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FITNESS TO STUDY REGULATIONS AND PROCEDURE 2020/2021

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**PART A: REGULATIONS**

**SECTION A1: INTRODUCTION**

* 1. The Fitness to Study Regulations apply to:-
* Students studying at the University, at the University’s Dubai Campus and University of South Wales courses through distance delivery.
* Students studying at the Royal Welsh College of Music and Drama (RWCMD).

*(NB Any reference made to ‘faculties’ or ‘faculty’ in the regulations should be read as ‘the College’.)*

* Students studying university courses at the University’s partner institutions.
* Students studying on work placements or engaged in work-based learning.
* Individuals registered as an apprentice of the University.

1.2 Whilst the regulations apply to all students, specific consideration will be needed if a concern is raised regarding an international student who is studying under a student visa (including students studying on a visa at the Dubai Campus). Advice will be sought from the Immigration & International Student Advice Team.

1.3 The University’s [Student Charter](https://www.uswsu.com/the-student-charter) states what students can expect and will be entitled to whilst studying at the University of South Wales. The University also has expectations of the student and these are set out in both the Charter and in the university’s [Code of Conduct](https://registry.southwales.ac.uk/student-regulations/student-conduct/).

1.4 The Fitness to Study regulations is a guidance document for staff regarding concerns they may have about a student and to assist them on what they should do about these concerns.

### SECTION A2: GENERAL PRINCIPLES

**Key Principles and Aims**

2.1The key principles of these regulations is to support both staff and students when a student becomes unwell and/or presents a risk to self and/or others. These regulations are intended to:-

* Manage and support;
* Provide a framework to ensure a consistent and co-ordinated approach.

2.2 The University’s Student Mental Health Policy exists to formalise a consistent non-discriminatory and supportive approach to mental and emotional wellbeing within the University of South Wales.

2.3 The University will respond promptly and appropriately to situations where there are substantial concerns relating to a student’s pattern of conduct and behaviour where these impact upon the individual student’s ability to study and/or other members of the University community.

### Stages and timeframes

2.4 The procedure for dealing with Fitness to Study cases detailed below has three stages. The action will usually begin at Stage 1, however, depending upon the severity of the situation and seriousness of any perceived risks, action may be initiated at any of the three stages. If it is felt that action should be initiated at Stage 2 or 3 then this should be discussed with the Manager of the Wellbeing and Disability Service (or nominee).

**Definitions of Fitness to Study Concerns**

2.5 A student’s ability to study may be brought into question for many reasons and in a wide range of circumstances. For example:-

* A member of staff has concerns about a student;
* Concerns about a student are raised by a third party to a member of staff (eg. housemate, friend, colleague, placement provider, member of the public, medical professional etc.);
* A student informs a member of staff that they have a problem that is impacting on their studies;
* A student’s academic performance or physical behaviour is not acceptable and this is thought to be the result of an underlying physical or mental health problem.

2.6 Concerns may include (but are not restricted to):-

* A deterioration in a student’s physical or mental health;
* Dramatic change in a student’s presentation and or behaviour;
* Concern for a student’s safety and/or the safety of others. Referral to the university’s [Risk Assessment Panel](https://registry.southwales.ac.uk/student-regulations/student-conduct/) may be considered in this instance.
* Unexplained absence and/or engagement with the University environment;
* A student’s ability to meet deadlines and/or succeed academically.

**SECTION A3: OFFICE OF THE INDEPENDENT ADJUDICATOR FOR HIGHER**

**EDUCATION (OIA)**

3.1 A student who is unhappy with the outcome of their fitness to study hearing, or whose request for review is unsuccessful may, following issue of a Completion of Procedures Letter, lodge a complaint with the OIA. Details of the OIA and the relevant information in relation to the Scheme can be accessed at [www.oiahe.org.uk](http://www.oiahe.org.uk). Further information and advice can be obtained from the Student Casework Unit.

