

Name of Document	Annual Review of Competence Progression (ARCP) Appeals
Category	Standard Operating Procedure (SOP) - Trainee Management
Purpose	<p>This document is one of a suite of Standard Operations Procedures to support the management of doctors in training across England. This SOP is aligned to the principles of 'A Reference Guide for Postgraduate Specialty Training in the UK' (The Gold Guide). This SOP does not apply to Foundation and Dentistry trainees who are managed under separate Guides ('The Foundation Programme Reference Guide' and 'A Guide to Postgraduate Dental Specialty Training in the UK').</p> <p>Within the SOP, whenever reference is made to the Postgraduate Dean, it refers to the Dean or their nominated representative who will be responsible for managing the process on their behalf.</p> <p>This SOP is intended to be a guide to encourage consistency of practice across England. Due to the complex nature of Postgraduate Medical Training, there will be occasions where local PG Deans will apply their discretion in enacting this SOP to take account of individual circumstances and varying local structures (e.g. Lead Employer).</p> <p>This suite of SOPs will be screened against relevant Equality and Diversity documentation.</p>
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Version	Date	Author	Notes Reason for Change, what has changed, etc
1	27/06/2017	HEED	Document sign off at HEED

Related Documents

Gold Guide Version 6 <http://copmed.s3.amazonaws.com/publications/gold-guide/Gold%20Guide%206th%20Edition%20February%202016.pdf?AWSAccessKeyId=AKIAIGEGZICS6K7TFJ5Q&Expires=1502283239&Signature=gTjexuxinUd2foEf2zNnRc2zFQo%3D>

Standard Operating Procedure - Principles for Training of ARCP and ARCP Appeals Panel Members and Chairs, Standard Operating Procedure – ARCP

https://healtheducationengland-my.sharepoint.com/personal/kate_evans_hee_nhs_uk/_layouts/15/guestaccess.aspx?folderid=1b9902b00f7bf44e59842fcb28c1ef8ea&authkey=AU58_M0I3fn0qrhKz8ykeQk

Introduction

This SOP applies to trainee appeals against Annual Review of Competence Progression (ARCP) Outcomes 2, 3 or 4. Health Education England Postgraduate Deans (HEEDs) endeavour to achieve consistency of decision-making in order that the outcomes of reviews and appeals panels are as consistent as possible on a like for like basis. This document contains the Standard Operating Procedure (SOP) that all HEE Postgraduate Deans (PG Deans) should follow.

The SOP outlines how the management and administration of ARCP Appeals should be approached for all doctors in Postgraduate Specialty Training (including General Practice). The SOP is aligned to the principles outlined within the “A Reference Guide for Postgraduate Specialty Training in the UK” (The Gold Guide). ARCP Appeals for Foundation trainees have a separate SOP as per the UK Reference Guide.

All requests for appeals and reviews should be made on the standard request form (Appendix A). Trainees can withdraw their appeal at any stage during the process.

Any reference to ‘working day’ in the SOP means any normal day of work, excluding Saturdays, Sundays and bank holidays.

1. Review of Outcome 2

- i. The trainee will have the opportunity to discuss an Outcome 2 with the original panel and to see all the documents on which the decision about the outcome was based.
- ii. If the trainee disagrees with the decision, they have a right to ask for it to be reviewed.
- iii. A review is a process where the panel who originally made a decision, return to it to reconsider whether it was appropriate.
- iv. Requests for review must be made by the trainee in writing within 10 working days of being notified of the Outcome 2.
- v. The request for review should be accompanied by a completed pro-forma (Appendix A) which describes, from the trainee's perspective, clearly what their grounds for review are, along with any evidence they wish to present to the review panel relevant to the original panel's decision. Additional evidence should normally be submitted at least 10 working days in advance of the review.
- vi. The original ARCP panel will review its decision usually within 15 working days of receipt of the request from the trainee.
- vii. The Review panel will focus solely on responding to the grounds raised.
- viii. Trainees do not attend the review in person.
- ix. The panel may be undertaken virtually.
- x. There are two possible outcomes:
 - 1) The original outcome 2 is upheld
 - 2) It is decided that an Outcome 2 is not justified: a new outcome form should be issued indicating the agreed position following review (e.g. to Outcome 1 or 6).
- xi. The review of an Outcome 2 must not impose an increased sanction on the trainee (i.e. an Outcome 2 must not be changed to a 3 or 4)
- xii. The decision of the review of an Outcome 2 is final and there is no further appeal process
- xiii. After the review, within 10 working days, the Chair of the panel will ensure that the trainee receives the decision in writing. If considered appropriate by the panel, a member of the panel may meet with the trainee to convey the decision
- xiv. Copies of all documents should normally be retained (electronically if possible) within the trainee's training file.

