ANNUAL REVIEW OF COMPETENCE PROGRESSION (ARCP)

POLICY FOR REVIEWS AND APPEALS

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1. **Scope, Purpose and Aims of the Policy**

This document sets out the Wales Deanery policy for Reviews of an Annual Review Competence Progression (ARCP) Outcome 2, and for Appeals following an Outcome 3 or 4. It relates to requests from speciality trainees, including GP and medical who have a Wales Deanery Reference Number (DRN). Separate arrangements are in place for Reviews and Appeals for Dental and Foundation trainees.

The timescales and intentions of the current Gold Guide (February 2016) have been considered when formulating this policy. It is also important to acknowledge that this policy has a specific focus on ARCP Reviews and Appeals, and therefore represents only part of the continuum of trainee progression for doctors, and associated policies and procedures within the Wales Deanery.

**Note 1:** Wherever reference is made to the Postgraduate Dean, it refers to the Postgraduate Dean or their nominated representative, who will be responsible for managing the Appeal process on their behalf.

**Note 2:** All correspondence other than the Appeal Information Pack will be by email.

**Note 3:** ARCP Review proceedings are conducted without the trainee present.

**Note 4:** ARCP Reviews and Appeals, for logistical reasons, are conducted in English. If a trainee wishes to give evidence at an Appeal Hearing in Welsh, this can be accommodated, and must be expressed at the time of requesting an Appeal. The Deanery will provide and fund a Welsh language interpreter for the duration of the trainee giving evidence.

**Note 5:** Where a timescale is specified, this is by 5pm of the deadline day. Receipt of information outside of this timescale will only be considered in exceptional circumstances.

**Note 6:** All forms and guidance can be downloaded from the Wales Deanery website ([www.walesdeanery.org](http://www.walesdeanery.org)), and all correspondence with the Wales Deanery is conducted via a dedicated email address: walesdeaneryappeals@cardiff.ac.uk
PART ONE: Reviews of an ARCP Outcome 2, and the First Stage of the Appeal Process for Outcomes 3 and 4

2. The Right to a Review of an ARCP Outcome

Trainees are awarded an ARCP Outcome when their progress is judged by Annual Reviews of Competence Progression (ARCP) Panels. A trainee can only request a Review of an ARCP Outcome 2 if a trainee receives an ARCP Outcome 3 or 4, they can request an Appeal, of which a Review forms the first stage of the Appeal process, and is conducted in a similar manner as a Review of an ARCP Outcome 2.

The Trainee Progression Governance (TPG) Team will routinely receive notification of all ARCP Outcomes 2, 3 or 4 from Deanery colleagues in Secondary and Primary Care. A record for monitoring purposes, and as an early warning of potential requests for Reviews and Appeals, will be maintained by the Trainee Progression Governance Team.

All trainees who receive an Outcome 2, 3 or 4 at the time they receive their letter from the Wales Deanery, notifying them of the ARCP Panel’s decision, will be given information on how to request a Review or an Appeal. The deadline for requesting a Review or an Appeal will commence from the time the trainee receives the ARCP Outcome notification letter (sent by email) from the Wales Deanery, and not the date of their e-portfolio entry.

3. Definition of a Review

A Review is a process whereby an individual or a group who originally made a decision returns to it to reconsider whether it was appropriate. The Review must take into account the representations of the trainee asking for the Review and any other relevant information not available to the Review Panel at the time of their ARCP Review.

4. Requesting a Review

Requests for a Review must be received by the Deanery within ten working days of the trainee receiving the notification letter from the Wales Deanery, notifying them of the ARCP Panel’s decision. Trainees must complete an ARCP Review Request Form, which is available on the Wales Deanery website. The Trainee Progression Governance Team within the Wales Deanery will acknowledge receipt of the completed form within five working days, and will also coordinate and attend the Review in liaison with the ARCP Panel Chair.

5. Date and Membership of the Review Panel

The Wales Deanery will endeavour to reconvene the original ARCP Panel within 10 working days of receipt of the request for a Review. If it is difficult to convene the full original ARCP Panel within the specified timescale, the Review Panel will be considered quorate if the original ARCP Panel Chair, plus a minimum of two other members of the original ARCP Panel, are available. If the original ARCP Panel Chair is not available, the Postgraduate Dean may appoint a replacement Chair for the Review Panel; the trainee will be notified by email of this change. A member of the Trainee Progression Governance Team will be present at the
Review meeting to support the Panel members, but will not form part of the Review Panel. If a lay member was not part of the original ARCP Panel, a lay member will be invited to attend.

