



Fitness to Practise Procedure

1 Introduction

This procedure applies to students studying for an award leading to registration with a professional body or who are already registered but continuing a course of study (the term “professional body” includes statutory or regulatory bodies and the term “student” includes prospective students or applicants). The professional standards to be applied in this procedure will be those contained in the codes of conduct set down by the professional body which accredits or approves the course together, where relevant, with any code of conduct issued by the University. This procedure applies to all students on University of Brighton courses, wherever they are based and to all students on other courses but currently based at University of Brighton.

This document is designed to outline a consistent and fair procedure for addressing “Fitness to Practise” (or “Suitability to Practise” in some schools) across the University subject to grounds for referral and sanction as defined by the relevant professional body. Advice should be always sought from the professional body at the outset of this procedure, with clear reference to the appropriate code of conduct/requirements.

2 Procedures

2.1 Initiation of the procedure

Any concerns that a student may have breached professional standards or may suffer from a health problem that might prevent admission to the relevant profession must be reported without delay to the student's Head of School, with any available evidence enclosed, and a copy sent to the Registrar and Secretary. Members of partner institutions or placement providers may also report such concerns to the appropriate staff in the University.

By reference to the appropriate code of conduct or requirements, the Head of School may at this point decide that there is no case to answer or that the allegation does not relate to a matter of fitness to practise but should properly be considered under another University procedure (e.g. Student Disciplinary Procedure).

If the student is on a placement as part of their course, the Head of School will normally seek the opinion of the person currently responsible for the student, if the alleged action calls into question the student's suitability to continue on this placement, their own safety or that of others.

Once an allegation is received, the Head of School shall appoint an appropriate member of staff to investigate the allegation. This person shall prepare a written report, which shall be made available to the Head of School, who will make a decision on whether there is a case to answer. The appointed person may interview any witnesses as appropriate, and their report may, if necessary, include signed and dated witness statements. If the person appointed to undertake this investigation is not the professional lead with the most knowledge of the relevant professional code, then this person should be available to advise the Head of School in their consideration of the case. Both the investigation and any resulting hearings should be carried out within a reasonable time.

If the allegation brings into question the student's fitness to practise on the grounds of physical or mental ill health or disability, the student may be referred to an appropriate occupational health professional or other specialist for preparation of a report for consideration by the Fitness to Practise Panel. An individual assessment of whether reasonable adjustments are appropriate will be undertaken in accordance with the Equality Act 2010. If the student elects not to attend or cooperate with such referral, then a subsequent Panel may draw appropriate inferences.

If, in the judgment of the Head of School, there is no case to answer, he or she will inform the student in writing as soon as possible upon receipt of the report. If, in the judgment of the Head of School, there is a case to answer, the Head of School will convene a formal Fitness to Practise Panel to deal with the case.

The Head of School will inform the student in writing of the nature of the allegation which has been made against them, enclosing a copy of this procedure. They may also, if appropriate, inform the professional body that a case has been brought against a potential or existing registrant.

2.2 General provisions for hearings

In reasonable time before the hearing the student will be given copies of any documents to be considered and will be advised of their right to be accompanied by a friend or adviser. The name and details of this companion should be notified to the Chair of the Panel in good time before the hearing.

The Panel will consider the applicable professional code of conduct and/or professional requirements and, where relevant, witness statements. If the student wishes to call any witnesses, they should inform the Chair of the Panel at least 5 days in advance of the date of the hearing. The Panel will also accept any written evidence submitted by the student in advance of the hearing. If the student fails to attend without good reason, a decision will be made in his or her absence.

Normally, the Fitness to Practise panel should consist of:

- a Head of School or nominee as Chair,
- the Course or Programme leader or professionally qualified member of staff from the same discipline as the student (who has not previously been involved in this matter) and
- any member(s), including senior external practitioners, as required by the relevant professional body or co-opted by the panel.

It is not appropriate for any member of the panel to have held a formal role with direct responsibility for the student (e.g. personal tutor) and members of the panel with prior knowledge of the student should declare their interest to the Chair of the panel as soon as they are invited to attend the hearing.

The person appointed to investigate the allegation will present their report to the Panel on the day of the hearing.

The University Legal Adviser will advise the panel on procedural matters.

2.3 Outcome of the Fitness to Practise hearing

At the end of the Fitness to Practise hearing, the student and the student's friend or adviser will be asked to leave the room while the Panel considers the outcome. The decision will be based on the evidence on the balance of probabilities. The outcome agreed by the Panel may be, but is not limited to, one of the following:

- (i) There are no grounds for concern regarding the student's fitness to practise, in which case the matter will be dismissed and the student receives no warning or sanction.

