

# **FITNESS TO PRACTISE POLICY AND PROCEDURE**

January 2023

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## Summary

### What is this document about?

This fitness to practise policy and procedure

- Defines what fitness to practise is, giving examples;
- Explains whom the policy and procedure apply to; and
- Provides a detailed procedure for dealing with fitness to practise investigations, panels and appeals

### Who is this for?

This document is to be used by students on courses which are regulated by professional, statutory and regulatory bodies (“PSRB”) and for University staff involved in delivering and administering those courses.

### How does the University check this is followed?

This is a live document which will be routinely used to deal with student fitness to practise matters. If there are practical issues arising from the use of the policy and procedure these will be fed into the periodic review of the document.

### Who can you contact if you have any queries about this document?

If you have questions about this document please contact the Academic Registry Team at [academicregistry@port.ac.uk](mailto:academicregistry@port.ac.uk).

### Executive summary

Students who are registered on PSRB regulated courses are required to possess the health, character, conduct and behaviours to safely and effectively undertake a course regulated by a health and care or other professional body, demonstrating the required competence expected of a student at their academic level.

The purpose of this document is to explain in detail what that fitness to practise means and what staff and students should do if there is an issue surrounding student fitness to practise.

# 1. What is Fitness to Practise?

## 1.1 Definition of Fitness to Practise

1.1.1 Fitness to practise is broadly defined by health and care or other professional regulation bodies as having the competence (skills, knowledge, performance) character/conduct/behaviour and health required to practise safely and effectively. In addition, conduct which may affect the public's confidence in the profession or a regulator is considered to be a matter of fitness to practise.

1.1.2 For the purpose of this document, fitness to practise is defined as:  
“possessing the health, character, conduct and behaviours required to safely and effectively undertake a course regulated by a health and care or other professional body demonstrating the required competence expected of a student at their academic level.”

## 1.2 The University's Duties

1.2.1 The University has a duty to ensure that students on a professional course:

- have been given appropriate training to meet the relevant fitness to practise requirements in that profession;
- are able to protect present or future service users; clients, and members of the public;
- safeguard public confidence in the profession and to encourage professionalism;
- comply with the requirements of professional/regulatory bodies; and
- are not awarded a qualification that permits them to practise a profession if they are not fit to do so.

1.2.2 The University recognises that it is at least as important to encourage, recognise and applaud examples of good professionalism in students as it is to detect failures in the same.

1.2.3 For the purposes of this document, the term 'service users' shall be deemed to include patients and the public.

## 1.3 Examples of Fitness to Practise Issues

1.3.1 It is not possible to prescribe a comprehensive list of scenarios which may call into question a student's fitness to practise. However below are examples of issues that may lead to fitness to practise concerns, either at the University or while the student is on placement:

- adverse physical and mental health (including drug or alcohol abuse) without insight and without failure to engage or comply with treatment;
- academic misconduct (for example plagiarism, cheating in examinations, forging records);

- other disciplinary offences (for example antisocial, abusive or threatening behaviour, sexual misconduct, violence, bullying or harassment, damage to property, internet access abuse, substance/alcohol abuse);
- health and safety breaches;
- failure to disclose convictions or other information that the student is required to disclose;
- inaccurate or falsified placement documentation;
- unsafe or dangerous practice, incompetence or requiring too much supervision;
- Referral from an external body such as the Local Area Designated Officer (LADO).
- unprofessional behaviour, including:
  - indiscipline
  - failure to follow dress code
  - inappropriate use of mobile phone
  - poor time keeping, poor attendance
  - failure to self-reflect
  - lack of insight
  - failure to engage with investigations into unprofessional behaviour
  - poor self-management, lack of personal accountability
  - dishonesty
  - breaking confidentiality requirements
- behaviour away from the student's studies, including:
  - criminal conviction e.g. violent offence; offence of dishonesty
  - disruptive behaviour in the community
  - inappropriate use of social media including unprofessional communication or communicating information that means people reading it may lose confidence in the profession or University
- safeguarding concerns associated with the student
- not having the necessary knowledge of English
- failure to register with a GP

## 2. The Scope of this Document

### 2.1 Relevant Courses

- 2.1.1 This document applies to the range of regulated programmes offered by the University that lead to successful students being eligible to seek registration with the relevant professional, statutory and regulatory body (PSRB). To check if your course is regulated by a PSRB please check the 'entry requirements' section for your course on the University's website.
- 2.1.2 Individual PSRBs will have their own specific fitness to practise requirements and it is important for students to make sure that they are familiar with these. Links to the websites of the different PSRB are also set out in the 'entry requirements' section for your course on the University's website.