2. Appeal against Outcomes 3 and 4

- i. When a trainee is awarded an ARCP Outcome 3 or 4, they have the right to appeal the process that led to this decision.
- ii. An appeal is a procedure whereby the decision is considered by a new panel who have not reviewed the evidence before.
- iii. Appeal requests should normally be made in writing to the Postgraduate Dean within 10 working days of the trainee being notified of the decision (using Appendix A) and must specifically state the grounds for appeal.

2.1. Review of Original Decision

- i. The Postgraduate Dean will arrange for a review of the original decision to take place as the first part of an appeal process (following the process described for a review of an Outcome 2) to determine whether the outcome should be altered.
- ii. Where the review panel has modified the decision to an Outcome 2, this completes the appeal process.
- iii. Where the review panel does not alter the decision, or the panel modify the original recommendation from an Outcome 4 to an Outcome 3, the Postgraduate Dean will confirm with the trainee in writing whether or not they wish to proceed to an appeal hearing.
- iv. The Postgraduate Dean can determine that a case proceeds directly to an appeal hearing (i.e. without the review stage).

2.2. Appeal (following conclusion of the Review)

- i. The formal appeal hearing should normally take place within 15 working days of the completion of the review.
- ii. Appeal requests must specifically state the grounds for appeal. The Postgraduate Dean will determine if the submitted grounds for appeal are sufficient to warrant a full appeal hearing.
- iii. If the grounds for appeal have previously been submitted for review by the original panel, clarification should be submitted in writing to confirm any changes or additional evidence that the trainee may wish to be heard at the appeal hearing. This should normally be submitted by the trainee within 10 working days before the scheduled appeal hearing date.
- iv. The Postgraduate Dean may decide that the submitted grounds are insufficient and as such may warrant further clarification of the information before agreeing to proceed with the appeal. This may exceptionally lead to the Postgraduate Dean deciding that the submitted grounds do not warrant permission for the appeal to proceed. The trainee will be informed in writing if this is the case.

3. Pre-Appeal

3.1. Appeal Panel Membership

- i. The Postgraduate Dean will convene an Appeal Panel to consider the evidence and to form a judgement. The Appeal Panel will consider representations and evidence from both the trainee and from those who are closely involved in their training.
- ii. **The appeal panel should normally consist of:**
 - the PG Dean or a nominated representative as Chair
 - a College/Faculty representative from outside the locality and from the same specialty as the trainee
 - a senior doctor from within the same locality as the trainee and from the same specialty as the trainee
 - a senior doctor from the same locality as the trainee and from a different specialty to the trainee
 - a senior trainee from a different specialty to the trainee
 - a lay representative

- iii. Appeal Panel members and Chairs must have met the requirements for training for these roles as detailed within the SOP for ARCP and ARCP Appeals Panel Member and Chair Training.
- iv. Additional panel observers should be invited so that shadowing opportunities are available as a useful part of training for future Appeal panel members/chairs.
- v. No members of the original panel should be present. Normally, panel members should not have been involved in any of the trainee's past assessments, but in very small specialties this may not be possible. In such cases, the trainee will be asked to confirm acceptance of the proposed panel member.
- vi. Access to HR advice should be available. Administrative support will be available to make a written record of the proceedings of the appeal. The Postgraduate Dean reserves the right to engage legal representation in connection with an appeal and to seek or provide legal expertise at an appeal hearing.

3.2 Trainee Representation

- i. Trainees have a right to be represented at an appeal hearing, to address it and to submit written evidence beforehand.
- ii. Trainees should consider representation as soon as possible, and supply to the Postgraduate Dean the name, contact details and the professional capacity (if applicable) of any representative or adviser who will be attending the appeals panel with them.
- iii. The trainee may choose to be represented, for example, by a friend, colleague or a representative of their professional body.
- iv. If a trainee wishes to be represented by a lawyer, then legal representatives should be reminded that appeal hearings are not courts of law and the panel governs its own procedure including the questioning to be allowed of others by the legal representative.
- v. In addition, the trainee may also wish to bring a friend or family member who can arrive with them and provide support on the day including after the appeal hearing.