6. The Review Meeting

The preferred approach is for the Chair, with support from the Trainee Progression Governance Team, to conduct the Review in person, by telephone or video conferencing. The trainee does not attend the Review. Members conducting the ARCP Review will receive guidance and support throughout the process.

7. Additional Evidence

The trainee will be notified of the Review date, and invited to submit additional written evidence (email is acceptable) if they wish; this must be received by the Trainee Progression Governance Team within five days of the planned Review. It is essential that additional evidence relates solely to the grounds of their Review.

8. The Review Panel’s Decision

The Review Panel can maintain all the original Outcomes awarded at the ARCP Panel meeting, or they can change the ARCP Outcomes in the following way:

- an Outcome 2 can be amended to a 1, but cannot be converted to a 3 or 4;
- an Outcome 3 can be changed to an Outcome 2, 1, or 6;
- an Outcome 4 can be changed to an Outcome 1, 2, 3, or 6.

The Trainee Progression Governance Team will document the proceedings and the rationale for the Review Panel’s decision. Through the Review process, it may be decided at any stage that Outcomes 2, 3, or 4 are not justified. If so, the facts of the case will be recorded and retained, but the Outcome will be amended to indicate only the agreed position, following the Review.


The Postgraduate Dean will inform the trainee of the decision within five working days. If the Review is the first stage of an Appeal, the trainee will be given two working days to either accept the Review Panel’s decision, or to request that an independent Hearing is held. This option is not available for a trainee receiving an Outcome 2. A copy of the letter sent to the trainee will be given to the Chair of the Review, the Head of the Specialty School, and the Specialty Manager within the Wales Deanery.

If the trainee requests an independent Hearing, they will be asked to confirm their availability over a 6-8 week timescale, and whether they wish to give evidence in English or in Welsh. They will also need to give details of any representatives who will accompany them.
PART TWO: Request for an Appeal

10. General Principles

An ARCP Appeal Hearing represents the final stage of potential amendment of an ARCP Outcome 3 or 4 for a trainee, within the jurisdiction of the Wales Deanery. It is essential that Appeal Hearings:

- are held in a consistent manner for all specialities;
- are robust in considering the evidence and determining the final decision;
- follow policies and procedures set within the Deanery.

11. Definition

An Appeal is a procedure whereby the decision of one individual, or a group, is considered by another (different) individual or group. An Appeal can take into account information available at the time that the original decision was made, as well as newly submitted information relevant to the Appeal, and the representations of the trainee. Those involved in an Appeal must not have participated in the previous ARCP Panel or the ARCP Review.

12. Requesting an Appeal of an Outcome 3 and 4

Request for an ARCP Appeal should be received by the Trainee Progression Governance Team within the Deanery, using the Request for an ARCP Appeal Form. This is available from the Wales Deanery website.

13. Grounds for Appeal

The trainee must set out clearly and concisely the grounds for their Appeal. Completion of the relevant section on the Appeal Request Form will help to identify the ground(s) upon which the Appeal is sought, and highlight which aspects of the previous decision are central to their request.

Grounds for Appeal can include one or more of the following:

- relevant evidence not available to the original ARCP Panel;
- concerns about the ARCP process, including a perceived bias or prejudice;
- concerns about misinterpretation of facts by the original ARCP Panel;
- not being made aware of the Panel’s likely Outcome and its consequences;
- other itemised concerns that the trainee believes merit consideration as possibly being reasonable grounds for Appeal.

The Trainee Progression Governance Team must receive the Request for an ARCP Appeal Form no later than ten working days from the date of the notification letter from the Wales Deanery of the ARCP Panel’s decision. It will be acknowledged within five working days.
14. Cross-Border Training

If a trainee has shared training experiences within NHS Wales and NHS England, and wishes to Appeal, the request should be made to the Postgraduate Dean in the Wales Deanery, who has the overall responsibility for trainee performance.

15. Welsh Language

The trainee can, with prior notification, give evidence in Welsh during the Appeal Hearing. The Deanery will arrange for a suitable interpreter to attend, drawing on a recognised list of providers. This arrangement only exists for the Appeal Hearing and the costs of the interpreter will be met by the Wales Deanery.

16. Decision to Proceed

The Postgraduate Dean may decide that the submitted grounds are insufficient to warrant an Appeal. In such circumstances, the trainee will receive written notification within five working days from the Postgraduate Dean, explaining the reasons as to why the Appeal has been denied.

