



# FITNESS TO PRACTICE POLICY AND PROCEDURES

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Version 1.2

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*Notes: In the policy, the holder of a designated role (such as Chief Operating Officer) is taken to include their nominee*

## **General**

1. Where a course of study requires a student to undertake practical training in a quasi-professional role in relation to patients, children, clients, their family members or service users or where the qualification provides a direct licence to Practice, the University has a duty to ensure that the student is fit to Practice. A student registered for such a course (see current list in Appendix 1) may be subject to fitness to Practice procedures. A student may also be subject to their own professional/regulating body's Fitness to Practice criteria and procedures prior to graduation, following completion of the degree and before fully qualified registration is allowed.
2. On commencement of their course and prior to undertaking placement, a student shall be held responsible for making him/herself acquainted with the Code of Professional Conduct and Fitness to Practice appropriate to their profession. If they are aware of any personal circumstances which may relate to previous employment, programme of education or voluntary activity and which might be relevant to their Practice, they are bound to inform the Course Leader immediately, particularly where the issue is professional and will not be identified during the Disclosure process.
3. Where a student is subject to disciplinary procedures as well as fitness to Practice procedures the fitness to Practice procedures shall be completed before the disciplinary procedures are initiated.
4. Following initial investigation by an Investigating Officer, who will usually be the academic Course Leader, a student may be referred to Fitness to Practice Committee.

## **Proceedings before a Fitness to Practice Committee**

5. A Fitness to Practice Committee shall deal with any conduct or issue which may render a student not fit to Practice as a student on a course leading to potential registration with a professional/regulating body. Examples of breaches of fitness to Practice are detailed in Appendix 2. Such examples are illustrative only and shall in no way limit or restrict the jurisdiction of a Fitness to Practice Committee.
6. A Fitness to Practice Committee shall also consider the impact of any health issue which may render a student not fit to Practice.
7. Where a student has been referred to a Fitness to Practice Committee on medical grounds, the student may be required to attend the University's Occupational Health Service so that a report can be made on their fitness to Practice on medical grounds.
8. The University shall comply with the requirements of the Disability Discrimination Act by taking all reasonable steps, within available resources, to enable full participation by disabled students. However, where it proves impossible for a registered student to be deemed fit to Practice on medical grounds, the student's registration will be suspended while every effort will be made to offer an appropriate alternative course of study. Where no alternative course of study can be found, the student may be required to withdraw fully from their studies. Such decisions shall only be taken once alternative options have been exhausted.

## **Fitness to Practice Committee: Constitution**

The Constitution of a Fitness to Practice Committee shall normally be :

- (i) a senior member of staff (Convener)
  - (ii) the President of the Students' Association
  - (iii) a senior member of academic staff who is registered with the relevant professional/regulating body
  - (iv) at least one other member drawn from the teaching staff of the relevant subject area
  - (v) a member of academic staff from outwith the subject area.
9. The Chief Operating Officer must be informed of the issues which have led to a student being referred to a Fitness to Practice Committee. The Chief Operating Officer may nominate a senior member of Professional Services staff to attend meetings of the Committee or instigate attendance by a legal representative of the University. In this way the risk of potential

reputational damage can be fully assessed and minimised and any decision that the student who has been referred cannot remain a student of the University will be made with appropriate advice.

10. The Convener may request the COO to invite a legal adviser to sit with the Committee.
11. The Convener may also invite not more than two persons from outwith the University with a particular expertise or knowledge of the subject area (e.g. an academic from another institution or member of the profession concerned) to attend any meeting of the Committee. None of the said persons so invited shall be entitled to vote, but may seek clarification from the student or the student's representative and give advice to or address the Committee at the invitation of the Convener.
12. Persons who have been involved, in any capacity, in a particular case at an earlier stage prior to a Fitness to Practice hearing being called shall be disqualified from membership of the Committee in respect of meetings at which that case is to be considered.
13. Five members (including the Convener) shall constitute a quorum.

