

## FITNESS TO PRACTISE POLICY

### 1. Introduction

- 1.1 The University recognises that in conferring certain academic qualifications, where these lead to a professional qualification, admission to a professional body and/or statutory registration, it has a duty to ensure the suitability of students for training and professional registration. Such students have, therefore, certain privileges and responsibilities that are different from those of other students. The programmes subject to these procedures are listed in Appendix 1.
- 1.2 Fitness to Practise procedures are necessary:
- \* To comply with the requirements of the Regulators
  - \* To protect the welfare of individuals with whom the student comes into contact during their training
  - \* To demonstrate that students are fit to practise their future profession, having developed professional attitudes and behaviour
  - \* To provide a means of ensuring that students do not proceed into a career for which they may not be suited, given the time, commitment and expense involved in the process of qualification
  - \* To enable the University to promote the highest standards of behaviour among students
  - \* To protect the University against a claim that an individual has been harmed by a student in the course of that student's undergraduate professional training as a result of being unfit to practise.
- 1.3 The University has in place procedures for dealing with cases where a student's behaviour falls below the standards expected or where a student's health may be a cause for concern. These are a student Fitness to Study Policy (<http://www.bath.ac.uk/regulations/appendix2.pdf> - Appendix 2 of the Regulations) and Disciplinary Procedures (<http://www.bath.ac.uk/regulations/Regulation8.pdf>). The Regulations also set out procedures for academic misconduct.
- 1.4 It is intended, as far as is possible and consistent with requirements set by professional bodies, that a single procedure or policy should apply to a concern or alleged offence. Fitness to study issues which need to be considered formally will normally be addressed under this fitness to practise policy for students on programmes listed in Appendix 1. Alleged misconduct (whether academic or otherwise) will usually be considered first under the policies set out in the Regulations. If, however, it is considered or emerges from either an investigation or from the earlier stages of following other procedures that a fitness to practise hearing will be required, a transfer to this fitness to practise policy will normally be appropriate. The best interests of the student shall be taken into account at all times.

### 2. Fitness to Practise

- 2.1 The policy applies to students on the specified programmes whose qualification will lead directly into professional practice and for whom there are academic, behavioural and health requirements which must be met in order to demonstrate their fitness to

practise. Whilst the requirements of the Regulators vary, the University is in each case required to assess the suitability of a student for professional registration and practice.

- 2.2 The grounds on which a student may be subject to review will be those set out in a code of conduct (or other similar documentation) from the relevant professional regulator but will generally include:
- \* Criminal conviction, caution, reprimand or penalty notice of disorder or equivalent
  - \* Drug misuse or alcohol dependency
  - \* Aggressive, violent or threatening behaviour
  - \* Persistent inappropriate behaviour
  - \* Cheating or plagiarism
  - \* Dishonesty or fraud, including dishonesty outside the professional role
  - \* Unprofessional behaviour
  - \* Health concerns or lack of insight or management of these concerns.

This list is not exhaustive.

- 2.3 The University has set out in Regulation 7 the standards of behaviour expected of students and provided definitions of misconduct. Students also have an obligation to be cognizant of and comply with any codes of conduct/practice/ethics or other policies issued by the Regulator of their programme. Registration carries obligations as well as privileges, and requires a student to:
- develop and use their professional knowledge and skills for the benefit of those who seek their professional services,
  - maintain good professional relationships with others; and
  - act in a way that promotes confidence and trust in the profession.

- 2.4 A student's fitness to practise is called into question when their behaviour or health raises a serious or persistent cause for concern about their ability to continue on a course. This includes, but is not limited to, the possibility that they could put at risk patients, the public, other students or staff, and the need to maintain trust in the profession. Action taken in response to fitness to practise concerns will have regard for the need to protect both the public and the student; there are also implications for the student's future registration and their licence to practise.

- 2.5 The University will check on admission and at other points during the programme of study that a student is demonstrating fitness to practise. These checks will verify appropriate health and good character. When considering whether a student's fitness to practise is impaired, the University may take into account: the seriousness of the behaviour in question, patterns of behaviour, the maturity of the student and year of study, the likelihood of repeat behaviour and how well the student might respond to support and remediation.

