

Name of Guidance	Management of Probity Concerns
Category	Professional Support
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Document Author	Mr Jon Hossain, Deputy Postgraduate Dean Dr David Eadington, Deputy Postgraduate Dean

Version	Date	Author	Notes <small>Reason for Change, what has changed, etc</small>
1	June 2012	David Eadington	Document created
2	April 2014	David Eadington	Updates in line with organisational change
3	April 2015	Jon Hossain	Updates in line with organisational change
4	Aug 2015	Jill Hanson	Amalgamation of two existing policies and renaming
5	March 2016	Jill Hanson	Amendments in line with new HEE branding guidelines
6	May 2017	Nick Sowerby	Minor amendments around communication mechanisms

Related Documents (hyperlinks)

GMC Good Medical Practice 2013

http://www.gmc-uk.org/guidance/good_medical_practice.asp

Section 1: Background

The GMC publication, **Good Medical Practice (2013)** sets out the responsibilities of all doctors, including those in training. Sections 65 – 67 detail responsibilities relating to probity as a whole and sections 68 - 71 clearly lay out expectations relating to writing reports, CVs, giving evidence and signing documents.

Section 2: Falsifying or forging a document constitutes a serious breach of probity

Falsifying or forging a document (or part thereof) might constitute a criminal offence (for example under the Fraud Act 2006 or Forgery Act 1981). It may also have serious clinical implications and impact on patient safety.

Health Education England, working across Yorkshire and Humber (HEEYH) regard falsifying or forging any document (or any part of a document) as a serious breach of probity. This includes

- documents that form part of Work Place Based Assessments, logbooks and any other assessments and references.
- documents that form part of an application for a training post, where the process is organised by HEEYH. Trainees must declare any criminal conviction (including any police cautions) for all future appointments and as part of recruitment and pre-employment checks.

Falsification or forgery may occur either in electronic or paper copy form. HEEYH considers that 'falsification or forgery' includes acts of plagiarism.

Section 3: Actions taken when there are probity concerns

When an allegation has been made that a trainee has falsified or forged any document or failed to act with honesty and integrity then immediate action will be taken. Such action can include (but is not limited to):

- An investigation carried out by HEEYH (see Appendix 1)
- Informing the trainee's current employer. The employer may decide and/or HEEYH may request that the employer conducts an internal investigation, reporting their findings back to the Postgraduate Dean
- Informing the Local Counter Fraud team to investigate and determine what action should be taken

Depending on the result of the investigation(s) HEEYH as the training organisation will take further action as appropriate. If a trainee is employed, the local education provider also has the right to take action.

Section 4: Probity Panel

As part of an investigation into issues of probity, HEEYH follows a process suggested in a document issued by the Department of Health in 2012. This described a procedure for managing probity concerns that might arise in specialty recruitment application and included a probity panel comprising:-

- Panel Chair – Deputy Postgraduate Dean/Associate Postgraduate Dean
- Lay Representative
- Human Resources Representative, ideally this should not be from the trainee's employing trust

An administrative lead will also be in attendance to provide support and advice on the process but does not formally constitute part of the probity panel.

The Business Manager for the relevant Postgraduate School or function (Recruitment, etc.) should always be made aware of the allegation and provided with regular updates throughout the course of the process.

Section 5: Recommendations of the probity panel

The purpose of the panel is to consider all available evidence (written and oral) and make recommendations to the Postgraduate Dean.

These recommendations may be;

- There is no case to answer and no action is required
- The explanations given are satisfactory or unsatisfactory
- There is a need for remediation
- There is a need to refer to the GMC
- There is a need to consider withdrawal of the training number

Section 6 Appeals

- There is no opportunity to appeal a panel recommendation.
- Decisions reached by ARCP panels based on probity panel recommendations are subject to the usual appeal mechanism as detailed in the Gold Guide.
- The process to be followed to remove an NTN is set out in the Gold Guide.

Organisation of a Probity Panel

1. Prior to the Panel taking place – organisational arrangements

- The Investigating Officer will write to the trainee/doctor outlining the allegations and ask for the trainee to reply in writing within 10 working days. This communication should be sent electronically and also by recorded delivery.
- The initial communication should include the fact that a probity panel is to be convened to consider this issue and that the trainee will be invited to attend this, should they wish.
- Once the trainee/doctor's written response is received, or 10 working days after the initial letter where a response is not received, the Administrative Lead and the Chair will agree the date for the panel. Once the date is set, the details of the panel membership will be agreed. No individual who has previously been involved in decisions pertaining to the trainee's postgraduate training or had involvement in an HEEYH recruitment process the trainee was part of should be a member of the panel.
- The trainee should be invited in writing to attend the panel. This communication should be sent electronically and also by recorded delivery.
- The Administrative Lead will confirm that all panel members have completed or renewed their 'Equality and Diversity' training in line with HEEYH policy.
- The Administrative Lead will produce a chronology of events using data held on Intrepid and taken from the HEEYH trainee file. This would include all evidence relating to the allegation and would form the starting point for the preliminary discussion for panel members. If this was not a HEEYH trainee and this was a case that arose from recruitment, a copy of the trainee's application form and details of the allegation should be provided.

