



# FITNESS TO PRACTISE PROCEDURE 2021/2022

<b>Title:</b> Fitness to Practise Procedure					
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## **SECTION ONE: INTRODUCTION**

- 1.1 The Fitness to Practise Procedure should be read in conjunction with the Student Code of Conduct, which details expectations of behaviour.
- 1.2 This Procedure relates to courses that lead to professional registration, both initial and/or further annotation/registration, and/or a license to practise in a professional context and are characterised as being service-centred/client-centred/patient-centred and directed towards the achievement of professional competence and/or professional registration. Additionally, this Procedure may apply to courses which facilitate entry to courses which lead to professional registration and/or a license to practice (please see Appendix 1).

## **SECTION TWO: GENERAL PRINCIPLES**

- 2.1 The University will when necessary, take action under its Fitness to Practise Procedure to:
  - protect present or future patients, service users or clients (ie, public protection);
  - demonstrate robust processes to protect the public;
  - comply with the requirements of professional bodies.

In its application, the University's Fitness to Practise Procedure protects the University if in future an employer, and/or the general public and/or ex-students were to question our process and subsequent decision making.

- 2.2 The outcome of any fitness to practise or review hearing will be determined on the balance of probabilities<sup>1</sup>, according to reasonable belief that the allegation is more likely to be true than not, based on the evidence presented. The burden of proof determines whose responsibility it is to prove an issue. In relation to fitness to practise allegations, the burden of proof rests with the University.
- 2.3 The University has a responsibility to provide an environment that is safe, respectful and tolerant. This includes the University setting and any practice setting utilised as part of a student's programme of study. Consequently, it is expected that students, their representatives and staff members act reasonably, professionally and fairly towards each other and treat the process with respect.
- 2.4 In implementing this Procedure, the University will ensure that students are informed of the case against them and provided with a proper opportunity to reply to that case before any decision is made.
- 2.5 Allegations made anonymously will not normally be accepted by the University. In addition, the University will not normally take into account witness statements, where the witness requires that they remain anonymous.
- 2.6 If any witnesses (who are students of the University and have provided evidence regarding the case) are dissatisfied with the way in which the Procedure has been handled, they may be able to submit a complaint using the Student Complaints Procedure.

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<sup>1</sup> This means that the circumstances were more likely than not to have happened. This is a lower standard than 'beyond reasonable doubt'.

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- 2.7 The University recognises that with advances in modern technology, it is easier to make covert recordings ie, recordings of meetings or conversations made without the consent of the participants. Where recordings are made of telephone calls, this activity is likely to be in breach of the Regulation of Investigatory Powers Act 2000/Investigatory Powers Act 2016 (as appropriate). In the case of recordings of face-to-face meetings, the material gained is likely to be held in breach of the participant's Article 8 rights (to a private and family life) under the Human Rights Act and the UK's data protection regulations.

In addition, a recording should only be used for the purpose for which it was made and should not be made available to a third party without the consent of the individual it refers to, unless there is lawful reason to do so.

For these reasons, the University will only permit the use of such recordings in fitness to practise cases, in exceptional circumstances.

The facts that will be considered are:

- The extent to which the evidence is relevant to the issues in the case, including considering the nature of the evidence and if other, more cogent evidence is available.
  - The extent to which the evidence has been obtained unlawfully or its use otherwise interferes with privacy rights.
  - The extent to which the evidence can be relied upon from a technical perspective given that it is possible to manipulate recorded material.
- 2.8 New or amended allegation(s) that are made or come to light during the course of an investigation, will be communicated to the student in writing. The student will be given the opportunity to comment on the new/amended allegation(s) and this will be provided to all relevant parties.
- 2.9 Details on responsibilities for communication at each stage of the Fitness to Practise Procedure are included in the Communication Plan.
- 2.10 A list of **non-exhaustive** examples of possible misconduct are included in the Code.
- 2.11 The Academic Registrar (or nominee) has the authority to approve amendments to the panel composition if required.
- 2.12 Allegations should be brought as soon as reasonably possible and ordinarily no later than three months after the last instance giving rise to the allegation. The exception to the ordinary timeframe of three months is for any case involving an allegation of misconduct which is also a criminal offence (see section 6.13) or unless there is a good reason why the allegation of misconduct was not brought within three months.

### **SECTION THREE: ADVICE AND SUPPORT**

- 3.1 The University is committed to safeguarding the emotional, mental and physical well-being of all parties involved during the operation of its Fitness to Practise Procedure.
- 3.2 The Student Casework Unit provides authoritative, formal guidance to staff and students on the applicability and operation of the Fitness to Practise Procedure.