## 2.2 To whom does the document apply?

- 2.2.1 This document applies to students who have entered into a contract with the University to study on a course which is regulated by a PSRB. Information for applicants on fitness to practise requirements can be found in the 'entry requirements' section for your course on the University's website.

# Appendix A: Fitness to Practise Concerns – Procedure

The purpose of this fitness to practise procedure is not to punish the student for wrongdoing. It is to ensure the safety of the student and those around them, including members of the public, and to safeguard public confidence in the profession. The University will provide support for students, through Student Wellbeing and the personal tutor system, even when the outcome is that the student is unable to continue with their studies on the course for which they are registered.

This procedure is intended to be used in a proportionate manner, so that the response is appropriate to the level of concern and considers the impact on the student and the nature and complexity of the issues involved.

This policy should be read in conjunction with the Student Conduct Policy and the Fitness to Study Policy. If it is not clear whether a matter should be dealt with under the Student Conduct Policy, the Fitness to Study Policy or the Fitness to Practise Policy, the decision as to which policy is the most appropriate in the circumstances will be made by the Academic Registrar.

This procedure describes the following:

- Fitness to practise – preliminary actions
- Types of concerns
- Investigations
- Fitness to practise – formal stage
- Possible outcomes
- How to appeal a fitness to practise decision

## 1. Preliminary Actions

- 1.1 Anyone can raise a fitness to practise concern about a student directly with the University. The University will, in the first instance, and if appropriate given the circumstances, seek to resolve this informally. This stage is intended to be developmental and supportive and allows the student to improve upon their practise or approach.
- 1.2 Fitness to practise concerns should be reported to the relevant Head of School (or Head of Department as applicable) in the first instance who will appoint an Authorised Person to deal with the issue. The Authorised Person will be appropriately qualified and trained for the role.



- 1.3 Should a complaint be made anonymously, the Head of School will decide whether it is appropriate to investigate it. In making that decision the Head of School will consider how serious the issues raised are, how credible the allegation is, the evidence received and how likely it is that the allegation can be confirmed.
- 1.4 Students will be made aware by the Authorised Person that a fitness to practise concern has been raised about them as soon as possible.
- 1.5 For a single minor complaint, the Authorised Person will provide students with advice or specific actions to take in order to achieve improvement such as completion of a particular piece of work or targeted training. The timescales for completing the actions will be made clear to the student as well as the consequences for not completing the required actions.
- 1.6 The Head of School (or their deputy) may bypass the Preliminary Actions stage should the fitness to practise issue be, in the opinion of the Head of School (or their deputy), of sufficient severity to warrant immediate consideration at the formal stage of the process. Should the issue under consideration, in the opinion of the Head of School (or their deputy), be sufficiently serious so as to constitute a risk to the student or others, the Head of School (or their deputy) may recommend the suspension of the student from their course of study, in accordance with the suspension process set out in the Student Conduct Policy, or recommend removal of the student from their placement. For medical students, the power to suspend a student from a placement rests with the Dean or their authorised deputy.
- 1.7 Multiple Minor Concerns
- It is not possible to define here the number of minor concerns that would suggest that a student's fitness to practise could be impaired, justifying a referral to the fitness to practise procedures. This can only be done on a case-by-case basis. Two important considerations in making the decision are:
- that the behaviour poses a risk to the student, to service users or to the public
  - that the behaviour is likely to undermine confidence in the profession
- 1.8 If the Authorised Person considers that the threshold for referral to fitness to practise has not been reached, they may take one or more of the following actions:
- Take no action
  - Refer for counselling and support
  - Issue a warning (see clause 4.4.1 below)
  - Agree 'undertakings' (see clause 4.4.2 below)
  - Refer the student to the University's fitness to study processes

If the Authorised Person considers that the threshold for referral to fitness to practise may have been reached, they will make a referral to the fitness to practise panel for further investigation.