- 2.6 The University will publicise what help may be available to students who will be encouraged to seek assistance and advice at an early stage of any problems. Student Services offer a wide range of help and advice (<http://www.bath.ac.uk/departments/student-services/>). The University will also take account of the requirements of the Human Rights Acts, the Equality Act and other relevant legislation, particularly the need to make reasonable adjustments, including at any hearings under this policy.

- 2.7 It is important that students have opportunities to seek support for any matter before it becomes a fitness to practise concern. The use of support and informal action will be considered in the first instance where minor offences come to light. In these

circumstances, the student will be advised of the nature of the concerns and offered help from a member of staff having responsibility for their programme (such as a Personal Tutor or Director of Studies). Members of staff may consult Student Services for guidance. Any member of the Department providing support or pastoral care for a student must inform the Director of Studies / Programme Leader and Head of Department if there is a reasonable belief that the student's behaviour or health raises, or may raise, fitness to practise concerns, or poses a risk to other students, staff, patients or the public.

- 2.8 Health can affect a student's fitness to practise. Students are encouraged to register with a local GP (whether at the University's Medical Centre or elsewhere) and other healthcare professionals as appropriate. Where mental illness or other serious health or disability concerns become an issue, the student is strongly encouraged to seek specialist intervention to address the situation.
- 2.9 Where a student receives a conviction or police caution or becomes listed on any of the barring lists, the student must disclose this immediately to the Director of Studies / Programme Leader, who may seek advice about the significance of any such conviction or caution or barring. On certain programmes, students are obliged to complete an annual self-declaration to the Department. Any false or inaccurate statements on self-declaration forms or failure to disclose an offence or relevant medical condition may be grounds for a fitness to practise investigation.
- 2.10 An individual shall not be involved in the investigation or consideration of a particular case if for them to do so would present a conflict of interest.

### **3. Initiation of the Policy**

- 3.1 Any cause for concern or complaint relating to a student's fitness to practise should be notified to the Director of Studies / Programme Leader.
- 3.2 On receipt of a formal complaint or a significant concern about a student, the Director of Studies / Programme Leader may consult with the Head of Department, other appropriately qualified professionals or the Regulator to establish the significance of the complaint/concern. S/he will also ensure that appropriate pastoral support is offered. If the Head of Department considers that an investigation is warranted, s/he will nominate an Investigating Officer, who will be a member of University staff but will not be the student's Personal Tutor or involved in their pastoral care. The Investigating Officer will gather factual evidence about the complaint/concern, which may include:
- \* obtaining a written report in respect of the concern about the student's professional suitability and fitness to practise
  - \* contacting members of staff, students or other relevant individuals for comments
  - \* interviewing relevant individuals, including the student him/herself
  - \* ascertaining whether the matter could reasonably be resolved informally.
- The Head of Department will inform the Regulator of the investigation where this is required by the Regulator.
- 3.3 The Investigating Officer will prepare a written report detailing the evidence obtained normally within two weeks and submit it to the Head of Department. The Head of Department will establish whether there is a *prima facie* case to answer in respect of fitness to practise. The Head of Department will then notify the student in writing, normally within seven days, whether the case is to be dismissed or otherwise dealt with.

- 3.4 Where evidence is available at the time of the complaint being submitted or concern raised, there may be no need for an investigation. In addition, the Head of Department may ask the Vice-Chancellor (advised by the University Secretary) to consider whether interim suspension of the student pending further action is appropriate, including from University accommodation. Normally no student shall be suspended by the Vice-Chancellor unless s/he has been given the opportunity to make representations in person or, where authorised, in writing to the Vice-Chancellor. Where a decision to suspend a student is taken, it shall be reviewed every four weeks in the light of any other developments. The Head of Department will inform the Regulator of the suspension and any sponsoring body or employer where this is required by the Regulator.
- 3.5 Where a student on a programme of study to which this policy applies has been subject to a period of suspension on health grounds reached by mutual consent, the decision as to whether to permit the student to return to study will normally be made according to this Fitness to Practise Policy.
- 3.6 When information is collected in connection with a fitness to practise allegation, it should be made clear that the information will be shared with the other parties to the case and may be passed to third parties, such as the Regulator or the police, if necessary (for example, where a duty of care exists or threat of serious harm can be prevented). The information will otherwise be treated as confidential. Any exchange of confidential information should, wherever possible, be with the knowledge and consent of the student in question.

