

ARCP Reviews and Appeals Guidance in Health Education England working across Yorkshire and the Humber

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This document is not intended to be interpreted as a policy statement. This is a local guidance document for local Health Education England faculty and staff.

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1. Introduction

1.1. Overview

This guidance applies to doctors and dentists in training who request a review and/or appeal an Annual Review of Competency Progression (ARCP) Outcome 2, 3 or 4.

The appeal process is normally set-out in two stages:

1. Review by the original ARCP Panel (only stage available for trainees in receipt of an outcome 2);
2. Appeal Hearing.

Any reference to 'working day' in the guidance means any normal day of work, excluding Saturdays, Sundays and Bank Holidays.

Within the guidance, whenever reference is made to the Postgraduate Dean (PGD) or Postgraduate Dental Dean (PGDD), it refers to the Dean or their nominated representative who will be responsible for managing the process on their behalf.

1.2. The purpose of this Guidance

This guidance outlines the arrangements for ARCP Reviews and Appeals for Foundation, Medical Specialty, General Practice and Dental trainees within Health Education working across Yorkshire and the Humber (HEE YH).

This guidance should be read in conjunction with the following:

- *UK Foundation Programme Reference Guide. 2019 [1]*
- *A Reference Guide for Postgraduate Specialty Training in the UK (The Gold Guide). January 2018 [2]*
- *A Reference Guide for Dental Specialty Training in the UK (The Dental Gold Guide). June 2018 [3]*
- *HEE Standard Operating Procedure for ARCP Appeals and Reviews. November 2019 [4]*

1.3. Trainees covered by this Guidance

This guidance applies to all the following trainees:

- Foundation year 1 (FY1);
- Foundation year 2 (FY2);
- Dental core;
- Dental specialty;
- Medical core;
- Higher specialty;
- Specialty trainees appointed to run-through Specialty programmes;
- General Practice;
- Clinical Academics appointed to core, higher and run through Specialty programmes e.g. Academic Clinical Fellowships and Clinical Lectureships on these Specialty programmes;
- Public health trainees with backgrounds other than Medicine;
- Specialist Registrars (SpRs) appointed before 1st August 2007.

1.4. Trainees not covered by this Guidance

- Locum Appointments for Training;
- Dental Foundation trainees.

1.5. Equality and Diversity

HEE YH is committed to ensuring that the principles of equality and diversity are always applied in the delivery of education and training. This guidance is based upon the principles of natural justice, fairness, equality and reasonableness, as supported by legislation, and should be applied with those principles in mind.

1.6. Withdrawal of Appeal

Trainees may withdraw an appeal at any stage of the process. If the Trainee wishes to withdraw their appeal, they must write to the PGD/PGDD (or nominated representative) and the HEE YH Programme Support Team (details provided in the ARCP outcome letter).

2. Review of the Original ARCP outcome

2.1. Review Overview

Trainees in receipt of an ARCP outcome 2, 3 or 4 will have discussed their outcome with a member of the ARCP Panel. If the Trainee disagrees with the decision, they have a right to ask for it to be reviewed.

A review is a process where the Panel who originally made the decision, return to it to reconsider whether it was appropriate.

For trainees in receipt of an outcome 2, this is normally their only mechanism to appeal the outcome awarded by the ARCP panel. Trainees in receipt of an outcome 3 or 4 will normally have a Review and may progress to an Appeal Hearing if the original outcome remains the same and they remain dissatisfied with the decision by the Review Panel.

The PGD/PGDD can determine that a case proceeds directly to an Appeal Hearing (i.e. without a preceding ARCP Review).

2.2. Trainee's Statement for Appeal

Statements for appeal should normally be made by the Trainee in writing within 10 working days of being notified of the ARCP outcome. The deadline for an ARCP Appeal is normally stated on the ARCP outcome letter.

The statement is normally made by email to the Deputy PGD or PGDD and copied to the Programme Support Co-ordinator and the relevant Programme Support Team inbox. The statement should be accompanied by a pro-forma [*Appendix 1: Trainee's Statement for Appeal*] which describes (from the Trainee's perspective) their grounds for appeal, along with any evidence they wish to present to the Review and/or Appeal Hearing Panel relevant to the original panel's decision.