### 1.9 Major Concerns

It is not possible to define the difference between a minor and a major concern. Much will depend on the circumstances. The considerations below may be helpful in determining what constitutes a major concern:

- The behaviour poses a risk to the student, to service users or to the public
- The behaviour is likely to undermine confidence in the profession

If the Authorised Person determines that a student's behaviour represents a major concern they should normally make a referral for investigation to the fitness to practise panel. A referral to the University fitness to study processes is also likely to be appropriate.

### 1.10 Referral to fitness to practise procedures on the grounds of Ill-health (including addiction)

Most health conditions are compatible with the pursuit of a career in the health professions or other professionally accredited professions and the University makes every reasonable effort to enable students to achieve their ambitions. However, the following are examples when fitness to practise may be impaired:

- An uncontrolled condition
- Failure of the student to follow advice
- Significant risk of relapse
- Loss of insight
- A continuing impact on a student's ability to follow the course after adjustments

Referral to the occupational health service will be appropriate in many circumstances. Refusal by the student to attend an assessment or abide by the outcome of a referral may itself give rise to a fitness to practise issue.

## 2. Investigations

2.1 An investigation is likely to be required when there are repeated minor concerns or a major concern. An investigation may not be required, for example, if the fitness to practise concern has arisen out of a criminal conviction.

2.2 Where it is decided that it is appropriate for an investigation to be undertaken, the scope of the investigation must be proportionate to the issues raised and must take account of the level and type of evidence available.

- 2.3 Where it is necessary to carry out an investigation to establish the facts of an issue, or where more information is required about the effect of the matter leading to fitness to practise concerns, the investigation will be carried out by a member of staff, the Investigator, who is appropriately experienced and qualified on the relevant issues and who has had no previous involvement with the matter and is not the Authorised Person. The member of staff will be selected by the appropriate Head of Department/School and will be provided with necessary time and resources to effectively complete the investigation.
- 2.4 The Investigator will meet with the student as soon as possible and provide the student with details of who they should contact if they have a query about the investigation. The student should be given notice of the meeting and provided with enough information to allow them to respond to the concern(s), and a copy of the relevant procedure at that time. The student may also bring a representative, such as a member of the UPSU advice service or a friend, as far as possible, this should not be the student's personal tutor or anyone else who is involved in supporting the student in making decisions about their academic progress.
- 2.5 The Investigator may talk to staff at the University, staff at the placement and/or other students. They should also consider any relevant documents and other evidence, including medical evidence, that the student provides in support of their case. The investigator should also consider any wellbeing issues and should consider how and when it is appropriate to share information in accordance with clause 3.3.
- 2.6 The Investigator should produce a report to the fitness to practise panel based on their investigations which outlines the process followed, the information gathered, and their conclusions. The student should receive copies of the information obtained during the investigation, a copy of the investigation report and information about the next steps in the process.
- 2.7 The investigator may present the case to the panel but should not be involved in the panel's decision making.

## 3. Formal Stage

### 3.1 Formal Stage Fitness to Practise Panel Hearings

- 3.1.1 Formal stage Fitness to Practise Panel hearings are instigated by referral by the Head of Department/School to the Academic Registry who will organise and manage the process.
- 3.1.2 Where there is considered to be a risk to others/service users' safety or the student, the student must be recalled from their current placement.

