

## FITNESS TO PRACTISE PROCEDURES

Yellow highlighted text identifies the most recent revisions to the regulations. If you require these revisions to be identified in an alternative format, please contact the Secretary to Academic Board.

### 1. Introduction and Principles

- 1.1 The University recognises that in awarding appropriate academic qualifications, where these lead to a professional qualification, admission to a professional body and/or statutory registration, it must be satisfied that the student will be a safe and suitable entrant to the given profession/job role.
- 1.2 Fitness to practise is the ability to meet professional standards ; it is about professional competence and health. The purpose of these procedures is to ensure the safety of the student and those around them, including members of the public, and to safeguard public confidence in the relevant professions.
- 1.3 The University recognises that there are differences between the standards expected of students and qualified practitioners. Students are however the next generation of qualified practitioners and there are many similarities between the behaviour expected of them whilst at the University and that expected of qualified practitioners. Students who fall short of the expected standards of professionalism and competence early in their studies are more likely to have a chance to improve their behaviour than those nearing the end.
- 1.4 Students themselves on courses leading to professional qualifications should also acknowledge that it is in their interests not to proceed into a career for which they may not be well suited or for which a professional or regulatory body may not register them and that they should not engage in any conduct that renders **them** not fit to be admitted to and practise that profession.
- 1.5 Courses which are subject to these procedures should be identified at the time of initial validation and publicised to students in the Programme Specification.
- 1.6 These procedures are intended to ensure that any concerns about a student's fitness to practise are dealt with fairly, promptly and proportionately. All identified concerns relating to a student's fitness to practise must be concluded before the Board of Examiners agrees an award.
- 1.7 The University aims to ensure that the entire process, including any request to review, is normally completed within 90 days of the student being told of the concerns. It may take longer where for example, the case is complex, witnesses are unavailable to attend meetings, because the process is put on hold due to a criminal investigation or due to the ill health of the student. In such situations, the student (and any witnesses) will be informed about the progress and when it is likely to conclude.
- 1.8 Fitness to practise proceedings will comply with all statutory requirements including the Equality Act 2010 and a student will be presumed to be innocent of any charge until proven otherwise. The standard of proof required is on the 'balance of probabilities', that is, it is more likely than not that something happened.

- 1.9 Where a student has declared a disability to the University, the University will ensure that information is available to them at all stages of the procedure in appropriate formats, and that any reasonable adjustments are made to the associated proceedings to accommodate the student's needs. A record will be kept of any adjustments made.
- 1.10 The student has the right to be supported and accompanied at all stages of the procedure, who is not acting in a legal capacity, at any meeting arranged to discuss the matter. The individual accompanying the student must be a member of the University, i.e.:
- a) a registered student;
  - b) a member of staff;
  - c) a member of staff or Sabbatical Officer of the Students Union.

The role of the individual accompanying the student will be to support and advise the student and to help them to present their case.

1.11 The student will receive copies of all documentation, including witness statements, relating to the case. Individual names may be redacted from the documentation circulated.

- 1.12 Where a student withdraws before these procedures are completed but the behaviour in question would normally result in the student being removed from practice pending an investigation, the process should be completed with the student invited to participate as described and the outcome recorded for future reference.
- 1.13 Enquiries to the Disclosure & Barring Service, both before and after admission, will be managed through the University's Admissions Office except where the student contract arrangements already place responsibility for such enquiries on a student's employer.
- 1.14 Professional and regulating bodies reserve the right to apply any appropriate assessments for determining suitable entrants to the profession concerned. This may include a separate test of fitness to practise in addition to those administered by the University.
- 1.15 Complaints raised under the Student Complaints Procedure arising from or connected with a fitness to practise matter will not be considered until all relevant stages of the Fitness to Practise Procedure have been completed.

## **2. Principles relating to Student Behaviour**

- 2.1 In the context of these procedures, students should understand that the successful completion of a course leading to admission to a professional body and/or statutory registration requires adherence to both the requirements of that body and of these procedures.
- 2.2 Students should behave professionally and competently at all times, in accordance with the Regulations and Procedures of the University and to the code of conduct (or equivalent) of the relevant professional or regulatory body.
- 2.3 Students will at all times act in the best interests of their patients, service users, pupils, placement staff, university staff or other students, and conduct themselves in a professional manner.