Additional evidence should normally be submitted at least 10 working days in advance of the Review and/or Appeal Hearing (as applicable).

Trainees should provide their availability at the point of appealing their ARCP outcome, to reduce risk of delay due to non-availability.

2.3. Timescales for an ARCP Review

The original ARCP Panel (the Review Panel) will review its decision usually within 15 working days of receipt of the request from the Trainee.

2.4. The Format of the Review

Trainees do not normally attend a Review in person.

The Review Panel will focus solely on responding to the grounds raised. The Panel may be undertaken virtually, and an outcome agreed.

2.5. Outcomes of an ARCP Review

There are two possible outcomes:

- a. The original Outcome is upheld.
- b. It is decided that the Outcome is not justified: a new outcome form will be issued indicating the agreed position following the review (e.g. to Outcome 1 or 6).

Where the Review Panel has modified the decision to an Outcome 1 or 2, this completes the appeal process.

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).

The decision of the review of an Outcome 2 is final and there is no further appeal process.

Trainees in receipt of an Outcome 3 or 4 may request an Appeal Hearing.

2.6. Post-ARCP Review

After the review and within 10 working days, the PGD/PGDD will ensure that the Trainee receives the decision of the Review Panel in writing. 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 PGD/PGDD will confirm with the Trainee in writing whether they wish to proceed to an Appeal Hearing. If the Trainee does not respond or confirm their intention by the deadline stated, the appeal will not proceed to an Appeal Hearing.

If considered appropriate, a member of the Review Panel may meet with the Trainee to convey the decision.

HEE YH Programme Support will notify the following individuals/organisations with the outcome of the ARCP Review:

- Director of Postgraduate Medical Education (employer and placement provider where different);
- Training Programme Director;
- Head of School;
- Educational Supervisor;
- Medical Staffing (employer and placement provider where different);
- Medical Staffing (including next placement provider where applicable);
- Tier 2 Team (where applicable);
- Revalidation Team (where applicable).

3. Appeal Hearings

3.1. Appeal Hearings Introduction

Appeal Hearings will normally follow an ARCP Review, and only trainees in receipt of an Outcome 3 or 4 will be eligible for an Appeal Hearing. The PGD/PGDD can determine that a case proceeds directly to an Appeal Hearing (i.e. without a Review) and where applicable, the decision will be communicated to the Trainee.

An Appeal Panel will reconsider the information that was available at the time the original decision was made, together with any newly submitted information from the Trainee or their representatives. An Appeal Hearing is a procedure whereby the decision is considered by a new panel who have not reviewed the evidence before.

The PGD/PGDD (via the HEE YH Programme Support Team) 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.

An Appeal Hearing will normally take place within 28 working days of completion of the ARCP Review (where applicable).

3.2. Requesting an Appeal Hearing Following Review

Following a Review Panel, the Trainee will be asked by the PGD/PGDD to confirm in writing and within 10 working days to the whether they intend to progress to an Appeal Hearing. Requests to progress to the next stage will be submitted to the Deputy Dean for the School. If the Trainee does not respond or confirm their intention by the deadline stated, the appeal will not proceed to an Appeal Hearing.

Trainees may submit further information to support their appeal for the Appeal Hearing within the timescales specified.

3.3. Appeal Hearing with no Review

If for any reason a Review of the ARCP Outcome has not taken place, the PGD/PGDD will confirm the decision to the Trainee and HEE YH Programme Support Team.

3.4. Panel Membership

No members of the original ARCP or Review Panel should be present on an Appeal Hearing Panel for the same Trainee.

Care must be taken to ensure that all panel members (including the Chair) are selected on the bases of having no previous involvement in the case. Normally, panel members should not have been involved in any of the Trainee's past assessments. In very small specialties this may not be possible and in such cases, the Trainee will be asked to confirm acceptance of the proposed panel member.

On occasion, it may be appropriate to have an external Chair for the Appeal Hearing.

