

## Fitness to Practise Policy and Procedure

Document /Policy Type	<b>Fitness to Practise Policy and Procedure</b>		Document Owner	Programme Leader
Location	Academic Governance and Management		Approved by	UoP
Version	V2		Last updated	Sept 2021
Publication date	Sept 2021		Review date	Sept 2023
Related Document/Policy		External reference Points	Ofs , QAA ,PSBRs, CMA ,OIA, ICO	
Policy Reference	FTPPP- UoP V1-BCNO-2022			

*Please note that as a student of the University of Plymouth and studying with the BCNO Group, your studies are subject to the policies and regulations of the University. In some cases the policies have been amended to make them specifically relevant to the BCNO Group and the requirements of the General Osteopathic Council. If you require further guidance please contact the Quality Manager. ([quality@bcnogroup.ac.uk](mailto:quality@bcnogroup.ac.uk))*

<b>Version number</b> 1.0	<b>Status (draft/final)</b> final	<b>Owning Directorate / Faculty</b> Academic Registry		
<b>Summary of any amendments:</b> New University-wide policy consolidating previous Faculty-based policies.				
<b>Document objectives:</b> This policy outlines the University's responsibility to ensure that students who encounter pupils, other children, vulnerable adults, patients, clients, other students, service users and the general public in the course of their studies, are Fit to Practise. The policy sets out: <ul style="list-style-type: none"> <li>• The definition of fitness to practise</li> <li>• The professional conduct required of students</li> <li>• The procedure for the temporary suspension of a student</li> <li>• The procedure for invoking a fitness to practise investigation and hearing</li> <li>• The procedure for appealing a fitness to practise panel decision</li> </ul>				
<b>Intended Recipients:</b> This policy applies to all students on programmes leading to a professional qualification or programmes associated with professional practise.				
<b>Approving Body and Date Approved</b>			University Teaching Learning and Quality Committee and Senate	
<b>Date of Issue</b>			21/09/2021	
<b>Review Date:</b>			2 years from above	
<b>Contact for review:</b>			Head of Student Administration	
<b>Version</b>	<b>Date</b>	<b>Author(s)</b>	<b>Replaces</b>	<b>Comment</b>
1.0	September 2021	Terry Vallance /Donna Strickland	Faculty-specific FtP policies	New policy



## FITNESS TO PRACTISE POLICY AND PROCEDURE

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## **UNIVERSITY OF PLYMOUTH FITNESS TO PRACTISE POLICY AND PROCEDURE**

### **1. Introduction**

- 1.1 The University has a responsibility to ensure that students admitted to, enrolled on and graduating from professional programmes, adhere to the regulatory advice provided by the relevant Professional, Statutory and Regulatory Body (PSRB) or Professional Accrediting Body and are fit to practise<sup>1</sup>.
- 1.2 Students on these programmes will be expected to comply with a professional code of conduct, or similar, produced by the PSRB or Professional Accrediting Body, as well as the University's Student Code of Conduct and Disciplinary procedure, programme Student Agreement and the general principles set out in Section 4 of this policy and procedure.

In addition to the relevant professional body website, the University provides students with appropriate teaching, support, information and guidance about the standards of behaviour expected of students training for a particular profession.

- 1.3 However, situations or circumstances may arise which call into question a student's fitness to practise. This policy and procedure sets out how the University will respond to such concerns.
- 1.4 This policy and procedure should be considered in conjunction with the University's Student Code of Conduct and Disciplinary procedure, the Study and Wellbeing Review policy and the Academic Regulations. The Study and Wellbeing Review policy will normally consider cases relating to a student's health.
- 1.5 The University acknowledges that, on occasion, the adoption of procedures prescribed by a PSRB or Professional Accrediting Body may give rise to minor inconsistencies in the way procedures (including Fitness to Practise procedures) are followed across the University. It will take all reasonable steps to ensure that any such minor inconsistencies do not result in unfairness to students and staff.

### **2. Delegation of Authority**

- 2.1 The University Teaching, Learning and Quality Committee is responsible to Senate for the maintenance of academic and professional standards in the programmes of the University. It has delegated its authority to govern student conduct within the areas of fitness to practise to those referred to in this policy and procedure.
- 2.2 The University Teaching, Learning and Quality Committee will receive an annual report on cases considered under this policy and procedure.

### **3. Purpose and Scope**

- 3.1 This policy and procedure applies to all students on undergraduate and postgraduate programmes leading to a professional qualification or programmes associated with professional practise ("professional programmes"). This policy and procedure also applies to students who are intercalating at the University and who are returning from: a period of intercalated study at another HE provider, a period of interrupted study, or a period of suspension from study.

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<sup>1</sup> For the purposes of this policy, the term 'fitness to practise' refers also to 'fitness to teach'.