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### **Advice and support for students**

- 3.3 It is recognised that bringing an allegation of misconduct or being the subject of an allegation of misconduct can have an adverse impact on the welfare of students. Confidential advice and support are available from:

The Students' Union - <https://www.uswsu.com/academic>

The University's Wellbeing Services - <http://thewellbeingservice.southwales.ac.uk/>

The Chaplaincy - <http://chaplaincy.southwales.ac.uk/>

- 3.4 Students who are investigated through this Procedure, or students who have reported a concern about a fellow student, will be referred to the Advice Zone and the University's Extenuating Circumstances Procedure, if there is reason to believe that the case has affected their academic studies.
- 3.5 Students are able to have a support person with them at any discussions, meetings or hearings, for example a representative from the Students' Union or friend. The role of the support person is to provide support during the meeting. Their role is normally not to represent the student, or to advocate on their behalf or to speak for them, unless this has been agreed as a reasonable adjustment due to a disability. The student cannot send any other person to the meeting on their behalf. At least 48 hours before the meeting, they must advise the University of the name and status of the person accompanying them. It is strongly recommended that the student seek support from the Students' Union or Chaplaincy as they are independent and familiar with the regulations and procedures of the University.
- 3.6 The Head of Student Casework (or nominee) 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, the student will be given the opportunity to nominate a different support person.
- 3.7 The Head of Student Casework (or nominee), in conjunction with the Dean of Faculty/Investigating Officer/Chair of the hearing, reserves the right to accept or refuse a request for a legal representative to attend, depending on whether a good reason is provided and the complexity and seriousness of the case. Any such requests must be sent to the Student Casework Unit. 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.

### **Mitigating factors**

- 3.8 The University will consider mitigating factors when deciding on a penalty in relation to upheld allegations regarding a student's fitness to practise.
- 3.9 The student should inform the Student Casework Unit at the earliest opportunity of any mitigating factors that they wish taken into account. Where appropriate, students will need to evidence any mitigating factors that they wish to rely on.
- 3.10 Examples of mitigating factors that the University may take into account include (but are not limited to):
- admitting to, and demonstrating genuine remorse for actions;

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- where an act is committed without sufficient consideration of the impact/consequences, rather than maliciously;
- the impact of ill health;
- extreme personal circumstances.

3.11 In certain cases, the University may decide to put this Procedure on hold pending further advice or may refer a student to the Fitness to Study Regulations.

#### **Advice and support for staff**

3.12 It is recognised that dealing with fitness to practise matters can cause pressure for staff. The University offers a Staff Support Scheme, details of which can be found on the Human Resources website. In addition, the Chaplaincy has considerable experience of dealing with sensitive matters and is available to offer formal and informal confidential advice and support.

### **SECTION FOUR: PROFESSIONAL STANDARDS**

#### **Professional misconduct**

4.1 The Code includes a list of **non-exhaustive** examples of behaviour and conduct, which would constitute professional misconduct and thereby trigger an investigation of a student's fitness to practise. These apply to all aspects of a student's professional and personal life, including online activity and social networking.

#### **Professional unsuitability**

4.2 Professional unsuitability may be demonstrated in various ways. The following are common indicative examples:

- a) Persistent, inappropriate attitude or behaviour which may be manifested by:
- failure to accept and follow advice from the University or placement/practice learning provider;
  - failure to follow recommended procedures/practices that may put other people, clients, students, staff at risk of harm;
  - persistent lack of motivation or interest and/or non-participation in learning activities (eg practice learning/placements, presentations, timetabled academic sessions, academic or pastoral tutorials, clinical skills sessions, direct client care);
  - non-attendance at class, practice learning/placement or other relevant appointment;
  - poor application to and failure to submit work;
  - continuously failing required professional competencies/proficiencies.
- b) Unprofessional behaviour which may be manifested by:
- misuse of the internet and social networking sites;
  - failure to keep appropriate professional or sexual boundaries;
  - breach of confidentiality;
  - unlawful discrimination;
  - persistent rudeness to people, colleagues or others;

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- unsocial behaviour that adversely affects the proper operation of the professional practice context;
- dishonesty.

### **Health concerns**

- 4.3 The University recognises that students may have, or may develop, health conditions that may impact upon their fitness to practise. In most cases, health conditions (including disabilities) will not raise concerns in relation to a student's fitness to practise. The University's inclusive practices and procedures are primarily designed to meet the needs of students with disabilities; further adjustments can also be made to ensure students are not disadvantaged due to a health condition/disability, taking into consideration any health and safety issues. Students may also be asked to adjust their practice to ensure they are able to study and work safely and effectively.
- 4.4 Unfortunately, there may be circumstances when a student's fitness to practise is impaired and it is not possible to provide reasonable adjustments due to health and safety/other restrictions. This may make it impossible for a student to graduate with a professionally approved/accredited award, preventing them from entering further training, registering or obtaining further annotation/registration with the relevant professional body.
- 4.5 The University will consider what evidence, if any, it requires from the student so that it can properly assess their fitness to practise and support them in their studies. This might include medical evidence and/ or occupational health referral. The University will support students in obtaining this evidence, for example, by directing them to the appropriate expert and paying for the report where this is proportionate. The evidence provided by the appropriate expert must reflect the student's fitness to undertake practice safely.