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- 2.4 Students will report to the appropriate authority within the placement setting and to the University Course/Programme Leader actions by others that may put patients, service users, pupils, staff or other students at risk. Failure to report such actions could lead to disciplinary action being taken against such a student. Persons making disclosures must identify themselves.
- 2.5 Students whose courses fall under these procedures must disclose any criminal convictions (including spent convictions) to the University before starting the course.
- 2.6 Students whose courses fall under these procedures must disclose any conviction and/or caution if it occurs while the student remains registered on the course. Students will be provided with guidance about the consequences for registration within the profession concerned. If a student fails to disclose such information and it subsequently becomes known, the student will be referred to a Fitness to Practise Committee.
- 2.7 The following circumstances may render a student unfit to practise:
- a) exploiting the vulnerability of a patient, client or pupil (including to establish a sexual relationship);
  - b) offences against the vulnerable, including children, the elderly and the mentally incapacitated;
  - c) drug or alcohol abuse;
  - d) acting in an inappropriate or unprofessional manner on or away from University premises;
  - e) conviction of a relevant criminal offence or has accepted a caution in relation to such an offence;
  - f) intimidation of fellow students, patients, clients or pupils;
  - g) failure to rectify behaviour that has been subject to any disciplinary actions under the University's regulations;
  - h) repeated inappropriate behaviour towards others;
  - i) inaccurate or falsification of patient, pupil or other professional records;
  - j) severe and relapsing mental illness;
  - k) being a carrier of a serious communicable disease without complying with an appropriate management plan;
  - l) Lack of insight into how their medical condition could impact upon the safety and wellbeing of themselves and others with whom they come into contact in their professional capacity.
  - m) academic misconduct (for example plagiarism, cheating in examinations, forging records)
  - n) any other circumstance which may call into question a student's fitness to be admitted to and to practise their profession.
- 2.8 The student is expected to engage with these procedures and answer any questions about what has given rise to the fitness to practise concerns.
- 2.9 Where there is an allegation of academic misconduct, it may be appropriate to consider the case under both the academic misconduct and fitness to practise procedures. In these circumstances, the University will conduct the academic misconduct process first and conclude it before beginning the fitness to practise process. This will avoid the student facing simultaneous procedures for the same allegation.

- 2.10 A student disciplinary matter may lead to fitness to practise proceedings if the behaviour that led to disciplinary action against the student calls into question the students' fitness to practise. This procedure should commence after the disciplinary procedure is concluded.
- 2.11 Where the behaviour amounts to a criminal offence and the police or courts are involved, an investigation will normally be put on hold until the outcome of the investigation or proceedings. Where a student is acquitted of a criminal offence or the investigation is dropped the University may still take action under its disciplinary and/or fitness to practise process. If the student is convicted, the role of the fitness to practise panel is to determine whether what the student has done impairs their fitness to practise.

### **3. Initiation of the Procedure**

- 3.1 The University will consider any information submitted to it which gives reasonable cause to believe that a student's fitness to practise may be impaired. Sources of concern may include, but are not limited to:
- a) Placement provider employees
  - b) University employees
  - c) Students (including self-referrals)
  - d) The Students' Union
  - e) Medical professionals
  - f) Police and other government agencies
  - g) Regulatory bodies
  - h) General public
- 3.2 On receipt of information identifying an allegation of concern under the scope of these procedures, the Head of Department will undertake an initial investigation to establish whether there are grounds to investigate the matter further. The Head of Department will consider whether other routes available e.g. pastoral care, occupational health and student support are more appropriate before initiating fitness to practice procedures.
- 3.3 If the University receives an anonymous complaint about a student, extra care will be taken to ensure that the concerns are investigated carefully. The Investigating Officer will normally need to know the identity of the person making the complaint so that they can rule out the possibility that the report is made maliciously.

### **4. Removal of a student from a practice environment**

- 4.1 The Head of Department may decide that given the nature of the concern that it is appropriate to remove a student from a practice environment immediately prior to or during the initial investigation.
- 4.2 Removal from practice is a precautionary measure serving to prevent any potential harm to the public or persons within the University. It may also be applied to limit the prospect of damage to public confidence in the profession concerned.
- 4.3 Removal from practice is a holding measure and is not indicative of a final outcome.
- 4.4 When determining whether to remove a student from practice, the Head of Department should ensure that it is legitimate and proportionate in the circumstances.