- 3.2 Students must familiarise themselves with and comply with the relevant professional code of conduct, the University's Student Code of Conduct and the principles set out in Section 4 of this policy and procedure. A student's fitness to practise may be called into question in situations where a student does not comply with these codes and meet these standards.
- 3.3 Whilst students may not yet be professionally qualified or registered, it is important that they conduct themselves professionally at all times. The purpose of this is to justify and maintain the trust and confidence that the public places in the profession and professional practitioners, to protect and promote public safety and wellbeing and to promote and maintain proper professional standards and conduct.
- 3.4 The Fitness to Practise policy and procedure applies at all times. It is not restricted to activities during term time or on placement, on University or placement provider premises, or in respect of University or placement activities, and applies to online conduct including on social media. The policy and procedure applies from the point at which a student enters into contract with the University.
- 3.5 If the fitness to practise of a student undertaking Intercalated Study at another higher education institution is questioned by the host institution for whatever reason, the host institution should notify the University via the Head of School. In such circumstances, the University will investigate the matter as set out in this policy to determine whether the student's fitness to practise is or has been impaired.
- 3.6 There may be situations where a registered student is also in employment and the employer may have their own Fitness to Practise policy and procedure that the student-employee is required to follow as a condition of their employment. The University and the employer will agree which Policy shall apply to the student. If both policies apply, the employer and the University will agree the sequencing of these.
- 3.7 Where it is agreed that the Fitness to Practise policy and procedure of the employer shall apply, the employer shall provide details of those policies and procedures to the University. Where the University and the employer have not reached such an agreement, this Policy will apply.
- 3.8 Fitness to practise relates to matters of conduct (including behaviour at University, on placement and in students' personal lives), professional suitability (including health and character, noting paragraph 1.4) and performance (both academic and practice). Each case is considered on an individual basis.
- 3.9 In implementing this policy and procedure, the University will take into account the need to:
  - a. Protect patients, clients, pupils, children or service users
  - b. Safeguard children and other vulnerable groups
  - c. Understand and uphold appropriate standards of conduct and behaviour
  - d. Maintain public confidence in students and/or trainees and the professions they represent
  - e. Operate fairly and within the principles of natural justice
  - f. Operate with due regard to principles of diversity, equality and inclusion

- g. Maintain confidence in the ability of the University to deal appropriately with fitness to practise issues
  - h. Respect confidentiality
  - i. Promote a professional learning culture for students and for the University, where matters of concern (where appropriate) are used proactively to promote openness and learning, in the interests of students' future personal and professional development. The intention being to enable students to gain insight into the issue causing concern so that they can try to resolve it.
- 3.10 Concerns raised about a student's fitness to practise under this policy and procedure may result in one or more the following outcomes or sanctions for the student, which may be necessary to ensure public protection and to promote students' learning and personal development. This list is non-exhaustive:
- a. Dismissal of the case and no further action
  - b. A written warning, which may be informal or formal. Informal warnings do not appear on student references nor are reportable to a PSRB and/or Accrediting Body. Formal warnings do appear on student references and are reportable to a PSRB and/or Accrediting Body.
  - c. Conditions and/or undertakings
  - d. Temporary suspension from placement and/or programme
  - e. Temporary suspension from the University
  - f. Permanent withdrawal from placement and/or programme
  - g. Permanent expulsion from the University
- 3.11 In a fitness to practise case, it is for the University to show that, on the balance of probabilities (more likely than not) the concern, issue or incident did take place. Where a student presents mitigation in their defence, it is for the student to show, on the balance of probabilities, the validity and relevance of the mitigation.

#### **4. Professional Conduct Required of Students**

- 4.1 This section sets out a series of standards of conduct for students studying on professional programmes. As set out in Paragraph 3.2 above, students are also required to comply with the relevant professional code of conduct, or similar, and the University's Student Code of Conduct and Disciplinary procedure. Situations where a student does not comply with these codes and meet these standards may call into question a student's fitness to practise.
- 4.2 In their relationships with patients, clients, pupils, children or service users ("individuals and groups"), students are required to:
- a. Respect these individuals and groups and treat them with dignity.
  - b. Make sure that they are clearly identified as students, where appropriate, and ensure that they do not represent themselves as professionally qualified.
  - c. Dress in an appropriate and professional way and be aware that these individuals and groups may respond to their appearance, presentation and hygiene.

- d. Maintain appropriate boundaries between themselves and these individuals and groups and anyone close to them. They must not use their professional position to cause distress or to exploit these individuals and groups.
  - e. Be open and honest in dealing with these individuals and groups, their carers, relatives, partners, or anyone else close to them.
  - f. Be aware of ethical issues in their professional behaviour with these individuals and groups.
  - g. Make sure they follow the guidance of their appropriate professional body(s) on codes of ethics, informed consent and confidentiality.
  - h. Undertake to ensure that children and vulnerable groups are safeguarded.
- 4.3 Students must behave in a way that reflects high standards of personal probity (i.e. being honest, trustworthy, and acting with integrity) and are required to:
- a. Bring attention to any concerns they themselves or others may have about or errors they have identified in their clinical or teaching work. In the case of students on programmes involving clinical practice, they must demonstrate their duty of candour at all times.
  - b. Be honest, authentic and original in their academic work, including when conducting research, and take effective action if they have concerns about the honesty of others.
  - c. Be honest and trustworthy when writing clinical records, reports, logbooks and records and attendance registers etc., and when completing and signing forms.
  - d. Be honest in all CVs and all applications and not misrepresent their qualifications, clinical experience, position or abilities.
  - e. Be honest and trustworthy in any financial dealings that may be a required component of their placement, or in respect of any other financial dealings such as expenses claims or loan applications.
  - f. Cooperate with any enquiry by their Faculty or School or any other organisation into their health, behaviour or performance, or that of anybody else's.
  - g. Comply with the law.
  - h. Inform the Programme Leader or Head of School at the earliest opportunity that they have been arrested, cautioned, charged or found guilty of a criminal offence, with the exception of filtered convictions<sup>2</sup>. This should be documented in writing. Students may also be asked to make an annual declaration of good health and good character.
- 4.4 Students must maintain good practice and are required to:
- a. not exceed their practice limitations.
  - b. ask for help or seek assistance when necessary. This may also include following medical advice in the treatment of any health condition they may have.

