

Fitness to Practise Procedure

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Introduction

1. All University students are required to comply with the regulations of the University regarding conduct. Students enrolled on courses where a practical professional placement is required (including health, social work and education) have additional responsibilities placed upon them regarding not only their conduct but also their professional suitability, as outlined in relevant regulatory and/or professional body codes of practice. Failure to meet these responsibilities can lead to the *Fitness to Practise Procedure* being invoked. Students will be notified on registration if their course of study is subject to the terms of this procedure.
2. The *Fitness to Practise Procedure* applies to all relevant courses leading to awards of the University of Essex, although the office holders identified in Sections A and B below may be adapted where the course is offered through a partner institution of the University.
3. The *Fitness to Practise Procedure* is not intended to replace the [Student Membership and Disclosure and Barring Service Check Policy and Procedure](#), [Code of Student Conduct](#) or [academic offences procedures](#), though the outcome of a case raised under these procedures for a particular student might also raise issues of fitness to practise. Where a conviction, caution or reprimand comes to light as part of the DBS checking process, the matter is considered in accordance with the [Student Membership and Disclosure and Barring Service Check Policy and Procedure](#). Where a student allegedly commits an act that is actionable under the University's *Code of Student Conduct* or academic offences regulations then these procedures must be completed prior to instigating action under the *Fitness to Practise Procedure*.
4. In the event of concerns that a student may not be suitable for engagement in the relevant profession, the University's *Fitness to Practise Procedure* shall be invoked. A student may at any time be suspended or precluded from further study by the University if a concern is raised under the *Fitness to Practise Procedure*. The procedure for temporary exclusion or suspension of a student is outlined in [appendix 1](#).
5. In the situation where the support of a designated signatory is required for a student to register with a professional or regulatory body, and a case arises following a student's graduation and where the alleged incident took place during the student's period of study, the *Fitness to Practise Procedure* will be followed and a Fitness to Practise Committee will make a recommendation as to whether the required support can be given.
6. Schools/Departments/Centres (hereafter referred to as Schools) that are running courses where students are subject to the *Fitness to Practise Procedure* will establish a School Professional Suitability Group as outlined in [appendix 2](#) of this procedure.
7. Concerns about a student's fitness to practise may be raised from any source, including any member of staff, student, placement partner, member of the public, the Occupational Health Service or other agencies such as the Police or Social Services. Concerns about fitness to practise may involve a range of actions or omissions relating to professional conduct or professional suitability but may include any of the following:
 - a. actions that are harmful to service users, other members of the public or service providers
 - b. actions that are likely to constitute an unacceptable risk to the student or others

- c. failure to disclose information about previous matters relating to their professional suitability prior to registration on the course, including health, previous convictions and cautions
- d. contravention of the relevant professional code of conduct
- e. concerns about health*, disability, or wellbeing, including a failure to seek appropriate medical treatment or other support; unreasonable failure to follow medical advice or care plans and treatment resistant conditions which might impair fitness to practise
- f. actions that are prejudicial to the development or standing of professional practice.

*At 7e by health we are not referring to pre-existing medical conditions or disabilities that the student has already disclosed and where reasonable adjustments have been made to enable the student to access their study. Cases will be considered where disability prevents the student meeting the core competencies after adjustments have been considered or made or where this has implications for the safety of the student, patients, service users or colleagues.

- 8. This Procedure includes normal timescales. Every effort will be made to expedite the overall process and meet the normal timescales. However sometimes circumstances arise which mean that exceptionally the normal timescales will not be met. In these cases the student will be contacted and informed of the adjusted timescale.
- 9. The term 'working days' used within this procedure, refers to days Monday to Friday when the University is open.
- 10. Where within the *Fitness to Practise procedure* it states that a nominee may act on behalf of the Head of School, the nominee(s) must be members of academic staff approved by the Pro-Vice Chancellor (Education)

A. Procedure for dealing with concerns about a student's fitness to practise

A1

Where an allegation is raised about a student's fitness to practise and immediate action is required to safeguard all relevant parties, the Course Director or Professional Lead or equivalent, in consultation with the Head of School or their nominee shall have the power to remove a student from placement with immediate effect for up to five working days, or to prevent the commencement of a placement for up to five working days from the receipt of the allegation. This action shall be taken without prejudice to the outcome of any enquiry. Any decision on further action shall be taken by the Professional Suitability Group under Section A4 of the *Fitness to Practise Procedure*.