17. Outcome 4.

If a trainee receives an Outcome 4 this will be recorded onto their E-portfolio system (but will not be signed off by the Post Graduate Dean) and no further action (for example removal from the speciality training programme, or change in employment status) should take place until the timeline for requesting a Review or an Appeal has passed, or the Appeal process has been concluded and the Postgraduate Dean has confirmed with the trainee the decision.

18. Proceed to a Review, or Directly to an Appeal Hearing

The first stage of the Appeal process is generally a Review of the original decision (as set out in Part One of this policy). However, after consideration of information provided by the trainee at the time of their request as well as of their particular circumstances, the Postgraduate Dean may decide to omit the Review stage, and proceed directly to establishing an Appeal Hearing. In either case, the trainee will receive written confirmation confirming that their request has been granted or denied within five working days of receipt of their request in the Wales Deanery. This confirmation will also state whether there will be a Review, followed by an Appeal Hearing, or only an Appeal Hearing.

19. Convening an Appeal Hearing

The Deanery will endeavour to confirm the participants and date for the Appeal Hearing within 15 working days of the trainee receiving notification from the Wales Deanery that an Appeal Hearing will take place.

The 15 working day recommended timescale, as set out within the Gold Guide, is unlikely to be met in all instances. The NHS in Wales has a commitment not to cancel patient appointments within six weeks of their set date; this commitment, together with availability of
appropriate participants at the Hearing, may hamper meeting this deadline. The trainee will be made aware of these constraints when they request an Appeal.

The trainee will be notified in writing of the date and location of the Appeal Hearing, and must confirm in writing (email is acceptable) to the Trainee Progression Governance Team that this is acceptable.

20. Appropriate Participants at Appeal Hearings

Members of the ARCP Panel that awarded the most recent Outcome 3 or 4 will not, under any circumstances, take part in the ARCP Appeal Hearing. The Chair will be appointed by the Postgraduate Dean, and will be a senior member of the Wales Deanery. The other participants, excluding the Chair, will be organised to include the following representation:

- a College/faculty representative from outside Wales;
- a Consultant/ GP from Wales working in the same specialty as the trainee;
- a Consultant/ GP from Wales working in a different specialty;
- a final year trainee from Wales working in a different specialty;
- a lay representative approved by the Wales Deanery.

The Trainee Progression Governance Team will ensure that appropriate eligibility checks are conducted for all participants (excluding the trainee) of an Appeal Hearing, including: a declaration of conflict of interest and a valid certificate of equality and diversity training.

The selection of participants will be in line with the Equality Act 2010. A representative from the employer's Human Resources directorate will be available to advise the Chair on (for example) equal opportunities matters.

In smaller specialties, prior knowledge of the trainee may be unavoidable; in such circumstances, the proposed Chair will consult with the Postgraduate Dean as to whether such prior knowledge should exclude any potential participant at the Hearing. The final decision will rest with the Postgraduate Dean.

The Postgraduate Dean can engage legal representation in connection with any Appeal to seek or provide legal expertise for, or during, the Appeal Hearing.

The trainee must supply the Deanery with written details of any representative whom they wish to accompany them to the Appeal Hearing at least five working days before the Appeal Hearing. If the trainee fails to provide such confirmation, the representative will be excluded from the Appeal Hearing.

Trainees have a right to attend the Hearing and to explain the stated reason(s) for their Appeal. They can also choose to be represented by (for example) a friend, a colleague or a representative of their professional body. However, it is not advisable that the trainee be accompanied by a family member.
21. Information for the Appeal

The Trainee Progression Governance Team will coordinate collation of relevant information for the Appeal. This will include information on the trainee’s training history and statements relevant to the grounds of the Appeal from those involved with the trainee’s training. A copy of all the relevant documentation prepared for the Appeal Hearing (the Appeal information pack) will be sent by registered mail to all participants of the Hearing at least three working days before the Hearing. Confirmation of attendance will be required in writing to the Trainee Progression Governance Team to indicate that the information packs have been received.

22. Additional Supporting Evidence

The trainee may also submit specific additional information in writing, using the Appeal Additional Request Form to accompany previously supplied information. Evidence will only be considered if it is pertinent to the grounds for Appeal. Guidance and a checklist for submitting additional information is available on the Wales Deanery website under ‘Appeals Process’. It is essential that this evidence be received within five working days of the Appeal Hearing. Evidence that is submitted late will be considered by the Chair, who will determine whether to include it within the overall information considered at the Hearing.