### **Advising students of professional standards**

- 4.6 Each faculty must ensure that its students are aware of the relevant professional standards and should have its own internal arrangements to monitor and ensure the fitness to practise of students.
- 4.7 These arrangements will include:
- provision of a student contract which includes reference to the issue of fitness to practise;
  - provision of advice to students regarding standards of professional behaviour, eg, as described in student handbooks and/or guidelines from appropriate professional bodies;
  - provision of appropriate induction sessions on professional conduct and fitness to practise and what it means;
  - provision of details of the relevant professional body requirements to students, including those relating to the student's eligibility to register and to the dean of faculty's obligation with regard to declaring them fit to practise;
  - provision of a copy of the Fitness to Practise Procedure and the Student Conduct Procedure;
  - a process for identifying alleged cases of unfitness to practise, for carrying out the requirements of this Procedure and of any additional school requirements pertaining to the subject area.

## **SECTION FIVE: LEVEL 1 – PRELIMINARY STAGE**

### **General principles and process**

- 5.1 Any matters that give cause for concern in relation to a student's professional conduct, professional suitability and/or health, must be raised with the appropriate Course Leader, who will discuss the issue with the Head of School/Deputy Head of School/Academic Subject Manager.
- 5.2 In considering whether the concerns raised may be founded the Course Leader/Head of School/Deputy Head of School/Academic Subject Manager will normally meet with the student.
- 5.3 Where it is considered that the concerns raised may be founded, the Course Leader/Head of School/Deputy Head of School/Academic Subject Manager will complete a Cause for Concern/Fitness to Practise Form and submit it to the Student Casework Unit with any appropriate supporting evidence
- 5.4 The Student Casework Unit will write to the student informing them that the case has been referred.

### **Cause for Concern**

- 5.5 The University has established a Cause for Concern Board from which the members of a Cause for Concern Panel will be drawn.
- 5.6 The Cause for Concern Board will be constituted by members of staff who have experience of offering courses governed by the Fitness to Practise Procedure, as follows:
  - twelve members from the Faculty of Life Sciences and Education;
  - two members from the Faculty of Business and Society;
  - two members from the Faculty of Computing, Engineering and Science.

### **Cause for Concern Panel**

- 5.7 The Cause for Concern Panel is a University-level group that considers alleged breaches of professional standards or conduct at level 1 of this Procedure.

### ***Constitution of the Cause for Concern Panel***

- 5.8 The Cause for Concern Panel is constituted as follows:
  - a Chair at Academic Manager level or above from a profession that has a course governed by the Fitness to Practise Procedure;
  - representatives from a minimum of two of the professions that have a course governed by the Fitness to Practise Procedure;
  - nominee of the Head of Student Casework (Secretary).

The Panel may also have present a representative from the practice provider partnership who will attend in an advisory capacity (if appropriate).

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### ***Functions of the Cause for Concern Panel***

5.9 The functions of the Cause for Concern Panel are:

- a) To share expertise and disseminate good practice.
- b) To consider cases of students, who are enrolled on a course leading directly to a professional qualification or further annotation/registration that gives the right to practise a particular profession, which are referred to the Panel on either of the following grounds:
  - any conduct which may call into question a student's fitness to be admitted to and practise in that profession, including academic misconduct; or
  - any health problem, which may call into question a student's fitness to be admitted to or obtain further annotation/registration and practise that profession.
- c) To consider the suspension of students from placement or area of practice learning (see also sections 6.4 - 6.9 'Withdrawal from placement').
- d) To monitor action plans put in place by the Cause for Concern Panel or other staff members of the faculty, either without investigation or as a result of an Investigating Officer's report.
- e) To establish, as far as possible, the facts of the case, decide whether there is a case and if a full investigation is required to determine if there is a case for referral to the Fitness to Practise Committee.

5.10 Following consideration of the case, the Panel may:

- a) Decide there is no case to answer.
- b) Refer the case to be dealt with by other appropriate staff members of the faculty, eg, Personal Tutor/Course Leader/Head of School/Deputy Head of School.
- c) Recommend that an action plan is put in place for the student.
- d) Recommend that the Head of School (or nominee) issues an informal verbal or written warning. The warning will not appear on the student's record.
- e) Refer the case for a full investigation, following which a decision will be made on the most appropriate course of action, ie, referral to a Fitness to Practise hearing or referral back to the Cause for Concern Panel, that will then make a decision on an outcome as detailed under a) to d) above.
- f) Refer the case directly to a Fitness to Practice hearing where a finding is made that the Student has been sentenced by a criminal court in respect of the same facts, the court's penalty will be taken into consideration in determining any penalty under the University's regulations. Further investigation by the University will not be required, as the conviction/caution will be taken as evidence that the behaviour took place.