A2

Concerns about the fitness to practise of a student shall be made in writing to the Professional Suitability Group of the School offering the professional course.

A3

It must be borne in mind that an allegation raising concerns about fitness to practise is a serious and potentially defamatory one. Consequently it is essential that the proceedings should be conducted on a basis of strict confidentiality.

A4

On receipt of a written allegation, the Professional Suitability Group, in consultation with the relevant Course Director or equivalent, shall:

- (a) take such immediate action as is deemed appropriate in the circumstances to safeguard all relevant parties, but without prejudice to the outcome of the enquiry. This may include a decision to request a temporary exclusion or suspension as outlined in [Appendix 1](#) of this procedure.
- (b) normally within five working days of receipt of the allegation shall confirm in writing the nature of allegation made, the action taken under A4(a) above and the procedures for dealing with the allegation
- (c) normally within ten working days of the receipt of the allegation either:
 - i. decide no further action is required, or
 - ii. appoint an Investigating Officer from the list approved by the Academic Registrar for this role.

A5

The Investigating Officer shall impartially assemble the evidence relevant to the case in a timely manner. Appropriate methods for gathering evidence will normally include:

- interviewing the student concerned, who may be accompanied by a student or other member of the University, the relevant partner institution or the Students' Union if he or she wishes. The interview can be conducted by telephone if appropriate.

■
and may include:

- Interviews with relevant University staff, students, professional or practice partner colleagues
- Obtaining a written professional opinion on the effect of the student's behaviour or state of health/well-being on their fitness to practise.

A6

The Investigating Officer shall prepare a written report for the Professional Suitability Group, normally within fifteen working days of the case being referred to him/her. The report shall not pass judgement nor recommend a particular course of action.

A7

The Professional Suitability Group shall determine whether a *prima facie* case has been made. If they deem that a *prima facie* case has not been made they shall dismiss the case and inform the student in writing.

A8

If the Professional Suitability Group deems that a *prima facie* case has been made against the student, they shall inform the student in writing and they shall refer the case as expeditiously as possible to a Fitness to Practise Committee which shall be appointed, normally within five working days, by the Pro-Vice-Chancellor (Education). The Committee shall normally comprise the following, but will also conform to the requirements of the relevant professional and/or regulatory body:

- (a) an Executive Dean, his/her Deputy, Dean or Deputy Dean of Partnerships, or the Dean of Health who has no previous involvement with the case as Chair
- (b) two members of academic staff from a relevant subject discipline who have had no previous involvement in the case
- (c) one practising member of the relevant profession who is from outside the University and who has not been associated with teaching the student.

A9

The Secretary of the Fitness to Practise Committee shall be the Academic Registrar or his/her representative.

A10

The Professional Suitability Group shall submit to the Secretary of the Fitness to Practise Committee all relevant evidence, including the report of the Investigating Officer, and a case summary. The Secretary shall convene a meeting of the Committee as soon as possible and send copies of the evidence to the members of the Committee and at the same time to the student concerned a minimum of ten working days before the meeting.

A11

The student should submit to the Secretary of the Fitness to Practise Committee any papers for the consideration of the Committee at least five working days before the meeting.

A12

All representations to the Fitness to Practise Committee should be submitted in writing. Exceptionally the Committee may ask for witnesses to attend in person.

A13

The student will normally be required to attend the meeting of the Fitness to Practise Committee in person. In the event of their non-attendance, without very good reason, the Committee meeting will continue in their absence.

A14

If the student wishes, they may bring to the Committee meeting a student or employee of the University, the relevant partner institution or the Students' Union, or equivalent in Partner institutions, to help him/her in presenting his/her case to the Committee.

A15

The Head of School or another member will attend the meeting of the Fitness to Practise Committee to set out evidence relating to the concern. The Head/member of Professional Suitability Group should not propose or comment on any outcome or action which might be imposed.

A16

The Head/Professional Suitability Group member is not a member of the Committee and can only attend when the student is present (not before and after). The Head/Professional Suitability Group member is not permitted to ask questions of the student during the meeting except through the Chair.

A17

All members of the Fitness to Practise Committee must attend the meeting.

A18

The Fitness to Practise Committee will operate on the principle of 'the balance of probability' rather than that of 'beyond reasonable doubt'.