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<sup>2</sup> [DBS filtering guide - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- c. make sure that they are appropriately supervised for any clinical or teaching task they perform, and inform their tutor and/or other relevant persons (e.g. placement providers) if they have any concerns in this area.
  - d. respect the decisions and rights of patients, clients or children in an education setting, placement coordinators or mentors.
  - e. not discriminate against patients or clients by allowing their personal views to affect their professional relationship or the care they provide (this includes their views about a patient's or client's age, culture, disability, ethnic or national origin, gender identity, lifestyle, marital or parental status, race, religion or beliefs, sex, sexual orientation, and social or economic status etc.).
  - f. For those students on programmes involving clinical practice, be aware that treatment should be based on the patient's/client's priorities and the effectiveness of care/treatment options, and that decisions should be arrived at through assessment and discussion with the patient or client and placement provider.
  - g. behave with courtesy.
  - h. report any concerns they have about patient, client, child or vulnerable group safety to an appropriate person.
  - i. be aware that they must acquire knowledge, competencies, skills and professional attitudes in order to eventually register or maintain registration with their appropriate professional body.
  - j. maintain high standards of punctuality and attendance of compulsory teaching or other sessions associated with the placement, making other arrangements with the University as appropriate.
- 4.5 Students on Initial Teacher Training programmes are expected to abide by Part 2 of the Teacher Standards (DfE, 2012), which state:
- a. A teacher is expected to demonstrate consistently high standards of personal and professional conduct. The following statements define the behaviour and attitudes which set the required standard for conduct throughout a teacher's career.
  - b. Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
    - i. treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
    - ii. having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
    - iii. showing tolerance of and respect for the rights of others
    - iv. not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs
    - v. ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law

- c. Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
  - d. Teachers must have an understanding of, and always act within, the statutory frameworks, which set out their professional duties and responsibilities.
- 4.6 Students may be expected to make an annual declaration of good health and good character and to inform the University immediately of anything they think may affect their fitness to practise. This may include a change in a student's health status, arrest, caution or conviction for committing a criminal offence. Non-disclosure of relevant information may lead to concerns about a student's fitness to practise.
- 4.7 A non-exhaustive list of the types of concerns that may invoke this policy and procedure include:
- a. A referral from the University's Student Conduct Office
  - b. Concerns about the student emerging from a third party (i.e. Placement Supervisor or Manager, clients or patients directly, or through a relative or advocate etc.) which question their fitness to practise
  - c. The student has told a member of the University that they have a problem and/or provided information, which questions their fitness to practise
  - d. The student exhibits, or is accused of, behaviour, which is inappropriate or does not comply with other standards set out in Section 4. This may include behaviour on social media or towards others
  - e. An accusation of intimidation of fellow students, patients, children in an educational setting, professional clients or staff
  - f. An accusation of acting in a violent manner
  - g. An accusation of fraudulent behaviour, including in relation to University or placement provider funds
  - h. Arrest on suspicion of committing, or receives a caution or conviction for committing, a criminal offence
  - i. An accusation of failing to rectify behaviour that has been subject to any other disciplinary action by the University
  - j. An accusation of drug or alcohol abuse.
  - k. An accusation of falsification of patient, client or other professional records
  - l. An accusation of failing to act in a way to ensure the safety and wellbeing of those who are vulnerable
  - m. An accusation of breaching confidentiality
  - n. An accusation of breaching safeguarding protocols

## **5. Reporting Concerns**

- 5.1 Concerns about a student's fitness to practise may be received from any source, including (but not limited to) University staff, students, placement partners or other partner agencies, service users, the police or members of the public.

- 5.2 Concerns about a student's fitness to practise should be reported immediately to the student's Programme or Year Lead or nominee to ensure that appropriate action is taken.
- 5.3 Where the student is an existing registrant (for example as a postgraduate student), the University may report a fitness to practise concern to the relevant PSRB, who may decide to conduct their own investigation which may result in a revocation of an existing registration.
- 5.4 Students must also be aware that they may be obliged, in accordance with the requirements of their PSRB, to declare sanctions received in pre-registration education (i.e. at University) at the point of application for or on receipt of a professional registration and/or when seeking employment.

## **6. Temporary Suspension**

- 6.1 Where a concern is raised about a student's fitness to practise, they may be suspended temporarily from placement and/or University for one of the following reasons:
- a. The student poses a potential risk of harm to themselves, service users, other students, University staff or staff at partner organisations
  - b. The allegation represents a potential or actual threat to the safety, security, health, wellbeing, good order, or reputation of the University, its students and members, an external organisation or placement provider, or members of the public
  - c. The allegation creates a risk to trust and confidence in the proper operation of the profession
- 6.2 Temporary suspension is a neutral act and while temporary suspension may occur prior to commencing an investigation, it will not prejudice any investigation as set out in Section 9. Temporary suspension is not a penalty in the context of this policy and procedure, therefore, the University will consider ways to mitigate the impact of temporary suspension on the student.
- 6.3 Temporary suspension may be authorised by the following persons:
- a. the Programme or Year Lead or nominee for temporary suspension from placement.
  - b. the Head of School or Executive Dean for temporary suspension from the programme.
  - c. a Deputy Vice-Chancellor or the University Registrar and Secretary for temporary suspension from the University.
- 6.4 Confirmation of the temporary suspension and the reasons for it, together with its terms, will be given to the student in writing.
- 6.5 If a student is suspended temporarily, the original decision-maker will continue to review the conditions in place on an ongoing basis.
- 6.6 A student subject to temporary suspension may request a review of the decision and/or its terms:

