sanction why they have received it, its intended purpose, its expected duration, and whether or when their fitness to practise will be considered again in a formal hearing.

Providers should have a clear policy on how long warnings and sanctions will remain on a student's record. It should be made clear to students that they can withdraw from their course rather than go through formal fitness to practise procedures. It should also be made clear that if they do withdraw, whether it will be possible for them to return to their course later, or transfer to a different course at the institution.

## Warnings

Warnings can be applied by both investigators and panels and allow the provider to indicate to a student that any given behaviour represents a departure from the standards expected and should not be repeated. They are a formal response in the interests of maintaining professional values. There should be adequate support for the student to address any underlying problems that may have contributed to their poor behaviour.

Recording warnings allows the provider to identify any repetition of the particular behaviour and to take appropriate action in that event. Breach of a warning may be taken into account by a panel in relation to any future case against a student, or may itself comprise misconduct serious enough to lead to a finding of impaired fitness to practise.

It should remain on the student's record and the student and referee must declare a warning to the GDC when applying for registration. Decision makers may want to take account of the following factors to determine whether it is appropriate to issue a warning:

- the student behaved unprofessionally
- the particular behaviour raises concerns, but falls short of impaired fitness to practise
- a warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. The decision makers will need to consider the degree to which the concern could affect patient safety and public confidence in the profession
- whether there is a need to record formally the particular concerns (because additional action may be required in the event of any repetition)

## Sanctions

The purpose of the types of sanction is to ensure that students whose fitness to practise is impaired are dealt with effectively, including possibly being removed from their course. A sanction also gives students the opportunity to learn from their mistakes.

Panels should consider whether the sanction will protect patients and the public and maintain professional standards. It is important that the panel's determination on a sanction makes clear that it has considered all the available options and provides clear reasons (including mitigating and aggravating factors that influenced its decision) for imposing a particular sanction.

In addition, the determination should include a separate explanation as to why a particular period of sanction was considered necessary. Provision will need to be made for systems to review or lift sanctions where this is appropriate.

### Sanctions: Conditions

Conditions are appropriate when there is significant concern about the behaviour of a student. This sanction should be applied at the panel level and only if the panel is satisfied that the student might respond positively to remedial tuition and increased supervision and has displayed insight into their problems.

The panel should consider any evidence such as reports on the student's performance, health or behaviour. The student should be made aware that the condition may be disclosed to the appropriate people and it must be declared to the GDC when applying for registration.

The objectives of any conditions should be set out clearly so that the student knows what is expected of them and so that any future hearing is able to determine the original shortcomings and the proposal for their correction.

Any conditions should be appropriate, proportionate, workable and measurable. Before imposing conditions the panel should be satisfied that:

- the problem can be improved through conditions
- the objectives of the conditions are clear
- a future assessment will be able to determine whether the objectives have been met and if patients will or will not be at further risk. When deciding on whether any conditions might be appropriate the panel will need to satisfy itself that most or all of the following factors are apparent
- no evidence of inherent problems with the student following good practice and professional values, and the student has shown sufficient insight

- identifiable areas of the student's studies in need of further assessment or remedial action
- willingness by the student to be open and honest with patients, colleagues and supervisors if things go wrong
- in cases involving health issues, evidence will be required that the student has genuine insight into their condition and shows willingness to comply with guidance on health matters. They must abide by any conditions relating to their health, treatment and supervision
- patients will not be put in danger either directly or indirectly as a result of conditions
- the conditions will protect patients during the period they are in force

### **Sanctions: Undertakings**

An undertaking is an agreement between a student and the provider, where there is a determination that the student's fitness to practise is impaired and the student acknowledges the impairment.

This agreement is usually taken forward before and instead of a formal hearing or determination. Undertakings may include restrictions on the student's clinical practice or behaviour, or the commitment to undergo medical supervision or remedial teaching.

As with conditions, they are likely to be appropriate where the concerns about the student's fitness to practise are such that a period of remedial teaching or supervision, or both, is likely to be the most appropriate way of addressing them.

Undertakings will only be appropriate if there is reason to believe that the student will comply with them, for example, where the student has shown genuine insight into their problems and potential for remediation. The panel may wish to see evidence that the student has taken responsibility for their own actions and, when necessary, taken steps to mitigate their actions.

The panel should take the following factors into account when considering whether to invite the student to accept undertakings:

- whether undertakings appear to offer sufficient safeguards to protect the public
- whether the student has shown significant insight. Students and the referee may need to consider whether these should be declared on their application to register with the GDC

## **Sanctions: Suspension from the course**

Suspension prevents a student from continuing with their course for a specified period and qualifying at the expected time. Suspension is appropriate for concerns that are serious but not so serious as to justify immediate expulsion. When students return from suspension they are expected to comply with any further conditions.

Students should consent to disclose the suspension and conditions to the appropriate people and must declare the suspension and conditions to the GDC when applying for registration, as must the referee. This sanction may therefore be appropriate when some or all of the following factors are apparent (this list is not exhaustive):

- a serious breach of professional values and student fitness to practise where the issue is not fundamentally incompatible with continuing on a dental course and where complete removal from the course would not be the only way to protect patients and the public, but the breach is so serious that any sanction less than a suspension would not be in the public interest
- in cases which relate to the student's health, where the student's judgement may be impaired and there is a risk to patient safety if the student were allowed to continue on the course - even under conditions
- no evidence of inherent problems following good practice and professional values
- the panel is satisfied that the student has insight and does not pose a significant risk of repeating behaviour
- there is appropriate support for the returning student

## **Sanctions: Expulsion from the course**

The panel can expel a student from the course if it considers that this is the only way to protect patients, carers, relatives, colleagues or the public. The student should be helped to transfer to another course if appropriate. However, the nature of the student's behaviour may mean that they should not be accepted on any course that leads to registration with the GDC, or on any other course.

Expulsion, the most severe sanction, should be applied if the student's behaviour is considered to be fundamentally incompatible with continuing on a dental course or eventually practising as a dentist or DCP. Expulsion is likely to be appropriate when the behaviour involves any of the following factors (this list is not exhaustive):

- a reckless disregard for patient safety
- serious departure from the principles set out in Standards for the Dental Team
- behaviour that is fundamentally incompatible with being a dental professional

- doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients
- abuse of position or trust
  
- violation of a patient's rights or exploiting vulnerable people
- criminal offences
- offences of a sexual nature, including involvement in child pornography
- dishonesty, including covering up one's actions
- putting own interests before those of patients
- persistent lack of insight into the seriousness of actions or consequences.