3.1.3 The procedure will be as follows:

1. The Head of Department/School, or their nominated alternative, considers there is a cause for concern that requires a fitness to practise panel as a first step.
2. The Academic Registry is informed and will contact the student to inform them of the concern, the evidence that has been received so far and to suspend any current placements;
3. Within 10 working days of the student being notified of the need to hold a fitness to practise panel by the Academic Registry, a panel will be held.
4. The student will be provided in advance with information about who will be on the panel, who will attend and what their role will be. Students will also be given a copy of the information to be considered before the hearing.
5. The panel will meet in advance of meeting with the student, to discuss the evidence that has been presented. The panel is entitled to take professional or independent specialist advice on the issues under discussion as required.
6. The panel will subsequently meet with the student (and their representative such as a member of the UPSU advice service or a friend, if present) to discuss the fitness to practise concern.
7. The panel, at its discretion, may agree that the meeting will be held virtually or by telephone.
8. Should the student choose not to attend the meeting without providing an explanation for non-attendance to the satisfaction of the panel, the meeting may proceed in the absence of the student.
9. The student or the investigating officer may bring witnesses to the meeting with the prior approval of the panel.
10. The panel will then meet without the student immediately after to agree an outcome;
11. A written record should be kept of the panel meetings, setting out who attended, a brief outline of the proceedings and the reasons for the decisions taken, including the outcome for the student and/or any conditions applied.
12. The outcome will be communicated to the student in writing (normally by an email) including information about the appeal process as soon as possible.

## 3.2 Panel Selection and Composition

3.2.1 When appointing the fitness to practise panel the University will ensure that it contains impartial individuals who have sufficient knowledge of the relevant course and the profession. External panel members may be appointed if necessary to ensure impartiality. An occupational health professional or a member of wellbeing staff will be included when appropriate.

3.2.2 The fitness to practise panel will include:

- Chair
- Department/School FTP lead
- A service user;
- A suitable PSRB registrant
- Additional registrant, which could include a practice partner

3.2.3 The Chair should be independent of the school in which the issue has arisen, be appropriately professionally qualified and have a good understanding of University processes. A chair which is external to the University may be appointed if appropriate under the circumstances.

3.2.4 The Investigator will present the case unless agreed otherwise by the panel. In the event of any disagreement between panel members, the Chair shall have the casting vote.

3.2.5 The University will write to the student setting out the outcome of the formal stage, giving a clear explanation of, and setting out the reasons for its decision. The decision letter will also give information to the student about:

- the student's right to appeal;
- the grounds on which they can do so;
- the time limit for submitting an appeal;
- the appropriate procedure; and
- where and how to access support.

## 3.3 Information Sharing

3.3.1 Information processed as part of this fitness to practise procedure will be kept confidential where possible. However, in some circumstances it will be necessary for information to be shared with third parties such as a placement provider or a relevant professional, statutory and regulatory body.

3.3.2 There may be circumstances where information will need to be shared with relevant staff so they can provide support – but this will be done with the student's consent. Staff will make clear to students that information may be shared without their consent in limited circumstances – if there is a potential risk to colleagues, service users or the student themselves.

- 3.3.3 In such circumstances, disclosure of information will be limited to that which is relevant to the issue and should only be shared with those who have a legitimate need to know. This duty to share information in limited circumstances applies to University staff and to independent practitioners who provide support services.
- 3.3.4 Staff involved in administration of the fitness to practise procedure should be aware that any notes taken in meetings with the student may be shared with the student, members of the panel and staff administering any appeal.

## 3.4. Possible Outcomes

- 3.4.1 The outcomes of the fitness to practise panel are not punishments but are intended to protect the student, service users or public from harm and must be proportionate to the circumstances. Clear and explicit reasons for the panel's decision will be given to the student.
- 3.4.2 When deciding on the appropriate outcome the panel will consider mitigating and aggravating factors, such as the level of insight the student has shown, evidence of good practice, personal circumstances and previous disciplinary concerns or patterns of behaviour. The burden of proof is on the University to prove allegations rather than the student to disprove them. The University is required to demonstrate that, on the balance of probabilities, the facts it asserts are correct.
- 3.4.3 The panel can make one of the following decisions:
- Fitness to practise *is not impaired*; no action.
  - Fitness to practise *is not impaired* but the panel may:
    - Refer the student for support such as wellbeing counselling and support;
    - Issue a 'warning' (see below);
    - Request that the student agree to 'undertakings' (see below);
    - Refer the student to the fitness to study process.
  - Fitness to practise *is impaired*, in which case the panel may:
    - Request that the student agree to 'undertakings' (see below);
    - Decide that the student needs support under the fitness to study process and make recommendations in relation to this;
    - Suspend the student from the course;
    - Exclude the student from the course;
    - Impose 'conditions' (see below) upon the student, compliance with which should be monitored by the School fitness to practise lead.