- a. The request for a review of a temporary suspension from placement or programme should be submitted in writing to the Faculty, who will arrange for the review to be conducted by the Executive Dean or nominee. If the Executive Dean has decision the taken in 6.3b, the request for review of the decision will be taken by the Executive Dean's nominee.
- b. The request for a review of a temporary suspension from the University should be submitted in writing to the Academic Registrar, who will arrange for the review to be conducted by a senior officer, with no prior involvement in the matter, as set out in Paragraph 6.3c.

## **7. Allegations involving the police, PSRBs or other external bodies**

7.1 Where the police, courts or other external bodies i.e. PSRBs, are involved, the University may place its consideration of the matter on hold until the external proceedings have been concluded. The University's consideration of a fitness to practise matter may be resumed at any stage should the University deem it to be appropriate in the circumstances.

7.2 The University may take action in respect of a student whether they are convicted or acquitted in criminal proceedings and irrespective of a finding by a PSRB.

The University is not bound by the outcome of any criminal prosecution or external proceedings. However, it may, in its discretion, take any penalty imposed by a criminal court or other authority into consideration in determining any outcome to be imposed.

As set out in 4.3h, students must inform the Programme Leader or equivalent at the earliest opportunity if they have been arrested, cautioned, charged, or found guilty of a criminal offence, with the exception of filtered convictions.

## **8. Sources of Support, Information and Advice**

8.1 A student may bring a current registered student of the University or member of staff from the University community to any meeting or hearing under this policy and procedure for support, the recommendation being that this is a representative from the [Students' Union Student Advice](#) team.

8.2 The role of the supporter is to provide advice and emotional support, but it is not an advocacy role. A student cannot bring a legal representative to any meetings held under this procedure unless a decision might exclude them from professional registration permanently. Such a decision can only be made at a Fitness to Practise Panel hearing under stage 2b of this procedure. A supporter cannot act both as a witness and as a supporter.

8.3 Independent advice is available to all students through the University of Plymouth Students' Union (UPSU) and other relevant areas of the University including, where applicable, Disability Services.

## **9. Fitness to Practise Procedure**

9.1 The Programme Leader/Year lead or nominee will invoke this procedure to determine whether the student is fit to practise in cases were a concern is raised that a student has failed to uphold:

- the standards of the relevant professional code of conduct
- the programme's Student Agreement

- the University’s Student Code of Conduct and Disciplinary procedure
- the principles set out in Section 4 of this policy and procedure

9.2 There are three stages of the Fitness to Practise Procedure:

Stage 1	Informal Stage: Preliminary Meeting
Stage 2	Formal Stage:
2a	Assessment and Evaluation Meeting
2b	Fitness to Practise Panel
Stage 3	Appeal Stage

9.3 Attempts will normally be made to address fitness to practise concerns in an informal and supportive context. Wherever possible and appropriate, all efforts will be made to resolve a concern at Stage 1. However, in cases of serious or repeated concerns, the University reserves the right to proceed straight to Stage 2. The decision to proceed straight to Stage 2 will be made by the Head of School or nominee.

**Stage 1- Informal Stage: Preliminary Meeting**

9.4 At Stage 1 two representatives from the programme or School will normally meet the student to discuss the concern. Details of the concern will be given to the student and they will have an opportunity to respond.

9.5 In advance of the meeting, the student will be informed they may bring a supporter to the preliminary meeting in line with Section 8.

9.6 Following discussion with the student, the programme/School representatives will recommend one of the following to the Head of School or nominee:

- a. That the concern does not fall within the scope of this policy and procedure and should be referred to a different University regulation, policy or procedure.
- b. There is no case for concern.
- c. There has been a departure from professional standards but no ongoing concern about fitness to practise
- d. That there is an outstanding concern about the student’s fitness to practise, in which case they will take one of the following actions:
  - i. Give appropriate advice and guidance, set out in an action plan with deadlines placed on the student’s record. The action plan may be referred to in any future fitness to practise proceedings. The student will be informed in writing of the action plan but this does not constitute a formal warning.
  - ii. Refer the matter to Stage 2 of the Fitness to Practise Procedure.

9.7 The Stage 1 preliminary meeting will normally be held within 10 working days of receipt of the concern and students will normally be given two working days’ notice of this informal meeting.

9.8 The student will normally receive notification in writing of the decision, and the reasons for that decision, made at Stage 1 within 5 working days of the meeting.