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In addition to a) to e) above, the Cause for Concern Panel may recommend that the student is suspended from their placement or area of practice learning. This is to be read in conjunction with 5.9 (c) above.

Where further information comes to light during the Cause for Concern procedure and there is a safeguarding issue in relation to the student attending classes, this will be referred to the Risk Assessment Panel for consideration.

The course team will be informed of the outcome.

### **Procedure**

- 5.11 The Cause for Concern Panel will normally be convened on a monthly basis.
- 5.12 The student will be provided with:
- details of the concern that has been raised;
  - information on the purpose of the Cause for Concern Panel and its remit;
  - the date of the Cause for Concern Panel meeting.
- 5.13 The student will not be asked to attend the Cause for Concern Panel meeting but will be given the opportunity to provide a written statement for the Panel's consideration.
- 5.14 The outcome of the Cause for Concern Panel will be provided to the student in writing within five working days of the meeting. Should the Panel require further information in order to reach a decision the student will be informed of any delays.
- 5.15 Students who do not respond to the measures put in place by the Cause for Concern Panel may be subject to referral to the Fitness to Practise Committee, which may impose a more severe penalty.
- 5.16 There is no opportunity to request a review of the decision of the Cause for Concern Panel.

## **SECTION SIX: LEVEL 2 – FORMAL STAGE**

### **Reporting incidents of a serious nature**

- 6.1 Concerns of a serious nature can either be referred by the Cause for Concern Panel or reported directly to the Student Casework Unit using the Fitness to Practise Form. Evidence should be provided, where possible, to support any allegations and this should be submitted in a timely manner.
- 6.2 Where a referral is made directly to the Student Casework Unit the Head of Student Casework (or nominee), in consultation with the Chair of the Cause for Concern Panel, will consider the nature and seriousness of the allegations with a view to deciding whether an investigation should take place or whether the matter should be handled under level 1 of this Procedure.
- 6.3 Where an allegation is made against a group of students, this may be dealt with at one hearing. If this is the case, each student will be given the opportunity to submit a written representation and, at the hearing, to present their case individually. Each

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student will be provided with a copy of the evidence to be considered. The particular circumstances of each student will be taken into account when making decisions.

### **Precautionary action for the purpose of investigation**

#### ***Withdrawal from placement***

- 6.4 A placement provider may withdraw a student from attending placement or area of practice learning, under its own procedures, and/or may seek advice from the University regarding withdrawal, if it asserts that the student is not fit to practise<sup>2</sup>.
- 6.5 The Course Leader (or nominee) should normally be informed immediately of a withdrawal but where circumstances make this impossible, the Course Leader (or nominee) must be informed within two working days. The Course Leader will report the withdrawal to the Cause for Concern Panel
- 6.6 The Course Leader may also instigate the withdrawal of a student from placement or area of practice learning. The Cause for Concern Panel will consider the withdrawal and confirm the outcome to the student.
- 6.7 The case will be presented to the Cause for Concern Panel that may decide that:
- a) The student may continue with the taught element of their studies, pending the outcome of the placement provider's/University's internal investigation.
  - b) The case against the student is sufficiently serious to warrant precautionary action, in which case the Risk Assessment Procedure should be followed (see sections 6.10 to 6.12).
- 6.8 If the student is on a Tier 4 visa, the Course Leader (or nominee) must inform the Head of Compliance, who will report the change in circumstances to UK Visas and Immigration (UKVI).
- 6.9 Where the Cause for Concern Panel decides that a case should be referred for further investigation by the University, this Procedure will be followed.

#### ***Precautionary actions***

- 6.10 A Risk Assessment Panel may be convened to make recommendations in the context of safeguarding<sup>3</sup> the student themselves, the person bringing the allegation, other members of the University community or the University's reputation.
- 6.11 A Risk Assessment Panel or in certain cases, due to the urgent or sensitive nature of the matter, the University Secretary (or nominee), may approve a precautionary action until a hearing takes place and a conclusion has been reached.
- 6.12 Further information on the process can be found in the Risk Assessment Procedure.

#### **Criminal offences**

- 6.13 Where a fitness to practise issue is also a criminal offence, sections 6.7 to 6.10 of the Student Conduct Procedure will be followed where applicable.

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<sup>2</sup> See also the *Partnerships Manual* - <https://academicregistry.southwales.ac.uk/gae/>

<sup>3</sup> The term safeguarding is used here to refer to the protection of health, well-being and rights of individuals.

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6.14 A driving offence may be considered under the Fitness to Practise Procedure. In considering whether a driving offence calls into question a student's fitness to practise, the following will be taken into account:

- the nature of the offence;
- whether the offence occurred in the course of undertaking professional duties;
- if it is a repeat offence;
- whether there are other circumstances connected with the offence.