**PART B: PROCEDURE**

**Stage 1 – Emerging Concern – Informal Discussion**

* 1. Stage 1 will be initiated when there are emerging concerns about your health and/or wellbeing and the impact that this is having on your academic engagement or on other students.
	2. The member of staff who has the concerns (Lead Person) will discuss these with other appropriate members of staff such as your academic course team, the Advice Zone Team Leader or Senior Student Services Advisers, and collate any relevant information.

(Accommodation Services staff will refer their concerns to an appropriate member of Student Services).

1.3 The Lead Person will initiate discussions with you outlining their concerns, providing examples where appropriate. You will be given the opportunity to ask questions and to respond to the issues raised.

* 1. The nature of the discussion will determine possible recommendations that would facilitate successful completion of your studies. Recommendations may include one or more of the following:-
* Referral for appointments with appropriate Student Support Services;
* An application for interruption of studies (i.e. suspension of studies);
* An application for extenuating circumstances;
* An adjustment of mode of study, subject to your consent;
* Referral to your GP or other appropriate external services;
* Active engagement with all aspects of your studies;
* Referral to Stage 2 or 3 of the procedure;
* Referral to other University regulations/procedures (e.g. Student Conduct Regulations, Regulations for Misconduct in University Halls of Residence, Fitness to Practise Regulations), as appropriate;
* No further action is necessary.
	1. The Lead Person will review progress with you and will determine one of the following:
* That the concerns about your ability to study have been significantly reduced and/or eliminated so that no further action is required;
* That a further review is required;
* That Stage 2 of the procedure should be initiated.
	1. The Lead Person will keep a written record of any discussions held.
	2. If you do not engage in the Stage 1 discussions, you may be referred to Stage 2 or 3 of the procedure.

**Stage 2 – Heightened Concern – Formal Meeting**

* 1. Stage 2 will be initiated if it is deemed that the severity of the situation warrants action to be initiated at this stage, or where Stage 1 has not been successful. In either situation, the Lead Person will refer the case to the Manager of Wellbeing and Disability Service (or nominee).
	2. A Student Services Administrator will arrange a meeting with you, the Manager of Wellbeing and Disability Service (or nominee), the Lead Person and other relevant staff as appropriate. You will be given 5 working days’ notice of the meeting and be informed of the nature of the concerns. If you do not attend the meeting, the meeting will go ahead in your absence. It will be decided whether it is appropriate to offer you an alternative meeting or decide on the immediate action that needs to be taken.
	3. You are able to have a support person with you at any discussions, meetings or hearings, such as a friend or representative from the Students’ Union. The role of the support person is to provide support during the meeting. Their role is not to represent you, advocate on your behalf or to speak for you. You cannot send any other person to the meeting on your behalf. The Chair reserves the right to refuse the attendance of a support person if it is determined that there is a conflict of interest relating to the nominated person, in which case, you will be given the opportunity to nominate a different support person.
	4. The Chair of the meeting reserves the right to accept or refuse a request for a legal representative to attend, depending on whether a good reason is provided. Any such requests must be sent to Student Services in the first instance. Should such a request be approved, the University reserves the right to also have a legal representative in attendance. Legal representatives will be clearly informed of the nature of the proceedings, ie, that they are not a legal process and will not be conducted as such.
	5. The Manager of Wellbeing and Disability Service (or nominee) will chair the meeting and notes of the meeting will be taken by the Student Services Administrator.
	6. The meeting will be supportive in nature and will encourage open discussion of the concerns regarding your ability to study. At the meeting, the Chair will outline the concerns, providing examples where appropriate. You will be given the opportunity to ask questions and to respond to the concerns raised. It is important at this stage to establish your perception of the situation and how this is impacting on you, your studies and others.
	7. The nature of the discussion will determine possible outcomes that would facilitate successful completion of your studies. Outcomes may include one or more of the following:-
* An action plan, with a review date, is agreed with you to possibly include -
	+ attendance at appointments with appropriate Student Support Services;
	+ engagement with your GP or other appropriate external services;
	+ an adjustment of mode of study, subject to your consent;
	+ an application for interruption of studies (ie, suspension of studies);
	+ an application for extenuating circumstances;
	+ active engagement with all aspects of your studies;
	+ any other actions that would facilitate successful completion of your studies.
* Referral to Stage 3 of the procedure;
* Referral to other University regulations/procedures (eg, Student Conduct Regulations, Regulations for Misconduct in University Halls of Residence, Fitness to Practise Regulations), as appropriate;
* No further action is necessary.
	1. If an action plan has been agreed prior to the end of the meeting, the Chair will set a date for a further meeting to review the action plan. This date will be approximately 4 weeks after the initial meeting unless an earlier meeting is warranted or if a situation arises that requires bringing the meeting forward.
	2. The Student Services Administrator will ensure that you are provided with a written record of the meeting and the agreed action plan (if appropriate), within 5 working days of the meeting.
	3. At the review meeting all key points from the initial meeting should be addressed Notes will be made by the Student Services Administrator which will document one of the following:
	+ The concerns about your fitness to study have been significantly reduced and/or eliminated so that no further action is required;
	+ A further review is required;
	+ Stage 3 of the procedure should be invoked if the action plan has been unsuccessful.
	1. The notes of the review meeting will be sent to you by the Student Services Administrator within 5 working days of the meeting.

