



## **FITNESS TO PRACTISE PROCEDURE**

## Changes to the July 2019 Procedure

This procedure has been revised following the publication by the Office of the Independent Adjudicator (OiA) of the Good Practice Framework: Fitness to Practise, October 2019. For further information please visit [Fitness to Practise on the OiA website](#).

### **1. Introduction**

- 1.1 It is expected that all students on programmes leading to professional registration will act in compliance with the relevant code of professional standards. There are occasions where students registered on a programme including or leading to a professional qualification or conferring practitioner status, may be deemed to be unfit to practise for that qualification or status, notwithstanding the support that has been put in place. In these circumstances the Fitness to Practise procedure may be invoked.
- 1.2 There are occasions where students registered on a programme including or leading to a professional qualification or conferring practitioner status, may be deemed to be unfit to practise for that qualification or status, notwithstanding the support that has been put in place. In these circumstances the Fitness to Practise procedure may be invoked.
- 1.3 The Fitness to Practise procedure may be invoked at any stage during a student's course, including prior to the student embarking on a placement or during a placement.
- 1.4 As a condition of registration, students on programmes leading to a professional qualification or conferring practitioner status, must be made aware of, and be able to evidence knowledge of these procedures.

### **2 When to use this procedure**

- 2.1 A student may be considered unfit to practise for one of a variety of reasons. Grounds for determining that a student is unfit to practise include but are not limited to:
  - i) failure to meet or comply with the professional requirements related to the programme;
  - ii) failure to adhere to the professional standards specified for training purposes;
  - iii) failure to abide by specified codes of practice;
  - iv) unsuitability to undertake professional practice or placement, for example receipt of a criminal conviction which rendered the student unable to practise;
  - v) inappropriate use of social media;
  - vi) evidence of being unfit to practise, for example as a result of inappropriate conduct or health issues;
  - vii) acquisition of a status such as a relevant criminal conviction or serious contravention of the University Student Code of Conduct, which renders continuation on the programme or award inappropriate.
- 2.2 The Head of Department may authorise the suspension of a student from their programme or placement pending consideration of a Fitness to Practise case. Normally,

a Cause for Concern Meeting will be held first, in order to establish the facts and determine whether there is a case to consider. However, in the most serious cases, the Head of Department may decide to escalate the case straight to the Fitness to Practise Panel. Circumstances might include:

- i) where the student is a danger to themselves or to others;
- ii) cases involving the threat of serious harm to the student and/or others;
- iii) gross misconduct/serious unprofessional behaviour;
- iv) cases where the student has clearly demonstrated unsafe behaviour;
- v) cases where the student's mental health is at risk;
- vi) cases raising serious safeguarding concerns.

- 2.3 If suspended the student may request a review of the decision of Head of Department or nominee, within 14 days of the decision.
- 2.4 The review will be considered by the Faculty Pro-Vice Chancellor.
- 2.5 The Head of Department will review all FTP suspensions every 90 days and when new evidence became available.

### **3 The Cause for Concern meeting**

- 3.1 Upon receipt of a recommendation for consideration of a student under the Fitness to Practise procedure, the student will normally be invited to a Cause for Concern Meeting to establish whether the case should proceed to formal investigation, or whether additional developmental and/or support measures are required. The purpose of this meeting is to provide an opportunity for the student to understand the University's cause for concern and make steps to redress their professional conduct or practice accordingly.
- 3.2 The meeting will be organised and serviced by staff within the Academic Services Directorate and chaired by the Programme Leader (or appropriate nominee). Another member of academic staff will also be in attendance. The student will have the right to be accompanied by a friend or representative, for example from the Students' Union or relevant professional union.
- 3.3 Normally, the student will be given notice in writing about the University's concerns, together with an appointment invitation, in order for the student to prepare. However, events may dictate that an immediate meeting is required, at which the University's cause for concern is raised with the student. The Cause for Concern Meeting will always be attended by a member of Academic Services to take notes and to provide procedural advice to both the student and academic colleagues.
- 3.4 The outcome of the Cause for Concern Meeting could include, but is not limited to:
  - i) no further action;
  - ii) an action plan that is agreed between the University and the student, along with appropriate timescales for improvement; and/or

- iii) the student may be asked to complete a piece of reflective work to demonstrate insight into how their actions and/or behaviour have been a cause for concern;
- iv) if health issues are affecting the student's ability to practise, the student may be advised to suspend their studies until such time that the student is well enough to return to the programme. It may, however, be possible to make reasonable adjustments to support the student to continue on the programme of study;
- v) the University may consider that the student's case should proceed to a formal Fitness to Practise Panel meeting.

3.5 The student will be advised in writing of the outcome following the Cause for Concern Meeting, together with any timescales that may be applicable in order for the student to demonstrate that he/she has addressed the areas raised. The student will be advised of

the consequences of failure to adhere to the University's requirements arising from the Cause for Concern Meeting.