### **Investigations into fitness to practise cases**

6.15 An Investigating Officer will be appointed by the relevant Dean of Faculty (or nominee). The Investigating Officer will be from outside the school in which the student is based and will have no prior knowledge of the case.

6.16 The student will be informed in writing, of the nature and seriousness of the allegations, that they are the subject of an investigation, and the identity of the Investigating Officer who will look into the case against them.

6.17 The Investigating Officer will conduct an investigation of the allegations within 30 working days from referral of the case. The timescale may be extended by agreement with the student who is the subject of the allegations or, in exceptional circumstances, by the University.

6.18 Any meetings with the student will be held on their campus unless, due to the nature of the allegations, this is inappropriate. The student is able to attend any meetings via electronic means, eg, via video conference; the Student Casework Unit must be informed in writing no later than five working days in advance of the meeting so that the relevant arrangements can be made. The Student Casework Unit will correspond with the student in relation to any delays in the process.

6.19 As part of the investigation, a student may be required to agree that a medical report is requested in respect of their medical condition by the Investigating Officer. The student will also be required to agree to the disclosure of any such report to the extent necessary for the proper conduct of the investigation and any subsequent proceedings. This requirement may extend to other reports, including reports from social workers, probation officers and the police. The University will bear any costs of such reports.

6.20 The Investigating Officer will prepare a report on the investigation and a decision will be made on whether the matter should be considered under level 1 of this Procedure or be referred to a Fitness to Practise Committee hearing.

6.21 Where an investigation highlights the need for the Fitness to Study Regulations to be accessed, the nature and length of the investigation may require adjustment from the usual form, or may be suspended pending the outcome of investigations under the Fitness to Study Regulations.

6.22 Following completion of the investigation, the Investigating Officer's report will be presented to the Dean of Faculty (or nominee). The Dean of Faculty (or nominee) will liaise with the University Secretary/Head of Student Casework (or nominee) as necessary. A decision will be taken as to whether there is a case to answer and, if so, whether the case should be referred to level 1 of this Procedure or be referred to a Fitness to Practise Committee hearing.

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## **Fitness to Practise Committee**

### ***Timescales***

- 6.23 The Fitness to Practise Committee hearing will be convened within 20 working days of submission of the Investigating Officer's report to the Student Casework Unit. This timescale may be extended by agreement with the student who is the subject of the allegations or, in exceptional circumstances, by the University.

### ***Constitution of the Fitness to Practise Committee***

- 6.24 The Fitness to Practise Committee is constituted as follows:

- one senior staff member at Head of School level or above with experience of fitness to practise (Chair);
- one member drawn from the academic staff of schools of the faculty which have fitness to practise requirements and have the required professional registration to meet professional body standards;
- an external practitioner drawn from the relevant profession;
- the President of the Students' Union (or nominee)<sup>4</sup>.

A Secretary, who is not a member but will be present throughout the proceedings, will service the Committee. The Secretary will be the Head of Student Casework (or nominee).

The members of the Fitness to Practise Committee will have had no previous involvement with the case or association with the student. The Students' Union representative will not have previously supported the student during the case.

The student will be informed of the constitution of the Committee prior to the documentation being circulated and will be given the opportunity to raise any concerns in relation to membership, for example if they have grounds to consider that a member may be biased.

In circumstances where each member of the Committee has exercised their deliberative vote and there is a tie, the Chair will have the casting vote.

### ***Functions of the Fitness to Practise Committee***

- 6.25 The functions of the Fitness to Practise Committee are:

- a) To consider cases of students, who are enrolled on a course leading directly to a professional qualification or further annotation/registration that gives the right to practise a particular profession, which are referred on either of the following grounds:
- any conduct which may call into question a student's fitness to be admitted to and practise that profession, including academic misconduct, or
  - any health problem, which may call into question a student's fitness to be admitted to or obtain further annotation/registration and practise that profession.

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<sup>4</sup> The Students' Union representative will be independent and will have no prior knowledge of your case

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- b) To hear appeals from students who have been refused confirmation of their declaration of good character and/or good health or similar.
- c) To consider reports from Investigating Officers.
- d) To establish, as far as possible, the facts of the case.

**Potential outcomes**

6.26 Following consideration of the case, the Committee may:

- a) Decide there is no case to answer.
- b) Permit the student to continue with the course under close supervision and/or specified conditions.
- c) Issue a formal written warning. The formal written warning will be held on the student's file for a specified period and may be commented upon in any references provided.
- d) Issue a final written warning. The final written warning will be held on the student's file for a specified period and may be commented upon in any references provided.
- e) Suspend the studies of the student for a specified period.
- f) Require that the student's studies on a course leading to a professional qualification or further annotation/registration be terminated but the student is able to:
  - transfer their credit onto another course, subject to them having met any specified entry criteria and the course leader of the receiving course, in liaison with the faculty representative, having undertaken the appropriate mapping exercise. The student will be supported by the faculty in this process;
  - apply for admission as a new entrant through the normal procedures.

