

## LEEDS BECKETT UNIVERSITY

### FITNESS TO PRACTISE POLICY & PROCEDURE 2017/18

#### SECTION A - FITNESS TO PRACTISE POLICY

##### **A1 Scope of the Policy**

- A1.1 This Policy applies to all Leeds Beckett University students who are registered on a programme of study recognised by a Professional, Statutory or Regulatory Body (PSRB) for the purpose of attaining a professional qualification, future registration with the relevant body and for the entitlement to practise the particular profession.
- A1.2 A full list of programmes which are subject to this Policy is provided at Appendix 1 and is reviewed and agreed annually by our Academic Board.
- A1.3 In the context of this Policy the term Fitness to Practise encompasses both student conduct and good health in determining a student's professional suitability for the particular programme of study and subsequent professional qualification and eligibility for future registration with a PSRB.
- A1.4 This Policy applies to relevant undergraduate and postgraduate students at all times throughout their period of registration with the University. Its application covers study on campus while at University but also applies to students while on placement or in a practice-based setting and includes the conduct of students in their personal and social life in determining fitness to practise their chosen profession.

##### **A2 Policy Context**

- A2.1 Leeds Beckett University provides a number of programmes of study where a student's personal and professional suitability to register for, and successfully undertake the programme, will be relevant and will require ongoing monitoring by our University.
- A2.2 Successful completion of these programmes normally leads to professional registration and/or eligibility to apply for a licence to practise in a professional context, for example in recommending Qualified Teacher Status (QTS) to the Department of Education and similar processes in relation to, nursing or other education, health or social care related professions. The University cannot however, guarantee a student's registration with any PSRB as this is a decision for the relevant Body in accordance with its own separate and independent procedures.
- A2.3 These University programmes require students to demonstrate not only academic ability but also personal suitability, professional competences, fitness to practise and an appropriate commitment to their chosen profession at the point of admission and throughout their academic programme and practice-based training.
- A2.4 Students studying these programmes must be aware that their actions and behaviour whilst at University, on placement, and in their personal and social lives may have an impact on their fitness to practise their chosen profession.

- A2.5 The expected standards of behaviour and responsibilities of students studying these programmes may be different to those of other students and must at all times justify the trust that the public places in these key professions which involve children, young people and vulnerable adults.
- A2.6 Matters involving fitness to practise concerns will be dealt with under this Policy, however it may also be appropriate to implement other University procedures as an alternative, or in addition, to this Policy.
- A2.7 This Policy is not intended to deal with fitness to practise issues arising prior to registration with the University which will be dealt with in accordance with our Admissions Policy.
- A2.8 Issues relating to the assessment of professional competences or allegations of academic misconduct including cheating, plagiarism or any other form of unfair practice will usually be managed under the University's Academic Regulations. However, if it is considered that an academic sanction by itself is inadequate in repeated or severe cases of academic misconduct or because the nature of any of the offences calls into question a student's fitness to practise, the matter may also be referred for consideration under this Policy.

### **A3 Professional, Statutory & Regulatory Framework**

- A3.1 The programmes subject to this Policy are either accredited or regulated by a relevant PSRB. These include for example, the Health and Care Professions Council, (HCPC), Nursing and Midwifery Council (NMC) and National College for Teaching and Leadership (NCTL).
- A3.2 PSRBs are involved in the design, delivery and regulation of programmes and each professional or statutory body has its own professional standards setting the behaviours, attitude and conduct appropriate to that profession. Students are required to comply with the necessary professional codes of conduct and demonstrate the developing standards of professionalism required.
- A3.3 Our University therefore needs to be satisfied that students registering for and undertaking these programmes are professionally suitable to do so, in the context of the professional area concerned, and with reference to the standards of the particular profession and the requirements of the relevant PSRB. However, first and foremost students and staff must adhere to our University's policies and procedures.
- A3.4 The relevant School is responsible for making prospective and current students aware of University policy and procedures in relation to fitness to practise and PSRB requirements prior to enrolment. The School is responsible for signposting students to the Fitness to Practise Policy and Procedure and relevant professional Code(s) of Conduct in the student handbook and for drawing these to the attention of students throughout the programme of study.
- A3.5 It is the responsibility of each student to familiarise themselves with this Policy and the PSRB requirements and expectations specific to their programme of study as referred to in the relevant course handbook.
- A3.6 Each student is responsible for acting in accordance with University policy and procedure and the relevant Code(s) of Conduct and for notifying their Course Director of any

circumstances, or change in circumstances, that may arise during the course of study that may impact on the student's fitness to practise.

- A3.7 Our University will be mindful of its duty of care and of its obligations to students under the Equality Act 2010, including in appropriate cases to make reasonable adjustments. However, the University cannot guarantee to be able to acquire suitable work placements for students, which are provided at the discretion of the placement provider, after consideration of the principle of 'reasonable adjustment' if, for example, a student has a health problem which means they may pose a risk to patients or clients.
- A3.8 A student's fitness to practise incorporates the consideration of issues like a student's 'good character'. In this context criminal convictions are never regarded as 'spent' and each case is considered on its merits. While minor offences may not exclude students from professional registration, more serious or multiple offences are more likely to be regarded as problematic and may result in a student not being eligible for registration with the relevant PSRB.
- A3.9 All students are required to disclose any criminal convictions in their initial application and any subsequent convictions following their initial admission and receipt of a satisfactory DBS check. Students must also make an annual declaration of their ongoing fitness to practise.
- A3.10 In appropriately serious cases the University has the right to suspend or terminate a student's registration on the programme for failure to either disclose or address issues relating to fitness to practise. This can include criminal convictions and issues related to the health and conduct of students during registration on one of our programmes.
- A3.11 This Policy forms part of the University's Student Code of Behaviour within the wider student regulatory framework which is summarised and provided to each student as part of their initial and annual registration process.

