

Fitness to Practise Procedure

1. Fitness to Practise is the ability to meet professional standards; it is about character, professional competence and health. Someone is fit to practise if they have the skills, knowledge, character and health to practise their profession safely and effectively.
2. This Fitness to Practise Procedure governs the College's actions where there are concerns that an applicant to, or a student enrolled on, a programme leading to (or satisfying the conditions of) a professional qualification, and/or involving interaction with children or vulnerable adults, is not fit to practise in the relevant profession according to the professional standards of that profession and/or any relevant regulatory or legal requirements.
3. The primary audiences for this procedure are:
 - College staff who are responsible for teaching and/or supporting applicants and students; and,
 - Applicants and students subject to the procedure.

Who does this procedure apply to?

4. This procedure applies to applicants to, or students enrolled on, any of the programmes listed in Appendix A.

When to use this procedure

5. This procedure should be used whenever there is a concern that an applicant to, or a student enrolled on, one of the programmes listed in Appendix A is not fit to practise according to the professional standards of the profession related to, or leading from, that programme and/or any relevant regulatory or legal requirements.
6. Different professions have different regulatory systems and structures and different routes to qualifying and practising. Therefore, the circumstances under which this procedure should be used will vary by programme. Examples of issues that may lead to fitness to practise concerns include:
 - academic misconduct (for example plagiarism, cheating in examinations, forging records);
 - other disciplinary offences (for example antisocial, abusive or threatening behaviour, sexual misconduct, violence, bullying or harassment, damage to property, internet access abuse, substance/alcohol abuse);
 - health and safety breaches;
 - failure to disclose convictions or other information that the student is required to disclose;
 - inaccurate or falsified placement documentation;
 - unsafe practice, incompetence or requiring too much supervision;
 - unprofessional behaviour, including:
 - lack of respect, aggressive or poor attitude, laziness;
 - indiscipline, failure to follow dress code, inappropriate use of mobile phone, poor time keeping, poor attendance;
 - failure to self-reflect, lack of insight;
 - failure to engage with investigations into unprofessional behaviour;

- poor self-management, lack of personal accountability;
- dishonesty;
- breaking patient confidentiality
- behaviour away from the student's studies, including:
 - criminal conviction e.g., violent offence; offence of dishonesty
 - disruptive behaviour in the community;
 - inappropriate use of social media;
- safeguarding concerns;
- poor mental or physical health or serious physical impairment that interferes with the student's ability to practise safely;
- failure to seek help or engage with appropriate services in relation to health issues;
- poor communication or language skills.

Relationship to other procedures

7. Allegations of academic misconduct should be considered according to the College's Academic Misconduct Procedure (or the procedure of the awarding body) and the standard academic penalties will apply. Where the Dean of School considers that an academic sanction by itself is inadequate because the nature of the offence calls into question a student's fitness to practise, the matter may also be referred for consideration under this procedure.

8. Allegations of misconduct which are dealt with under the Student Disciplinary Procedure may also be referred for consideration under this procedure, where the student's fitness to practise is called into question.

9. Where an applicant or student declares or becomes subject to a change in their health or good character (e.g., where they incur a criminal conviction), and where the College considers that this information raises questions about the student's fitness to practise, the matter will be referred for consideration under this procedure.

10. The Dean of School may at any stage invoke the Fitness to Study Procedure if they consider it appropriate.

Supporting students to be fit to practise

11. The College recognises its responsibility in helping students to achieve fitness to practice, i.e., by helping them understand why professional standards are important and how they can uphold or abide by them. Therefore, the programmes this procedure applies to include opportunities for students to work through examples of fitness to practise issues so that they are well equipped for work placements and/or professional practice after graduation.

Health and disability

12. Sometimes fitness to practise concerns are related to mental or physical health, or to a disability.

13. The College has a duty under the Equality Act 2010 to make reasonable adjustments for disabled students in relation to a provision, criterion or practice other than a competence standard. A competence standard is defined in the Equality Act as, '...an academic, medical or other standard applied for the purpose of determining whether a person has a particular level of competence or ability'.

14. The College recognises its responsibility to ensure that students are properly supported during practical placements. The College will agree with the student before the placement starts what information can be shared with the placement provider to make sure that support is in place.