The student will not be able to transfer their credit onto certain courses, including those that lead to a professional qualification that is subject to the Fitness to Practise Procedure. This also applies to courses leading to further annotation/registration. The decision of the Committee will be communicated to staff that require the information to make a decision on transfer/admission.

- g) Require that the student's studies on the course be terminated and that their enrolment as a student should cease.

6.27 If the decision of the Committee is to suspend or terminate the studies of an international student on a Tier 4 visa the Head of Compliance must be informed immediately as these penalties are subject to Tier 4 visa regulations.

6.28 Where enrolment is allowed to continue on a course under specified conditions (see section 6.26 b)) the Cause for Concern Panel will monitor progress and report any failure to meet the conditions to the Secretary of the Committee and, in the case of international students on a Tier 4 visa, the Information Compliance Manager.

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- 6.29 Sanctions, other than suspension and expulsion, should only be imposed after the request for review period has expired.
- 6.30 Any repeated occurrences of a similar offence, or failure to comply with a penalty imposed by the Fitness to Practise Committee, may result in a more severe penalty.

***Paperwork required for hearings***

- 6.31 When a student is referred to a Fitness to Practise Committee hearing, the following information will be required:
- the student's personal statement;
  - the Investigating Officer's report, minutes of meetings and evidence gathered;
  - any additional written comments on the student's conduct and/or health, explaining why there is concern as to the student's fitness to practise;
  - factual information about the student's professional progress on the course;
  - Fitness to Practise Procedure;
  - the relevant professional body code of conduct or equivalent;
  - any other relevant documentation.
- 6.32 All documentation will be sent to the Secretary of the Fitness to Practise Committee hearing.
- 6.33 The Secretary will send to the student a copy of all documentation received and will notify both parties of the date of the hearing as soon as possible and in any event, not less than 10 working days before the hearing.
- 6.34 The student will be invited to set out their case in writing prior to the hearing; this statement should detail any mitigating factors the student wishes the Fitness to Practise Committee to take into account. Copies of any relevant documentation should be enclosed, including testimonials from witnesses. These should be sent to the Secretary not less than five working days before the hearing.
- 6.35 It is the student's responsibility to provide any written material in support of their case. The Secretary will circulate written material, submitted by the student, at least three working days before the hearing.
- 6.36 Depending on the circumstances of the case and the nature of the allegations, and where it is deemed appropriate by the Chair of the Fitness to Practise Committee, any party impacted by the alleged actions of the student may be invited to submit an Impact Statement.
- If the student admits responsibility, the Impact Statement may be provided to, and discussed with them before the outcome and penalty is agreed.
- If the student denies responsibility, the Impact Statement will be reviewed by the Fitness to Practise Committee only if the allegation is upheld, and before a penalty is determined, to assist the Committee in deciding on an appropriate penalty.
- 6.37 The Disciplinary Committee will not receive written material that has not also been made available to the student prior to making their decision.
- 6.38 Any written communication will be sent to the student's University and personal email accounts. Additionally, notification may be sent by the most appropriate postal route

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to their last recorded address. This will be deemed to be sufficient and complete discharge of the University's duty to inform the student.

### ***Attendance at hearings***

- 6.39 Students will be provided with a date for their hearing. Should the student require a revised date the hearing will be rearranged once only. Students should inform the University at least 48 hours in advance of the original hearing if they require a revised date. Should a student not attend a hearing, it will take place in their absence; in that case, however, students are strongly advised to provide a written submission for the Committee.
- 6.40 Students are able to call witnesses to support their case. The Student Casework Unit must be informed by the student of any witnesses that will be attending at least 48 hours in advance of the hearing. The student is responsible for ensuring that any witnesses they wish to call are notified of the date, time and venue for the hearing.
- 6.41 The University may require members of staff and any other persons relevant to the case to attend the hearing as witnesses, if appropriate. The student will be informed of the names of witnesses prior to the hearing.
- 6.42 The student and their witnesses will be required to attend the hearing of the Fitness to Practise Committee in person and may not send any other person on their behalf. However, they are able to request attendance at the hearing via electronic means, eg, via video conference. Any party requiring attendance at a hearing via electronic means must inform the Student Casework Unit in writing no later than five working days in advance of the hearing. Where this has been agreed, the Student Casework Unit will inform members of the Fitness to Practise Committee in advance of the meeting and facilitate this with the individuals involved.
- 6.43 At the Fitness to Practise Committee hearing, the school's case will be presented by the Investigating Officer or a representative of the school should the Investigating Officer be unable to attend.

### ***Outcomes of hearings***

- 6.44 The outcome of the Fitness to Practise Committee will be provided in writing within five working days of the hearing to the student's University and personal email accounts. Additionally, notification may be sent by the most appropriate postal route to their last recorded address. This will be deemed to be sufficient and complete discharge of the University's duty to inform the student.