#### **A4 Policy aims and approach**

- A4.1 Students registering for and undertaking programmes to which this Policy applies will be required at all times to:
- Demonstrate acceptable standards of conduct
  - Demonstrate relevant values and attitudes and behaviours
  - Satisfy relevant health requirements
- A4.2 This Policy sets out how our University will respond to instances where a concern is raised regarding a student's fitness to practise and the type of action that our University may take to deal with the concern and to support the individual student.
- A4.3 The Policy aims to provide a framework within which the University can work with students to maintain satisfactory standards of conduct and ongoing fitness to practise and to encourage and support improvement where necessary.
- A4.4 As an integral part of our commitment to good professional practice, emphasis will be given to developing awareness among students that suitable professional behaviours are required of them at all times.

- A4.5 There may be occasions when minor misconduct and/or breach of professional standards occur during a student's learning. In these cases opportunities for the student to learn from the experience shall be made available and a facilitative rather than punitive approach will be taken where this is deemed appropriate.
- A4.6 Our University aims to ensure that issues relating to fitness to practice are dealt with fairly, promptly, proportionately and with regard to the individual circumstances of each case.
- A4.7 The protection of the public and the staff and students in our University community and the reputation of the programme and wider University will also be key considerations in relation to any decisions taken in relation to a student's conduct or fitness to practise.

## **A5 Fitness to Practise Concerns**

- A5.1 The University recognises that concerns regarding a student's fitness to practise may arise in a variety of ways and may be raised by University staff, other students, the public, and health, education and social care professionals and placement providers.
- A5.2 Examples of where fitness to practise concerns may arise include, but are not limited to, instances where a student has, or is suspected of having:
- **Health concerns** including failure to seek or adhere to medical treatment or support; failure to recognise limits and abilities and lack of insight into health concerns; where mental health, emotional or inter-personal issues pose a risk to the student's own safety, health and wellbeing or that of others or the proper operation of the profession or work based setting; or where the student cannot be expected to attain the competency standards of the course notwithstanding reasonable adjustments made in relation to a disability.
  - **Aggressive, violent or threatening behaviour** whether verbal, virtual or physical including assault, physical violence, bullying, harassment and abuse.
  - **Unprofessional behaviour** including breach of confidentiality; failure to maintain appropriate professional boundaries; failure to treat others with dignity and respect; unlawful discrimination; absence from practice placement without permission; misuse of the internet, text messaging and social media and networking sites; failure to work within limits of professional competencies.
  - **Persistent inappropriate attitude or behaviour** including failure to accept educational advice; poor attendance; poor time management or communication skills; failure to submit coursework; failure to observe or comply with the rules of the University; failure to demonstrate an attitude or demeanour appropriate for individuals working in the profession concerned
  - **Criminal convictions** including theft; fraud; possessing or dealing in illegal substances; child abuse or any other form of abuse.
  - **Dishonesty** including falsification of professional records, qualifications or signatures; signing in for other students to misrepresent attendance; serious, intentional or persistent cases of unfair practice including, cheating, plagiarism and any other form of unfair practice; research misconduct; failure to declare a criminal conviction or other relevant information to the University.
  - **Drug or alcohol misuse** including misusing drugs; or the consumption of alcohol or use of drugs that affects the work or study environment; driving under the influence of alcohol or drugs.

- **Failure to comply with PSRB requirements** in relation to standards of acceptable conduct and fitness to practise required for entry on to the relevant professional register.
- A5.3 The University will take action to deal with concerns promptly and fairly with a view to managing matters effectively and supporting students, and where necessary, other students and relevant staff.
- A5.4 The University recognises that dealing with matters in this way is critical, not only to ensuring that relevant professional standards are attained and maintained, but also to supporting student learning, academic achievement and a positive student experience and working environment for staff.
- A5.5 Whenever a student’s behaviour raises issues of fitness to practise, whilst out on placement, the placement provider is expected to notify and discuss the circumstances with the Course Director as a requirement of this Policy.
- A5.6 Any referral of a student on placement to another organisation’s grievance, complaints or disciplinary procedure shall be reported to the relevant Course Director. Any University action may be put on hold pending the completion of external procedures, but will allow the University to consider interim action and appropriate support measures for the student.
- A5.7 When dealing with students under this Policy, the University will consider what support and guidance may be offered to students, including those provided by our University by Student Services (relating to Student Wellbeing and Disability Services) and by the Students’ Union Advice Service. Students will be encouraged where appropriate to seek support from relevant internal and external sources.
- A5.8 Our University recognises the possibility that an allegation or concern raised relating to fitness to practise may be vexatious or malicious. Any allegations raised by either a student or member of University staff found to be vexatious or malicious will be referred to the appropriate University disciplinary procedure for further consideration in relation to the behaviour and actions of the individual making the allegation.
- A5.9 Any student or member of University staff may make a complaint using the Whistleblowing Policy in circumstances including where they believe a criminal offence to have occurred; a danger posed to a person’s health and safety or academic or professional malpractice. Complaints under the Whistleblowing Policy must be made to the Secretary & Registrar who will determine whether the matter should be investigated and if so, by whom and the most appropriate University policy to apply.