3.3. Conflicts of interest

- i. In advance of the appeal hearing, the Postgraduate Dean will ask all proposed panel members to make a declaration with regard to any possible conflict of interests.
- ii. The trainee will also be provided the opportunity to raise any concern regarding conflicts of interest with regards to the panel members.
- iii. In the event of a potential conflict of interest arising, the panel Chair or Postgraduate Dean will make a determination regarding whether the panel member is able to hear the appeal.

3.4. Setting the Appeal Panel Date

- i. It takes a significant amount of planning in order to confirm an appeal panel, due to the number and mix of panel member roles.
- ii. In setting the date for a formal appeal hearing, where possible, the trainee and their representative will be consulted on their availability before a final date is secured.
- iii. Postgraduate School representative availability will be sought as part of this process.
- iv. As soon as practicable after a date has been set, all relevant parties will be informed (including the trainee's employer).

3.5. Postponements

- i. If the trainee cannot attend the date, this should be flagged as soon as possible.

- ii. The trainee or Postgraduate Dean may apply for a postponement of proceedings. In doing so, the reasons for requesting the postponement should be submitted in writing to the Chair of the panel.
- iii. The appeal panel Chair may postpone a hearing:
 - 1. If appropriate documentation has not been circulated to the panel and / or trainee within the stated timescales
 - 2. to consider additional evidence not previously made available to the panel
 - 3. to request additional evidence / material crucial to the grounds for the trainee's appeal
 - 4. In cases of sickness or other unforeseen absence of the trainee
- iv. Where a postponement is justified, the panel Chair will write to the trainee to explain the reasons and to confirm that an alternative date will be arranged, allowing time for the panel and trainee to consider any additional evidence in detail.
- v. Where a trainee or their representative are unavailable to attend, the appeal hearing will only be rearranged on one further occasion.
- vi. If the trainee or their representative is not able to attend the re-arranged appeal hearing, it may proceed in their absence. The trainee will be entitled to make representations in writing for the appeal panel to consider in their absence.
- vii. Where a trainee confirms their attendance and subsequently fails to attend on the day, reasonable efforts should be made to contact the trainee to ascertain the reasons. The panel Chair will determine whether the hearing should proceed in the trainee's absence relying on the written evidence submitted.

3.6 Evidence and documentation

- i. The full documentation that relates to the appeal must be made available to the panel, trainee (and their representative) and the Postgraduate School representative(s) at least 5 working days prior to the hearing. The evidence within the 'bundle/information pack' does not need to be limited to the final period of training.
- ii. All information relating to the appeal should be retained as per the relevant Records Management Policy.

3.6.1 Evidence submitted from the trainee:

- i. The trainee may support their appeal with further written evidence relevant to the original ARCP panel consideration, but this must be received at least 10 working days before the Appeal Panel meets.
- ii. This should be submitted in electronic format wherever possible.
- iii. This is the trainee's opportunity to present reasons for the appeal, along with any evidence or clarification they wish to provide.
- iv. This should cover the basis of the appeal and build on the trainee's original request for an appeal.
- v. Where relevant, mitigating factors such as ill health, domestic circumstances or mitigation linked to the training environment such as changing circumstances or the supervision available should be evidenced to substantiate facts.
- vi. Submissions that reference mitigation or events that are not supported by written evidence will be considered by the panel but will not usually be considered as verified. Examples of evidence to support mitigation referring to health may include a GP or hospital consultant letter.
- vii. A copy of the trainee's evidence submitted will be shared with the panel as well as the Postgraduate School.
- viii. Any documentation submitted after the official deadline will only be considered at the discretion of the Chair of the appeal panel (see 'Role of Chair' below)

3.6.2 Evidence submitted from Postgraduate School:

- i. A nominated school representative will be required to provide a written management case report which is relevant to the period of training that is under review to respond to the grounds for appeal.
- ii. This should normally be submitted at least 10 working days prior to the appeal hearing date.
- iii. A copy of this will be shared with the trainee in addition to the Appeal Panel members.
- iv. Any documentation submitted after the official deadline will only be considered at the discretion of the Chair of the appeal panel (see 'Role of Chair' below).