A19

Where a vote is required the majority decision of the committee members will be taken. In the case of an equally split decision the outcome should fall in the student's favour.

A20

The conduct of the Fitness to Practise Committee is at the discretion of the Chair but shall normally proceed as follows:

- a. The members of the Committee have a preliminary discussion without the student, the student's representative or the Head/Professional Suitability Group member being present.
- b. The student, the student's representative and the Head/Professional Suitability Group member enter the room and the Chair introduces all those present.
- c. The Chair checks that the student has received details of the concern and any supporting documentation.
- d. The Chair explains the order of proceedings to the student.
- e. The evidence relating to the concern about fitness to practise is then presented by the relevant Head or member of the Professional Suitability Group, and members of the Committee, the student and the student's representative are invited to put questions to them.
- f. The Chair then invites the student to put forward a case orally if he or she wishes to do so including any mitigation, and members of the committee (but not the Head) are invited to put questions to the student.
- g. The Chair invites the student's representative to put forward any additional statement.
- h. Exceptionally the Committee has the power to call witnesses who shall only attend to present their evidence and to answer questions that the Committee or other party may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses shall be required to withdraw.
- i. The Chair invites the student to make any final response.
- j. The student, the student's representative and the Head/Professional Suitability Group member are then asked to leave the room. The Committee then deliberates and comes to a decision. If the Committee is unable to reach a decision then the Committee may be adjourned.
- k. If the Committee finds on the balance of probability that the case is proven, they determine any further action or sanction, clarifying the reasons for the choice of action.
- l. The student is then recalled to the room and is told the decision, the reason for the decision and details of any further action or sanction if appropriate. The Head /Professional Suitability Group member may be present during this final stage.

A21

Only members of the Committee and the Secretary shall be present while a Committee is reaching a decision on the outcome, or on other action.

A22

The Committee shall have the power to seek such other evidence as it deems necessary. The Committee may be adjourned to allow for such evidence to be gathered.

A23

If the Committee decides that the fitness to practise concern is unproved, it will dismiss the case.

A24

If the Committee decides the fitness to practise concern is proven then it shall have the power to do any one or combination of the following:

- a. Permit the student to continue on the course with no further action required
- b. Permit the student to continue on the course with adjustments
- c. Issue a formal warning
- d. Discontinue the placement and institute arrangements for locating an alternative placement if this is permitted under the Rules of Assessment
- e. Require the student to intermit from the course for a defined period of time with return subject to conditions
- f. Require the student to withdraw from the course because they are unfit to practise
- g. Impose such other action as it considers appropriate, provided that no such action requires or implies a concession or exemption under the Rules of Assessment

A25

The Secretary shall confirm to the student and the Head of School concerned in writing within five working days the decision, the reason for the decision and details of any sanction or further action. The student shall be informed of the right to appeal against the decision in accordance with Section B (below).

A26

If the fitness to practise case against the student is found proven, the Head of School and the Academic Registrar shall decide whether a report should be made to the relevant professional or regulatory body and/or the student's employer, if applicable. The student will be informed in writing whether such a report will be made.

B. Procedure for Appeals against Decisions of the Fitness to Practise Committee

B1

Written notice of appeal by the student must be lodged with the Academic Registrar within ten working days of the student being informed in writing of the decision by the Fitness to Practise Committee. Students are strongly encouraged to contact SU Advice for advice and guidance before submitting an appeal. If the student can show that circumstances beyond his or her control prevented this time limit to be adhered to and that injustice would result from adhering to it, the Academic Registrar may extend the time limit in which an appeal may be lodged normally up to the period of thirty working days from the date on which the final decision was confirmed to the student in writing.

B2

In the event of an appeal, the Academic Registrar and the Pro-Vice-Chancellor (Education) shall decide whether the grounds for the appeal are covered by the provisions of paragraph B5 below and warrant further consideration by a Fitness to Practise Appeals Committee. If they agree that there are no grounds for further consideration of the appeal, the Academic Registrar shall inform the student in writing giving the reasons for that decision.

B3

If the Academic Registrar and the Pro-Vice-Chancellor (Education) decide that the appeal does warrant further consideration, the Academic Registrar shall refer the case to a Fitness to Practise Appeals Committee which shall be appointed by the Pro-Vice-Chancellor (Education) and shall normally comprise:

- a. an Executive Dean, his/her Deputy, Dean or Deputy Dean of Academic Partnerships, or the Dean of Health who has no previous involvement with the case as Chair
- b. one member of staff from a relevant subject and professional discipline who shall not be the Head of School or the Investigating Officer or a member previously involved with the case;
- c. one senior practising member of the relevant profession who is from outside the University and who has not been associated with the teaching of the appellant.