**A6 Withdrawal from placement**

- A6.1 Where a fitness to practise concern arises while a student is on a placement, the student may be withdrawn from the placement pending the resolution the issue. The decision to withdraw a student from placement is at the discretion of the relevant Dean.
- A6.2 Withdrawal from placement in these circumstances is a neutral act to protect the interests of the student, the University and the placement provider while the matter is investigated. It is not a determination, sanction or penalty under this Policy in relation to a student’s fitness to practise.

- A6.2 The student will usually be able to continue to attend course activities unrelated to placement including submitting coursework and using University facilities and services.
- A6.3 On conclusion of any relevant procedures and subject to the continuation of the student on the course, another placement will be secured by the University to enable the student to complete their studies. The University cannot however, guarantee that the student will be able to complete either the placement or the course within the original timescale in these unusual circumstances, but will endeavour to do so wherever possible.

#### **A7 Conduct which may also be a criminal offence**

- A7.1 If a student's conduct may be in breach of the criminal law the University may at its discretion refer the matter to the Police. In addition, the University may at its discretion suspend taking action under the Policy pending the outcome of any police inquiry and/or criminal investigation. However, the University is not prevented from taking action under this Policy notwithstanding that any police inquiry and/or criminal investigation is being undertaken.
- A7.2 Acquittal or discontinuance of criminal proceedings shall not preclude the University from continuing its own disciplinary action in relation to any alleged misconduct.
- A7.3 Where a finding of inappropriate conduct is made and the student has already been sentenced by a criminal court in response of the same facts, the court's penalty shall be taken in to account in determining the penalty under this Policy.

#### **A8 Emergency Suspension**

- A8.1 The University has the right, at its absolute discretion, to suspend any student at any time on such conditions that it sees fits.
- A8.2 This right to suspend will usually only arise where a student is alleged to have committed an act of misconduct and the University is of the opinion that suspension is necessary given the circumstances, because for example the alleged misconduct poses a risk to the safety, health and wellbeing of the student, the wider University community of students and staff and their property, or may bring the reputation of the profession, programme of study or our University into disrepute.
- A8.3 The Dean of the relevant School (or their nominee) will consider whether there are grounds for an emergency suspension for a specified period of time or pending the outcome of identified steps being taken under this Policy in consultation with the Deputy Secretary and Registrar (or their nominee) who may make a recommendation for emergency suspension to the most appropriate Deputy Vice-Chancellor.
- A8.4 In reaching the decision to make an emergency suspension consideration will be given to whether specific arrangements should reasonably be put in place for the student in order to minimise the impact on their studies. This may include, for example, allowing the student to undertake study at home or permitting the student to sit an examination or assessment, but is at the absolute discretion of the Deputy Vice Chancellor.

A8.5 An emergency suspension is a neutral act and is not a determination, sanction or penalty under this Policy in relation to a student's fitness to practise.

## **A9 Stages of Procedure**

A9.1 Concerns about a student's fitness to practise will be dealt with under the Procedure outlined in Section B of this Policy which has three potential stages:

- Local Resolution
- Fitness to Practise Hearing
- Appeal Stage

A9.2 The level at which the Procedure is implemented will depend on factors including the nature of the concern, the seriousness of any risk posed and the student's response to any steps taken by the University to manage the situation.

## **A10 Investigations**

A10.1 Prior to any matter being dealt with at the Local Resolution stage or by a Fitness to Practise Hearing, the University may undertake such investigations as it considers reasonable and appropriate in the circumstances in order to inform the University of the appropriate manner in which to deal with the matter, including at which stage of the Procedure the matter should be considered.

A10.2 The investigation may involve speaking to the student concerned and with other students, staff and where relevant, third parties such as placement providers or health, education or social care professionals and calling for relevant information. Any investigation will be carried out in a transparent and fair manner.

## **A11 Representation**

A11.1 At each stage of this Policy and Procedure, including the initial investigation stage, a student has the right to be accompanied by a friend, relative or a representative of the Students' Union.

A11.2 Where a student proposes to use and pay a legal professional or equivalent person with whom the student has contracted with to provide representation in preparation for and through attendance and advocacy at a hearing, the prior approval of the Secretary & Registrar must be obtained.

A11.3 If the University agrees to the student's request it will consider whether it would be appropriate to instruct legal representation on the University's behalf in relation to the case concerned.