3.7 Procedure at the formal appeal hearing

- i. Appendix B describes a suggested outline agenda for an ARCP Appeal Hearing. Appendix C describes a suggested ARCP Appeal Hearing Check list.
- ii. The room will be set out formally in board room style with name plates.
- iii. Access to an electronic portfolio, where necessary, will be arranged.
- iv. In addition to the formal outcome of the appeal, a written record of the proceedings will be made available to all parties no later than 10 working days after the appeal panel. Should a trainee wish to make an electronic recording of proceedings, a request can be submitted by the trainee but this must be in advance of the appeal hearing. The decision to allow electronic recording will be made at the Chair's discretion.

3.8 Role of the Chair at the formal appeal hearing

- i. The role of the Chair is to ensure that a fair and consistent approach has been delivered, a clear decision has been reached by the panel after considering the information that has been received/presented and that an appropriate record of the event and decision is made. General examples of this include:
 - Ensuring the submitted papers are correct
 - Dealing with timings and keeping the hearing on track
 - Agreeing issues to be decided
 - Regulating behaviour
 - Coordinating questions
 - Ensuring the process is understood
 - Leading panel decision making process
 - Drafting the recommendation to the PG Dean
- ii. At the beginning of the appeal hearing, the Chair should do the following:
 - Check that the appeal panel is quorate (as per the Gold Guide) and is unchanged from the original communications
 - Ensure that all panel members introduce themselves and confirm their role in the appeal hearing
 - Explain the process to be undertaken during the hearing
 - Ensure that the documentation was received by all relevant parties and they have had an opportunity to consider the evidence in detail
- iii. Additional evidence submitted outside of the agreed timescales may be considered at the discretion of the Chair.

3.9. Conducting the formal appeal hearing

Suggested process:

(Note, Appendices C and D provide, in addition, a suggested agenda and checklist)

Led by the Chair, all parties will each introduce themselves before the panel begins.

Pre-meeting – the panel convenes to confirm the appeals panel process.

(In this pre-meeting the panel discuss the process requirements. The trainee and School representative(s) will not be present for this part of the agenda).

Trainee enters the panel room with representative [if declared]. School representative(s) enters at the same time.

(The trainee (and their representative) will be shown to their seats. Once settled, the panel Chair will provide a brief introduction to the day (including format), and panel members will be asked to introduce themselves. School representative and the trainee (and any representative) will also introduce themselves at this stage. If anyone is unclear about any aspect of the agenda, they have the opportunity to seek clarification).

The panel then continues with the following format:

Trainee (or his/her representative) presents case.

(This is the trainee's opportunity to present their case to the panel, covering which aspect of the educational process and subsequent ARCP outcome they are appealing against, along with any supporting evidence they would like to highlight or talk through, including any mitigation. There is no specific template or guidance for this stage, it is an opportunity for the trainee to summarise their case. It is important for the trainee to remember that the panel has evidence that has already been submitted as part of the case and the panel will have read the submissions. Indeed, the case presented by the trainee should be referenced to the written submissions provided in advance to the appeal panel. There is no time limit for this part of the process, however as a guide, trainee statements, on average, last between 10 and 30 minutes.)

Opportunity for panel members to ask questions of Trainee.

(The panel has the opportunity to clarify with the trainee anything relating to the appeal, training, statements and evidence. This is the panel's opportunity to ask questions of the trainee and (if applicable) of any persons called to speak on their behalf. This questioning may address any perceived inconsistencies in the evidence, points of clarity or could challenge any assertions made in the evidence).

Opportunity for School representative to ask questions of Trainee.

(The School has the opportunity to clarify anything relating to the trainee's appeal, training, statements and evidence. The trainee should answer these questions, rather than their representative).

Management case presented by Postgraduate School.

(This is the School's presentation of the case, responding to the grounds of the appeal. This may cover key aspects about the training including (but not limited to) a summary of progress, competences, exam progress, support, reasons for the latest ARCP outcome for which the trainee is appealing, mitigation and areas of satisfactory progress. The School will summarise the key points of the case relating to the training programme. It is important for the School representative to remember that the panel has evidence that has already been submitted as part of the case and the panel will have read the submissions. Indeed, the case presented by the School should be referenced to the written submissions provided in advance to the appeal panel).

