

UNIVERSITY OF PLYMOUTH
FACULTY OF HEALTH AND HUMAN SCIENCES
FITNESS TO PRACTISE PROCEDURE FOR STUDENTS

Higher Education institutions have a responsibility to ensure that health and social care students are fit to practise and must adhere to regulatory advice provided by the Nursing & Midwifery Council (NMC), the Health & Care Professions Council (HCPC) and the General Optical Council (GOC). Student Handbooks and the professional body websites provide information about the standards of behaviour expected of students training for a particular profession. It is the student's responsibility to familiarise him/herself with the provisions and requirements of the relevant professional bodies.

Students are required to demonstrate that they are of 'good health and good character' before and during the programme as part of making sure that applicants and current students will be able to practise safely and effectively within their profession.

The Professional Regulatory Bodies can also take action against a registrant if their health and character creates concern about their fitness to practise.

Any student departing from the guidance given by regulatory bodies may be subject to consideration by the Fitness to Practise procedure of the Faculty of Health and Human Sciences.

This procedure should be read in conjunction with the Student Disciplinary Procedures, Code of Conduct and General Regulations for Students.

Good Character

The University expects students enrolled on programmes leading directly to a professional qualification or the right to practise a particular profession to demonstrate high standards of behaviour in their professional, student and personal lives.

All of the professions are exempt from the requirements of the Rehabilitation of Offenders Act 1974. This means that applicants and students on the programme must declare any convictions or cautions.

Behaviour which breaches the professional requirements of student practitioners, including (but not exclusively):

- non-disclosure of information;
- dishonesty;
- fraud;
- physical/verbal abuse;
- harassment;
- bullying;
- drug or alcohol misuse;

- inappropriate use of social media;
- persistent inappropriate attitude or behaviour in the University or placement environment;
- any action which would constitute a criminal offence;

will be subject to this procedure, irrespective of where the activity complained of took place.

Such behaviour will be known throughout this procedure as 'professional misconduct.'

Concerns about a student's fitness to practise may be raised from any source, including any member of staff, fellow student, placement partner, member of the public or other agencies such as the Police, Social Services or Occupational Health Service

These may include concerns about a student's

- Health or well being
- Attitude or behaviour in either practise or theory
- Poor or non-attendance in either practise or theory
- Bad time keeping
- Breaking the University's disciplinary code
- Behaviour outside the University which might render them unfit to practise
- Offending background
- Failing a practice placement

This list provides examples and is not exhaustive.

Good Health

Concerns about a student's fitness to practise may also be raised in relation to the good health of an individual. Students are asked to declare whether they are suffering from any condition that would affect their ability to practise. Whilst the Faculty will provide support to students when such issues arise, Fitness to Practise proceedings may be invoked. In an emergency, where it is believed that a student's behaviour presents an immediate risk to themselves or others, emergency services should be contacted in the first instance.

Conduct outside your programme

Programmes within the Faculty of Health and Human Sciences provide the opportunity for students to develop the skills and knowledge needed to become a health professional in an environment which protects service users. Students also have the opportunity to learn about the conduct and behaviour that the public expects from health professionals.

As a student studying to become a health professional and to work within a regulated profession, students have certain responsibilities. Whilst on a programme, students

will come into contact with vulnerable people who will expect students to meet high standards of conduct and ethics.

Students must therefore be aware that in very serious circumstances, professional misconduct may affect the ability to complete a programme of study or gain the final qualification to become a registered practitioner.

This includes professional misconduct that may have taken place outside of the University premises or University core time.

Invoking the procedure

This procedure will be followed in cases where professional misconduct or breaches of discipline, as set out in the Code of Conduct for Students and/or those listed above, are alleged, or for example where an Occupational Health report indicates a condition or situation which may affect your ability to practise safely or effectively as a Health Professional.

Timescales

The timescales identified are those which will normally apply. In exceptional circumstances, action may be taken outside these timescales.

Serving of notices

Any written notices required to be given under Fitness to Practise Procedures should normally be delivered by post to the student concerned. Written notice will be sent to the student's term time address as recorded on the University Student Record System, with a copy to their permanent address if out of term-time, with a duplicate copy being emailed to the student's university email account and the Faculty Compliance Office. All notices given by external mail shall be sent by Recorded Delivery. Notices given by internal or external post shall be deemed to have been served within three working days of posting.