It is the Wales Deanery’s preference that trainees attend the Hearing. If the trainee or their representative are subsequently not able to attend the arranged Appeal Hearing, then depending on the circumstances, the Chair is likely to elect to proceed in their absence. The trainee, knowing before the Appeal Hearing that they will be absent, is entitled to make representations in writing, providing such representations are received in the Deanery within the deadlines for submission of evidence.

23. Resignation of a Trainee

A trainee who resigns from their training programme may still request a Review or Appeal provided their request is within the timescale set out in this policy and the grounds relate to their most recent ARCP Outcome. The Postgraduate Dean will judge each case on its merit before proceeding.

PART THREE: The ARCP Appeal Hearing

24. Delays or Non-Attendance

If a previously-agreed participant cannot attend, the Chair may choose to proceed with the proposed date of the Hearing, if they and three other participants are available. When considering the latter issue, a College/faculty representative for the trainee’s speciality who works outside Wales and a senior representative from the same specialty working within Wales should be present at the Hearing.
If any participant of the Hearing is significantly delayed or unable to attend on the day of the Hearing, the Chair may elect to proceed, subject to agreement from the trainee. This agreement will be recorded.

25. Preparation for the Hearing

Invited participants other than the trainee will meet in private on the same day prior to the Appeal Hearing to make their final preparations. The Chair and other participants will follow guidelines set by the Wales Deanery to ensure that they are fully acquainted with the proceedings, and understand their specific roles and responsibilities. The Trainee Progression Governance Team will attend all Appeal Hearings, and advise the Chair on procedural issues.

26. Principles and Consideration of Evidence at an ARCP Appeal Hearing

Decisions arising from ARCP Appeal Hearings are grounded on a balanced examination and weighing up of all available and pertinent evidence in terms of: process compliance; basis and logic of arguments; and fairness to trainees and their future patients. ARCP Outcomes 3 and 4 are very different in terms of immediate consequences for the future careers of trainees. These different potential impacts should be at the forefront of the minds of members of ARCP Review Panels, as well as at an ARCP Appeal Hearing.

The presence or absence of demonstrable deficiencies in knowledge, skills and attitudes appropriate to a trainee's current stage of training are key issues to be borne in mind.

Future patient safety is crucially important when considering the appropriateness of either a potential prescription of additional required training, or of a potential release from training. By the time that medical trainees are approaching the end of their respective training programme, they will need to have attained knowledge skills and attitudes commensurate with that stage of their career.

The evidence specific to each trainee’s stated reasons for Appeal should be considered fully at the Hearing, and also to what extent the evidence supports each of their stated contentions. If any or all of the stated reasons for Appeal are supported by the available evidence, the importance of these stated reasons then needs to be considered, alongside all of the other relevant factors being examined at the Appeal Hearing.

Using these principles and considering the balance of available evidence, The ARCP Appeal Chair and supporting members will establish:

- whether the original ARCP Outcome should stand, or be changed;
- if the original ARCP Outcome is to be changed, exactly how the original Outcome should be revised;
- the justification for these decisions.

27. The Appeal Hearing

At the start of the Appeal Hearing, in the presence of the trainee and their representative (if present), the Chair will introduce other participants, and also:

- explain that the taking of evidence from witnesses will be recorded;
- if the trainee's supporter is a lawyer, explain that the hearing is not a court of law, and that questioning is governed by the Chair;
- summarise the stated grounds for the Appeal, as set out in the trainee’s written submission.

The Chair will invite the trainee to confirm that these are the grounds of their Appeal, and that they are happy to proceed with the Hearing.

The trainee will then be invited to clarify and explain the case that they have made, based only on the written evidence they have submitted prior to the Appeal Hearing.

Oral submissions that reference mitigation or events that are not mentioned in previously submitted written evidence will not be considered at the Hearing. The trainee will answer questions during the Hearing.

After giving evidence and answering questions, the trainee will be requested to wait in a neighbouring room, whilst further evidence is taken from a representative of the specialty training school or Deanery, who is familiar with the trainee’s progress.

Once all necessary information has been discussed and considered, the trainee and their representative (if present) will be asked to re-enter the Hearing to answer any final questions, and will be advised on how and when they will be notified of the Appeal Outcome.

The remainder of the proceedings will be in private to allow a decision to be made. Any decision should reflect consideration of the trainee’s “fitness to practise”, and any concerns in this regard should be raised by the Chair with the Postgraduate Dean after the Appeal Hearing.