Opportunity for panel members to ask questions of the School.

(The panel has the opportunity to clarify anything relating to the School summary. The School representative will answer these questions. The panel may request clarification from the programme or school in relation to any central key points that are raised either when considering the appeal paperwork prior to the hearing or during the panel itself. This questioning may address any perceived inconsistencies in the evidence, points of clarity or challenge any assertions made in the evidence. During the appeal, if additional clarification is required on points of fact that the designated School representative cannot provide, it may be necessary to halt the hearing, potentially to a later date).

Opportunity for trainee to ask questions of Postgraduate School.

(The trainee has the opportunity to clarify anything relating to the School's presentation.)

The trainee, trainee representative, and School representatives leave the room (at the same time).

(Both parties will be invited to make any final comments or clarifications before the panel retires to consider its decision. The Chair should ask the note taker whether any part of the proceedings so far need clarification in the interests of an accurate record being produced. There will be designated rooms or areas where individuals can wait.)

The Panel members discuss the case and reach a majority decision. The Chair will have the final decision.

The trainee, their representative (if applicable) and the School representative will not be in the room during panel discussions. The time it takes for the panel to discuss the appeal and reach a decision does vary, however this would not usually be longer than 1-2 hours. The Panel shall record their recommendation. This does not have to be a unanimous decision.

The trainee, their representative and School representatives are invited into the room to be informed of the outcome.

The panel Chair will briefly summarise the outcome and any reasoning or recommendations (where applicable) that the panel have made. Once the panel Chair has delivered the outcome, this concludes the proceedings of the day.

Following the ARCP appeal hearing, the trainee will receive a letter within five working days, summarising the conclusion of the appeal and actions to take.

Human Resources/the trainee's employer will be kept updated regarding the progress of the appeal.

The panel should at all times give consideration as to the trainee's 'Fitness to Practise' and any concerns should be raised with the Postgraduate Dean.

4. Recommendations - Possible outcomes of an appeal

- i. The panel will normally make a decision on the day of the hearing. If this is not possible the panel will reserve their decision for a later date to be notified to the parties.
- ii. The panel may make one of the following decisions:
 - a) Reaffirmation of the original decision. This means that the original ARCP outcome (decision) remains.
or
 - b) Substitute the previous decision with a different outcome, either:
 - ARCP 3 or 4 changed to ARCP 1 (or 6 if trainee has completed their training)
 - ARCP 3 or 4 changed to ARCP 2
 - ARCP 4 changed to ARCP 3 (accompanied with an action plan and any other requirements made clear)
- iii. An appeal panel is not at liberty to further impose additional sanctions, i.e. changing an Outcome 3 to an Outcome 4.

5. Following the appeal process

- i. Where able, the panel will feed back to the trainee directly after the appeal panel. The trainee will be notified in writing within 5 working days of the outcome of the appeal hearing.
- ii. Following the ARCP appeal hearing decision there is no further internal avenue of appeal. The decision is final.
- iii. If the appeal hearing overturns the original ARCP outcome, all relevant parties must be made aware of any recommended actions now required.
- iv. If the appeal panel determines the original outcome is upheld, a HR representative should be available to discuss with the trainee the implications to their employment status in a confidential environment and advise the trainee on the next steps.

- v. Where an Outcome 4 is upheld, the panel Chair will send a written recommendation to the Postgraduate Dean that the trainee should be removed from the training programme, including the reasons why, within 10 working days of the appeal hearing. The trainee must resign by sending notification to their employer who will acknowledge the resignation and confirm the appropriate notice period and working arrangements.
- vi. Consideration should be given to ensuring any support mechanisms are in place to help the trainee through career decisions.