Informal Stage

Many complaints may be resolved informally by consultation between the student(s) and staff concerned and the University encourages Faculties to use this option when appropriate.

Students subject to an allegation of professional misconduct will be interviewed by the relevant Programme Lead and the student's Personal Tutor (or nominees) in order to gather evidence pertaining to the complaint.

Students subject to Occupational Health consideration will be interviewed by the relevant Programme Lead and the student's Personal Tutor (or nominees) in order to establish relevant information.

A case report will be produced by the Programme Lead (or nominee) together with a recommendation of whether further action is required. Such report will be presented to the Head of School or nominee.

Outcomes of Informal Stage

- Dismissal of the case
- Recommendation that formal stages of the Fitness to Practise procedure be invoked.

In a case where the Head of School or nominee has decided to proceed directly to a Stage Three Fitness to Practise Committee, the time limits in point 3 shall be deemed to commence from the date of the Head of School's decision. In such a case, the Head of School or nominee shall provide the student with a copy of the University Code of Conduct for Students and the accompanying Fitness to Practise Procedure and of the initial complaint if this information has not already been made available to the student.

1. First Formal Stage: **ACTION BY HEAD OF SCHOOL or nominee**

- 1.1 The Head of School or nominee, in consultation with the student's Programme Lead (or nominee) and on receipt of the informal case report, shall normally within ten working days determine whether to apply the formal Fitness to Practise Procedure for Students. In coming to that determination the Head may call for such papers, examine such witnesses and conduct such other enquiries as they may think fit.
- 1.2 If the Head of School or nominee decides to apply the First Formal Stage of the Fitness to Practise Procedure for Students they will interview the student, giving the student at least five working days' notice in writing, and providing them with a copy of the University Code of Conduct for Students, the Fitness to Practise Procedure and details of the initial case report. The student may bring a fellow student or member of staff from the University community to the meeting for support. **(It is recommended that this is someone from the Students' Union Student Advice team).** *A student will not be permitted to bring a legal representative to a formal hearing unless the decision of the Panel is likely to exclude the student from professional registration permanently, without right to appeal, thereby preventing the student from following his or her intended career.*

NOTE: *the University will endeavour to take account of a student's personal circumstances in fixing a date and time for an interview. However, a student will be expected to make him or herself available to attend an interview on any day/time at which he or she might reasonably have been expected to be in attendance at the University (that is any weekday in term time between 9am and 5pm for full time students). Failure of a student to attend an interview with the Head of School or nominee, after having been properly served with a notice to do so, does not prevent the Head of School or nominee from taking action against the student. Nor will failure to attend constitute grounds for appeal against the action unless the student can show good reason for this*

failure. Failure to attend may itself constitute misconduct under the University Code of Conduct or Fitness to Practise Procedure.

1.3 Membership of First Formal Stage

- Head of School or nominee - Chair
- Placement Development Team Lead (Academic) *– representing practise
- Programme Representative* – representing programme
- Faculty Registrar/Faculty Compliance Officer (or nominee) – Secretary

The Programme Lead (or designated nominee) will be called to attend to present the case but will not constitute part of the formal panel membership.

* In the case of a Midwifery student, if PDT Lead is not a midwife then the programme representative will be a registered midwife.

1.4 Procedure for hearing First Formal Stage

The procedure shall normally be as follows,

- 1.4.1 written statements will be sought from the student and Programme Lead. These must be circulated in advance of the meeting to all members of the Panel and to the student;
- 1.4.2 the Programme Lead shall put the case in the presence of the student;
- 1.4.3 the student shall have the opportunity to ask questions (on the evidence given) of the Programme Lead;
- 1.4.4 the Panel may ask questions of the Programme Lead after which they shall then withdraw;
- 1.4.5 the student shall put their case to the Head of School or nominee; the student's representative may also speak on their behalf;
- 1.4.6 the Head of School or nominee shall have the opportunity to ask questions of the student or their representative;
- 1.4.7 the Panel may ask questions of the student, or their representative;
- 1.4.8 the Head of School or nominee and the student will have an opportunity to sum up their cases if they so wish, the student's statement being heard last;
- 1.4.9 the Panel, with the Faculty Registrar/Faculty Compliance Officer (or nominee) in attendance, shall deliberate in private.
- 1.4.10 the Panel shall announce the decision to the parties either personally or in writing, as may be determined by the Panel.