#### **Fitness to Practice Committee: General Procedure**

14. It shall be the duty of the Course Leader, in consultation with the Vice-Dean (Academic) and taking advice from the Faculty Manager with regard to process, to decide whether a student shall be referred to a Fitness to Practice Committee.
15. Where a student is referred to a Fitness to Practice Committee, the Course Leader, having consulted with all members of staff connected with the case if appropriate and without breaching confidentiality, shall be requested to provide written comments on the student's conduct and/or the student's health explaining the reason there is concern as to the student's fitness to Practice. Factual information about the student's professional development on their course and any other relevant documentation, which may include statements from any witnesses, should also be provided.
16. A student who is referred to a Fitness to Practice Committee shall be advised in writing by the relevant Faculty Manager, of the details of the referral and the date of the hearing. At least 10 working days' notice of the meeting of the Committee shall be given. The student shall be provided with the full paperwork being set before the Committee.
17. Normally not more than four weeks shall elapse between the date of formal notification from the relevant Faculty Manager of the details of the case against the student and the date set for the first hearing of the case. If, following a request to attend a Committee meeting, a student responds but is unable to make the date and time proposed then the meeting shall be rescheduled once. (The need to reschedule a meeting means that it may not be possible to meet the timescales stated above.) Any further rescheduling shall be at the sole discretion of the Convener. The student shall also be advised in writing that they may be legally represented or be accompanied by a person of their own choice, who shall be entitled to address the Fitness to Practice Committee, and that they are entitled to cite witnesses in support of their case who should provide written statements at least 5 working days prior to the date of the hearing.
18. Any evidence which the student wishes to be considered by the Committee must be submitted to the relevant Faculty Manager at least five working days before the hearing.
19. The student must inform the Faculty Manager, at least five working days before the hearing, of the name of the representative whom the student wishes to attend.
20. It shall be the decision of the Convener whether any witnesses be invited to attend the meeting. If witnesses are to be cited then written statements should be provided at least 5 working days before the meeting date. The student shall be entitled to receive from the Faculty Manager the names of the witnesses who are cited on behalf of the University and copies of the witness statements.
21. If a student does not respond to a request to attend a Committee meeting, the Committee shall consider the case and any other evidence in the absence of the student.
22. At the request of a student who does not wish to attend a Committee meeting, the student representative may attend on their behalf to observe.
23. The case against the student shall be presented to the Fitness to Practice Committee by the Investigating Officer. The Investigating Officer will be asked to address the key issues in the case.

24. The case will be considered on the written evidence provided prior to the meeting and may, if necessary, be corroborated by witness statements.
25. The student and/or the student's representative shall have the opportunity to present evidence that they feel provides extenuation or mitigation before the case is considered by Committee members and opened up for discussion.
26. Clarification may be sought from all persons giving evidence, by any member of the Fitness to Practice Committee, by the student, by the representative of the student, and by the Investigating Officer.
27. The student, their representative and the Investigating Officer shall withdraw while the Committee considers the evidence before it. The Committee shall invite the student, the student's representative and the Investigating Officer to return to hear its decision delivered. In the event that the Committee requires more time to consider its decision, it may adjourn but will make its decision as soon as is reasonably practicable. The period of adjournment will depend on any request for additional information but normally not longer than 10 working days. The decision, and any findings of fact, will be conveyed to the student in writing normally within five working days of the Committee reaching its decision.
28. It shall be competent for the Fitness to Practice Committee at any stage to adjourn, continue or postpone a hearing for a period not normally exceeding four weeks. If this occurs, the student should be notified of the reasons and provided, where possible, with a revised timescale.

### **Powers of a Fitness to Practice Committee**

29. A student who is deemed to be in breach of fitness to Practice may be liable to one or more of the following penalties:
  - (i) a reprimand;
  - (ii) permission to continue on the course with appropriate advice and guidance;
  - (iii) permission to continue on the course under close supervision;
  - (iv) permission to continue on the course under such conditions or undertakings as considered appropriate;
  - (v) suspension from attendance on the registered course for a stipulated period;
  - (vi) expulsion from the registered course and required to transfer to a non-registered course where available, subject to such course of action being endorsed by the Chief Operating Officer.

The above list of penalties is not exhaustive and the University reserves the right to impose other penalties it deems appropriate and proportionate.

Any of the above penalties may be suspended for a period of time on specified conditions. Should a sanction period be imposed, then a review will be held at the end of that period, led by the Convener of the Committee, to confirm the next steps.

30. Where a student is found to be in breach of Fitness to Practice, the relevant Fitness to Practice Committee may defer ruling for a period not exceeding six months. Such deferral shall be without further disruption to the student's studies.