3.4.1. Panel membership – Foundation and Specialty Trainees

The Appeal Panel should consist of no fewer than 3 individuals, and could comprise of the following (HEE SOP 4.1):

- the PGD 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 (e.g. TPD, Educational Supervisor, etc);
- a senior doctor from the same locality as the Trainee and from a different specialty to the Trainee (e.g. TPD, Educational Supervisor, etc);
- a current doctor in training from a different specialty to the Trainee;
- a lay representative.

3.4.2. Panel membership – Dental Trainees

The Panel should constitute from all following representatives [Dental Gold Guide 5.11]:

- the PGDD or a nominated representative as Chair;
- a senior clinician from the specialty with training experience (e.g. TPD, Educational Supervisor, etc);
- a senior clinician from a different specialty with training experience (e.g. TPD, Educational Supervisor, etc);
- a lay representative.

3.5. Access to HR Advice

Access to HR advice for the Appeal Panel will normally be available and this will be co-ordinated by the HEE YH Programme Support Team.

The nominated individual will provide advice to the Chair on equality and diversity matters and will not normally be sourced from the same organisation which employs the Trainee.

HR representation from the Trainee's employing organisation may also be arranged, and this individual will be able to advise the Panel and Trainee on any employment matters relating to the Trainee's contract of employment and/or terms and conditions of service.

In both instances, the HR representatives are not required to attend in person (however they may do so if they wish, or at request of the Chair), and should be available on the telephone as a minimum.

3.6. Role of the Appeal Panel Chair

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 an appropriate record of the event and decision is made.

General examples of this include:

- Ensuring the submitted papers are complete and easily navigated;
- Dealing with timings and keeping the hearing on track;
- Agreeing the issues to be decided;
- Regulating the behaviour of attendees;
- Co-ordinating questions;
- Ensuring the process is understood;
- Leading the panel decision making process;
- Drafting the recommendation to the PGD/PGDD.

3.7. Postgraduate School Representative(s)

Representative(s) for the Postgraduate School should be identified. Individuals who may be appointed to this role include a Head of School, Deputy Head of School, Training Programme Director, Deputy Training Programme Director or Educational Supervisor. Other individuals may be considered for the role, as deemed appropriate by a senior member of faculty.

Nominated school representative(s) will be required to provide a written summary explaining why the original and/or modified at Review ARCP outcome was given. The statement should relate to the period of training that is under review and respond to the statement and grounds for appeal submitted by the Trainee. Where relevant, reasonable adjustments put in place for the Trainee and the impact of these (in supporting the individual in meeting the required competency level) should be included.

The Chair of the ARCP and/or ARCP Review Panel may also be required to identify a member of this panel to attend and present at an Appeal Hearing. The PGD/PGDD or Head of School may determine this is appropriate and will liaise with the Programme Support Team (and the nominated individual) accordingly to facilitate representation.

The School Representative(s) will normally attend the Appeal Hearing and be expected to present and answer questions from the Appeal Panel, Trainee and/or Trainee representative. The School Representative may also ask questions at the Appeal Hearing in accordance with the agenda.

3.8. Date and Location

It takes a significant amount of planning in order to confirm an Appeal Panel, due to the number and mix of panel member roles.

The HEE YH Programme Support Team will liaise with the Trainee, Chair, prospective and confirmed members of the Panel and the School Representative(s) regarding their availability.

If the Trainee chooses to be accompanied to the Appeal Hearing, they will need to liaise with the individual(s) accordingly regarding availability. Trainees should report any concerns regarding their availability or the availability of individual(s) accompanying them, at their earliest opportunity to the HEE YH Programme Support Team arranging the Appeal Hearing.

Delays to the Appeal Hearing may need to be considered on the grounds of religious reasons and/or events, and where possible, should be communicated by the Trainee with the HEE YH Programme Support Team as early as possible.

In most instances, the Appeal Hearing will take place in a HEE office within the Yorkshire and Humber region. Trainees may request reimbursement of travel expenses from their employer in accordance with their employer's policy.