B4

The Secretary of the Committee shall be the Academic Registrar or his/her representative.

B5

The grounds for the appeal shall be one or more of the following:

- a. that new evidence had become available that could materially affect the Fitness to Practise Committee's decision
- b. that there was evidence of procedural irregularity or prejudice or bias in the conduct of the hearing by the Fitness to Practise Committee.

B6

The Committee shall have before it all documents relating to the original hearing, together with a written statement submitted by the student setting out the grounds for the appeal. The Committee shall not proceed by way of a re-hearing, but shall have power to require the presentation of such further evidence as it deems necessary.

B7

The Committee shall have the same powers as the Fitness to Practise Committee and may confirm the decision of the Fitness to Practise Committee or substitute such other decision as it considers appropriate.

B8

When the committee has reached its decision the Secretary shall inform the student and the Head of School concerned in writing.

B9

If any action had been taken under paragraphs A26 above to inform the relevant professional or statutory bodies and/or the Student's employer, the Head of School and the Academic Registrar shall decide whether any further report should be made to the professional or regulatory bodies and/or the student's employer concerned in the light of the decision of the committee.

B10

The decision of the Fitness to Practise Appeals Committee shall be final.

B11

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent course for the review of student complaints and appeals. When the University's internal procedures for dealing with complaints and appeals have been exhausted, the University will issue a Completion of Procedures letter. Students wishing to avail themselves of the opportunity of an independent review by the OIA must submit their application to the OIA within twelve months of the Completion of Procedures letter. Full details of the course are available on request and will be enclosed with the Completion of Procedures.

Appendix 1

The Power to Exclude or Suspend a Student

Partner Institutions will follow their own procedures for the temporary exclusion or suspension of a student

The Vice-Chancellor or nominee may suspend or exclude temporarily a student pending the outcome of either or both an investigation under the *Fitness to Practise Procedure* or a meeting of a Fitness to Practise Committee.

The decision to impose a temporary suspension or exclusion is a neutral act and is without prejudice to the outcome of any enquiry under the *Fitness to Practise Procedure*.

The power to suspend or exclude temporarily under this provision exists to protect service users and other members of the public, service providers, the members of the University community in general or a particular member or members, including the student in question. The power shall be used only where the Vice-Chancellor or nominee is of the opinion that it is necessary to take such action for reasons of safeguarding against risk. Assessment of risk will take account both the likelihood of harm arising and the potential level of harm. Action may be considered necessary in situations where the risk of harm occurring is low, but the consequences are potentially serious.

Written reasons for the decision shall be recorded and notified to the student together with any conditions that need to be met before the suspension or exclusion can be lifted.

‘Exclusion’ involves selective restriction on attendance at placement, or involvement in placement related activity, or access to the University, the exact detail to be specified in writing.

‘Suspension’ includes a total prohibition by the University on attendance at or access to the University and on any participation in University activities.

Suspension should only be used where exclusion from specified activities or facilities would be inadequate and as far as is possible, arrangements will be put in place to reduce the impact of suspension on the student's studies. The impact will however depend on the discipline.

Normally, a student will not be suspended or excluded by the Vice-Chancellor or nominee unless he or she has been given an opportunity to make representations in person to the Vice-Chancellor or nominee. If it is not possible for the student to attend in person, the student will be permitted to make written representations. Where the student attends in person s/he may be accompanied by a fellow student or member of staff from the University of Essex or a representative from SU Advice.

In cases of great urgency, the Vice-Chancellor or nominee may suspend or exclude a student with immediate effect, provided that they are offered the opportunity to make representations to the Vice-Chancellor or nominee within five days of the suspension or exclusion coming into effect, or as soon as possible thereafter if it is impracticable under the circumstances.