### **Fitness to Practice Committee: Records and Reports**

1. Recording of the proceedings, for example audio or video capture, will not be permitted.
2. The Fitness to Practice Committee shall keep a report of its proceedings and, where necessary, a summary of evidence given at hearings conducted by it. The report shall give the name of the student, the nature of the case and the outcome of the proceedings. The records will be held in a confidential location for a period of 5 years after the final correspondence on the case.
3. The report shall be made available to the student.
4. An anonymised report shall also be submitted to the relevant Board of Study at their next meeting.
5. A copy of all such reports shall be held by the Faculty and shall be available only to individuals or committees authorised to conduct relevant investigations.
6. If a student has been found to have been in breach of Fitness to Practice, final outcome must be provided to an appropriate person within the relevant professional/regulating body following conclusion of the proceedings.

## **Appeal**

7. A student has the right to appeal on one or more of the following grounds against a decision made or the penalty imposed by a Fitness to Practice Committee.
  - (a) There was a procedural irregularity in the process undertaken that gives rise to a reasonable doubt as to whether the Investigating Officer or Fitness to Practice Committee would have reached the same decision had the irregularity not occurred;
  - (b) Substantive new evidence has come to light since the original hearing of the case which might have caused the Investigating Officer or Fitness to Practice Committee to reach a different conclusion. The evidence was not available, for good reason, at the time the case was considered;
  - (c) Allegations of prejudice or bias on the part of the Investigating Officer or Fitness to Practice Committee; or
  - (d) Submission that the penalty imposed is unduly harsh or exceeds the limit of authority given to the Investigating Officer or Fitness to Practice Committee.

The Appeal must be lodged with the relevant Faculty Manager within fourteen days of the date of the disposal of the case by the Fitness to Practice Committee and must state the grounds upon which the appeal is made.

## **Proceedings before the Fitness to Practice Appeals Board**

8. The relevant Executive Dean shall decide whether a student has submitted sufficient grounds for an appeal to be heard or rejected.

## **Fitness to Practice Appeals Board: Constitution**

9. The Constitution of a Fitness to Practice Appeals Board shall normally be:
  - (i) the Executive Dean of the relevant Faculty (Convener) or nominee;
  - (ii) two members of academic professional staff from the relevant subject area, at least one of whom must be a member of the relevant professional body;
  - (iii) one member of staff from another subject area;
  - (iv) one member of the Students Representative Council appointed by the Executive Committee of the Students Association;
  - (v) an external member of the profession concerned.
10. Persons who have been involved, in any capacity, in a particular case at an earlier stage shall be disqualified from membership of the Fitness to Practice Appeals Board at the hearing at which that case is to be considered.
11. Five members (including the Convener) shall constitute a quorum.

## **Fitness to Practice Appeals Board: General Procedure**

12. The appellant shall be given at least 10 working days' notice in writing by the relevant Faculty Manager, of the time and place of the meeting of the Fitness to Practice Appeals Board.
13. Normally not more than four weeks shall elapse between the receipt of the Appeal and the date set for the hearing of the Appeal. If, following a request to attend an Appeal Board, a student responds but is unable to make the date and time proposed then the Appeal Board shall be rescheduled once. (The need to reschedule a meeting means that it may not be possible to meet the timescales stated above.) Any further rescheduling shall be at the sole discretion of the Convener.
14. Where the Fitness to Practice Appeals Board decides to hear the case *de novo* or to admit new evidence, the appellant shall be informed in writing by the relevant Faculty Manager that witnesses may be called in support of the appellant's case.
15. The appellant shall also be advised that they may be legally represented or be accompanied by a person of their choice who will be allowed to address the Fitness to Practice Appeals Board.
16. Any evidence including extenuating or mitigating circumstances not previously notified which the appellant wishes to be considered by the Fitness to Practice Appeals Board must be submitted to the relevant Faculty Manager at least five working days before the hearing.
17. The appellant must inform the relevant Faculty Manager, at least five working days before the hearing of the Appeal, of the name of the representative who will be appearing on the appellant's behalf and provide the witness statements.