- 3.6 The notes from the meeting will be kept on the student's record for the duration of their enrolment with the University.

#### **4 Formal Stage: Investigation**

- 4.1 Where the facts of the case have yet to be fully established, or where further information is required regarding the case to be answered, an Investigating Officer will be appointed. The Investigating Officer will normally be a member of Academic Services staff.
- 4.2 It may be necessary for the Investigating Officer to meet with the student in order to provide a report to the Panel. The student has the opportunity to be accompanied by a friend or advocate, such as a member of the Student's Union. Notes of the meeting will be sent to the student.
- 4.3 The Investigating Officer may be required to meet with members of academic staff or placement provider staff to gain further information to present to the Panel. Notes of the meeting will be sent to the staff interviewed.
- 4.4 The Investigating Officer will provide a report to the Panel and to the student, outlining the information gathered, the process followed and any concluding information. The Investigating Officer will not be a member of the Panel.

#### **5 Formal Stage: The Fitness to Practise Panel**

- 5.1 The Fitness to Practise Panel will be organised and serviced by Academic Services. The Panel will comprise:

- Chair (at Head of Department level);
- an external member from the relevant profession;
- two senior members of academic staff of the University with appropriate professional registration experience\*;
- a representative from the Students' Union.

\*These members must have had no prior involvement with considering this case in a Fitness to Practise context.

Notes of the meeting will be taken by a member of Academic Services, who will also be present to provide procedural advice to the Panel members and the student, as required.

- 5.2 A student whose case is to be considered by the Fitness to Practise Panel shall be notified in writing, a minimum of 5 working days prior to the date of the Panel, of the following:
- i) the ground(s) on which they are alleged to be unfit to practise;
  - ii) the professional standards that they are alleged to have contravened;
  - iii) the membership of the Panel;

- iv) the right to be accompanied/represented at the hearing by a friend or representative, eg the Students' Union or member of the student's relevant professional union;\*
- v) the right of the student and the university to call witnesses and for each party to question the witnesses through the Chair;
- vi) to submit documentary evidence prior to the hearing;
- vii) the content of any documentation intended to be used or referred to in the hearing or as part of the hearing.

\* in exceptional circumstances, it may be appropriate for the University or the student to request legal representation.

5.3 The student will have the right to object to a Panel member, for example on the grounds of bias. If an objection is made, it must be done no later than 2 working days prior to the Panel hearing, with supporting information as to why the Panel member is considered by the student to be unsuitable. The Panel Chair will consider whether the student's representation is valid, whether an alternative Panel member can be allocated in sufficient time for the meeting to continue as scheduled, or whether the meeting may need to be postponed pending further consideration.

5.4 If further evidence comes to light, prior to or at the Panel meeting, which the student or the university has not already had access to, the evidence will be provided to both parties and the Chair will consider how or whether to proceed with the Panel meeting.

5.5 The Panel may choose to consider the student's disciplinary and fitness to practise record if it is relevant to the case being considered.

5.6 If the student does not appear before the panel, the panel may proceed to hear the case if it is satisfied that proper notice of the hearing has been given to the student, and there are no grounds for believing that the student might have good and proper reasons for not attending. Otherwise, the hearing may be adjourned, usually on one occasion only, for the service of further notice to the student. If it is decided to deal with the case in the absence of the student, no matter shall be introduced which is not contained or referred to in the particulars notified to the student.

5.7 If the student accepts the allegations, the proceedings of the Panel shall be halted and the Panel shall consider the appropriate outcome.

5.8 If the student does not accept the allegations then the Panel will proceed to consider all the appropriate evidence. The student will be given every opportunity at the Panel hearing to challenge the evidence presented and to put forward any mitigating circumstances or contributory factors before the Panel reaches its decision.

5.9 Witnesses may be called to give evidence either by the student or by the Panel. Witnesses may be questioned. All questions will be put through the Panel Chair.

5.10A member of Academic Services will attend the Panel hearing to advise on regulatory and procedural matters and shall be responsible for the official record of the Panel hearing, a copy of which shall be sent to the student and Chair of the Panel.

5.11 The standard of proof under this procedure will be the balance of probabilities. This means that a Fitness to Practise Panel will be satisfied that, on the evidence available, the event(s) was more likely to have occurred than not to have occurred.

5.12 The outcome of the Fitness to Practise Panel can be:

- i) no further action to be taken at this time;
- ii) suspension of the student from the programme of study until such time as the student has demonstrated that he/she has addressed the issues raised to the Panel;
- iii) immediate withdrawal of the student from the programme of study;
- iv) an oral or written warning, advising of the consequences of a further breach of professional, regulatory and statutory body requirements and requiring the student to give a written undertaking as to their future good conduct;
- v) a requirement to produce a piece of written work showing what the student has learned from being referred to the Fitness to Practise Panel and that they understand what is required of them in the future;
- vi) a requirement to undertake further study or training that will help the student to avoid any further referral to a Fitness to Practise Panel;
- vii) any other sanction which is appropriate and which would enable the student to learn and avoid any future fitness to practise issues.