## **A12 Confidentiality & Disclosure**

- A12.1 Students must be aware that in dealing with fitness to practise concerns it may be appropriate for the University to discuss and/or refer matters or disclose outcomes of investigations to third parties, such as PSRBs, employers, placement providers and/or the Home Office and employers in accordance with the University's statutory obligations and that, on occasion, this may be done without notification to the student.
- A12.2 It is the responsibility of the student to advise the appropriate professional body on the outcome of any Fitness to Practise Hearing when registering with the professional body if required.
- A12.3 Other than where the University is required to disclose information to an external body as outlined above, the information disclosed during or resulting from Fitness to Practise proceedings is strictly confidential and should not be shared with any third party or any other staff and students.
- A12.4 The University expects that the student; any witnesses called by the student; and the student's representative will respect the sensitivity and confidentiality of the information disclosed during these proceedings and the right of other students and staff to raise issues of concern in good faith and without fear of recrimination.
- A12.5 The University expects that its staff and stakeholders will respect the sensitivity and confidentiality of issues relating to a student's fitness to practise and will respect the outcomes and actions of a Fitness to Practise Panel determined on the basis of the facts and all available evidence.
- A12.6 Any failing of either University staff or students to respect the provisions relating to confidentiality and disclosure contained within this Policy will be subject to separate disciplinary proceedings.
- A12.7 Where allegations have been found to be untrue and/or as not having a bearing on the student's likely professional suitability or fitness to practise the University would not normally disclose that the student had been subject to proceedings unless required to do so by law.
- A12.8 Where a present or former student has been required to withdraw from a course or has been set conditions for remaining on a course following fitness to practise proceedings it would be relevant to disclose this in a reference where:
- (a) That reference is in connection with a job or a course that is relevant to the Fitness to Practise finding.
  - (b) There is a specific question asking if the student had been subject to any disciplinary or Fitness to Practise procedures.
  - (c) Where the nature of the post or course means that the referee is asked to confirm that the student possessed attributes that the findings of the Fitness to Practise Panel put into doubt.



A12.9 The University will retain a record of all Fitness to Practise cases, both those resolved locally and those which proceed to a Panel hearing in a secure, relevant filing system in accordance with the provisions outlined in the University's Record Retention Policy.

A12.10 The University will collect aggregated data about Fitness to Practise cases and will submit a report to the relevant sub-committee of Academic Board at appropriate intervals for the purpose of quality assuring the provision of professional education and training and improving the provision of guidance to students and staff about professional standards, conduct and competence.

## **SECTION B - Fitness to Practise Procedure**

### **B1 Stages of the Process**

B1.1 Concerns about a student's professional suitability or fitness to practise will be dealt with under the following procedure which has three potential stages:

- Local Resolution
- Fitness to Practise Panel Hearing
- Appeal Stage

B1.2 The level at which the Procedure is implemented will depend on factors including the nature of the concern, the seriousness of any risk posed and the student's response to any steps taken by the University to manage the situation.

### **B2 Local Resolution**

B2.1 The purpose of the Local Resolution Stage is to deal with any initial or minor causes of concern relating to a student's fitness to practise fairly and quickly where the School is of the view that the matter is appropriate to be dealt with without a formal Fitness to Practise Hearing and the student also consents to the matter being dealt with in this way.

B2.2 In determining whether the matter is suitable to be dealt with locally the School will consider the nature of the concern or conduct, whether the student openly acknowledges there is an issue to be addressed and/or any other relevant circumstances. The School will consult with the Compliance and Casework Manager in using the Local Resolution Stage in order to ensure fair and equitable treatment of students in similar circumstances across the different Schools of the University.

B2.3 Once it has been confirmed that the matter is suitable to be dealt with using the Local Resolution Stage, the School's named nominee) will inform the student in writing, usually by email, that there is a concern about fitness to practise; the nature of the concern and that they are seeking to deal with the matter locally and the student will be provided with a copy of this Policy and Procedure.

B2.4 A register of named nominees will be agreed by the Dean of the relevant Schools and kept by the Compliance and Casework Manager.

B2.5 The School's named nominee will arrange a meeting with the student to discuss the concern and any support needs the student may have. The student will be given the opportunity to respond to the concern. The School's named nominee may invite other staff members to attend the meeting and may consult with and seek information from other persons in order to deal with the matter and to provide support to the student. The School's nominee should be accompanied at all meetings with students and a contemporaneous record of the meeting shall be taken.

B2.6 The School's nominee will determine whether the student's fitness to practise is impaired, or may become impaired, and any actions to be taken. Actions may include, but are not limited to, one of more of the following outcomes:

- (a) There is no case to answer
- (b) No further action to be taken
- (c) Support arrangements and/or reasonable adjustments to be put in place for the student, following any necessary University assessment
- (d) An action plan be drawn up setting out how the matter will be managed by the School and any requirements placed on the student.
- (e) A student be withdrawn from placement or other work based activity
- (f) A written warning be issued to the student and held on the student's personal file
- (g) The matter be referred to a Fitness to Practise Panel Hearing
- (h) The matter be referred for consideration under another University process

B2.7 The student will be notified in writing, usually by email, and normally within 5 working days of the meeting, of the decision of the Head of Subject (or their named nominee) with reasons and any further actions to be taken.

B2.8 By agreeing to the Local Resolution of the matter the student agrees in writing to comply in full with any outcomes determined following the meeting and has no right of appeal. Any previous issues may be considered as part of any future fitness to practise considerations.

B2.9 A copy of the documentation will be retained on the student's file and a copy sent to the Course Director responsible for the programme of study in confidence and as determined appropriate by the School's nominee.

B2.10 If the student does not agree to the Local Resolution Stage they must respond in writing, usually by email, within 5 working days of receiving the outcome. If there is any disagreement the matter will be referred to a Fitness to Practise Panel Hearing.

### **B3 Fitness to Practise Hearings**

B3.1 A Fitness to Practise Hearing will be convened by the School, promptly where the relevant School determines that it would be appropriate to do so or where a student has elected that any issue of concern be dealt with through a formal hearing.