Trainees should notify the HEE YH Programme Support Team if they determine that any reasonable adjustments are required to facilitate their attendance at the Appeal Hearing. The HEE YH Programme Support Team will make reasonable adjustments or take guidance from the Chair. They will communicate the outcome of any such request(s) to the Trainee.

As soon as practicable after the date and location has been set, all relevant parties will be informed (including the Trainee's employer).

3.9. Postponement Request(s)

If the Trainee cannot attend the date, this should be discussed by the relevant party with the HEE YH Programme Support Team arranging the Appeal Hearing as soon as possible. The HEE YH Programme Support Team will liaise with the Panel Chair accordingly.

The Trainee or the PGD/PGDD 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.

The Appeal Panel Chair may postpone a hearing:

1. if appropriate documentation has not been circulated to the Panel and/or Trainee in training 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 statement and grounds for the Trainee's appeal;
4. in cases of sickness or other unforeseen absence of the Trainee.

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.

Where possible, HEE YH will make reasonable efforts to accommodate dates identified by the Trainee regarding non-availability. It is recommended that the Trainee also consults their Representative (where applicable) regarding their availability at their earliest opportunity.

Where a Trainee or their representative is unavailable to attend, the Appeal Hearing will normally only be rearranged on one further occasion. Agreement to postpone due to unavailability, will need to be requested and agreed by the Chair of the Appeal Hearing Panel.

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.

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 submissions of evidence.

3.10. Trainee Representation

Trainees have a right to be accompanied to an Appeal Hearing, to address it and to submit written evidence beforehand.

Trainees should consider being accompanied to the Appeal Hearing as soon as possible. Where possible, the Trainee should supply the HEE YH Programme Support Team with the name, contact details and the professional capacity (if applicable) of any representative or adviser who will be attending the Appeal Hearing with them.

The Trainee may choose to be accompanied, for example, by a friend, colleague or a representative of their professional body.

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.

It is the responsibility of the Trainee to share any documentation they submit and/or receive in relation to the appeal with their representative(s).

3.11. Engagement of Legal Representation

The PGD/PGDD reserves the right to engage legal representation in connection with an appeal and to seek or provide legal expertise at an Appeal Hearing.

If a Trainee wishes to be accompanied by a lawyer, legal representatives should be reminded by the Appeal Panel Chair that an Appeal Hearing is not a Court of Law and the Panel governs its own procedures, including the questioning to be allowed of others, by the legal representative.

3.12. Conflict of Interest

In advance of the Appeal Hearing, the Panel Chair will ask all proposed panel members to make a declaration about any possible conflict of interest.

The Trainee will also be provided the opportunity to raise any concern regarding conflict of interest with the Panel members. Where possible, this should be in advance of the Appeal Hearing and Panel Member, as Panel constitution will normally be confirmed in advance.

In the event of a potential conflict of interest arising, the Panel Chair or PGD/PGDD will determine whether the individual should participate on the Appeal Hearing Panel.

3.13. Submission of Evidence by the Trainee

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 date of the Appeal Hearing.

This should be submitted in electronic format wherever possible and emailed to the HEE YH Programme Support Team by the deadline.

This is the Trainee's opportunity to present reasons for the Appeal, along with any evidence or clarification they wish to provide. This should cover the basis of the Appeal and build on their original statement and grounds for Appeal.

Where relevant, mitigating factors such as ill health, reasonable adjustments, domestic circumstances or mitigation linked to the training environment such as changing circumstances or the supervision available should be evidenced to substantiate facts. 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 an Occupational Health report, a GP or Hospital Consultant letter.

A copy of the Trainee's evidence submitted will be shared with the Panel as well as the Postgraduate School Representative by the HEE YH Programme Support Team.

Any documentation submitted after the official deadline will only be considered at the discretion of the Chair of the Appeal Panel.

3.14. Submission of Evidence by the Postgraduate School

A nominated School Representative will be required to provide a written summary detailing why the original ARCP outcome was given, which is relevant to the period of training that is under review and to respond to the grounds for appeal. Where relevant, reasonable adjustments put in place for the Trainee and the impact of these in supporting the individual in meeting the required competency level should be included.