* 1. If you do not engage in the Stage 2 meetings, you may be referred to Stage 3 of the procedure.

**Stage 3 – Serious Concerns – Formal Hearing**

* 1. Stage 3 will be initiated if it is deemed that the severity or persistence of the situation warrants action to be initiated at this stage, or where Stage 1 and/or Stage 2 has not been successful. In either situation, the Lead Person will refer the case to the Director of Student Services or nominee.
	2. The Student Services Administrator will arrange a hearing with you, the Director of Student Services (or nominee), the Dean of Faculty (or nominee) and other relevant staff as appropriate. You will be given 5 working days’ notice of this hearing (unless circumstances are such that a shorter period of notice is required). The hearing will be chaired by the Director of Student Services (or nominee) and notes of the hearing will be taken by the Student Services Administrator.
	3. In the event that you are unable to attend the hearing, every reasonable effort will be made to accommodate you. However, if this is not possible the hearing may take place in your absence. In this case you are strongly encouraged to submit a written statement for consideration.
	4. The following information will be required at the hearing:
* Notes of meetings and evidence gathered;
* Any additional written comments on your conduct and/or health, explaining why there is concern as to the your ability to study;
* Factual information about your progress on the course;
* Any other relevant documentation;
* Your personal statement (see point 3.3).

 All documentation will be sent to a Student Services Administrator.