4.5 Where it is decided that a student should be removed from practice, the Head of Department should notify the student in writing as soon as possible setting out the reasons they believe it is necessary. The practice environment should also be notified of this action. This notification should also outline that the removal from practice will be for a specified period, which will normally be until the point a formal determination on the student's fitness to practise has been made.

4.6 The status of the student should be kept under regular review to ensure that it remains appropriate for a student to remain removed from practice and the student should be provided with updates when there is a material change or development.

## 5. Investigation and Consideration by Department (Stage 1 – Cause for Concern)

5.1 Where, following an initial investigation, the Head of Department believes a case has arisen that warrants the application of these procedures, the Head of Department will either investigate the case or appoint an Investigating Officer who will meet with the student to advise the student of the concerns raised and how they fall below the professional expectations of those taking a particular course. The Investigating Officer should not, as far as possible, be the student's personal academic tutor or anyone else who is involved in supporting the student.

5.2 The student should be informed of the allegation(s) and/or concern(s), how they relate to the relevant professional standards and provided with evidence of the issues of concern before this interview. The evidence should be verifiable and not based on hearsay but names may be redacted if considered appropriate.

5.3 The student will be given at least three working days' notice of the meeting with the Investigating Officer.

5.4 A note taker will also be present during the meeting to maintain a record of the meeting and a copy provided to the student.

5.5 The meeting may proceed in the absence of a student who has either:

- a) indicated an intention to be present and does not attend;
- b) never responded to communications;
- c) indicated that they do not wish to attend.

5.6 The Investigating Officer should be content that s/he has sufficient evidence available to consider the case and that the student has been given adequate notice of the meeting and an opportunity to provide a written submission.

5.7 The outcome of the meeting should be such that the student is clear on:

- a) the nature of the concerns;
- b) why they have been raised;
- c) possible outcomes and
- d) who they can contact with any queries about the progress of the case.

5.8 Following the initial investigation, the Investigating Officer will submit a written report of findings to the Head of Department who then may:

- a) decide that there is no reason for concern and that patient/client/public safety is assured and no further action is required under these Procedures;

- b) Require the student who acknowledges an impairment in their fitness to practise, has the necessary insight into their behaviour and is seeking ways to address the underlying issues to sign an undertaking regarding their future conduct.
- c) establish a written action plan to include details of any follow-up meetings and monitoring if appropriate which is agreed, signed and dated by the student. Any student who refuses to agree to the action plan will be referred by the Head of Department to the Fitness to Practise Committee.
- d) issue a formal warning linked to a written action plan to include details of any follow-up meetings and monitoring if appropriate which is agreed, signed and dated by the student. A warning is appropriate when behaviour is significantly different from expected standards but the behaviour does not present a risk to others or to public confidence. Any student who refuses to agree to the action plan will be referred by the Head of Department to the Fitness to Practise Committee.
- e) after consulting with the Pro Vice Chancellor Students, decide that the grounds are so serious as to threaten the safety of others and may seek the approval of the Vice Chancellor for an immediate temporary suspension of the students studies in accordance with the Student Disciplinary procedures;
- f) conclude that a concern is so serious that the consequences could potentially lead to a termination of studies and refer the case to the Fitness to Practise Committee. The Head of Department will inform the student of the referral and the reason for it, in writing, within ten working days of the decision;
- g) refer the student concerned to the Occupation Health Service for a formal assessment in order that a report can be made on **their** fitness to practise on medical grounds. For any student who refuses to attend an occupational health assessment required by the department may, after consulting with the Pro Vice Chancellor Students, seek the approval of the Vice Chancellor for an immediate temporary suspension of the student's studies in accordance with the Student Disciplinary Procedures. Suspension in these circumstances will automatically lead to the student being referred by the Head of Department to the Fitness to Practise Committee.