15. If the issue leading to a fitness to practise concern may be related to an applicant's or a student's disability, the College will consider whether we can provide additional support, and whether we should make reasonable adjustments to the way the student is assessed. This might include agreeing and arranging additional support for the student in their practical placement setting. In most cases, health conditions and disabilities are unlikely to affect a student's fitness to practise, as long as the student:

- demonstrates appropriate insight;
- seeks appropriate medical advice; and
- complies with treatment.

General principles

16. This procedure is intended to be fair and to follow the principles of natural justice, which means in this context that:

- applicants or students should be informed about any allegations and/or concerns, and how they relate to fitness to practise;
- reasons should be given for decisions reached about the applicant's or student's health or behaviour, and what that can do about it;
- there is a route of appeal; and
- the investigation, any hearing and any appeal should be carried out as quickly as possible, consistent with fairness.

17. The College will make reasonable adjustments to this procedure if required by an applicant's or student's inclusivity needs or for other good reason.

Concerns about an applicant's fitness to practise

18. Any concerns that an applicant may be unfit to practise should be referred to the relevant Dean of School. The Dean of School will then assess the concern and determine whether the applicant should be offered a place on the programme. Should the Dean of School determine that the College should not offer the applicant a place due to concerns about fitness to practise, then the applicant may appeal that decision according to the appeals procedure set out in our Recruitment, Selection and Admissions Policy and Procedure.¹

Concerns about a student's fitness to practise

Reporting concern and initial assessment

19. Any concerns that a student may be unfit to practise should be referred to the relevant Dean of School. The Dean of School will then undertake an initial assessment of the concern to determine the appropriate course of action as set out below.

¹ There is no right of appeal in cases where concerns about fitness to practise derive from unspent criminal convictions or cautions at the point of application.

Cause for concern meeting

20. The Dean of School may decide to ask one or more senior member(s) of staff (e.g., the relevant Programme Leader) to meet with the student. The purpose of the meeting will be to discuss the concern in the context of the relevant regulation(s) or procedure(s) or professional body code of conduct. The student shall be given the opportunity to respond and be made aware of the standards of behaviour expected and who they may contact for support.

21. Depending on the nature of the concern and the student's response, the senior member(s) of staff who conducted the cause for concern meeting may consider it necessary to issue a warning and require the student to sign an undertaking of good conduct with any associated monitoring and support arrangements. Additionally, the student may be required to formally reflect on the incident and the concern raised. It should be made clear to the student that a failure to adhere to the undertaking may result in immediate action under the formal Fitness to Practise Procedure set out below.

Investigation

22. If the member(s) of staff who conducted the cause for concern meeting consider(s) that the concern is serious, or the facts about the concern are in dispute, or further information is required, the matter will be referred to the Dean of School to appoint an investigating officer to undertake an investigation. The investigating officer will normally be a senior member of staff from a different School (i.e., not from the School which delivers the programme the student is enrolled on) or part of the College who has no prior knowledge of the case.

23. The purpose of the investigation will be to establish the facts about the circumstances giving rise to the concern from the perspectives of the student and other parties involved. The investigating officer shall conduct whatever enquiries they consider necessary and may interview relevant parties, including the student.

24. The investigating officer will submit a report as soon as possible to the Dean of School, who will consider it and notify the student in writing of the outcome. The outcome shall be either:

- that there are no grounds for concern and the case should be dismissed;
- that the student should be required to sign an undertaking of good conduct with any associated monitoring and support arrangements;
- that the student should be referred for a medical or other specialist assessment;
- that the student should be suspended from the College and/or temporarily withdrawn from a work placement in accordance with paragraph 25;
- that the matter should be referred to be dealt with under another procedure;
- that the matter should be referred to a Fitness to Practise Panel.

Interim suspension

25. The Dean of School will consider whether there are grounds for the student to be suspended or partially excluded from the College and/or withdrawn from a work placement pending a Fitness to Practise Panel hearing and/or a disciplinary hearing and/or the conclusion of criminal proceedings and/or receipt of an assessment from an appropriately qualified medical and/or psychiatric and/or occupational health expert. In any circumstance where interim suspension and/or withdrawal from a work placement may be required, the Dean of School will refer the matter to the Provost to approve the interim suspension or withdrawal.