## 4. Definitions

- 4.1 Warnings are appropriate when a student's behaviour is significantly below expected standards. They are not a punishment but are intended to avoid a repeat of the behaviour. It is appropriate for students to be offered support. It must be made clear to the student in writing the consequences if the behaviour is repeated. The warning will be retained on the student's record. A warning is not appropriate if the student's fitness to practise is impaired.
- 4.2 Undertakings are appropriate where the student has insight and is seeking to address the issues of concern. Undertakings should be signed by the student. On-going support and monitoring for the student will be provided. It should be made clear to the student in writing the consequences of failure to fulfil the undertakings. The undertaking(s) should be retained on the student's record.
- 4.3 Conditions are appropriate when the committee is satisfied that a student's fitness to practise is impaired but the student has displayed insight into their problem and is likely to respond positively to remediation and increased supervision, academic and/or health. Conditions must be specific, proportionate, workable, time bound, measurable and monitored.

## 5. Appeals

- 5.1 A student shall have the right of appeal against the findings of the Fitness to Practise Panel and/or against the determined outcome. No other person may appeal.
- 5.2 An appeal is lodged by the submission of a signed and dated statement from the student to the Academic Registrar (or their nominee), which should be headed 'Statement of Appeal'.
- 5.3 A Statement of Appeal must be lodged within ten working days of the date of issue of the Decision Notice.
- 5.4 The Statement of Appeal must be based on one or more of the following grounds:
- 5.4.1 a material procedural irregularity in the investigation or the way in which the Panel hearing was conducted, which might have impacted significantly on the validity of the original Inquiry and the subsequent outcome;
- 5.4.2 new evidence that could not reasonably have been made available to the initial Panel, and can be expected to potentially have led the Panel to have made a different decision;
- 5.4.3 that the outcome was perverse when the circumstances of the case and the treatment of other students in similar positions are considered.
- 5.5 The appellant may withdraw the Statement of Appeal at any time before the issue of an Appeal

Decision Notice. In such cases, the appeal shall be deemed to have failed.

- 5.6 As soon as possible after the receipt of a Statement of Appeal the Academic Registrar shall determine whether it is valid in accordance with section 5.4.
- 5.7 As soon as possible after the decision that an Appeal is valid, the Academic Registrar shall appoint an Appeal Panel and Secretary, who have had no previous involvement with the matter.
- 5.8 For appeals against the outcome of a Fitness to Practice Panel, the Appeal Panel shall consist of:
  - 5.8.1 a member of Academic Council or an Authorised Person as Chair;
  - 5.8.2 a member of Academic Council or an Authorised Person;
  - 5.8.3 a student nominated by the Students' Union Council.
- 5.9 The Appeal Panel shall convene to consider the grounds of appeal. The Inquiry Procedure Rules of the University shall govern an Appeal Inquiry. The persons entitled to appear at the Inquiry shall be the student lodging the Statement of Appeal and those relevant to the determination of the Fitness to Study decision.
- 5.10 Having considered the evidence, the Appeal Panel shall determine the appeal and can uphold, amend or rescind the decision of the original hearing. In amending any outcome, the Appeal Panel shall take advice from the Academic Registrar with particular reference to precedents and comparability. Any outcome determined by the Appeal Panel shall replace entirely any outcome determined by the original Panel.
- 5.11 As soon as possible after the determination of the appeal the Secretary shall issue to the student an Appeal Decision Notice which will consist of the following:
  - 5.11.1 a summary of the major points made during the appeal;
  - 5.11.2 a concise statement of the Appeal Panel's findings, along with rationale;
  - 5.11.3 the necessary Completion of Proceedings Information.
- 5.12 The Appeal Decision Notice shall be copied to the Chair of the Fitness to Practice Panel, the Head of Department and any other parties agreed at the Appeal Panel. The decision shall be reported to Academic Council and to the Board of Governors.

## **Annex A Process Maps**

### **Flow diagram for section 7**