The written submission should normally be submitted at least 10 working days prior to the Appeal Hearing date. It should be submitted in electronic format wherever possible and emailed to the HEE YH Programme Support Team by the deadline.

A copy of this will be shared with the Trainee and Appeal Panel members by the HEE YH Programme Support Team.

Any documentation submitted after the deadline will only be considered at the discretion of the Chair of the Appeal Panel.

3.15. Collation of Evidence and Additional Documentation

The HEE YH Programme Support Team will be responsible for collating submissions of evidence from the Trainee and the School Representative.

In addition, the HEE YH Programme Support Team will also produce/include:

1. an agenda for the Appeal Hearing [see *Appendix 3: Suggested Appeal Hearing Agenda*];
2. a training timeline in respect of the Trainee;
3. the ARCP outcome form which the Trainee is appealing;
4. the outcome letter from the Review Panel to the Trainee (where applicable);
5. the Trainee's statement for appeal;
6. any other documents which are relevant to the appeal.

All documentation will be collated and is known as the "appeal pack". Prior to circulation, the Panel Chair will determine if the information within the appeal pack is relevant and/or requires further detail prior to consideration by the Appeal Panel.

The appeal pack will be shared with the Appeal Panel, Trainee and School Representative electronically a minimum of 5 working days prior to the Appeal Hearing. This will normally be from a shared read-only folder and a password will be required to gain access (the password will only be shared with those named above); SharePoint or encrypted emails are examples of how documentation may be shared.

Hard copy documents will not normally be provided. Any requests for hard-copy documentation should be discussed with the HEE YH Programme Support Team.

The HEE YH Programme Support Team will be responsible for ensuring that the Panel is granted access to the Trainee's ePortfolio a minimum of 5 days in advance of the Appeal Hearing.

3.16. Arrangements at the Appeal Hearing

3.16.1. Venue Arrangements

A room for the Trainee and representative/individual(s) accompanying them will normally be made available one hour before the Appeal Hearing.

A room for the School Representative(s) will normally be made available to them one hour before the Appeal Hearing.

The HEE YH Programme Support Team will be responsible for:

- setting up the room (including AV equipment);
- providing the Chair with a copy of any relevant HEE/College guidance;
- providing the Chair with a hard copy of the appeal pack;
- producing name plates for the Appeal Panel;
- producing door signs.

Appeal Hearings will normally place on HEE premises; however, where an Appeal Hearing does not take place on HEE premises, HEE YH Programme Support will liaise with the provider.

3.16.2. Briefing by the Chair

The Panel Chair will be responsible for following the agenda [see *Appendix 3: Suggested Appeal Hearing Agenda*] and to follow the principles of the Appeal Hearing [see *Appendix 3: Suggested Appeal Hearing Agenda and Checklist*].

At the beginning of the Appeal Hearing, the Chair should undertake the following:

1. Ensure that all panel members introduce themselves and confirm their role in the Appeal Hearing.
2. Confirm that Appeal Panel members have completed the training requirements as set out in Section 5 [*Appeal Panel Training Requirements*].
3. Explain the process to be undertaken during the Hearing.
4. Ensure that the documentation was received by all relevant parties and they have had an opportunity to consider the evidence in detail.

3.16.3. Format of the Appeal Hearing

Appendix 2: Suggested Format of an Appeal Hearing outlines a suggested format for the Appeal Hearing.

3.16.4. Recording the Appeal Hearing

A staff member from HEE YH will be present to take minutes of the Appeal Hearing. Minutes will not be taken during the Appeal Panel pre-meeting and deliberation of outcome.

3.17. Recommendations - Possible Outcomes of an Appeal

The Appeal Panel is not at liberty to further impose additional sanctions, i.e. changing an Outcome 3 to an Outcome 4.

The Panel may normally make one of the following decisions:

1. Reaffirmation of the original decision. This means that the original ARCP outcome (decision) remains; or;
2. Substitute the previous decision with a different outcome in accordance with the relevant guidance.