Appendix A

TRAINEE'S GROUNDS FOR ARCP REVIEW/APPEAL

Name		GMC/GDC no.	
Specialty			
Training Programme			
Current stage of training (adjusted for any sick, maternity and other leave or Out of Programme (non-training) periods of time, extensions etc. e.g. CT1; ST6)			
How far through that training year are you (to the nearest month, whole time equivalent)?	 months	
ARCP panel date			
Outcome received			
<p>What are your grounds for review/appeal? <i>Please summarise this concisely. Trainees may provide additional evidence at this stage (e.g. evidence of mitigating circumstances or other evidence relevant to the original panel's decision) and this must be received as part of the request for the review so that the panel is able to consider it in detail.</i></p>			
<p>What are you hoping as an outcome to the review/appeal? <i>Please summarise this concisely. Clarity at this stage may help identify action that can be taken to obviate the need for a full appeal process.</i></p>			

Appendix B - Suggested ARCP Appeal Hearing Agenda

Date/Time:

To be held at:

Chair	
Consultant (Within the specialty)	
Consultant (Outside the specialty)	
Trainee representative	
Lay Representative	
College/Faculty Representative	
HR	
Note taker	
Observer	
Management Case representative(s) from Postgraduate School	
Appellant	
Appellant Representative	

The timetable runs as follows;

- 9:00 am: Pre-meeting – the panel convenes to confirm the appeals panel process.
- 10:00 am: Trainee enters the panel room with representative [if declared]. (Management case representative(s) enter at same time).

The panel then continues with the following format,

Section 1:

- Trainee (or his/her representative) presents case.
- Opportunity for panel members to ask questions of Trainee.
- Opportunity for School to ask questions of Trainee.

Section 2:

- Management case presented by School.
- Opportunity for panel members to ask questions of the School.
- Opportunity for trainee to ask questions of School.

Section 3:

- The Trainee, trainee representative, and School representative(s) leave the room.
- The Panel members discuss the case and reach a majority decision.
- The trainee, his/her representative and School representative(s) are invited into the room to be informed of the outcome.

Appendix C: SUGGESTED ARCP APPEAL PANEL CHECKLIST

To support fairness and consistency, and facilitated by the panel chair, the following steps will be considered at all appeal panels as panel members consider their decision.

Initial discussions with the panel members

Invite panel members for initial comments, covering what the proceedings / evidence tells the panel.

Coming to a decision: Likely options available to the panel

Have you eliminated any outcomes that are not applicable to the case? This may help the panel focus on the options available.

- Reaffirmation of the original decision
- Substitute the outcome with one of the following (and, if appropriate; outline an action plan and any other requirements)

Satisfactory Progress	1. Achieving progress and competences at the expected rate (clinical / academic)
Unsatisfactory Progress	2. Development of specific competences required - additional training time not required
	3. Inadequate progress by the trainee - additional training time required
	4. Released from training programme with or without specified competences
Recommendation for completion of training	6. Has gained all of the required competences for the completion of training (clinical / academic)

Building on initial discussion and reasoning for the decision

Considering the options above, invite panel members to summarise their thoughts and recommended outcomes. The checklist below can be used to support discussions and the recording of the outcome and any actions.

Final Checklist

Does your decision balance the need to protect patients/maintain public confidence in the profession whilst giving due weight to the relevant information available? The competency of the trainee (which competencies have or have not been met?) The fairness of the process / original decision Evidence presented and what that tells us	
Have you considered all of the information available to the panel, including written evidence and oral presentations of the case from both the school and the trainee? The trainees reason(s) for the appeal The levels of support offered / provided to the trainee The fairness of the process / original decision Evidence presented and what that tells us	
Have you used guidance/policy documents to support your decision making? (examples: <i>Gold Guide, ARCP/Appeals Policy, Relevant Royal College or Faculty regulations / guidance, GMC guidance</i>) Exam fails, and any national or Royal College regulations which are appropriate to Consider	
Have you balanced your decision to take into account the impact of any decision on the trainee? Any mitigation declared and the impact that has had / is likely to have	

Have you considered the principle of proportionality (that the outcome and recommendations are proportionate to the case) in reaching your decision?	
Are you able to give clear reasons for the decision and any actions? If you are considering supporting an original outcome have you considered if any changes are required	

to the reasons and/or competences which need to be developed / recommended actions.	
Have you considered if any remediable or reasonable supporting measures could be put into place alongside the outcome to support the trainee?	
Are all conditions that you have recommended workable, appropriate, reasonable and measurable?	
Have you allowed each panel member to discuss and put forward their thoughts and recommended outcomes, taking a vote wherever necessary (and recording this).	