A decision to temporarily suspend or exclude a student will be kept under review by the Vice-Chancellor or nominee. Should an investigation under the *Fitness to Practise Procedure*, or the holding of a Fitness to Practise Committee meeting, be delayed for whatever reason, and where the suspension or exclusion has continued for at least four weeks, the student may request a review of the decision. A review will be conducted by three independent members of the Senate and the student will be given the opportunity to submit written representations and to make representations in person. Should the suspension or exclusion continue after the review, it will remain under constant review by the Vice-Chancellor or nominee and, at the request of the student, be subject to further independent reviews at four-weekly intervals thereafter, until a Fitness to Practise Committee meeting is held.

Breach of a suspension or exclusion order as noted above, will also be regarded as a breach of the *Fitness to Practise Procedure* and a breach of [conduct regulation 35](#). It may result in referral through Student Conduct Procedures and a referral to a Professional Suitability Group.

The power to temporarily suspend or exclude a student, pending a meeting of a Fitness to Practise Committee, is delegated to an appropriate senior office-holder and will be carried out in accordance with the procedure above. In all cases where the delegated power is exercised, the student retains the right to make representations to the Vice-Chancellor or nominee.

Appendix 2

Guidelines on the Operation of a Departmental Professional Suitability Group

- These guidelines are only relevant for Schools that are running courses where a professional or regulatory body has concerns for a student's fitness to practise. These students will be subject to the *Fitness to Practise Procedure*.
- Any concerns raised under the *Fitness to Practise Procedure*, will initially be made to a Departmental/School Professional Suitability Group so all relevant Departments/Schools will need to establish such a group.
- There are a number of different policies and procedures where the outcome for a particular student might raise issues of fitness to practise. These procedures operate separately from each other but there is a need for them to be considered as a whole in assessing a student's suitability for practice.
- Information on Academic Offences cases, Student Conduct cases and Progress cases will be reported to the Professional Suitability Group with the School.
- The Professional Suitability Group will receive and consider reports from all the relevant sources and then make appropriate referrals
- Professional Suitability Groups will vary in operation dependent on the needs of the School and the relevant professional/regulatory bodies.
- In departments/schools which run courses for which it is a requirement, the Professional Suitability Group will consider all students who need to be 'signed off' as being of good character as part of their programme of study and will make the appropriate report to the Board of Examiners.
- Departments/Schools must ensure that students are informed of the operation of the departmental Professional Suitability Group and other processes relating to fitness to practise. This information should appear in student handbooks.

Constitution of a Professional Suitability Group

- The constitution of the Professional Suitability Group will vary in operation dependent on the needs of the department and may need to take account of the requirements of relevant professional/regulatory bodies. The membership of the group may vary dependent upon the reason it has been convened.
- The minimum requirements for membership of the group are:
 - The Head of School or nominee will chair the group
 - There shall be at least two other members
 - A majority of the members of group should be members of academic staff working on courses where the students are subject to the *Fitness to Practise Procedure*
 - Other individuals may be co-opted into the group as appropriate. This may include, for example, the Programme Lead for a particular student under consideration or a member of staff with a particular clinical or professional background relevant to the case under consideration.

Remit of the Professional Suitability Group

The Professional Suitability Group will:

- only consider students who are on programmes which are subject to *Fitness to Practise Procedure*
- have a remit to consider any report submitted to it as part of the *Fitness to Practise Procedure*
- will, where relevant, consider any student on courses where students are required to be signed off as being of good character as part of their course, and either confirm to the Exam Board that there are no issues to raise, or deal with any issue arising under the *Fitness to Practise Procedure*
- be a central point, established at Departmental/School level, to which the outcomes of a number of different processes can report. These are: *Code of Student Conduct procedures, Academic Offences Procedures*, outcome of Progress Committee, Exam Board. It might also consider
- reports from Occupational Health, Student Support, or reports made directly from a placement.
- Have the referral powers as outlined under the *Fitness to Practise Procedure*.

Operation of group

The Professional Suitability Group will meet on an ad hoc basis, and may meet 'virtually, to consider any referral made as outlined in the *Fitness to Practise Procedure*, keeping to the appropriate timescale where required.

For programmes where it is a requirement, the Professional Suitability Group will also need to meet before relevant exam boards, to review all students on the programmes to verify professional suitability and make referrals if necessary.

A record should be kept of all cases considered by the Professional Suitability Group, noting decisions made.

Further information

- [Work-based and placement learning](#)
- [Academic Offences Procedures](#)
- [Code of Student Conduct](#)
- [Student Membership and Disclosure and Barring Service Check Policy and Procedure](#)
- [Office of the Independent Adjudicate](#)