2. The Trainee/Doctor

The trainee must receive clear information detailing the process of the panel, including their right to submit new evidence in writing and the role of supporters. Trainees are able to submit new evidence no later than 5 working days before the panel is due to take place. Any new evidence submitted after this deadline must be agreed by the panel Chair.

HEEYH will;

- Contact the trainee in writing (recorded delivery and electronically). Full details of the concern(s) will be outlined in the letter. The trainee will be asked to respond in writing to HEEYH within 10 working days confirming whether they intend to attend the panel in person. They will be asked to sign their response and provide a copy of any supporting documentation which they will refer to during the panel for each panel member.
- Ensure that the advice/information given to the trainee is relevant, appropriate and complete. All detail provided to the trainee should mirror the detail provided to the panel.

The trainee is entitled to attend if they so wish and to be accompanied by a colleague or representative (e.g. BMA). Solicitors or other legally qualified individuals will only be permitted to accompany the trainee in the capacity of providing personal support. The trainee will be asked to notify the Administrative Lead of any individual accompanying them to the panel no later than 5 days before the date of the panel.

3. Pre-Meeting of Panel – how it should run

- Welcome and introductions. The Chair ensures that all panel members understand their role.
- Panel members are asked to confirm that they have undertaken the mandatory ‘Equality and Diversity’ training.
- If the trainee has asked to attend, the panel should review the evidence presented prior to the appearance of the trainee. Each panel member should clarify the details of the case and prepare any relevant questions to put to the trainee.
- Chair should reiterate that this is a ‘Health Education England in Yorkshire and the Humber’ process and not a ‘legal’ process.

4. Panel Hearing – how it should run

- Probity panels are intended to make a professional judgement and are not courts of law. The panel governs its own procedures in accordance with HEEYH policy.
- The trainee (with their supporter/representative if present) should be introduced to the panel.
- The Chair should discuss the format of the meeting with the trainee and confirm that recommendations will be made on the day, wherever possible.
- The trainee should be given the opportunity to present their case and to offer a statement in mitigation if they wish. Each member of the panel should be allowed to put further questions to the trainee for clarification.
- The Chair should focus the discussion and allow time for each member of the panel to express their views. Each of the ‘allegations’ or points should be put to the trainee and they should be given the opportunity to respond.

5. Consideration of Evidence

- The panel should consider the evidence in order to arrive at a consensus view. A unanimous recommendation is preferred, but not essential. It is the responsibility of the panel Chair to make the final recommendation.
- The panel will make recommendations on the following issues
 - a) Whether there is no case to answer
 - b) The explanations given were satisfactory or unsatisfactory
 - c) Whether there is a need for remediation
 - d) Whether there is a need to refer to the GMC
 - e) Whether there is a need to consider withdrawing the trainees NTN
- The panel may need to invite the trainee back into the room if further questions arise from the discussion
- The recommendation should be made by the panel immediately. A decision should be delayed only in exceptional circumstances.

6. Delivery of Panel Recommendation to Trainee

- The Chair should deliver the recommendations verbally to the trainee (if they are present). Only in exceptional circumstances should the trainee be informed that a process for further investigation/clarification is required. If further investigation is necessary, the trainee must be informed of the timescales.
- If the trainee is not present, then the panel will convene and form a recommendation based on the written evidence provided by the trainee. The panel Chair may postpone a probity panel if the request is reasonable.

7. Following the Panel Meeting

- The recommendations of the probity panel should be passed to the Postgraduate Dean.
- When the recommendation has been considered by the Postgraduate Dean, the Chair will write to the trainee formally notifying them of the outcome of the process.
- The Chair should send the trainee a written summary of the main points and outcome of the meeting together with a copy to other relevant parties. This document should be recorded on the trainee file if appropriate.
- A rationale detailing the panel recommendation should be recorded and put on file.
- Recommendations may include a referral to the GMC which may be made by the relevant Deputy Postgraduate Dean