## **Stage 2 - Formal Stage**

### **Stage 2a: Assessment and Evaluation Meeting**

- 9.9 Stage 2a will be initiated by the Head of School or nominee. A concern may be referred to Stage 2 because of consideration at Stage 1 and/or where there are continued concerns or if, in the view of the Head of School or nominee, the concern is sufficiently serious that it should be referred straight to Stage 2. The Head of School or nominee will appoint an appropriate investigator who will arrange for a Stage 2a Assessment and Evaluation meeting.
- 9.10 If a student's Fitness to Practise is being considered because of previous findings under the Student Code of Conduct and Disciplinary Procedure, or because of a criminal conviction, the facts of the case will already have been established. In such cases, a formal investigation of the facts is not generally required so the case will normally proceed directly to Stage 2b for consideration by a Fitness to Practise Panel.
- 9.11 Formal investigations will be initiated under Stage 2a where the facts of the case have not yet been established, or if further information is needed about the effects of the issue leading to concern relating to the student's fitness to practise.
- 9.12 The investigator will gather information and documentation relating to a concern or allegation. This may include conducting interviews with or requesting statements from any witnesses where necessary.
- 9.13 The student will then be invited to attend an Assessment and Evaluation meeting. The student will normally be given five working days' notice and will be informed of the following:
- a. Details of the concern and/or allegation and that an investigation is being carried out at Stage 2a;
  - b. A copy of any relevant documentation;
  - c. Confirmation of the time and date of the Assessment and Evaluation meeting, to which the student may bring a supporter as set out in Section 8 of this policy and procedure; and
  - d. The names of any other attendees of the Assessment and Evaluation meeting convened, which may include representatives of the Faculty.
- 9.14 During the Assessment and Evaluation meeting, the concern will be discussed and the student provided with the opportunity to respond and give their own perspective, normally in their own words and not through a supporter.
- 9.15 Where possible, the Assessment and Evaluation meeting will confirm one of the following outcomes to the student:
- a. No further action will be taken.
  - b. The student is allowed to continue fully on the programme but appropriate advice is given as to future conduct whilst enrolled on the programme.
- NB - At this stage, it may also be necessary, for the student's benefit, to require the student to attend an alternative placement.

- c. An informal warning and/or any undertakings is issued and noted on the student's record. This may be referred to in any future fitness to practise proceedings.
  - d. A formal warning and/or any undertakings is issued, as described in paragraph 9.45(c).
  - e. The student is required to interrupt their programme of study where there are concerns as set out in paragraph 6.2.
  - f. The matter is referred to a Stage 2b Fitness to Practise Panel.
- 9.16 A summary report, setting out the decision and the reason for the decision, will be sent to the student following the Assessment and Evaluation meeting. The indicative content of the summary report is set out in Appendix 1.
- 9.17 The Stage 2a Assessment and Evaluation meeting will normally be completed within 25 working days from the first report of the concern.
- 9.18 Students have the right to request a review of the decision taken at the Assessment and Evaluation meeting, in part or in whole.
- 9.19 Students may only request a review on one or more of the following grounds:
- (a) New evidence has emerged which can be corroborated and could not reasonably have been expected to have been submitted earlier.
  - (b) There was bias, or a reasonable perception of bias, during the procedure.
  - (c) The Fitness to Practise policy and procedure was not followed correctly.
- A request for review against academic or professional judgement will not be considered.
- 9.20 Requests for review must be submitted in writing to the Faculty within 10 working days of the date that the student was sent the summary report. The Executive Dean of the Faculty will consider requests for review.
- 9.21 The Executive Dean shall make no further enquiry into matters of fact unless new evidence is submitted which they consider should be taken into account. The Executive Dean may either:
- (a) Reject the request for review and endorse the outcome, or
  - (b) Uphold the review request, in which case the Executive Dean will ask the Head of School to reconsider the original outcome. Students may not subsequently request a review of the decision taken following reconsideration of the case.
- 9.22 The Executive Dean shall convey their decision in writing to the student within 10 working days of receipt of the request for review. Their decision on whether to uphold or reject the request for review is final. The student will be issued with a Completion of Procedures letter by the Complaints and Appeals Team to refer their case to the Office of the Independent Adjudicator if they remain dissatisfied (see section 11).

### **Stage 2b: Fitness to Practise Panel hearing**

- 9.23 Following an Assessment and Evaluation meeting at Stage 2a, the Head of School will write to the student if a decision was made that the matter is referred to Stage 2b and a Fitness to Practise Panel hearing should be convened.

- 9.24 The Fitness to Practise Panel shall hear a case normally within 25 working days of its referral to a Panel.
- 9.25 The student will be informed of the date of the hearing and the composition of the Panel. They will be provided with details of the concern and a copy of all the documentation to be considered by the Panel no less than 10 working days beforehand. The student will also be informed they may bring a supporter to the Panel hearing in line with Section 8.
- 9.26 The Faculty will appoint a suitable person to act as Clerk to the Panel, whose role will include:
- a. Assisting with the organisation of the Panel.
  - b. Advising the Chair on procedure, before and after the hearing.
  - c. Keeping a record of the matters that are covered, which may include an audio recording.
  - d. Requesting clarification for the record during the hearing.
  - e. Providing advice to the Chair, at their request.
  - f. Reminding the Chair of relevant University policies and procedures, Academic Regulations, including those of any relevant PSRBs or Professional Accrediting Bodies.
- 9.27 If the student is unwell or prevented from attending the Fitness to Practise Panel hearing by other exceptional circumstances, the student must notify the Faculty as soon as possible. Where there are exceptional circumstances supported by corroborating evidence, the Panel hearing may be rearranged.
- 9.28 The student may submit a written statement and copies of any relevant information to the Panel, but should do so no less than 5 working days beforehand.
- 9.29 The investigator ('case presenter') will attend the meeting to set out the concern and relevant evidence. The case presenter may propose or comment on any eventual outcome or penalty to be imposed, but will not be involved in the deliberations of the Fitness to Practise Panel in any way.
- 9.30 The student and the case presenter may call witnesses before the Panel and should provide to the Clerk the names of those witnesses no less than 5 working days beforehand.
- 9.31 As stated in 8.2, a student cannot bring a legal representative to any meetings held under this procedure unless a decision might exclude them from professional registration permanently. As decisions such as these can be made at this stage of the procedure, if a student intends to be accompanied by a legal representative at the Fitness to Practise Panel hearing, they must notify the Faculty no less than 5 working days beforehand. Where the student indicates in advance that they do intend to be accompanied by a legal representative, the University may also wish to be legally represented.
- 9.32 Where a student is accompanied by a legal representative, whose attendance has not previously been notified to the Faculty, and a legal representative is not in attendance