3.17.1. Foundation Trainees

Either:

- ARCP 3 or 4 changed to ARCP 1 (or 6 if Trainee has completed their foundation training);
- ARCP 4 changed to ARCP 3 (accompanied with an action plan and any other requirements made clear).

3.17.2. Dental and Specialty Trainees

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).

3.18. Communication of the Appeal Outcome

The Panel will normally agree the outcome on the day of the hearing. If this is not possible, the Panel will reserve their decision for a later date and all parties will be notified accordingly.

Where possible, the Panel will feed back to the Trainee directly after the Appeal Panel. The Trainee and following contacts/stakeholders will be notified in writing within 5 working days of the outcome of the Appeal Hearing:

- Director of Postgraduate Medical Education (employer and placement provider where different);
- Training Programme Director;
- Head of School;
- Educational Supervisor;
- Medical Staffing (employer and placement provider where different);
- Medical Staffing (next placement provider where known);
- Tier 2 Team (where applicable);
- Revalidation Team (where applicable).

Minutes of the Appeal Hearing will be shared with Panel members, the Trainee and School Representative who attended and/or participated in the Appeal Hearing within 10 working days of the Appeal Hearing date. Minutes will not normally be shared with individual(s) who have accompanied the Trainee (as applicable); the Trainee will be responsible for sharing documentation accordingly.

Following the ARCP Appeal Hearing's decision there is no further internal avenue of appeal. The decision is final.

If the Appeal Hearing overturns the original ARCP outcome, all relevant parties will be made aware of the new outcome and any new recommended actions.

3.19. Employment Arrangements post-Appeal Hearing

Trainees who are employed in a Training Programme should continue to attend work. Trainees are strongly recommended to discuss implications of the Appeal Outcome with their employer at the earliest opportunity. Employers will be notified of the Appeal Hearing Outcome.

Trainees will be signposted to support available within HEE YH (e.g. counselling and access to careers advice).

4. Foundation Doctor Appeal Arrangements

4.1. FY1 Doctors

FY1 doctors are not normally able to appeal an ARCP outcome due to non-statutory leave in excess of the permitted 20 days, unless the amount of time of non-statutory leave itself is being contested [Foundation Reference Guide 4.123].

4.1.1. FY1 UK-Graduating Doctors

FY1 doctors in receipt of an outcome 4 who have graduated from a UK-based Medical School/University, and wish to appeal the outcome, should submit their appeal to the PGD within HEE YH who will liaise with the Medical School/University accordingly.

The Medical School/University will normally conduct the appeal process (in accordance with GMC policy [Foundation Reference Guide 4.118]).

4.1.2. FY1 Outcome of Appeal

Where a UK-graduating FY1 doctor has been unsuccessful at appeal, the Medical School/University will provide details about further appeal mechanism through the Office of the Independent Adjudicator (OIA) or equivalent [UK Reference Guide 4.122].

4.1.3. FY1 non-UK-Graduating Doctors

FY1 doctors who are in receipt of an outcome 4 and graduated from a Medical School/University outside the UK and wish to appeal the outcome, should do so to HEE YH's Foundation School [Foundation Reference Guide 4.120].

Appeals for non-UK-graduating FY1 doctors will be in accordance with the arrangements set out in this guidance document.

4.2. FY2 Doctors

Reviews and appeals for FY2 doctors follow the arrangements set out within this guidance.

5. Withdrawal of a National Training Number

Trainees in receipt of an outcome 4 (following appeal) will be referred to the PGD/PGDD by the Chair of the Appeal Panel. The Chair will communicate with the PGD/PGDD the outcome of the Appeal Hearing and recommendations.

The PGD/PGDD will consider removal of the Trainee's training number in accordance with relevant specialty guidance and HEE YH's Withdrawal of a National Training Number Guidance.

The withdrawal of the training number, and the reasons why, will be detailed in a letter to the Trainee within 10 working days of the Appeal Hearing.

6. Appeal Panel Training Requirements

Guidance about training requirements for panel members and panel chairs is contained within the *HEE Standard Operating Procedure for Principles for ARCP and ARCP Appeals Training* [5].

