

AHCS

Fraudulent/Incorrect Entry Procedure

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Introduction

About Us

1. The Academy for Healthcare Science ('the Academy') maintains Professional Standards Authority (PSA) accredited registers.
2. The core regulatory functions of the Academy are as follows.
 - a. Set and maintain standards of practice and conduct.
 - b. Maintain registers of qualified professionals.
 - c. Assure the quality of education and training which leads to eligibility to apply for registration.
 - d. Require Registrants to keep their skills up to date through continuing professional development.
 - e. Consider and investigate concerns about the fitness to practise of registrants, taking action where necessary to protect the public, declare and uphold proper professional standards and/or maintain public confidence in the profession.

Purpose of this document

3. This document sets out the process the Academy will follow when receiving and investigating an allegation that a Registrant has procured their entry on the Register by fraudulent means and/or has been entered on the Register incorrectly.
4. This document exists separately from the Academy's Fitness to Practise Procedure which deals with allegations that a Registrant's fitness to practise may be impaired on one of the following grounds:
 - Misconduct
 - Lack of competence
 - Physical or mental health
 - A determination by another professional regulatory body
 - A criminal conviction or caution in the UK for a criminal offence, or a conviction elsewhere for an offence which, if committed in the UK, could constitute a criminal offence

5. Under this procedure, the Academy will investigate how the Registrant gained entry to one of the Academy's Accredited Registers, rather than investigating their fitness to practise.
6. As part of the Academy's handling of concerns in relation to Registrants, there will be an initial review by the Registrar.
7. Where, on receipt of a concern, it appears to the Registrar that the allegation relates to the Registrant's obtaining, renewal or restoration of their registration with the Academy, this procedure will be utilised. Subject to paragraph 8, an investigation will be commenced as outlined below.
8. If it appears to the Registrar that the Registrant's entry in the Register has been granted in error, for example due to an administrative error on the part of the Academy itself, the Academy may correct this error administratively, without opening an investigation. In order for the Academy to deal with the matter administratively, the following conditions must be met.
 - a. The Academy has written to the Registrant concerned to explain the error and to confirm what action they intend to take to correct the error; and,
 - b. The Registrant has consented to the Academy taking this action.
9. Where the conditions in paragraph 8 are not met, an investigation will be commenced as outlined below.

Stage One: Investigation

10. The Registrant concerned will be notified that an investigation has been opened. They will be invited to make any representations and/or provide any documents at the outset of the matter and will be afforded 28 days to do so.
11. The Academy will carry out any necessary investigations as to the circumstances of the Registrant's obtaining, renewal or restoration of the registration. This may include, but is not limited to:
 - a. Requesting information from the complainant;
 - b. Obtaining information from the Academy's records.
 - c. Requesting information from the Registrant's employer.
 - d. Requesting information and/or documents from the Registrant.
12. When the investigation has been concluded, the Academy will consider whether it appears, on the balance of probabilities, that the Registrant's entry on the Register was obtained fraudulently or incorrectly.
13. If the Academy is not satisfied that the Registrant's entry on the Register was obtained fraudulently or incorrectly, the investigation will be closed. The Registrant will be informed of this in writing.
14. If the Academy determines that, on the balance of probabilities, the allegation appears to be well-founded, the allegation will be referred to an Investigating Panel for consideration. The Registrant will be informed of this in writing. The correspondence addressed to the Registrant should include the following information:
 - a. The specific allegation in relation to their registration with the Academy;
 - b. The evidence which has been obtained in support of this allegation
 - c. The powers available to the Investigating Panel
 - d. The Registrant's right to make written representations to the Panel
 - e. That any written representations must be provided no later than 28 days from the date on which the notice is provided to the Registrant.
15. If representations are provided by the Registrant these should be added to the documents which are to be provided to the Panel. If no representations are received the Academy should take steps to contact the Registrant to ensure that they do not wish to respond.

Stage Two: Investigating Panel

16. An Investigating Panel will meet in private to review the allegation, supporting evidence and any response from the Registrant as soon as practicable after the steps outlined in paragraphs 12 & 13 have been taken.
17. The Panel's role will be to determine whether, on the balance of probabilities, the allegation is proven. As such, the Investigating Committee will have a fact-finding role in cases investigated under this procedure.
18. A Legal Advisor will be appointed to advise every Panel which considers an allegation under this procedure.
19. The powers available to the Panel are as follows:
 - a. Determine that the allegation is not proven and conclude the investigation with no further action;
 - b. Determine that the allegation is proven and direct that the Registrant's entry should be removed from the relevant Accredited Register.
 - c. If the Panel is unable to reach a decision on the basis of the evidence available to them and/or concludes that there is likely further evidence or information which may be relevant to their decision-making, they may direct the Academy to carry out further investigations.
20. The Panel must give written reasons for every decision made under paragraph 17. The Legal Advisor should assist with the drafting of decisions.
21. Where the Panel direct further investigations in accordance with paragraph 17c, the procedure set out in paragraphs 9 – 13 will be repeated and, if appropriate, the matter will be referred back to the Panel.
22. If the Panel makes a direction to remove the Registrant from the Register, the Registrant will be notified in writing. The notice to the Registrant must set out the following information:
 - a. The Panel's detailed reasons for the decision.
 - b. That the direction for their entry on the Accredited Register to be removed will take effect after a period of 28 days has elapsed, unless a valid notice of appeal is received.