for the University, the Chair will adjourn the Panel meeting until the University can be legally represented.

- 9.33 The Fitness to Practise Panel may, at the discretion of the Chair, adjourn a hearing and request additional evidence from either party. The Panel will reconvene as soon as is practical for all parties, and the parties will normally be given at least 2 working days' notice of the time and date of the reconvened meeting.
- 9.34 The Fitness to Practise Panel meeting is a confidential meeting and held in private.
- 9.35 The student will be required to attend the meeting of the Panel in person. If the student fails to attend without reasonable explanation', the Panel may consider the case and reach a decision in the student's absence. The Chair will have discretion as to what constitutes a 'reasonable explanation'.

### **Fitness to Practise Panel Membership**

- 9.36 The purpose of the Fitness to Practise Panel hearing is to hear concerns, to make a decision about whether or not a student is fit to practise and to determine an appropriate outcome.
- 9.37 The membership of the Fitness to Practise Panel is as follows:
- a. A senior member of University staff (including Deputy Vice-Chancellor, Executive Dean or Associate Dean) not previously involved in the case (Chair).
  - b. A registrant of the PSRB that governs or regulates delivery of the student's programme. In the case of Physician Associate or other emerging healthcare professions, a representative from an associated registered profession.
  - c. For students on programmes involving clinical practice a senior practitioner from an employer partner organisation relevant to the student's programme who has experience of dealing with fitness to practise.
  - d. A sabbatical officer of the University of Plymouth Students' Union, who does not know the student being investigated.
  - e. Up to 3 co-opted members to be nominated by the Chair, at least one of which should be an academic member of staff. Where the concerns are health related, membership may include a relevant health specialist, for example a psychiatrist or occupational health physician. The relevant health specialist should not be involved in the treatment of the student.
  - f. The Clerk, and any minute-taker, are not members of the Panel and are non-voting.
- 9.38 All members of the Panel will be impartial and will not normally have been involved in earlier stages of the process. The Faculty will ensure a balance of panel members and will reflect on the diversity of the panel in cases where this may be a relevant consideration. Panel members will be trained and should have appropriate experience, be prepared to seek appropriate expert advice, especially in cases involving health or impairment issues and ensure fitness to practise proceedings are fair and proportionate.
- 9.39 The Panel will be considered quorate if one academic staff member, one senior registered practitioner, and one student member are present, in addition to the Chair.

9.40 In the event that the Panel is unable to reach a unanimous decision, a majority decision on the recommendations and/or findings may be made. The Clerk must record the fact that it is a majority decision. Where there is a split decision, the Chair will make the final decision.

### **Panel Proceedings**

9.41 The Panel's proceedings will normally be as follows:

- a. Panel members have a preliminary discussion without the student, the student's supporter or the case presenter being present.
- b. The student, the student's supporter and the case presenter are invited to join the meeting. The Chair introduces all those present.
- c. The Chair confirms that the student consents to an audio recording being made to facilitate a written record of the meeting later.
- d. The Chair confirms that the student is well enough to attend. The Chair also checks that the student and supporter have received details of the case against the student and any supporting documentation, and that they understand fully the nature of the allegation(s) and the purpose of the Fitness to Practise Panel hearing.
- e. The Chair explains the order of proceedings to the student.
- f. The concern and any supporting evidence is presented by the case presenter, who may call witnesses.
- g. Members of the Panel and the student are invited by the Chair to ask the case presenter and any witnesses questions related to the case or evidence.
- h. The Chair then invites the student to put forward verbally to the Panel their response to the concern and to call any witnesses.
- i. Members of the Panel and the case presenter are invited to put questions to the student and any witnesses.
- j. At any time during the Panel meeting, the student may ask the Chair for a recess. In any recess, all non-Panel members will temporarily leave the hearing.
- k. The Chair invites the case presenter to make any final response or remarks.
- l. The Chair invites the student to make any final response or remarks.
- m. The Panel, with the Clerk in attendance, shall deliberate in private only recalling the case presenter and the student to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding the possibility that only one of them may need to clarify the point giving rise to doubt.
- n. The Panel members then deliberate further in private on any points of clarification.
- o. The Panel shall announce the decision to the parties either personally or in writing, as may be determined by the Panel.