28. E-Portfolio Access

If, and only if, the Chair decides that the grounds for Appeal warrant exploration of the trainee’s E-portfolio, a representative from either Secondary Care or Primary Care within the Wales Deanery may assist the Chair in navigating the relevant e-portfolio.

29. Record of the Appeal Hearing

Only discussions relating to direct evidence from the trainee or other invited sources (such as the Training Programme Director) will be recorded. A transcript of the recording will be made available to the trainee upon written request to the Wales Deanery, with a copy retained by the Trainee Progression Governance Team.

30. The Appeal Decision

One of the following decisions can arise from an Appeal Hearing:

a) Substitution of the previous decision, with an Outcome 1 or an Outcome 6 if the trainee has completed their training;
b) Substitution of the previous decision, with an Outcome 2 and an outline of the further steps that must be taken;
c) Substitution of the previous decision, with an Outcome 3 and an outline of the further steps that must be taken to develop an action plan, and a revised indicative date for completion of training;

d) Retain the previous ARCP Panel decision of either an Outcome 3 or an Outcome 4.

Through the process of the Appeal, it may be decided at any stage that Outcomes 2, 3, or 4 are not justified. If so, the facts of the case will be recorded and retained, but the Outcome will be amended to indicate only the agreed position following appeal. The decision made at the Appeal Hearing is the final internal avenue of Appeal available to a trainee.

31. Notification of the Appeal Decision

The Chair of the Appeal Panel will consult with the Postgraduate Dean and discuss the recommendation following the Hearing. The Postgraduate Dean will inform the trainee in writing of the decision within three working days of the Appeal Hearing. Participants of the Appeal Hearing, the Head of School for the specialty involved, and the relevant Training Programme Director will also receive a copy of the letter to the trainee.

32. Release from Training following an Appeal Hearing decision

If an Outcome 4 is the final decision following an Appeal Hearing, the trainee’s place on the training programme will be relinquished from the date of the letter informing the trainee of their Appeal result from the Postgraduate Dean. In the case of GP Trainees, the Deanery will also notify the Medical Performers List of the trainee’s release from training.

33. Changes to Employment Contract

The Deanery will notify the trainee’s current and (if applicable) next employer of the termination date of training. The trainee will be advised to liaise with their employer for confirmation of the termination date of their employment as per their contract and, also, to contact the Careers Advice Service to plan their next steps.

34. Governance and Audit

All participants (excluding the trainee) of an Appeal Hearing should receive guidance to deliver their roles and responsibilities effectively, in line with Wales Deanery policies and procedures. The Trainee Progression Governance Team will keep under review these arrangements, and provide training and support as necessary. A database of key contacts and a governance log will be updated by the Trainee Progression Governance Team.

The following information will be retained for six years:

- a record of the issues relating to the trainee’s progress;
- mitigating factors that the trainee has raised relating to the concerns about their performance;
the reasons for any action taken;
whether an Appeal has been lodged;
the Outcome of the Appeal;
any grievances raised during the review of the Appeal;
subsequent developments;
notes of formal meetings and Appeal hearings;
evidence of equality and diversity training undertaken by Panel members;
an audit trail of correspondence, which highlights that efforts have been made
to adhere to the Gold Guide timings;
a copy of the recording and/or transcript of the Appeal Hearing;
a complete copy of the trainee’s learning portfolio.

35. Quality and Performance

Compliance with the policy and opportunities to improve practice will be the kept under review.

The Trainee Progression Governance Team will routinely:

- lead an internal review whenever an appeal has been conducted to identify lessons learnt, followed by a summary report to the Deanery Management Executive;
- maintain data on performance, and produce reports highlighting opportunities to improve practice and performance against standards or targets set within the policy;
- co-ordinate a review of the policy if requested by the Postgraduate Dean.

Further Information

The Wales Deanery website has a dedicated page on trainee progression issues at www.walesdeanery.org.

All necessary forms and further advice and links can be found there.

There is also a dedicated team for Trainee Progression Governance within Corporate Services of the Wales Deanery.

Correspondence

All correspondence for Reviews and Appeals should be sent to walesdeaneryappeals@cardiff.ac.uk or a member of the Wales Deanery Trainee Progression Governance Team can be contacted on 02920 687419 or 02920 687433

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This policy is available in Welsh from the Wales Deanery website or by contacting the TPG team.