Fitness to Practise Panel

26. The Fitness to Practise Panel shall be convened by the relevant Dean of School and comprise no fewer than three members, at least one of whom should be professionally qualified and/or have senior experience in the relevant profession, and at least one of whom should be from a different School to that delivering the programme the student is enrolled on. The Dean of School will designate one of the members as the Chair.

27. A student whose case is to be considered by a Fitness to Practise Panel will be notified, in writing at least 10 working days before the date of the Panel, of the following:

- the reason(s) for convening the Panel;
- the membership of the Panel and their right to object to a Panel member;
- the arrangements for the Panel hearing and whether the student is permitted to attend by alternative means (for example by video call);
- their right to be accompanied/represented at the hearing by a friend or representative (but normally not a legal representative);
- their right to submit documentary evidence prior to the hearing and the time limits for doing that;
- their right to call witnesses to appear at the hearing and the time limits for notifying the Chair of the names of any witnesses;
- the process for rearranging the date of the hearing if the student (and any witnesses) is or are unable to attend for good cause;
- that the hearing will go ahead if the student does not attend without good cause;
- the content of any documentation intended to be used or referred to in the meeting or as part of the meeting.

28. The meeting will be organised and serviced by the Academic Quality team.

29. 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 five days prior to the Panel hearing, with supporting information as to why the Panel member is considered by the student to be unsuitable. The Director of Academic Quality or nominee 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.

30. Sensitive information should not be disclosed to panel members until their membership has been confirmed (so that the student has had an opportunity to object to a panel member, for example on grounds of bias, before they have seen the sensitive information).

31. The student will have the right to submit documentary evidence to the Panel. This must be done no later than five working days prior to the Panel hearing.

32. The student will also have the right to call witnesses to give evidence to the Panel. The student must notify the Chair of the names of any witnesses five working days prior to the Panel hearing.

33. The following procedure will normally apply at the Fitness to Practise hearing:

- The Chair will invite all those present to introduce themselves and will explain the purpose of the hearing, the order of proceedings, the possible outcomes and the standard of proof.
- The Investigating Officer or Dean of School will present the case, including calling any witnesses to give evidence as previously agreed by the Chair.
- The Panel and the Student (or representative) will have the opportunity to question the Investigating Officer or Dean of School;
- The student (or representative) will present his/her response, including calling any witnesses to give evidence in person;
- The Panel and the Investigating Officer or Dean of School will have the opportunity to question the student and any witnesses.
- The Panel may ask questions of either party at any stage during the hearing.
- Summing up by the Investigating Officer or Dean of School with particular reference to the implications for the student's fitness to practise.
- Summing up by the Student (or representative) with particular reference to any mitigating factors.

34. At the end of the hearing, the student and any representative or witnesses and Investigating Officer or Dean of School shall withdraw to allow the Panel to consider its decision, and/or adjourn to a later date.

35. If further evidence comes to light, prior to or at the Panel meeting, which the student or the College 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.

36. If the student does not attend the hearing without good cause, the hearing may proceed, and the relevant outcome or sanction may be imposed in their absence. The Panel will consider any representations made on behalf of the student (in absentia) at the appropriate point in the hearing.

37. The outcomes available to the Panel are:

- that the hearing be adjourned because further investigation is necessary;
- that no cause for concern has been proven and the case should be dismissed;
- that there is insufficient evidence to reach a finding that a student is unfit to practise, but that the cause for concern is sufficiently serious to warrant remedial action such as monitoring or supervision of the student for a defined period, and/or the issue of a written reprimand which will normally have effect for the duration of the programme;
- that the student be re-assessed in specified part(s) of the programme;
- to require the student to complete a reflective piece of work exploring the impact of their behaviour and the lessons learned;
- that the student be permitted to continue on the programme, subject to conditions and/or an undertaking including (without limitation) a programme of rehabilitation or treatment, or observation/supervision, reviewed by the Dean of School after a given period, and/or the implementation of further reasonable adjustments;
- that the student be required to withdraw from his/her studies for a specified period in which case, the student's return to study may be subject to a further satisfactory assessment and/or conditions;
- that the student's education and training be terminated and a recommendation made to the Assessment Board that the student be required to transfer to an alternative non-professional programme (if available) to consider conferment of an

- alternative nonprofessional award;
- that, having been found to be unfit to practise, the student's professional education and training be terminated and the student be withdrawn from the College.