9.42 Where Fitness to Practise investigations involve multiple students, a single Fitness to Practise Panel will be convened, but will consider the impairment of each student separately. In such cases, the Panel will normally:

- a. Redact documentation, where necessary, in order to protect personal and sensitive data and information. However, redaction must not restrict the ability of any student to understand the case against them in order to prepare an appropriate response.
  - b. Offer each student the opportunity to make opening and closing statements, to receive questions and to question witnesses.
  - c. Invite all students under consideration to remain present throughout the hearing so they will have the opportunity to hear all testimony provided.
  - d. Offer each student an opportunity to speak to the panel privately so that they can raise confidential or sensitive matters relating to mitigation.
- 9.43 The Panel will determine whether, on the balance of probabilities, the allegations are proven and if the student's fitness to practise has been and/or is impaired.
- 9.44 If the Panel determines that the student is fit to practise and there has been no significant departure from professional standards, the concern will be dismissed and no further action will be taken.
- 9.45 If the Panel determines that there has been a significant departure from professional standards, there is an ongoing concern about the student's fitness to practise, or that the student is unfit to practise, it may, at its discretion, apply one or more of the following:
- a. Permit the student to continue on the course provided the student fulfils certain specified conditions or undertakings. The Panel may give advice to the student on their future conduct or engagement whilst enrolled on the programme. If appropriate, the Panel can recommend that an informal warning is given and noted on the student's record, which may be referred to in any future fitness to practise proceedings.
  - b. Permit the student to continue on the course with a formal action plan. The plan will be supportive and designed to enable the student to demonstrate they are professionally suitable. The Programme Leader (or nominee) will monitor the action plan. Failure by the student to adhere to the plan will be viewed as a further fitness to practise issue and the Fitness to Practise Policy and Procedure may be re-invoked at this or an earlier stage. Where appropriate, the action plan may include referral to Occupational Health or other University services. A record of the action plan will be held in the student's file, reference to which may be made in any future fitness to practise proceedings.
  - c. Issue a formal warning, which will be placed in the student's file for a period to be determined by the Panel, including up to and after the duration of the student's course. The student will be notified that while the warning remains on the file any reference given by the University for employment or further study may include a statement that the student was subject to a Fitness to Practise Panel hearing during the programme. Details of the allegation or the outcome will not be given in the reference.
  - d. The Panel may require discontinuation of a placement. The University may share, as appropriate, information about a student's professional and/or academic progress with placement providers, including (but not limited to) the outcome of a Fitness to Practise Panel meeting. Whilst the University will take all reasonable steps to secure an alternative placement, placement providers may refuse to

accept particular students, and this may legitimately jeopardise the student's ability to complete the course.

- e. Suspend the student from the programme and/or the University for a defined period, with return subject to conditions agreed or delegated by the Panel (e.g. recovery from health issues or resolution of other relevant or mitigating factors).
- f. Require the student to withdraw from the programme. There may be an option to transfer to another programme of study. The Panel will specify the parameters for any transfer.
- g. Expel the student from the University. Subject to the recommendation of an Award Assessment Board, the student may be eligible to receive any alternative award to which they are entitled.
- h. Such other sanctions as may be found appropriate by the Fitness to Practise Panel.

9.46 The process that the Panel follows in order to reach its decision has four stages. The Panel must have regard to the burden and standard of proof.

- a. Firstly, the Panel makes a determination on the facts before it.
- b. Secondly, the Panel makes a determination on the impairment of Fitness to Practise due to unprofessional conduct or ill health, taking into consideration the seriousness of the allegation, the circumstances and context of the case and the level of the student. The Panel will also consider previous findings under this policy and procedure or any other University regulations, policy or procedure.
- c. Then the Panel makes a determination as to whether there are any extenuating or remediating factors that should be taken into consideration. These might include training or treatment that the student has undergone in the interim.
- d. Finally, the Panel makes a determination as to what sanction(s), as set out in 9.45, is appropriate to the particular facts of the case and any extenuating circumstances.

9.47 Any penalty/sanction should be proportionate to the offence(s) and individual circumstances, and due regard given to the feasibility of discharging the actions or sanctions. The Panel will consider the appropriateness of the least severe sanction first.

9.48 The student will receive in writing the outcome of the Panel within 10 working days of the Panel meeting, including the decision, the reason for the decision and details of any sanction to be applied or further action to be taken. The student shall be informed of the right to appeal against the decision in accordance with Section 10 of this policy and procedure.

9.49 The determination of the Panel, irrespective of the outcome, may be considered at the Award Assessment Board and shared with other PSRBs, professional accrediting bodies and other appropriate bodies.

## **10. Stage 3: Appeal to a Deputy Vice-Chancellor**

10.1 The student shall have the right of appeal against any decision of the Fitness to Practise Panel in part, or in whole.