1.5 The Panel may:

- 1.5.1 dismiss the case;
 - 1.5.2 warn the student informally of the possible consequences of any further misconduct;
 - 1.5.3 require the student to interrupt their programme of study for a specified period of time
 - 1.5.4 reprimand the student formally, such reprimand to be confirmed in writing (The student is warned that, if they were to commit further breaches of discipline of any nature in the future, their present offence would be taken into account in the course of further hearings, when a penalty for that further breach would be under consideration);
 - 1.5.5 apply such other sanctions as may be found appropriate by the Fitness to Practise Panel
 - 1.5.6 refer the matter to the University Disciplinary Procedure
 - 1.5.7 refer the matter to the Stage Three Fitness to Practise Committee
 - 1.5.8 inform the relevant professional body.
- 1.6 The Panel shall convey its decision to the student in writing within ten working days of the interview. If the case is dismissed all records of the case shall be destroyed.
- 1.7 Any student who is dissatisfied with the outcome of the First Formal Stage may have their case referred to the Second Formal Stage of the Procedure, provided that the student submits a written request within ten working days of receipt of the Panel's outcome.

2. Second Formal Stage: APPEAL TO THE DEAN

The Second Formal Stage of the Fitness to Practise Procedure offers the student the right to appeal against the decision of the First Stage Fitness to Practise Panel.

- 2.1 The student shall have the right of appeal against any decision of the First Formal Stage of the procedure in part, or in whole.

Students may appeal against a decision that has not been conducted in accordance with the current Fitness to Practise Regulations; or if some other demonstrable material irregularity relating to this procedure has occurred.

An appeal cannot be made against the academic or professional judgement of the Fitness to Practise Panel.

- 2.2 The appeal will be to the Dean of the Faculty. Any such appeal must be lodged in writing with the Faculty Registrar/Faculty Compliance Officer within ten working days of the decision of the First Formal Stage Panel being sent to the student.
- 2.3 The Dean shall make no further enquiry into matters of fact unless new evidence is submitted which the Dean considers should be taken into account.

- 2.4 The Dean may either endorse the decisions of the First Formal Stage Panel, or uphold the appeal against the Panel's decision, in which case the Panel will be required to review its decision.

NOTE: *The Dean may not overturn a decision of the First Formal Stage Panel nor substitute another decision. A fully constituted First Formal Stage Panel must be convened to reconsider the case.*

- 2.5 The Dean shall, within ten working days of the case having been referred to him/her, review the process followed by the First Formal Stage Panel. The Dean may conduct such enquiries as he/she may think fit, including the ability to take advice from professional representatives or academic regulation representatives.
- 2.6 The Dean shall convey his or her decision in writing to the student and the Chair of the Panel within twenty working days of receipt of the appeal.

3. **Third Formal Stage: FITNESS TO PRACTISE COMMITTEE**

NOTE: *In a case where the decision of the First Formal Stage Panel is to proceed to the Third Formal Stage, the Committee shall hear a case normally within 30 working days of the decision to invoke the procedure.*

*In the event of a decision to proceed directly to the Third Stage, the University Secretary and Academic Registrar or other senior member of staff nominated by the Vice Chancellor, will collect evidence, call for papers and conduct such other enquiries as they may think fit. They will also provide the student with a copy of the Code of Conduct for Students and the accompanying Fitness to Practise Procedure and of the initial complaint if this information has not already been given to the student. If the allegation relates to a student on a professional programme, the student should be advised that given the potentially serious consequences for their professional career, the student may bring a fellow student or member of staff from the University community to the meeting for support. **(It is recommended that this is someone from the Students' Union Student Advice team)**. A student will not be permitted to bring a legal representative to a formal hearing unless the decision of the Panel is likely to exclude the student from professional registration permanently, without right to appeal, thereby preventing the student from following his or her intended career.*

3.1 **Membership**

The membership for the Fitness to Practise Committee shall be:

- Chair - a Deputy Vice-Chancellor; the University Secretary and Academic Registrar; a Dean, Associate Dean or other senior member of staff nominated by the Vice Chancellor.
- One member of academic staff, normally selected from the Appeals and Complaints panel
- Two students, normally University of Plymouth Student Union Sabbatical Officers

- Professional representative of Statutory Body – normally a Senior Manager from an employing authority not previously involved in the case
 - Placement Development Team Lead (Practise) or nominee - from the same part of the professional register as the student concerned
- 3.2 No Dean shall chair the Fitness to Practise Committee, which is to consider a case in which he or she has had previous involvement.
- 3.3 **The hearing of Student Fitness to Practise cases**
- 3.3.1 The Committee shall hear a case normally within thirty working days of its referral to a Committee.

NOTE: *the University will endeavour to take account of a student's personal circumstances in fixing a date and time for a Committee hearing. However, a student will be expected to make him or herself available to attend an interview on any day/time at which he or she might reasonably have been expected to be in attendance at the University (that is any weekday in term time between 9am and 5pm for full time students). Failure of a student to attend a hearing, after having been properly served with a notice to do so, does not prevent the Fitness to Practise Committee from taking action against the student. Nor will failure to attend constitute grounds for appeal against the action unless the student can show good reason for this failure. Failure to attend may itself constitute misconduct under the University Code of Conduct or Fitness to Practise Procedure.*

- 3.3.2 The University Secretary and Academic Registrar (or nominee) shall act as Clerk to the Committee. The Clerk shall be responsible for convening the Committee, for notifying the student of the date of the Committee, and for the administration of the proceedings of the Committee.
- 3.3.3 The Clerk shall be responsible for notifying the student of the allegations to be considered by the Committee and for the circulation of documents, submissions etc, to the Committee members.
- 3.3.4 The Clerk shall keep records of the proceedings.
- 3.3.5 No proceedings of the Committee shall be invalidated by reason of any vacancy in the membership of the panel or the failure of any member of the panel to attend the Committee when summoned to do so, provided that no member of the Committee shall participate in any decision of the Committee unless he or she has been present throughout the proceedings and provided that the members present throughout shall not number less than four, of whom one shall be a student and one shall be a Professional Representative.
- 3.3.6 The student shall have the right to be heard in person and to be accompanied by a fellow student or member of staff from the University community for support. **(It is recommended that this is someone from the Students' Union Student Advice team).** *A student will not be permitted to bring a legal representative to a formal hearing unless the decision of the Panel is likely to exclude the student from*

professional registration permanently, without right to appeal, thereby preventing the student from following his or her intended career.

3.3.7 The Committee shall have the power to call for documents, call and examine witnesses and conduct other such enquiries as it thinks fit.

3.4 **Procedure for hearing student disciplinary cases**

The procedure for a hearing before the Fitness to Practise Committee shall normally be as follows,

- 3.4.1 a written statement will be prepared by the Head of School or nominee who heard the case at the first formal stage. The student may also prepare a written statement. These must be circulated in advance of the hearing to all members of the Committee, to the Head of School or nominee and to the student;
- 3.4.2 the Head of School or nominee shall put the case in the presence of the student and may call witnesses;
- 3.4.3 the student shall have the opportunity to ask questions (on the evidence given) of the Head of School or nominee and any witnesses may be called;
- 3.4.4 the Committee may ask questions of the Head of School or nominee and witnesses and the latter shall then withdraw;
- 3.4.5 the student shall put their case in the presence of the Head of School or nominee and call such witnesses as the student wishes; the student's representative may also speak on their behalf;
- 3.4.6 the Head of School or nominee shall have the opportunity to ask questions of the student or their representative and their witnesses;
- 3.4.7 the Committee may ask questions of the student or their representative and witnesses, and the latter shall then withdraw;
- 3.4.8 the Head of School or nominee and the student shall have an opportunity to sum up their cases if they so wish, the student's statement being heard last;
- 3.4.9 the Head of School or nominee and the student representative shall withdraw;
- 3.4.10 the Committee, with the Clerk in attendance, shall deliberate in private only recalling the Head of School or nominee and the student to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding the possibility that only one of them is concerned with the point giving rise to doubt;
- 3.4.11 the Committee shall announce the decision to the parties either personally or in writing, as may be determined by the Committee.