B3.2

B3.3 The student will be informed in writing, usually by email, that there is a concern about fitness to practise; the nature of the concern; that the matter will be dealt with through a formal Fitness to Practise Hearing; and the student will be provided with a copy of this Policy and Procedure.

#### **Notice of Hearing**

B3.3 The student will be invited to a Hearing before a Fitness to Practise Panel. Notless than 10 working days in advance of the hearing the student will be given, in writing, usually by email:

- Notice of the date, time and place of the hearing
- Full details of the fitness to practise concern
- Documentation in support of the concern, including all records of any initial investigation
- A reminder of the student's right to be accompanied or represented at the hearing

B3.4 These timescales have been established in the interests of the student and staff involved to allow them to prepare adequately for a formal Fitness to Practise Hearing. Students are expected to prepare for a hearing in a professional manner which includes observing deadlines as would be expected in professional practice. Any lenience in these timescales is at the absolute discretion of the Chair of the Panel following consideration of any relevant circumstances and the importance of a fair, timely and impartial hearing.

#### **Evidence & witnesses**

B3.5 The student may submit to the Fitness to Practise Panel any written evidence which they consider relevant to the issues to be considered at the hearing, provided that it is done at least 5 working days in advance of the date of the hearing.

B3.6 Notice of any witnesses to be called by the student and the School's case presenter at the hearing must be given in writing to the Fitness to Practise Panel at least 2 working days in advance of the date of the hearing.

B3.7 If the student wishes to supply witness statements, it is the responsibility of the student to organise and supply the witness statements and to ensure that any witnesses are informed of the date of the hearing and are available to attend.

B3.8 A key aim of the fitness to practise Policy is to ensure that issues are dealt with fairly, promptly, proportionately and with regard to the individual circumstances of the case.

B3.9 All staff called to provide information to a Panel are expected to attend fitness to practise hearings as required by the University. All students called to provide information to a Panel are expected to attend fitness to practise hearings as a reasonable request of the University and in the interests of dealing with matters promptly. It is however, acknowledged that this may be more difficult outside term-time and appropriate arrangements will be considered by the Chair of the Panel on a case by case basis.

B3.10 The evidence provided to hearings may be given orally or in writing. It is expected that anyone wishing their evidence to be heard would attend a hearing.

In exceptional circumstances any person deemed vulnerable may not be required to attend the hearing and this may apply to students and staff. In such exceptional circumstances, as agreed between the member of staff appointed to present the School case and the Secretary & Registrar, evidence may be gathered by and presented to the Panel by alternative and more suitable means. In such cases a full record must be retained of any deliberations and factors considered in reaching a decision to place anonymised evidence before a Panel.

The Panel must give due consideration to the fact that the witness may have not been present to respond to questioning from the respondent and/or their representative in its deliberations and to the strength of any evidence which has not been subject to challenge or questioning at the hearing.

B3.11 In exceptional circumstances an individual may also request, in consultation with the member of staff appointed to present the School case and the Secretary & Registrar (or their nominee), that their names or other means of identification be removed from any documentation provided to the hearing. In such cases, the respondent should be advised

that the documentation has been redacted in consultation with the Secretary & Registrar (or their nominee).

### **Panel Composition**

B3.12 The Fitness to Practise Panel will be convened by the Dean of the relevant School (or their nominee) and will comprise:

- The Dean (Chair) of the relevant School (or their nominee)
- Two experienced members of academic staff within the relevant School, usually including someone from the relevant profession
- One experienced member of staff from another School
- One member of the same or a closely related profession and external to the University

B3.13 All Panel members will be impartial.

B3.14 A representative of the Secretary & Registrar will be involved at all stages of the formal process and shall be present through the Fitness to Practise Panel Hearing and all deliberations of the Panel to advise on this policy and procedure but will not be a member of the Panel. A Secretary to the Panel will also be provided by the Governance & Legal Service.

### **Conduct of Hearings**

B3.15 The order and procedure to be followed at a Hearing before the Fitness to Practise Panel will be at the discretion of the Chair and will comply with the principles of natural justice.

B3.16 The Chair of the hearing should:

- Introduce those present to the student and explain why they are present.
- Explain that the role of the Chair is to ensure that appropriate boundaries and respectful conduct are maintained during the hearing, and that questions are pertinent to the matter in hand.
- Explain the purpose of the hearing.
- Establish from the outset that the point of the hearing is to establish facts, not catch people out.
- Clarify that the hearing is to be heard in private and the discussions are confidential to those present at the Panel.
- Establish the documentation and other material evidence to be considered as part of the hearing, and that all parties are in possession of the full range of this material, which is confidential to those present.
- Explain the format of the hearing.
- Explain that the student's companion/representative will be able to confer privately with the student, if the need arises.
- Explain how and when the decision will be notified to the student.

B3.17 The format for the hearing is likely to be as follows:

- A member of University staff appointed to present the case will outline the Fitness to Practise concern(s) and how matters relate to the University's own Policy and procedures relating to fitness to practise and expected standards of conduct and behaviour required by the relevant PSRB in those working towards the requirements of the particular profession.
- The case presenter may call and question witnesses, following which the witnesses may be asked to leave.