To be part of an ARCP Appeal Panel, panel members must be trained for the role. Where possible, a panel member should observe another ARCP Appeal prior to participating as a full member.

Panel members must have knowledge of the ARCP principles contained within:

- [GMC Promoting excellence: Standards for medical education and training](#);
- Relevant specialty guidance (Foundation Reference Guide, Dental Gold Guide or Postgraduate Medical Reference Guide).
- HEE SOPs for ARCP, Appeals and Revalidation.

All panel members must be trained appropriately in equality and diversity and this training must be refreshed every three years. Panel members will normally be asked to confirm completion of the required training, and if they need to complete the training, contact should be made with the relevant HEE YH Programme Support Team co-ordinating the Appeal.

Appeal Panel members will be reminded about training requirements prior to the Appeal.

7. National and Regional ARCP Processes

Several very small specialties have moved towards regional or national ARCP panels.

Should a Trainee appeal an outcome 2, 3 or 4, the review and appeals processes are normally the responsibility of the host PGD/PGDD and will be considered by all processes described within this guidance.

8. Bibliography

1. UK Foundation Programme (UKFPO). Reference Guide. 2019.
2. Health Education England, Department of Health. A Reference Guide for Postgraduate Specialty Training in the UK. 7 ed. 2018 Jan pp. 1-109.
3. UK Committee of Postgraduate Dental Deans and Directors (COPDEND), Department of Health. A Reference Guide for Postgraduate Dental Specialty Training in the UK. 5 ed. 2018 Jun pp.1-42.
4. Health Education England. Annual Review of Competence Progression (ARCP) Appeals Standard Operating Procedure. 2019 November.
5. Health Education England. Principles for Training for ARCP and ARCP Appeals Panels

Members and Chairs Standard Operating Procedure. 2019 November.

9. Equality Impact Assessment (EIA)

Under the Equality Act, the need for public bodies in England to undertake or publish an equality impact assessment of their policies, practices and decisions was removed in April 2011 when the 'single equality duty' was introduced. Public bodies must still give "due regard" to the need to avoid discrimination and promote equality of opportunity for all protected groups when making policy decisions and are required to publish information showing how they are complying with this duty.

10. Monitoring Compliance and Effectiveness

This Operational Guidance will be reviewed in accordance with updated or new guidance published by the UKFPO, COPDenD, COPMeD, Health Education England, the General Medical Council, the General Dental Council or any other organisation as applicable. New iterations of this guidance will be ratified by the PGD's Senior Team within HEE YH.

11. Appendices

Appendix 1: Trainee's Statement for Appeal

Trainee's Statement for ARCP Review/Appeal

Please complete this form electronically.			
Name		GMC/GDC Number	
Email Address		Mobile Number	
Training Programme			
Current Stage of training <i>(adjusted for any sick, maternity and other leave or Out of Programme (non-training) periods of time, extensions etc) e.g. CT1;ST6</i>			
How far through that training year are you? <i>(to the nearest month, whole time equivalent)</i>			
ARCP Panel Date		ARCP Outcome received	
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 decisions) 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>			
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 prevent the need for a full appeal process.</i>			
Do you have any planned leave or dates you cannot attend an appeal hearing on in the upcoming weeks? <i>This is to ensure a review/appeal date is arranged as swiftly as possible.</i> E.g. I have childcare commitments every Monday, I have leave between XX/XX/XXXX – XX/XX/XXXX. <i>Please take into consideration the availability of your chosen representative if applicable. HEE will always try to accommodate your representative's availability, but this may not always be possible.</i>			

Please return this completed form to the individuals identified on your ARCP outcome letter by the deadline specified (within ten working days from your ARCP outcome notification).

Appendix 2: Suggested Format of an Appeal Hearing

1. Led by the Chair, all parties will each introduce themselves before the Panel begins.
2. Pre-meeting – the Panel convenes to confirm the appeals panel process.
In this pre-meeting the Panel discuss the training and process requirements. The Trainee and School representative(s) will not be present for this part of the agenda.
3. Trainee enters the Panel room with representative. School representative(s) enters at the same time.
The Trainee (and their representative where applicable) 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. The Panel Chair will confirm with all in attendance if they are happy to proceed. If anyone is unclear about any aspect of the agenda, they can seek clarification.