- 10.2 The original decision made by the Fitness to Practise Panel will stand pending the outcome of an appeal. If an appeal is subsequently upheld, it does not mean that the original decision will be overturned. The case will be reconsidered under the relevant stage of the Fitness to Practise Procedure and a new decision will then be made.
- 10.3 The appeal will be considered by a Deputy Vice-Chancellor (or nominee). Any such appeal must be made by completing the appeal form and submitting it with all supporting evidence to the Complaints and Appeals Team at [appeals@plymouth.ac.uk](mailto:appeals@plymouth.ac.uk) within 10 working days of the decision of the Fitness to Practise Panel being notified to the student. Independent advice and guidance regarding appeals is available from the Students' Union [Student Advice Centre](#).
- 10.4 A student may only submit an appeal on one or more of the following grounds:
- a) That the Fitness to Practise Panel failed to follow to the Fitness to Practise policy and procedure.
  - b) That the Fitness to Practise Panel reached an unreasonable decision.
  - c) There is new material evidence, which for valid reasons, was unavailable, earlier in the process.
  - d) That there was bias, or a reasonable perception of bias, during the procedure.
  - e) That the action taken by the Fitness to Practise Panel is disproportionate or not permitted under the procedure.
- 10.5 An appeal cannot be made against the academic or professional judgement of the Fitness to Practise Panel.
- 10.6 The Complaints and Appeals Team will investigate the appeal case and this may require additional relevant information to be gathered from the student, the Faculty and/or other staff as appropriate. A student who is asked to provide additional information in support of their appeal will be given a deadline for submission, which, if not adhered to, will result in the appeal being considered as originally submitted. It may sometimes be necessary to share some information submitted as part of the appeal with staff as part of the investigation but, where possible, confidentiality will be maintained.
- 10.7 Once all relevant information has been gathered, the Complaints and Appeals Team will submit the information and a summary of the case to a Deputy Vice-Chancellor (or nominee) for consideration.
- 10.8 The Deputy Vice-Chancellor (or nominee) may subsequently conduct such enquiries as they may think fit, including the ability to take advice from professional representatives or academic regulation representatives. They shall decide to either reject or uphold the appeal.
- 10.9 If the appeal is upheld, the student will be informed in writing by the Complaints and Appeals Team, and a fully constituted Stage 2b Fitness to Practise Panel will be convened to reconsider the case. The persons who are involved in the reconsideration of the case should, where possible, not have been involved when the case was originally considered. Students may not subsequently appeal a decision taken following reconsideration of the case and will be deemed to have completed the University's internal procedures. The student will be issued with a Completion of

Procedures letter to refer their case to the Office of the Independent Adjudicator if they remain dis-satisfied (see section 11).

- 10.10 If the appeal is rejected, the student will be informed in writing by the Complaints and Appeals Team, and will be deemed to have completed the University's internal procedures. The student will be issued with a Completion of Procedures letter to refer their case to the Office of the Independent Adjudicator if they remain dis-satisfied (see section 11).
- 10.11 The University endeavours to conclude appeals against decisions taken under the Fitness to Practise Procedure within 20 working days. However, complex cases may take longer to conclude and in such cases, the student will be advised accordingly and provided with updates.

## **11. The Office of the Independent Adjudicator**

- 11.1 If a student remains dis-satisfied with the outcome of their appeal, they may refer their case to the Office of the Independent Adjudicator (OIA) within 12 months of the date of their Completion of Procedures letter. The OIA runs an independent scheme to review student complaints and the University of Plymouth is a member of this scheme. Further information about making a complaint to the OIA, what it can and cannot consider, and what it can do to put things right can be found at <https://www.oiahe.org.uk/students>

## **12. Data Protection, Confidentiality and General Matters**

- 12.1 The University will take account of relevant legislation such as the Data Protection Act 2018 and the General Data Protection Regulation, the Equality Act 2010 and the general rights and expectations of a student to confidentiality.
- 12.2 The University will process personal data relating to fitness to practise concerns in line with its Data Protection Policy and Privacy Notice for Students.
- 12.3 The University may ask a student for their agreement to share their personal information obtained under this policy and procedure with relevant professional representatives outside of the University. If the student refuses to give consent, but the circumstances require disclosure, the student will be informed of the action being taken and the reason for it. The University will not normally share any personal information about a student without their agreement but may do so where required by a relevant professional body or in exceptional cases where permitted by law.
- 12.4 The University recommends that members of clinical staff, involved in the fitness to practise assessment of students, do not treat students medically but refer them to an appropriate alternative clinical colleague, support service or member of staff.
- 12.5 The outcomes of a Fitness to Practise investigation or Panel hearing, including formal warnings and any associated undertakings, and other sanctions including conditions, suspensions and expulsions will be noted on the student's record. This record will last for at least the period of time it will take for the student to register as required/as appropriate with their relevant PSRB or professional accrediting body.
- 12.6 It may be necessary to share details of individual cases with PSRBs, professional accrediting bodies and other appropriate bodies. Any decision to share information is benchmarked by the advice given by the Office of the Information Commissioner to the General Medical Council (Professional behaviour and fitness to practise General

Medical Council and Medical Schools Council, 2016). This may include Fitness to Practise issues related to long term or persistent health conditions.

- 12.7 The timelines set out in this Policy and Procedure are indicative. If the University is unable to meet the stated timelines, the student will be informed at the earliest opportunity of the delay and the reason why.
- 12.8 In exceptional cases, the University reserves the right at any stage to vary the procedures set out in this document in the interests of fairness and/or health and safety.
- 12.9 The University may withhold the award of a student who is subject to ongoing consideration under this policy and procedure.
- 12.10 The University may refuse admission, re-admission or enrolment to any programme of the University, or the provision of any other service or facility, to a student until consideration of a concern under this policy and procedure is concluded.

## **Appendix 1 – Indicative content of Stage 2a Assessment and Evaluation Meeting Report**

The minimum content of the Assessment and Evaluation meeting report should include:

- a. The nature of the concern(s) investigated, including a narrative of events and chronology, where appropriate.
- b. Whether any further matters of concern became known during the investigation.
- c. How the concerns were investigated.
- d. A summary of the student's statement.
- e. A summary of the evidence gathered and an assessment of its reliability.
- f. A summary of any mitigation advanced by, or on behalf of, the student.
- g. A decision, and the reasons for the decision, as to how the matter should proceed.
- h. Copies of all evidence gathered and record(s) of interviews conducted.