* 1. In advance of the hearing, copies of all relevant documentation will be provided to you, in an appropriate format and, if necessary, documents may be anonymised. In addition you will be given an opportunity to provide additional documentation that you feel will be pertinent to your situation. All documentation will be circulated to the hearing attendees.
	2. You are able to have a support person with you at any discussions, meetings or hearings, such as a friend or representative from the Students’ Union. The role of the support person is to provide support during the meeting. Their role is not to represent you, advocate on your behalf or to speak for you. You cannot send any other person to the meeting on your behalf. The Chair reserves the right to refuse the attendance of a support person if it is determined that there is a conflict of interest relating to the nominated person, in which case, you will be given the opportunity to nominate a different support person.
	3. The Chair of the meeting reserves the right to accept or refuse a request for a legal representative to attend, depending on whether a good reason is provided. Any such requests must be sent to Student Services in the first instance. Should such a request be approved, the University reserves the right to also have a legal representative in attendance. Legal representatives will be clearly informed of the nature of the proceedings, ie, that they are not a legal process and will not be conducted as such.
	4. At the hearing, the Chair will outline the concerns, with reference to any relevant documentation. You will be given the opportunity to present your perception of the situation and to respond to the concerns raised. Others present at the hearing will be invited to ask any questions or raise any issues that they consider are relevant to the deliberations.
	5. Having ensured that all pertinent information has been provided the Chair will adjourn the hearing.
	6. The Chair, the Dean of Faculty (or nominee) and other relevant staff in attendance at the hearing will then consider the information provided. Options for action will include:-
* Disciplinary action (e.g. initiating student conduct procedure);
* Implement additional support;
* A change of mode of study;
* Suspension from studies (for the remainder of the academic year);
* Expulsion from studies;
* Defer the case;
* Dismiss the case.
	1. Where it is concluded that further documentation needs to be considered, the decision will be deferred to allow this to be obtained. A deadline for obtaining the documentation will be set as appropriate.
	2. The Student Services Administrator will arrange a further meeting with you within 5 working days of the hearing in order for you to be informed of the agreed course of action. This meeting will be attended by a member/members of University staff as appropriate
	3. You are able to have a support person with you at any discussions, meetings or hearings, such as a friend or representative from the Students’ Union. The role of the support person is to provide support during the meeting. Their role is not to represent you, advocate on your behalf or to speak for you. You cannot send any other person to the meeting on your behalf. The Chair reserves the right to refuse the attendance of a support person if it is determined that there is a conflict of interest relating to the nominated person, in which case, you will be given the opportunity to nominate a different support person.
	4. The Chair of the meeting reserves the right to accept or refuse a request for a legal representative to attend, depending on whether a good reason is provided. Any such requests must be sent to Student Services in the first instance. Should such a request be approved, the University reserves the right to also have a legal representative in attendance. Legal representatives will be clearly informed of the nature of the proceedings, ie, that they are not a legal process and will not be conducted as such.
	5. The Student Services Administrator will ensure that you are provided with a written record of the hearing and further meeting and the decided actions, within 5 working days of the further meeting.
	6. In the event that you are unable to attend the further meeting, every reasonable effort will be made to accommodate you. However, if this is not possible the agreed course of action will be communicated to you in writing within five working days of the hearing by email and/or first-class post to your last known address. Such dispatch will be deemed sufficient and complete discharge of the duty to inform you. Should further information be required in order to reach a decision you will be informed of any delays.

**Return to Study**

* 1. Where suspension from studies has been deemed necessary, unless you advise that you do not wish to return to studies, you will be contacted by the Student Services Administrator to arrange a review meeting with relevant academic and support staff prior to your anticipated return. This meeting is to discuss and ensure any appropriate support mechanisms are put in place. You may wish to provide relevant medical evidence for consideration at the meeting. Notes of the meeting will be taken by the Student Services Administrator.
	2. Exceptionally, a further suspension will be arranged where this appears to still be justified by evidence discussed at the meeting.
	3. Where it is concluded that you are now able to return to study a ‘Return to Study Plan’ will be agreed at the meeting. This should address any specific study-related support needs you have to enable a successful return to studies. It will also be determined who will be responsible for undertaking the necessary action(s) outcome and who may need to be informed of this; dates for any review meetings will also be set.
	4. The Student Services Administrator will ensure that you are provided with a written record of the meeting and the action plan within 5 working days of the meeting. You will be required to confirm acceptance of the plan via emailwithin 5 days of it being sent to you if you. You will only be allowed to return to studies when an agreed plan is in place.

**Request for Review**

5.1 You have the right to request a review of a Stage 3 Fitness to Study outcome. The request for review should be submitted on the Fitness to Study Request for Review Form within 10 working days of the decision having been communicated to you and should be submitted to: studentcasework@southwales.ac.uk.