The Panel then continues with the following format:

4. Trainee (or the accompanying individual) 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.
5. Opportunity for panel members to ask questions of Trainee.
The Panel can clarify with the Trainee anything relating to the appeal, training, statements and evidence. This is the Panel's opportunity make any clarifications of fact with 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.
6. Opportunity for School representative to ask questions of Trainee.
The School can clarify anything relating to the Trainee's appeal, training, statements and evidence. The Trainee should answer these questions, rather than the accompanying individual.

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7. School representative presents the case for award of original ARCP outcome.
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.
8. Opportunity for panel members to make any clarifications of fact with the School representative.
The Panel can 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.
9. Opportunity for Trainee to ask questions of Postgraduate School.
The Trainee can clarify anything relating to the School's presentation.
10. The Trainee, their accompanying individual, and School representative 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.
11. The Panel members discuss the case and reach a majority decision. The Chair will have the final decision.
The Trainee, their accompanying individual 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.
12. The Trainee, their accompanying individual and School representative 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.
13. 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 always give consideration as to the Trainee's 'Fitness to Practise' and any concerns should be raised with the PGD/PGDD.

Appendix 3: Suggested Appeal Hearing Agenda and Checklist

Appeal Hearing Agenda

The Agenda		
Section	Item	Timing
1	Appeal Panel Chair's Briefing and pre-discussion	
2	Case Presentation <ul style="list-style-type: none"> • <i>The Trainee (or his/her representative) presents case</i> • <i>Opportunity for panel members to ask questions of the Trainee</i> • <i>Opportunity for School Representative to ask questions of the Trainee</i> • <i>Management case presented by School Representative</i> • <i>Opportunity for panel members to ask questions of School Representative</i> • <i>Opportunity for the Trainee to ask questions of School Representative</i> • <i>The Trainee, their representative (where applicable) and School Representative leaves the room)</i> 	
3	Panel Discussion (Trainee and School Representative not present)	
4	Outcome Delivery	

Appeal Panel Checklist

To be completed by the Appeal Hearing Panel Chair

To support fairness and consistency, and followed 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)

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Satisfactory Progress	1. Achieving progress and competences at the expected rate (clinical/ academic)
Unsatisfactory Progress	2. Development of specific competences require – 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 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? <ul style="list-style-type: none"> • <i>The competency of the Trainee (which competencies have or have not been met?)</i> • <i>The fairness of the process/ original decision</i> • <i>Evidence presented and what that tells us</i> 	
Have you considered all the information available to the panel, including written evidence and oral presentations of the case from both the school and the Trainee? <ul style="list-style-type: none"> • <i>The Trainee's reason(s) for the appeal</i> • <i>The levels of support offered/ provided to the Trainee</i> • <i>The fairness of the process/ original decision</i> • <i>Evidence presented</i> 	
Have you used guidance/ policy documents to support your decision making? (examples: Gold Guide, ARCP/Appeals Policy, Relevant Royal College or Faculty regulations/ guidance, GMC guidance) <ul style="list-style-type: none"> • <i>Exam fails and any national or College regulations which are appropriate to consider</i> 	
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 enabled each panel member to discuss and put forward their thoughts and recommended outcomes?	

Appendix 4: Glossary of Terms

Please refer to the Medical Gold Guide (Appendix 7) and Dental Gold Guide Glossary of Terms.

ARCP	Annual Review of Competency Progression
COPMeD	Conference of Postgraduate Medical Deans of the United Kingdom
COPDenD	UK Committee of Postgraduate Dental Deans and Directors
GMC	General Medical Council
GDC	General Dental Council
HEE YH	Health Education England, working across Yorkshire and the Humber
PGD	Postgraduate Dean
PGDD	Postgraduate Dental Dean
FY1	Foundation Year 1 Doctor
FY2	Foundation Year 2 Doctor
UKFPO	UK Foundation Programme Office