## **6. Fitness to Practise Committee (Stage 2)**

- 6.1 The membership of the Fitness to Practise Committee will be:
  - a) The Head of School (Chair);
  - b) A member of academic staff who has links with professional courses, from another Department;
  - c) A member of Academic Board who is not from the same School;
  - d) One external professional representative from the relevant profession who is licensed/authorised to practise by the relevant professional body.
- 6.2 A School Manager will act as Secretary to the Committee. The Secretary will not be a member of the Committee. A minuting secretary may also be present during the Hearing and will maintain the formal record of the meetings of the Committee.
- 6.3 No member of the Committee may be or have been directly connected with the teaching or supervision of the student whose case is under consideration, nor must they have any interest or involvement in the circumstances under consideration.
- 6.4 The student has the right to be present at the meeting of the Committee. The student will normally attend in person but may be permitted to attend by alternative means (e.g. video call).

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- 6.5 All attending the Committee will be required to ensure that all matters discussed within the Committee are held in the strictest confidence.
- 6.6 The School Manager will give the student at least ten working days notice of the date of the Hearing and:
- a) provide details of the case he or she has to answer;
  - b) provide copies of all documentation, including witness statements, relating to the case and a copy of these Procedures;
  - c) inform the student of their right to be accompanied at the Hearing by representative who may speak on **their** behalf . The name of this representative must be notified to the School Manager in advance of the Committee meeting;
  - d) provide the names of the members of the Fitness to Practise Committee;
  - e) provide the student with the names of any witnesses that the University proposes to call;
  - f) require the student to submit as soon as possible and in any event not later than four days before the time fixed for the Hearing a copy of any further written evidence which **they may wish to present, in support of their case along with any written questions they may wish to ask relating to any redacted witness statement(s);**
  - j) the name and status of any person who will accompany the student;
  - k) the names of any witnesses the student wishes to call.
- 6.7 If the student wishes to object to a member of the Fitness to Practise Committee they must do so as soon as possible and in any event at least four days before the time fixed for the Hearing. The only ground for objection is that of possible bias arising from either:
- a) involvement in the Fitness to Practise process at an earlier stage;
  - b) involvement in a related appeal Hearing, disciplinary Hearing or grievance procedure or
  - c) prior knowledge of the matter.
- 6.8 The School Manager should ensure that sensitive information is not disclosed to committee members until their membership has been confirmed and no objections have been received.
- 6.9 Guidelines for the procedure for Hearings of the fitness to practise committee hearing are set out in the Appendix 1.
- 6.10 The Investigating Officer at stage one will normally present the case to be considered by the Committee but will not be involved in the decision making by the committee.
- 6.11 The hearing will be held in private and with reasonable facilities for the student and the individual accompanying the student to consult in private.
- 6.12 If the student is unwell or prevented from attending the Hearing by other good reason, the student will notify the Secretary to the Committee prior to the Hearing and, in the case of ill health, will submit a medical certificate. In circumstances where there are good reasons, the Hearing may be rearranged. The meeting may proceed in the absence of a student who has either:
- a) indicated an intention to be present and does not attend;
  - b) never responded to communications;
  - c) indicated that they do not wish to attend.

The Committee should be content that it has sufficient evidence available to consider the case and that the student has been given adequate notice of the meeting and an opportunity to provide a written submission.

- 6.13 The Chair is responsible for ensuring that the student has been sent all the written evidence, including any witness statements, in advance; and that the student has a proper opportunity to meet the case against **them**, including by making a statement, by calling witnesses and by questioning witnesses called by any other party.
- 6.14 The Fitness to Practise Committee will consider each of the following options starting with the least serious and decide whether the student's fitness to practise is either impaired or unimpaired and either:
- a) Permit the student to continue with the course with no further action;
  - b) Permit a student to continue with the course but under additional supervision, and conditions if appropriate, and within an additional reporting and monitoring procedure;
  - c) Impose disciplinary sanctions on the student, consistent with Student Disciplinary Procedures including the suspension of a student;
  - d) Refer a case to a relevant Board of Examiners for consideration whether or not a resit of a specified part or parts of the course is required;
  - e) Permit a student to continue with the course but the award made will not lead to a professional qualification and an alternative award title will be used as described in the Programme Specification;
  - f) Withdraw the student from the course leading to a professional qualification, but permit the student to apply for an alternative course. The Admissions Tutor will be made aware of the reasons why the student was withdrawn from the previous course;
  - g) Recommend to the Vice Chancellor that the student's studies on a course be terminated and that the student be permanently excluded from the University. The University will consider the results profiles for the student at the next Board of Examiners' meeting. Where a student achieves, or has already achieved, an interim award, the student will be issued with a certificate and transcript confirming the award.
- 6.15 The Fitness to Practise Committee should attempt to reach a unanimous decision regarding whether the student's fitness to practise is impaired and what action should be taken. Where this is not possible, a majority decision may be accepted. Where there is a split decision, the Chair will have the casting vote.
- 6.16 If the Committee concludes that the student is currently unfit to practise, but in the future may become fit to practise in the future, it should explain to the student what steps they may be able to take to resume their studies.
- 6.17 The decision along with the rationale of the Committee will be notified to the student in writing by the Secretary to the Committee within five working days of the Committee Hearing with a copy sent to the Pro Vice Chancellor Students. If the University is required to report the outcome to the professional body or regulator then this should be explained to the student along with any requirement for the student to disclose this outcome when applying for other regulated courses. The student will be notified of their right to request a review of the decision of the Committee.