5.13 If the Panel decides that the student is professionally unfit to remain on the Programme and should be withdrawn from the programme, the Chair and Secretary to the Panel are responsible for ensuring that the grounds for the decision are made explicit in the report. The report of the Panel will set out the following:

- i) the facts that were found proven;
- ii) why the facts proven were considered to amount to a breach of identified professional standards;
- iii) why the breach impaired the student's fitness to practise both at the time the events occurred and by the time of the hearing, taking into account any remedial action or reflection between the initial event(s) and the time of the hearing;
- iv) why the outcome was considered proportionate, demonstrating clearly why alternative sanctions and outcomes (including lesser and, where applicable, more severe) were considered and discounted.

## **6 Appeals**

6.1 The Academic Registrar or nominee will notify the student in writing of their right to appeal against the Panel's decision. An appeal should be submitted in writing within 14 days of the date of the report and must include detail of the grounds on which the appeal is being made. Students can appeal on one or more of the following grounds:

- i) that the procedures were not followed properly;
- ii) that the Panel reached an unreasonable decision;
- iii) that the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process;
- iv) that there was bias or reasonable perception of bias during the procedure;
- v) that the action the Panel has decided to take is disproportionate or not permitted under the procedures.

6.2 If the student's appeal submission is not based on one of the grounds set out in 6.1 above or is submitted late without good reason, the appeal may be rejected and the student issued with a Completion of Procedures letter explaining the decision.

6.3 If the student's appeal submission is based on one of the grounds set out in 6.1 above and is submitted on time or late with good reason, the Appeal will be considered by a Pro-Vice Chancellor of the University with no prior involvement in the case. The Pro-Vice Chancellor will consider a written submission from the student and will not be a de facto second hearing of the case.

6.4 Following the appeal, the Pro-Vice Chancellor shall decide either:

- i) to uphold the decision of the Fitness to Practise Panel, or;
- ii) to refer the Fitness to Practise Panel's decision back to the Fitness to Practise Panel for reconsideration in the light of their findings through the appeal, or;
- iii) to require that a new Fitness to Practise Panel is convened to consider the case in the light of their findings through the appeal, or;
- iv) to overturn the decision of the Fitness to Practise Panel.

6.5 The student will be provided with a written statement of the reasons for the decision of the Pro-Vice Chancellor, including any relevant recommendations.

## **7 Post Appeals**

7.1 A student withdrawn from the programme by the University on grounds of being unfit to practise may subsequently apply for admission to a different programme leading to an award of the University. Admission to that programme will be at the admitting authority's discretion having regard for the student's unsuitability to practise for the previous programme on which they were registered. At the discretion of the admitting authority, the student may be admitted with advanced standing to an appropriate point of the new programme in accordance with the University's Policy for the Recognition of Prior Learning.

7.2 The University may have a responsibility to report to the relevant professional, statutory and regulatory body when a student has been withdrawn from a programme on the grounds of being unfit to practise, or where other factors deem it appropriate for the



University to report the matter to the relevant body. The student will be notified of this decision either as part of the outcome of the Panel or appeal hearing.

- 7.3 If the Fitness to Practise Panel’s proceedings reveal that a child or vulnerable adult might be at risk of significant harm or other safeguarding issues arise (at any stage of this procedure), the matter should be reported to the University’s Safeguarding Officer in accordance with [the relevant University policies and procedures](#).
- 7.4 If the University receives a request for a reference during or after the investigation/appeal, the University may need to advise that a student is/has been subject to investigation under this procedure, depending on the circumstances. This will also apply in the event that a student withdraws at any stage during the process.
- 7.5 Once all stages of this procedure have been completed, the student will be issued with a Completion of Procedures letter. This letter allows a student to apply to the Office of the Independent Adjudicator (OIA) for Higher Education to review their case. An application to the OIA must be made within 12 months of the issue of a Completion of Procedures letter. Full details regarding the OIA’s rules and guidelines are available on the [OiA website](#).

## **8 Records Retention**

- 8.1 Records of Fitness to Practise meetings shall be held in perpetuity, regardless of the outcome. The University is required to disclose fitness to practise investigations conducted during the student’s enrolment if a statutory body makes such a request as part of its investigations into the fitness to practise of one of its registrants.

<b>Revision date:</b>	June 2020, June 2023
<b>Review date:</b>	June 2024
<b>Policy Owner:</b>	Student Case Management, Academic Registrar's Office