- The student and his/her representative will be given an opportunity to ask questions of the case presenter and these witnesses.
- The student and his/her representative will have a full opportunity to respond to the case as presented.
- The student and his/her representative may call and question witnesses.
- The case presenter may question these witnesses.
- The Chair will invite the case presenter to sum up the case.
- The Chair will invite the student and his/her representative to sum up the response.
- All members of the Panel and the representative of the Secretary and Registrar may ask questions of the case presenter, the student and his/her representative and of any witnesses called and may recall the parties or witnesses at any time.
- The Chair may adjourn or postpone the hearing where in their discretion it is reasonable to do so or where further enquiries need to be made before a decision can be reached.

B3.18 The Fitness to Practise Panel will retire in private to deliberate in the presence of the representative of the Secretary & Registrar and the Secretary to the Panel who will take notes.

#### **Standard of Proof**

B3.19 On admission to a programme of study the normal assumption is that the student is likely to be fit to practise. The burden of proving that the student is not fit to practise rests with the person who presents the case against the student. The Panel must be satisfied that on the balance of probabilities it is more likely than not that the student has breached the professional code, competences or guidance and proved to be unfit to practise.

B3.20 If the student admits the alleged misconduct or lack of fitness to practise but wishes to rely on some exception or mitigation for their conduct or behaviour then it is for the student to prove on the balance of probabilities this defence.

#### **Panel Hearing Outcomes**

B3.21 The Fitness to Practise Panel will determine whether the student's fitness to practise is impaired, or may become impaired, and any actions to be taken. Actions may include any combination of, but are not limited to, the following outcomes:

- (a) There is no case to answer
- (b) No further action to be taken
- (c) A letter of apology be written
- (d) A payment be made in compensation for damage or loss
- (e) Support arrangements and/or reasonable adjustments be put in place for the student, following any necessary University assessment
- (f) An action plan be drawn up setting out how the matter will be managed by the School and any requirements placed on the student and/or the course team.
- (g) The student be withdrawn from placement or other work-based activity
- (h) The student be transferred to an alternative award
- (i) A written warning be issued to the student and held on the student's personal file
- (j) A final written warning be issued to the student and held on the student's personal file
- (k) The matter be referred for consideration under another University process
- (l) A recommendation be made to a Deputy Vice Chancellor that an award is withheld or withdrawn
- (m) A recommendation be made to the Board of Examiners for an alternative award where available

- (n) A recommendation be made to a Deputy Vice Chancellor that the student be suspended from the programme for a specified period of time (with or without associated conditions)
- (o) A recommendation be made to a Deputy Vice Chancellor that the student be expelled. This sanction should be considered as a last resort and in reaching this decision the Panel should consider if it would be appropriate or otherwise for the student to remain a student of the University but not on a course leading to professional registration.

- B3.22 The student will be notified in writing, usually by email, and normally within 5 working days of the hearing of the decision of the Fitness to Practise Panel with reasons and any further actions to be taken.
- B3.23 The hearing and any subsequent meeting held to review progress will be formally recorded with one copy sent to the student, one copy retained on the student's personal file and a third copy sent to the Head of Subject and Course Director responsible for the programme of study in confidence and as determined appropriate by the Fitness to Practise Panel.
- B3.24 Where the Fitness to Practise Panel recommends that a student be suspended or expelled from the University, the Compliance and Casework Manager (or their nominee) will refer the recommendation to a Deputy Vice Chancellor.
- B3.25 The Compliance and Casework Manager (or their nominee) will subsequently notify the Chair of the Panel of the decision of the Deputy Vice Chancellor for communication to the School, as appropriate, and will notify the student accordingly.

#### **Action Plans**

- B3.26 Where the outcome of the Fitness to Practise Hearing includes the drawing up of an action plan, the Plan will set out how the matter will be managed by the School and any requirements to be placed on the student and/or the course team.
- B3.2 The student and relevant members of the course team will be provided with a copy of the action plan and a date will be arranged at which the action plan will be reviewed by an appropriate member of staff as determined by the Dean (or their nominee).
- B3.28 At the review meeting the nominated member of staff will consider whether the action plan should continue and, if so, whether it should be amended and whether all requirements have been complied with and undertaken by both the student and/or the course team.
- B3.29 The student will be informed that where they fail to comply with any requirements, the matter may be referred to a further Fitness to Practise Hearing, where consideration will be given to the circumstances, findings and outcomes of any previous proceedings relating to fitness to practise.

#### **Student Attendance at Hearings**

- B3.30 Any student who is the subject of this Policy and Procedure must make all reasonable efforts to attend any hearings or meetings they are requested to attend.
- B3.31 If a student has indicated that they are attending but is prevented from doing so for a good reason, which can be evidenced, and the student advises the Chair of the Fitness to Practise Panel, prior to the meeting, the hearing may be deferred to a later date.

- B3.32 If a student has indicated that they are attending but fails to attend and does not inform the Chair of the Fitness to Practise Panel prior to the hearing, the hearing will go ahead and a decision will be reached on the basis of the information available to the Panel.
- B3.33 If a student fails to confirm their attendance and attempts to contact the student have failed, the hearing will go ahead and a decision will be reached on the basis of the information available to the Panel.