## **7. Procedures for Review of the Decision**

- 7.1 A student may request a review of the decision of the Fitness to Practise Committee on the following grounds:
- a) New evidence has emerged which can be corroborated and could not have been brought to the attention of the original meeting of the Committee;
  - b) There is evidence of a procedural irregularity in the conduct of the Fitness to Practise Committee;
  - c) There is evidence that the sanction imposed was inconsistent with the nature of the offence and penalties described in these procedures.
- 7.2 A request to review the decision of the Committee should be made in writing within 10 working days of receipt of the written decision to the Deputy Vice Chancellor.
- 7.3 On receipt of a request to review, the Deputy Vice Chancellor & Provost (or nominee) will decide if there are clear grounds for a review.
- 7.4 The Deputy Vice Chancellor & Provost (or nominee) will review the papers submitted to the committee, the minutes and the decision contained in the letter to the student, and will either:
- a) refuse the request to review
  - b) uphold the original decision of the Committee, or
  - c) constitute a new Committee.
- 7.5 Throughout the review process, the original decision about fitness to practice will be considered to apply until overturned or set aside, including not agreeing an award if the Board of Examiners are due to meet during the review process.
- 7.6 Where the outcome of a case is overturned following review because of a failing to follow due process, this does not overrule any decision about whether a student is fit to practise. In these circumstances, the case will need to be reconsidered by the University following the fitness to practise procedures and giving due consideration to any potential impairment of a student's fitness to practise.
- 7.7 Where the decision of the Deputy Vice Chancellor & Provost or the Committee is to uphold the original decision the letter to the student will draw attention to the individual's right to refer the matter to the Office of the Independent Adjudicator (OIA) and the student will be issued with a Completion of Procedures letter.

## **8. Office of the Independent Adjudicator for Higher Education (OIA)**

- 8.1 A student who is not satisfied with the outcome of the Procedure and has exhausted all the stages of the procedure may request that the Office of the Independent Adjudicator (OIA) reviews the case. This may be done by completing the OIA scheme application form within twelve months of the date of the University's Completion of Procedures letter.
- 8.2 Where a case is considered eligible, the OIA will provide independent adjudication on the resolution of complaints, once the University's internal procedures have been exhausted.
- 8.3 Where the outcome of a case is overturned following appeal to the OIA because of a failing to follow due process, this does not overrule any decision about whether a student is fit to practise. In these circumstances, the case will need to be reconsidered by the University

following the fitness to practise procedures and giving due consideration to any potential impairment of a student's fitness to practise.