18. The Fitness to Practice Appeals Board may request the attendance of additional individuals where it considers that their evidence would be of assistance. The appellant shall be entitled to receive from the Faculty Manager the names of the witnesses who will be cited by the University.
19. If, following a request to attend an interview, an appellant does not respond to such a request, the Appeal Board shall consider the case in the absence of the appellant.
20. At the request of an appellant who is not able to attend a meeting, the appellant's representative may attend on their behalf to observe. At the hearing of an Appeal, the appellant shall be heard first. The case on behalf of the University shall be presented by the Investigating Officer, who shall normally be the Convener of the Fitness to Practice Committee which considered the original referral. The appellant may, at the discretion of the Convener, be heard in reply.
21. All persons giving evidence may be may be questioned by any member of the Fitness to Practice Appeals Board, by the appellant, by the representative of the appellant, and by the Investigating Officer to seek clarity on points made during written submissions or evidence provided verbally at the meeting.
22. The appellant and their representative and the University's representatives shall withdraw while the Fitness to Practice Appeals Board considers its decision and shall return to hear it delivered. In the event that the Committee requires more time to consider its decision, it may adjourn but will make its decision as soon as is reasonably practicable. The period of adjournment will depend on any request for additional information but normally not longer than 10 working days. The decision, and any findings of fact, will be conveyed to the student in writing normally within five working days of the Board reaching its decision.
23. It shall be competent for the Fitness to Practice Appeals Board at any stage to adjourn, continue or postpone a hearing for a period not normally exceeding four weeks. If this occurs, the student should be notified of the reasons and provided, where possible, with a revised timescale.
24. It shall be competent for the Fitness to Practice Appeals Board to set aside, vary or confirm the decision or penalty previously imposed by the Fitness to Practice Committee.

#### **Fitness to Practice Appeals Board: Records and Reports**

25. The Fitness to Practice Appeals Board shall keep a report of its proceedings and, where necessary, a summary of evidence given at hearings conducted by it. The report shall give the name of the appellants, the nature of the alleged breach in fitness to Practice and the outcome of the proceedings.
26. An anonymised report shall also be submitted to the relevant Board of Study at their next meeting.
27. A copy of all such reports shall be held by the University and, except as directed by the Head of the relevant Department/School, shall be available only to individuals or committees authorised to conduct investigations.
28. The report shall be made available to the appellant.
29. Recording of proceedings, for example via audio or video capture, will not be permitted.

#### **Student progress issues:**

30. Where a student referred to a Fitness to Practice Committee during a period of academic on-campus study is deemed not to be a danger to the University community, the student may continue to attend academic classes, not including placement or other contact with vulnerable individuals.
31. Where a registered student is allowed to continue on their course of study, or when their studies have been temporarily suspended, a student may be required to meet with the Fitness to Practice Committee, or a delegated representative, on further occasions in order to review their progress.
32. A decision that a student be required to withdraw due to academic failure should not cause the Fitness to Practice procedure to be abandoned. Should the issue under investigation be reported following a period of placement but relate directly to that period of placement, any

process which is in place to deal with such an issue should be completed prior to the Committee on Fitness to Practice Committee being set up.

Step by step process guidance:

1. Investigating Officer identifies an issue which they consider should be considered by a Fitness to Practice Committee
2. The Investigating Officer writes a report (Guidance for Investigating Officers on the format and headings required in the report to the Fitness to Practice Committee in Appendix 3).
3. Examples of reasons that a student may not be fit to Practice: Please see Appendix 2
4. Faculty Manager in consultation with Vice-Dean (Academic) decides if there is a case
5. Committee formed and invites to attend issued according to the constitution noted above.

**Appendix 1**

BA (Hons) in Primary Education

PGDE

BA (Hons) in Social Work

Masters in Social Work

BA (Hons) in Psychology

Masters in Educational Psychology

Postgraduate Certificate, Diploma and Masters in Counselling

MPharm in Pharmacy

BSc in Prosthetics and Orthotics

BSc (Hons) in Speech and Language Pathology

## **Appendix 2**

Potential reasons for requiring consideration by a Fitness to Practice Committee (please note this list is not exhaustive):

- Being declared unfit to be a member of another professional body;
- Developing a condition which results in being physically or mentally unable or unfit to Practice;
- Breach of ethics – for example, disclosure of personal information relating to a placement organisation, individual or colleague on social media sites or equivalent;
- Being charged with a criminal offence and awaiting trial where the risk to the University in allowing placement to continue would be significant;
- Unprofessional conduct (drug taking, alcohol abuse)
- Failure to reveal, at the point of application, admission or induction, prior conduct or findings covered by any of the points above
- Academic dishonesty which, in the view of those managing the disciplinary process, would render the individual unfit to practice. This is likely to be the result of deliberate and dishonest behaviour in presenting the work of others as their own on normally more than one occasion indicating a sustained and fraudulent approach.

### Appendix 3

Format guidance for the Investigating Officer report to the Fitness to Practice Committee:

- Heading:
- Student name
- Course
- Current status on course including number of credits achieved
- Details of the issue/incident
- Details of any notification by the student to the course team concerning the issue/incident and any discussion that has taken place thereof
- Impact of this on the professional competencies
- Reputational issues
- Duty of care to the student
- Duty of care to service users
- Proposed action
- Signed by Course Leader as Investigating Officer