The student's fitness to practise is considered to be impaired, and the student receives a sanction; beginning with the least severe, the sanctions are:

- (ii) permit the student to continue the course with appropriate *advice and guidance*;
- (iii) permit the student to continue the course but issue the student with a *warning*;
- (iv) permit the student to continue the course but require the student to sign a *written undertaking*;
- (v) permit the student to continue the course subject to specified *conditions*;
- (vi) *suspend* the studies of the student for a specified time;
- (vii) require *any other action* considered appropriate by the Panel to enable the student's successful completion of the remainder of the course;
- (viii) recommend that the student's studies on the course leading to a professional qualification be terminated but, if appropriate, permit the student to exit from the programme with an alternative award;
- (ix) recommend that the student's studies on course be terminated and that his/her registration as a student of the Universities should cease.

2.4 Notification of the outcome

If the decision cannot be given on the day, the Chair of the Panel will normally confirm the decision in writing as soon as possible after the hearing. A copy of the letter will be sent to the student's Head of School if he or she has not chaired the hearing.

In the event that the Head of School has informed a professional body or other outside agency of the University's action under the Fitness to Practise procedure, the Head of School will send a copy of this written notification of outcome to this body.

If the student concerned is taking a University of Brighton award at a partner college, the Head of School will normally send formal notification of the outcome, together with an explanation of the reason for the decision, to the student's college. If the outcome was a recommendation of permanent exclusion, the notification should be sent to the Principal of the college.

If the student concerned is registered at another institution, for example an exchange student, the Head of School will normally send formal written notification of the outcome, together with an explanation of the reasons for the decision, to the student's home university.

3 The right of appeal

A student may appeal against the findings of the Fitness to Practise panel. An appeal may be made on one or more of the following grounds only:

- (i) that certain evidence was submitted which was not considered by the panel;
- (ii) that evidence which was not previously submitted, either because it was not available or because the appellant was for valid reasons unwilling to submit it, has become available; (it is only in exceptional circumstances that evidence which was available previously but not submitted will be allowed at a subsequent appeal);
- (iii) that a new witness has expressed a readiness to give evidence, where that witness had either not expressed such a willingness before, or where that witness was not known to be in possession of any material evidence;
- (iv) that a procedural irregularity is deemed to have occurred before or during the hearing which may have affected the findings of the panel. Appeals in this category must specify the nature of the irregularity which is thought to have occurred.
- (v) that the decision is perverse or manifestly against the weight of the evidence.

A simple rehearsal of the arguments from the original investigation and hearing will not be deemed adequate grounds for appeal. In cases where new evidence is to be submitted, or where a new witness is to give evidence, the nature of this evidence must also be stated.

Appeals should be made in writing to the Registrar and Secretary within 10 days of the notification of the decision of the Fitness to Practise panel. The Registrar and Secretary will then decide whether the appeal meets any of the grounds listed above.

If the decision is taken that there are no grounds for appeal, the student will be informed in writing as soon as possible after receipt of the appeal by University.

If it is identified that there are grounds for appeal, the Registrar and Secretary will take the appropriate action according to the outcome of the Fitness to Practise panel. This appeal may take one of two routes:

- (i) For outcomes short of a recommendation of permanent exclusion, the case may be returned to the original panel for further consideration, following the procedures

described in section 2.2. If the grounds of appeal are covered by (iv) or (v) above, and relate to the conduct of the panel, the Registrar and Secretary may be required to form a new panel according to the same procedures, but with a different membership.

- (ii) If the outcome is a recommendation of permanent exclusion, an Appeals Panel, whose members were not members of the original Fitness to Practise Panel, will be constituted.

Normally the Appeals Panel will consist of:

- A Head of School, member of Senior Management or nominee as Chair,
- a professionally qualified member of staff from the same discipline as the student and
- any member(s), including senior external practitioners, as required by the relevant professional body or co-opted by the panel

The decision of the Appeals Panel will be notified as soon as possible following the procedures described in 2.4 above.

4 Office of the Independent Adjudicator for Higher Education

A student may complain about the Appeal Panel's decision (or any decision short of the Appeals Panel that effectively brings the internal process to an end) to the Office of the Independent Adjudicator. Details of how to complain can be found at: <http://www.oiahe.org.uk/index.asp>