## **SECTION SEVEN: LEVEL 3 - REQUEST FOR REVIEW**

### **General principles**

- 7.1 Students have the right to request a review of the penalty imposed by the Fitness to Practise Committee.
- 7.2 The request for review must be submitted to the Student Casework Unit on the correct form and should be received within 10 working days of the formal notification of the outcome of the Fitness to Practise Committee.

This document is available in Welsh. Mae'r ddogfen hon ar gael yn Gymraeg.

### **Grounds for review**

7.3 A review can be requested under the following grounds:

- a) That new evidence or extenuating circumstances have become known that are relevant to the case, which the student **could not** have reasonably made known at the time of the original hearing. (*NB Sensitive personal, family or cultural reasons will not be accepted as good reason.*)
- b) That there were irregularities in the conduct of proceedings of such a significant nature as to cause reasonable doubt as to whether the Committee would have reached the same decision had they not occurred.
- c) That the findings and recommendations of the Committee were disproportionate, given the circumstances of the case.

7.4 It is the student's responsibility when requesting a review to demonstrate, on the balance of probabilities, that there is evidence to show that one or more of the grounds stated in section 7.3 applies.

### **Consideration of the request for review**

7.5 If the University Secretary (or nominee), after considering the student's request for review, concludes that:

- a) the request for review was not submitted within the specified timescale;
- b) the request for review did not meet the grounds set out in section 7.3;
- c) the grounds for review were deemed to be vexatious or frivolous;

the request for review will be disallowed and the original decision will stand. The student will be issued with a University Completion of Procedures Letter within five working days.

7.6 If the University Secretary (or nominee) considers that there are grounds for review, the case will be referred to a Review Panel.

7.7 The decision of the University Secretary (or nominee) will be communicated to the student within five working days of receipt of the request for review.

### **Review Panel**

#### ***Timescales***

7.8 The Review Panel hearing will be convened within 20 working days of the decision of the University Secretary to refer the case. This timescale may be extended by agreement with the student who is the subject of the allegations or, in exceptional circumstances, by the University.

#### ***Constitution of the Review Panel***

7.9 A Review Panel is constituted as follows:

- Vice-Chancellor (or nominee);
- member of senior management.

This document is available in Welsh. Mae'r ddogfen hon ar gael yn Gymraeg.

In the case of a difference of opinion between the two members of the Panel, the Vice-Chancellor (or nominee) will have the casting vote.

The Panel may request that an individual from outside the University but practising at a senior level in the student's profession attends in the capacity of an advisor; this could be in an educational capacity.

The hearing will be serviced by a Secretary who is not a member but will be present throughout the proceedings. The Secretary will be the Head of Student Casework (or nominee).

The members of the Review Panel will have had no previous involvement with the case or association with the student.

### ***Functions of the Review Panel***

7.10 The Review Panel may decide that:

- a) The outcome of the Fitness to Practise Committee should be upheld.
- b) The outcome of the Fitness to Practise Committee should not be upheld and that:
  - i. the Fitness to Practise Committee made procedural errors and/or errors of judgement and a new Fitness to Practise Committee should be convened to hear the case afresh, or
  - ii. the outcome of the Fitness to Practise Committee was disproportionate given the circumstances of the case and a more proportionate outcome should be substituted.

### ***Paperwork required for hearings***

7.11 The following paperwork will be provided to the Review Panel:

- Request for Review form and supporting evidence;
- student's statement;
- paperwork considered by the Fitness to Practise Committee;
- minutes of the hearing of the Fitness to Practise Committee;
- outcome letter to the student.

### ***Attendance at hearings***

7.12 The student will not normally be required to attend the hearing of the Review Panel.

### ***Outcome of hearing***

7.13 The decision of the Panel will be final and will be notified to the student within a period of five working days following the hearing to the student's University and personal email accounts. Additionally, notification may be sent by the most appropriate postal route to their last recorded address. This will be deemed to be sufficient and complete discharge of the University's duty to inform the student.

This document is available in Welsh. Mae'r ddogfen hon ar gael yn Gymraeg.

- 7.14 If the review is successful, the University will ensure, so far as possible, that the student has not been disadvantaged by any disciplinary action or suspension.

#### **SECTION EIGHT: INFORMING PROFESSIONAL BODIES / LOCAL AUTHORITIES / DISCLOSURE AND BARRING SERVICE (DBS)**

- 8.1 Certain professional bodies require the University to inform them as soon as an investigation is instigated under this Procedure and then to inform them of the outcome.
- 8.2 For all other professional bodies, once the University's Procedure has been completed the most senior registrant within the faculty will inform the relevant professional body/local authority of the outcome reached.
- 8.3 The University is required to report serious concerns to the Disclosure and Barring Service (DBS). A referral to the DBS may take place at any point during the consideration of a case under this Procedure.<sup>5</sup>

#### **SECTION NINE: OFFICE OF THE INDEPENDENT ADJUDICATOR**

- 9.1 If the student is unhappy with the outcome of the Fitness to Practise Committee or if their request for review is unsuccessful they may, following issue of a University Completion of Procedures Letter, lodge a complaint with the Office of the Independent Adjudicator (OIA).
- 9.2 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.