- c. That any notice of appeal must be submitted within 28 days of the date on which the Registrant is given notice of the Panel's decision.
- d. That, if the Registrant submits a valid notice of appeal within the relevant timeframe, the direction will not take effect until such time as that appeal has been determined.
- e. That, if a Registrant is unable to comply with paragraph 20d, an application for an extension of time must be submitted within 28 days of the date on which the Registrant is given notice and that this application must specify the reasons for seeking an extension.
- f. That, in order to be valid, a notice of appeal must contain the following information:
 - i The notice should be titled 'Notice of appeal against Investigating Panel decision'.
 - ii The notice should include Registrant's name, address and registration number.
 - iii The notice should set out the Registrant's grounds of appeal (see paragraph 21).
 - iv The notice should enclose any additional evidence relied upon by the Registrant which has not previously been provided.

Stage 3 - Appeals

- 23. A Registrant may appeal against a decision of the Investigating Panel on the following grounds:
 - a. the decision appealed against was one which no reasonable decision maker could have made on a proper application of the law and in light of the evidence available at the time.
 - b. there was a serious procedural or other irregularity.
 - c. there is new evidence is available which is relevant to the Panel's decision.
- 24. For the purposes of Paragraph 21c, there is no additional requirement that the Registrant must demonstrate that the evidence in question could not have been obtained with reasonable diligence and presented to the Panel before the decision appealed against was made.

25. An application for an extension of time must explain why it is not possible to appeal within the time limit or, where the time limit has already expired, why an appeal was not made in time. The application must also be accompanied with any relevant evidence, for example, in a case where an appeal was not made in time due to ill-health, appropriate medical evidence. The onus is on the Registrant to satisfy the Panel Chair that it is in the interests of justice to extend the time limit for appealing.

Initial consideration by the Panel Chair

26. Where an application for an extension of time is sought under paragraph 20e, this will be determined in private by an Appeal Panel Chair, with the assistance of a Legal Advisor.
27. All notices of appeal will be considered in private by an Appeal Panel Chair, with the assistance of a Legal Advisor.
28. Where a notice of appeal is deemed to be valid and, if appropriate, any application to extend the deadline for appealing has been granted, the matter should be referred to an oral hearing before an Appeal Panel.
29. Where a notice of appeal is deemed to be invalid, the Panel Chair must give reasons for this. The decision and reasons will be communicated to the Registrant in writing.

Oral Hearings

30. The Registrant will be given at least 42 days' notice of an oral hearing before the Appeal Panel. That notice shall inform the Registrant of:
 - a. the date, time and location (if applicable) of the hearing;
 - b. Their right to:
 - i. attend the hearing;
 - ii. give evidence to the panel;
 - iii. make oral submissions to the panel either in person or through a representative (such as barrister, solicitor, professional body or trade union representative);
 - b. the powers available to the Appeal Panel

- d. the panel's power to proceed and determine the matter in the absence of the Registrant, or the Registrant's representative, at the hearing.
31. The notice of an oral hearing will also invite the Registrant to provide any further submissions and/or evidence which they wish to rely upon and indicate that these must be provided no later than 14 days before the hearing.
 32. Hearings and meetings under this procedure will normally take place remotely using video-conferencing technology.
 33. Hearings may take place in person where either the Academy or the Registrant requests an in-person hearing. However, where an in-person hearing is held, a Panel may, after inviting representations from the parties and advice from the Legal Advisor, order that any person (including any party, representative, witness, Panel member or Legal Advisor) may attend the hearing (or part of it) by remote means.
 34. The appeal will be heard by 3 Appeal Panel members.
 35. At all hearings, a Legal Advisor will be appointed to advise the Panel on matters of law and procedure and to ensure that the proceedings before the panel are conducted fairly. The Legal Advisor will have responsibility for drafting the panel's decision and reasons.
 36. When considering an appeal, the burden will be on the Registrant to demonstrate, on the balance of probabilities, that their grounds of appeal are well-founded.
 37. The Appeal Panel has discretion as to the procedure to be followed during the hearing provided that fairness to both parties is ensured. Whether or not oral evidence is called, each party shall be permitted to make submissions to the Appeals Panel.
 38. Following advice from the Legal Advisor the Panel shall deliberate in the absence of the parties, before announcing its decision to the parties. The decision will be confirmed in writing. There is no further right of appeal.
 39. Where an appeal is unsuccessful, the direction to remove the Registrant's entry from the relevant Accredited Register will take effect immediately.