* 1. A suspension from studies or expulsion from studies will remain in place pending a decision in respect of your request.
	2. A request for review may only be submitted on one or more of the following grounds:
1. That new evidence or extenuating circumstances have become known, which you could not have reasonably made known at the time of the original meeting/hearing/investigation. *(NB Sensitive personal, family or cultural reasons will not be accepted as good reason.)*
2. That there were irregularities in the application of the procedure of such a significant nature as to cause reasonable doubt as to whether the same decision would have been reached had they not occurred.
3. That you have clear evidence of bias or prejudice in the way that the procedure was implemented.
4. That the original penalty/decision was excessive.
	1. The request for review of a fitness to study outcome must set out clearly the grounds on which it is being submitted and must be accompanied by supporting evidence that substantiates one or more of the grounds as set out above.
	2. The Associate Registrar: Student Casework (or nominee) will consider the request for review and the accompanying evidence and decide whether to refer it to a Review Panel or whether it should be dismissed as it does not meet the specified grounds.
	3. If the request for review is referred to a Review Panel a hearing will be held. This will be arranged by the Student Casework Unit and you will be invited to make representations in writing or in person. You may be accompanied to the hearing.
	4. The Review Panel will consist of the Vice-Chancellor (or nominee) and another senior member of University staff who has had no previous connection with the case.
	5. The decision of the Panel considering your request for review will be final and you will be notified of the decision within a period of 5 working days following the meeting. If your request for review is unsuccessful, you will be issued with a Completion of Procedures Letter.
	6. There shall be no further appeal within the University.

**Office of the Independent Adjudicator**

6.1 If your appeal is unsuccessful, following issue of a Completion of Procedures letter, you may lodge a complaint with the Office of the Independent Adjudicator (OIA). Details of the OIA and the relevant information in relation to the Scheme can be accessed at [www.oiahe.org.uk](http://www.oiahe.org.uk). Further information and advice can be obtained from the Student Casework Unit, Academic Registry.

**Data Protection Issues**

7.1 All University staff are governed by the requirements of the UK’s data protection laws. Under this act, all data relating to a person’s physical or mental health is regarded as sensitive, personal data. The University's policy on data protection[[1]](#footnote-1) contains guidance on the use of sensitive information.

**Confidentiality**

8.1 A student’s personal and sensitive personal data may be disclosed as appropriate where a member of staff considers that there are legitimate reasons under the UK’s data protection laws for doing so.

**Implementation**

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|  | **Position(s)** |
| **Owner***The position in the University that is accountable for ensuring that these regulations are applied correctly* | Director of Student Services |
| **Implementation***The person(s) responsible for ensuring that these regulations operate as required on a daily basis* | Wellbeing and Disability Service Manager |
| **Delivery***Which positions are involved in delivering these regulations* | All staff who interact with the student |

**Appendix 1**

**Relationship with other University Regulations, Policies and Procedures**

The Fitness to Study Regulations have been developed by the University to manage situations where, in light of concerns regarding a student’s health or wellbeing, the University considers it inappropriate to implement other student processes, such as the Student Conduct Regulations.

There may, however, be situations where it is appropriate to implement alternative University regulations/procedures and the University is not prevented from doing so, notwithstanding concerns regarding the student’s health or wellbeing.

Lack of Engagement

Where a student is not engaging on their course as set out in A.2.4 of the Regulations for Taught Causes and exhibits behaviour, which it is considered, may be as a result of an underlying physical or mental health problem, this should be dealt with under the Fitness to Study Regulations in the first instance.

Student Conduct Regulations and Procedure

Where the student exhibits behaviour which it is considered may be as a result of an underlying physical or mental health problem, this should be dealt with under the Fitness to Study Regulations in the first instance.

The University reserves the right to use the Student Conduct Regulations in all cases, but particularly if the student refuses to engage with the support offered. Any action taken up to that point under the Fitness to Study Regulations will be made available to the investigating officer.

Fitness to Practise Regulations and Procedure

The Fitness to Study Regulations run in parallel to the Fitness to Practise Regulations to enable flexibility of student support according to the individual needs of students, enabling students to continue studying on a course with PSRB requirements where possible, whilst still ensuring service user safety.

Regulations for Misconduct in University Halls of Residence

Where the student exhibits behaviour which it is considered may be as a result of an underlying physical or mental health problem, this should be dealt with under the Fitness to Study Regulations in the first instance.

The University reserves the right to use the Regulations for Misconduct in University Halls of Residence, particularly if the student refuses to engage with the support offered. Any action taken up to that point under the Fitness to Study Regulations will be made available to the relevant colleague investigating the incident.

1. University of South Wales Data Protection Policy

<http://uso.southwales.ac.uk/ig/dp/> [↑](#footnote-ref-1)