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<sup>5</sup> The gov.uk site details our legal duty to refer: <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#>

## Appendix 1

Course	Accrediting/Regulatory Body
Nursing courses leading to registration	Nursing and Midwifery Council (NMC)
Midwifery courses leading to registration	
MSc/BSc Specialist Community Public Health Nursing (all pathways)	
MSc/BSc Community Health Studies (all pathways)	
Return to Practice	
Prescribing V100 and V150	
Independent Prescribing	Nursing and Midwifery Council (NMC), Health and Care Professions Council (HCPC), General Pharmaceutical Council
Master of Chiropractic	General Chiropractic Council (GCC)
Social Work	Social Care Wales (CCW)
BSc (Hons) Psychology with Behaviour Analysis	Behavior Analyst Certification Board (BACB)
MSc Behaviour Analysis and Therapy	
PG Dip Behaviour Analysis Supervised Practice	
BSc Systemic Counselling	British Association for Counselling and Psychotherapy (BACP)
MSc Systemic Psychotherapy	The Association for Family Therapy and Systemic Practice (AFT)
PgD Systemic Practice in Psychotherapy	The Association for Family Therapy and Systemic Practice (AFT)
MA/PGDip Integrative Counselling and Psychotherapy	British Association for Counselling & Psychotherapy (BACP) Dip level
MSc/PGDip Cognitive Behavioural Psychotherapy	
MSc Play Therapy	British Association of Play Therapists (BAPT)
MA Art Psychotherapy	Health and Care Professions Council (HCPC)
MA Music Therapy	
Postgraduate Certificate Cognitive Behavioural Therapy Skills Postgraduate Certificate Integrative Counselling Skills	Entry requirement for MA Integrative Counselling and Psychotherapy and MSc Cognitive Behavioural Psychotherapy - British Association for Counselling and Psychotherapy
Teaching courses with QTS	Education Workforce Council (Wales)

UCert Further Professional Development for Returning and Supply Teachers	Education Workforce Council (Wales)
PcET Professional Certificate in Education and Training (PcET)	Education Workforce Council (Wales)
PcET Professional Graduate Certificate in Education and Training (PcET)	Education Workforce Council (Wales)
PcET Postgraduate Certificate in Education and Training (PcET)	Education Workforce Council (Wales)
BA (Hons) Youth and Community Work	Professional endorsement by Education and Training Standards Committee Wales
BA (Hons) Youth and Community Work (Youth Justice)	Professional endorsement by Education and Training Standards Committee Wales
MA/PgD Working for Children and Young People (Youth Work Initial Qualifying Youth)	Professional endorsement by Education and Training Standards Committee Wales
MA/PgD Counselling Children and Young People	Seeking CPD accreditation; aligned with BACP curricula
MA/PgD Consultative Supervision	Seeking CPD accreditation; aligned with BACP curricula
BA (Hons) Early Years Education and Practice	Social Care Wales
Professional Doctorate in Counselling Psychology (D Psych)	British Psychological Society (BPS) and Health and Social Care Professional Council (HCPC)
PG Diploma SEN/ALN (Specific Learning Difficulties)	British Dyslexia Association
BA Counselling and Therapeutic Practice	Seeking accreditation with British Association for Counselling & Psychotherapy (BACP)
Cert HE Counselling Studies	Route to admission to the BA Counselling and Therapeutic Practice, which is seeking accreditation with British Association for Counselling & Psychotherapy (BACP)
Foundation Degree Veterinary Nursing	Royal College of Veterinary Surgeons (RCVS)

## **Appendix 2**

### **Procedure for reporting concerns regarding post-registration students on courses not leading to further annotation/registration**

This Procedure should be used where the Fitness to Practise Procedure cannot be applied as the student is post-registration and not on a course that leads to further annotation/registration, but they have committed an act of misconduct or members of staff have concerns about their actions or behaviour.

#### **Procedure**

1. If a member of staff has concerns regarding the actions or behaviour of a registered student, they should report these to their head of school.
2. Any suspected misconduct should be reported following the discussions above. An Allegation of Misconduct Form should be completed and sent to the Student Casework Unit. The circumstances will then be investigated using the Student Conduct Procedure.
3. Once an outcome has been reached, either at faculty level or at university level, the most senior registrant within the faculty will report the outcome to the relevant statutory/professional body. Where appropriate, the student's employer will also be informed.