3.5 **Decision of the Fitness to Practise Committee**

The Committee's decision shall be reported to the Deputy Vice-Chancellor, Dean, Head of School, the appropriate sabbatical officer of the University of Plymouth Students' Union and the student concerned, within ten working days of it having been made. The decision of the Committee shall be one of the following:

The Committee may:

- 3.5.1 dismiss the case;
 - 3.5.2 conditionally dismiss the case. (No further action will be taken provided the student fulfils certain specified conditions);
 - 3.5.3 issue a written reprimand and warning. (The student is warned that, if they were to commit further breaches of discipline of any nature in the future, their present offence would be taken into account in the course of further hearings, when a penalty for that further breach would be under consideration);
 - 3.5.4 suspension from all or part of the University for a specified period;
 - 3.5.5 exclusion from the award of a degree or other qualification, either permanently or for a given period, and either absolutely or pending compliance with certain stated requirements;
 - 3.5.6 exclusion from a programme or suite of programmes at the University, either permanently or for a given period, and either absolutely or pending compliance with certain stated requirements;
 - 3.5.7 expulsion from the University.
 - 3.5.8 such other sanctions as may be found appropriate by the Fitness to Practise Committee;
- 3.6 In the case of a finding of professional misconduct, the Committee shall determine whether any finding against the student should be referred to in the context of future references.
- 3.7 In the case of a finding of professional misconduct, or where the student is withdrawn from their programme of study, the outcome of the case will be reported in writing to the appropriate Professional Body.
- 3.8 Details of the offence and penalties imposed shall be entered on the student's record centrally. The record of a student's case which has been dismissed absolutely shall be destroyed.
- NOTE:** *Where the actions of a student or students contravene the Health & Safety at Work Act 1974 and are so considered by a Health and Safety Executive Inspector, the student(s) may face prosecution under the Health and Safety at Work Act 1974 or other safety regulations in addition to any action taken by the University.*

Fourth Stage: APPEAL TO THE VICE-CHANCELLOR

- 4.1 The student shall have the right of appeal against any decision of the Fitness to Practise Committee in part, or in whole.
- 4.2 The appeal will be to the Deputy Vice-Chancellor (or his or her nominee). Any such appeal must be lodged in writing with the Complaints and Appeals Office (within 10 working days of the decision of the Fitness to Practise Committee being sent to the student).
- 4.3 Students may appeal against a decision that has not been conducted in accordance with the current Fitness to Practise Regulations; or if some other demonstrable material irregularity, relating to this procedure has occurred.

An appeal cannot be made against the academic or professional judgement of the Fitness to Practise Committee.

- 4.4 The Complaints and Appeals Office will submit notice of the student's appeal and a summary of the case and such other documentation as it shall consider relevant to the Deputy Vice Chancellor (or his or her nominee) for review.
- 4.5 When all the documentation referred to in 4.4 has been received and considered, the Deputy Vice Chancellor (or his or her nominee) may conduct such enquiries as he/she may think fit, including the ability to take advice from professional representatives or academic regulation representatives. He/she shall decide in his or her discretion to reject or uphold the appeal in which case a fully constituted Third Formal Stage Committee must be convened to reconsider the case.
- 4.6 The decision of the Deputy Vice Chancellor (or his or her nominee) is final and a decision letter and 'Completion or Procedure' letter will be issued.
- 4.7 Following completion of the University's internal appeals procedure, a student may make a complaint to the OIA.

5. OFFICE OF THE INDEPENDENT ADJUDICATOR

- 5.1 Where a student is dissatisfied with the outcome of the University's Fitness to Practise procedure, he or she may refer the outcome of the case, as a complaint, to the Office of the Independent Adjudicator for Higher Education (OIA)
- 5.2 Further details about the OIA can be obtained from the Complaints and Appeals Office, or from the following website: <http://www.oiahe.org.uk/> or by contacting the OIA at the following address:

The Office of the Independent Adjudicator for Higher Education
Third Floor
Kings Reach
38-50 Kings Road
Reading
RG1 3AA
Telephone: 0118 959 9813

6. RECORDS

- 6.1 The records of the case of a student against whom charges have been proven will normally be entered on to the student's central record.
- 6.2 The records of the case of a student who has been cleared of all charges absolutely and unconditionally shall be destroyed.