## **9. Record Keeping and Disclosure**

- 9.1 It is essential that the University keeps accurate and up-to-date records relating to a student's conduct and ability to practise safely.
- 9.2 Each School must keep a secure log of all fitness to practise concerns. The log must contain the following information:
- (a) Student name
  - (b) The nature of the concern raised
  - (c) Whether the matter was dealt with as a low level concern or referred for further investigation and whether a fitness to practise panel was convened
  - (d) Whether the student's fitness to practise was found to be impaired
  - (e) Any sanction imposed as a result
- 9.3 Records must be accurate, contain enough detail to allow informed decisions to be made (where necessary) and ensure annual reports can be created on request for monitoring purposes.
- 9.4 Records should be retained in accordance with the University's Records Retention Schedule.
- 9.5 The University follows the Data Protection Act 2018 when handling personal information. Accordingly, all students' personal and sensitive information is held securely and confidentially and only shared when legitimate and necessary.
- 9.6 Ordinarily, consent will be obtained before a student's personal information is shared. However, information may be shared without direct consent where it is deemed that there is a potential risk to colleagues, the public and/or the student.
- 9.7 The University reserves the right to report any findings it has made about a student's fitness to practise to the designated professional organisation/regulator and/or other appropriate bodies. Ordinarily, such disclosures will only be made where the Head of School believes that to do so is an appropriate and proportionate means to protect others from any risk the student may pose. However, for certain areas, for example the Medical School, the University is under a duty to disclose to the relevant regulator any fitness to practise issue considered by a formal panel, committee or hearing irrespective of the outcome. Students will be informed of this obligation in the relevant programme specification and/or module handbooks and, in sharing information, the University will always act in accordance with prevailing data protection principles.
- 9.8 In accordance with the Safeguarding Vulnerable Groups Act 2006, the University is also under a legal duty to refer to the Disclosure and Barring Service any person who:
- (a) has harmed, or poses a risk of harm as result of their conduct, to a child or vulnerable adult;
  - (b) satisfied the harm test (i.e. they have taken no action to harm a child or vulnerable adult, but the potential exists that they may do so in the future);
  - (c) has been convicted of, or received a caution for, a relevant offence.

Version reference: 2.4

Date document was approved and comes into effect: 1 September 2021

Author of the document: Kevin Pickess

Date document is due for review: 1 September 2024

Date checked for Accessibility: 1 August 2021

### Revision History

<b>Committee</b>	<b>Date</b>	<b>Change</b>
Academic Board v2.4	7 July 2021	Minor revisions [AB20-54]
Academic Board v2.3	1 July 2020	Major revisions after OIA Good Practice Framework review. [AB19-55] [v2.2 not published]
Academic Board v2.1	1 May 2019	Minor revisions [AB18-37]
Academic Board v2.0	25 April 2018	Major revisions [AB17-55]
Academic Board v1.4	8 October 2014	Minor revisions: [AB14-14]
Academic Board v1.3	24 April 2013	Minor revisions: [AB12- 47]
Academic Board v1.2	25 April 2012	Minor revisions: [AB11-25a]
Academic Board v1.1	4 February 2010	Minor revisions [AB09-21]
Academic Board	4 October 2006	New Procedure Approved

## **Appendix 1: Procedure for Fitness to Practise Committee**

Hearings will normally follow this procedure in outline. However, the Chair of the Committee has a general discretion over the running of Hearings according to individual circumstances. In particular, the Chair may use **their** discretion to adjourn proceedings or curtail evidence or statements in order to ensure that the Hearing is conducted in an orderly and reasonably expeditious manner.

The Committee members will meet prior to the Hearing to agree on matters of process and procedure. Any submissions by the student in this respect will be considered at this point and oral submissions may also be considered.

The student and, where applicable, **their** representative, will be invited to join the Hearing.

The Investigating Officer will be invited to join the Hearing.

It is normal for hearings to be recorded.

The Chair will summarise the procedure to be adopted at the Hearing, establish there are no conflicts of interest and ask if there are any procedural questions. The Chair will stress to all present the importance of ensuring that matters discussed within the Hearing are treated with the strictest confidence.

The facts relevant to the case will be introduced by the Chair.

The Hearing will not normally need to hear oral evidence from witnesses (other than the student) when facts have already been established or agreed.

The Investigating Officer will set out the case regarding the concerns about the student's fitness to practise. The Investigating Officer may call witnesses and refer to evidence, which will have been disclosed in advance.

[Where witnesses are called, they will normally first be questioned by the person calling them, secondly by the other party and thirdly by the Committee members, through the Chair.]

The student and **their** representative will be given an opportunity to respond to the Investigating Officer's statement and may ask questions.

The Committee members, through the Chair, may also ask questions of the Investigating Officer.

The student or **their** representative will be invited to present a statement and may call witnesses.

The Committee members, through the Chair, may also ask questions of the student.

The Investigating Officer will be given the opportunity to summarise the case in the light of the evidence presented.

The student will be invited to make a closing statement and will have the last word.

All parties other than the Committee members and Secretary will be asked to withdraw.

The Committee will deliberate in private and come to a decision, either straightaway or at an adjourned meeting.