#### **B4 Appeal Stage**

- B4.1 Students have the right of appeal against the outcome of the Fitness to Practise Hearing and must do so in writing to the Deputy Secretary & Registrar within 10 working days of receipt of the outcome.
- B4.2 The grounds on which the appeal is made must be stated in the application for appeal. A simple request for a rehearing does not constitute valid grounds for appeal.
- B4.3 An appeal will only be granted on one or more of the following grounds and it is the student's responsibility to provide an explanation as to how the ground(s) for appeal apply to the case or its outcome:
- The University failed to follow the process set out in the Policy and Procedure and this had a material effect on the outcome.
  - The outcome was inconsistent or disproportionate to the evidence provided.
  - The decision was not reasonable in the circumstances.
  - The evidence produced at the hearing was factually incorrect or the student has new and material information or evidence which was not previously available and would have a material effect on the outcome.
- B4.4 Normally, a Deputy Vice Chancellor will determine the appeal application, in consultation with the Deputy Secretary & Registrar (or their nominee who has not been involved in the original Panel hearing), and will make one of the following decisions:
- Dismiss the appeal
  - Refer the matter to a newly constituted Fitness to Practise Hearing sitting as an Appeal Panel for consideration
  - Refer the matter back to the original Fitness to Practise Panel on the basis of new evidence
- B4.5 If, however, an appeal is made against the decision of the Deputy Vice Chancellor to suspend or expel a student, the appeal application will be determined by the Vice Chancellor.
- B4.6 The decision of the Fitness to Practise Panel will take effect and remain in force until such time as it is changed by an appeal outcome.
- B4.6 Where valid grounds for an appeal have been determined, against an outcome other than suspension or expulsion, the Deputy Vice Chancellor will invite the student to submit additional evidence within a specified timeframe for further consideration by an Appeal Panel.



- B4.7 If the matter is referred to a newly constituted Fitness to Practise Hearing sitting as an Appeal Panel this will follow the same procedure as outlined at section B3, except, there shall be no cross-membership with the original Fitness to Practise Panel. If the original Fitness to Practise Panel was chaired by a Head of Subject, an Appeal Panel shall be chaired by the Dean. If the original Fitness to Practise Panel was chaired by the Dean, an Appeal Panel shall be chaired by a Deputy Vice Chancellor. The Chair of the original Panel will attend the appeal hearing to present the case and answer questions.
- B4.8 The Appeal Panel will normally be convened within 15 days of the decision to grant the appeal and the Appeal Hearing will follow the format of the original Fitness to Practise Hearing as outlined in B3.16 – 18 and will have the full range of outcomes available to it, as outlined at paragraph B3.21 above.
- B4.9 The student will be notified in writing, usually by email, and normally within 5 working days of the hearing of the decision of the Appeal Panel, along with its reasons. The decision of the Appeal Panel is final.
- B4.10 The hearing and any subsequent meeting held to review progress or to provide additional support will be formally recorded with one copy of the outcome letter and the notes of the hearing sent to the student, one copy retained on the student's personal file and a third copy sent to the Head of School responsible for the programme of study in confidence and as determined appropriate by the Appeal Panel.

## **B5 Appeals to the Vice Chancellor**

- B5.1 The Vice Chancellor may reject an appeal application if the notice of appeal does not include one or more of the grounds stated above at B4.3 and/or if the explanation given in support of the grounds stated discloses no reasonable basis for an appeal.
- B5.2 Where a student's application for an appeal hearing is refused by the Vice Chancellor, the Deputy Secretary and Registrar (or their nominee) will inform the student of this in writing, normally within 10 working days of the appeal being received. The response will identify the relevant deficiency in the application; give the reasons for the decision; and inform the student that the process is now at an end.
- B5.3 This communication will be a formal 'Completion of Procedures' letter for the purposes of any application to the Office of the Independent Adjudicator.
- B5.4 Where valid grounds for an appeal have been determined by the Vice Chancellor in relation to a Deputy Vice Chancellor's decision to suspend or expel a student, an Appeal Panel shall be convened within 15 working days of the appeal being granted.

### **Appeal Panel Composition**

- B5.5 The Appeal Panel convened by the Vice Chancellor will comprise:
- The Vice Chancellor (Chair)
  - One independent governor
  - One independent external Panel member with a relevant professional background

- B5.6 On behalf of the Appeal Panel, the Deputy Secretary & Registrar (or their nominee) will invite the student to submit additional evidence within a specified timeframe for further consideration by the Committee.
- B5.7 The Conduct of the Appeal Panel Hearing will follow the same procedures as outlined in section B3.15-3.18, adapted as appropriate to the circumstances of the Appeal.
- B5.8 The Deputy Secretary & Registrar (or their nominee) will provide procedural advice to the Appeal Committee and nominate a Secretary to the Appeal Panel.
- B5.9 The documentation for the hearing shall be circulated at least 5 working days prior to the Appeal Panel hearing and shall include:
- a copy of the formal record of the Fitness to Practise Hearing at which the recommendation for suspension or expulsion was made;
  - a copy of the documentation considered by the Fitness to Practise Panel;
  - a copy of the written notice of the decision of the Deputy Vice Chancellor to the student;
  - the written reasons for appeal submitted by the student;
  - any additional statement or evidence provided by the student, as referred to at B5.5.
- B5.10 Any student granted an appeal by the Vice Chancellor must make all reasonable efforts to attend the Appeal Panel Hearing. Decisions in relation to student attendance at hearings and proceedings will be made in accordance with section B3.30-B3.33.
- B5.11 The Appeal Panel will retire in private to deliberate in the presence of the representative of the Secretary & Registrar and the Secretary to the Panel.
- B5.12 The Committee may allow or dismiss the appeal and may impose such penalty to the decision under appeal as it sees fit, using the outcomes outlined at B3.21 as a guide.
- B5.13 The decision of the Panel in all matters shall be final as far as these regulations and procedures are concerned.
- B5.14 The decision of the Panel will be confirmed in writing to the within five working days of the appeal hearing.
- B5.15 This communication will be a formal 'Completion of Procedures' letter for the purposes of any application to the Office of the Independent Adjudicator.
- B5.16 The hearing will be formally recorded with one copy of the outcome letter and notes of the hearing sent to the student, one copy retained on the student's personal file and a third copy sent to the Dean of the School.
- B5.17 Following the dismissal of an appeal or on conclusion of any Appeal Hearing the University's internal procedures will have been exhausted and the student will be issued with a Completion of Procedures letter for the purposes of any application for review of the University's decision to the Office of the Independent Adjudicator. Further information on procedures for external and independent review can be obtained at [www.oiahe.org.uk](http://www.oiahe.org.uk)