38. The Panel will reach a decision based on the facts and on the evidence presented. The standard of proof shall be the civil standard of proof which is that, '...on a balance of probabilities,' the facts of an allegation or concern are more likely than not to have happened. The burden of proof shall be on the College i.e., it is for the College to prove that the student has done what they are accused of doing, and not for the student to prove they have not.

39. The outcome should be one which satisfactorily addresses the fitness to practise concern, whilst taking account of any previous allegations or findings which will be made known to the Panel by the Academic Quality team after it has reached a decision.

40. When considering outcomes, the Panel should start at the lowest outcome, and determine whether that satisfactorily addresses the fitness to practise concern, and if not then move to consider the next higher outcome and so on.

41. Where the Panel considers that a student's disability is preventing them from attaining the relevant competence standard(s) and/or complying with the code of conduct on their professional programme, the Panel will have due regard for any reasonable adjustments that have been made and will consider whether there is scope for further reasonable adjustments, in deciding on the appropriate outcome.

42. The outcome determined by the Panel and the reasons why the Panel came to that outcome (including the reasons why alternatives were discounted) must be sent to the student normally within seven days of the panel meeting and a record should be kept on the student's file.

Timeliness

43. The College aims to complete this procedure within 60 days of receiving the concern. Completion is defined as sending the student written confirmation of the outcome, including where a Panel hearing is held.

Student's right of appeal

44. The student has a right of appeal against the outcome of a Fitness to Practise Panel using Part A of the Consolidated Appeal Procedure.

Confidentiality and anonymity

45. Information about students who are subject to fitness to practise proceedings should be kept confidential as far as possible. The information should be disclosed to as few people as possible, and only to those involved in investigating or deciding the matter.

46. Those investigating a concern about fitness to practice 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. Witnesses who are giving their professional opinion are not expected to be anonymous. If the witness does not agree to the student knowing their identity it may not be appropriate to rely on their evidence. Where evidence comes from service users during a work placement, the placement provider will need to protect the confidentiality of service users,

particularly where those service users are children or vulnerable adults. In these cases, the investigating officer should obtain as much information and evidence from the placement provider as possible. This may include a summary of allegations made by service users, or anonymised witness statements. In every case the student needs to have enough information about the concerns raised to be able to respond to them.

Communication with other bodies

47. The College has a duty to inform relevant third parties of the nature and outcome of a Fitness to Practise case in certain circumstances, whether it is considered at a hearing or by the Dean of School, including:

- to inform the relevant PSRB, where that PSRB’s published regulations require notification of specified sanctions imposed;
- to inform any placement providers in relation to any placements the student may be required to undertake as part of the programme;
- to inform the student’s employer where the nature and outcome of the case raises questions about the student’s suitability for professional practice or to be on the professional register;
- to inform the Disclosure and Barring Service (DBS) where required by the DBS guidance;
- to inform UK Visas and Immigration (UKVI) in the case of a significant change in the circumstances of a tier 4 international student.

48. The student will be informed in the event of any such disclosures and will be reminded of his/her obligation to disclose any specified sanction to the PSRB at the appropriate time.

49. The College will also reserve the right to disclose the details of Fitness to Practise cases to any third party in the event of a reference request where the College considers it to be relevant. The student will be informed in the event of any such disclosure.

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Appendix A

Programmes this procedure applies to

- BSc (Hons) Health and Social Science, including Foundation Year and Top Up (Buckinghamshire New University)
- BSc (Hons) Health and Social Care, including Foundation Year and Top Up (University of Bolton)
- HND in Health Care Practice (Integrated Health and Social Care)
- MSc Social Care, Health and Wellbeing (University of Bolton)
- BSc (Hons) Sport and Exercise Science with Foundation Year (St Mary's University)
- BSc (Hons) Sport and Exercise Nutrition with Foundation Year (St Mary's University)