## Programmes of Study to which the Fitness to Practise Policy and Procedure applies 2017/18

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### Undergraduate courses

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|---|
| <b>School of Clinical and Applied Sciences</b>  |
| BSc (Hons) Dietetics  |
| BSc (Hons) Environmental Health   |
| BSc (Hons) Environmental Health Studies   |
| BSc (Hons) Nutrition  |
| BSc (Hons) Physiotherapy  |
| BSc (Hons) Public Health Nutrition  |
| BSc (Hons) Safety, Health and Environmental Management  |
| BSc (Hons) Safety Health and Environmental Management (franchise, MDIS)                                 |
| BSc (Hons) Safety Health and Environmental Management (franchise, Rushmore Business School)             |
| BSc (Hons) Sports and Exercise Therapy  |
| <b>School of Health and Community Studies</b>   |
| BA (Hons) Childhood Development and Playwork  |
| BA (Hons) Playwork  |
| BA (Hons) Social Work   |
| BA (Hons) Youth Work and Community Development (JNC)  |
| BSc (Hons) Adult Nursing  |
| BSc (Hons) General Nursing (franchise, Rushmore Business School)  |
| BSc (Hons) Mental Health Nursing  |
| Dip HE Therapeutic Counselling  |
| <b>School of Social Sciences</b>  |
| BSc (Hons) Speech & Language Therapy  |
| BSc (Hons) Clinical Language Sciences - Speech & Language Therapy                                       |
| <b>Carnegie School of Education:</b>  |
| <b>Undergraduate with Qualified Teacher Status (QTS):</b>   |
| BA (Hons) Early Childhood Education leading to QTS (2 year route) – ECPBQ.                              |
| BA (Hons) Early Childhood Education leading to QTS (3 year route) – BAECE.                              |
| BA (Hons) Primary Education leading to QTS (3 year route) – BAPEQ                                       |
| BA (Hons) Primary Education (Early Years, 3-7) with recommendation for Qualified Teacher Status – PEQTE |
| BA (Hons) Primary Education (5-11) with recommendation for Qualified Teacher Status – PEQTR             |

**Postgraduate courses**

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| <b>School of Clinical and Applied Sciences</b>   |
| PG Dip Dietetics   |
| PG Dip Health & Safety   |
| PG Dip Health and Safety (franchise, Hong Kong College of Technology)  |
| Master of Osteopathy   |
| MSc Dietetics  |
| MSc Environmental Health   |
| MSc Health and Safety  |
| MSc Nutrition in Practice  |
| MSc Occupational Therapy (Pre-registration)  |
| MSc Physiotherapy (Pre-registration)   |
| MSc Sports Therapy   |
| <b>School of Health and Community Studies</b>  |
| PG Cert Mental Health Practice   |
| PG Cert Therapeutic Play Skills  |
| PG Cert/PG Dip/MA Advanced Social Work Practice (modules: Critical Practice for Newly Qualified Social Workers, Practice Education in Social Work, Practice of Best Interests Assessments) |
| PG Dip Community Specialist Practitioner - District Nursing  |
| PG Dip Counselling & Psychotherapy   |
| PG Dip Play Therapy  |
| PG Dip Specialist Community Public Health Nursing - Health Visiting  |
| PG Dip Specialist Community Public Health Nursing - Occupational Health Nursing  |
| PG Dip Specialist Community Public Health Nursing - School Nursing   |
| PG Dip Youth Work and Community Development (JNC)  |
| MA Art Psychotherapy Practice  |
| MA Practice Based Play Therapy   |
| MA Social Work   |
| MA Youth Work and Community Development  |
| MSc Community Specialist Practitioner - District Nursing   |
| MSc Specialist Community Public Health Nursing - Health Visiting   |
| MSc Specialist Community Public Health Nursing - Occupational Health Nursing   |
| MSc Specialist Community Public Health Nursing - School Nursing  |
| <b>Carnegie School of Education:<br/>Postgraduate with Qualified Teacher Status (QTS)</b>  |
| PGCE Primary Education (Early Years, 3-7) with recommendation for QTS – PGPED  |
| PGCE Primary Education (5-11) with recommendation for QTS – PGPRI  |
| PGCE Secondary Education (11-16) with recommendation for QTS – PGSEC   |

**Other – professional modules**

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|---|
| <b>School of Health and Community Studies</b> |
| Non-Medical Prescribing                       |
| Practice Teacher                              |
| Support for Learning in Practice              |