#### **4. Convening of the Fitness to Practise Panel**

##### **4.1 Membership**

The membership of the Fitness to Practise Panel shall normally comprise:

- Chair (Dean of Faculty)
- Member of staff in the Department practising the relevant profession (honorary or visiting members may be included) / Member of staff in partner College who is professionally qualified
- An appropriately experienced member of the University from outside the Department.

The quorum for the Panel shall require all three members to be present. The Legal Office shall advise whether or not a fresh panel needs to be convened taking account of the principles of natural justice. Where a panel would be apprised from the outset of the discussion at a previous panel hearing, it will normally be possible for the same panel to reconvene. If, however, the issues being considered are very different and it would be inappropriate for a panel to know of the previous hearing until the merits of the case have been determined, then a fresh panel will normally be required. No member of the Panel should have provided pastoral care for the student(s) concerned.

No person who is a member of the Disciplinary Committee or the Council Appeals Committee may serve on the Fitness to Practise Panel.

The Panel will be serviced by a secretary, who will be the Faculty Executive Assistant or other individual identified by the Chair.

#### 4.2 **Role of the Panel**

The role of the Panel is to consider formally whether a student is fit to practise and what sanctions, if any, should be imposed on a student or whether the student should receive a warning. It must act in a proportionate way by considering the interests of the public (including patients or clients) as well as those of the student. Ensuring the protection of the public at large will be essential in reaching an appropriate decision.

#### 4.3 **Notice of Hearings**

At least 14 days' notice of the Panel hearing shall be given to the student who shall be entitled to attend the hearing to present his/her case. The hearing (unless all parties agree otherwise) shall normally be held not more than two months after the allegation was first communicated to the student.

#### 4.4 **Postponement of Hearings**

Fitness to Practise procedures are intended to be concluded as speedily as possible but the Panel has the power to postpone a hearing pending any investigation by the police or prosecution in the courts or where medical reports are awaited.

#### 4.5 **Adjournment of Hearings**

The Chair of the Panel shall have the right to adjourn the hearing where s/he deems appropriate.

### 5. **Conduct of Meetings**

5.1 The members of the Panel and the student will receive a written report on the outcome of the investigation carried out into the alleged misconduct. They will also receive any relevant guidance relating to fitness to practise such as copies of codes of practice/conduct/ethics.

5.2 The Panel shall order its proceedings at its discretion. The Panel may call witnesses and institute enquiries to assist its deliberations. The student shall also have the right to call witnesses.

5.3 If the concerns raised relate to the health of the student or medical evidence is submitted, the student may be asked to undergo a medical examination/assessment by a medical practitioner nominated by the Panel. If the student does not consent to undergo a medical examination, this shall be reported to the Panel who may take this into account in their deliberations.

5.4 The Panel may require attendance by a medical adviser at the proceedings and the University will meet any associated costs.

5.5 The Panel has the right to ask a Legal Adviser to be in attendance.

5.6 The student will be informed that s/he is entitled to be accompanied, assisted or represented by another person at the hearing, who may be a legal representative. The name and capacity of the person accompanying the student should be notified to the Secretary to the Panel at least 4 working days before the hearing.

5.7 The student may exercise their statutory right to have a public hearing. Were a student to elect for a public hearing, then provision will be made to protect the confidentiality of third parties.

5.8 In the absence of the student without explanation, the Panel shall proceed with the

hearing.

- 5.9 When the Chair is satisfied that the Panel has completed its hearing and given the student a full opportunity to present his/her case, the student and all non-Panel members (other than the Secretary) shall withdraw and the Panel will discuss the findings.
- 5.10 Possible outcomes of hearings include:
- (1) the case is dismissed
  - (2) the student receives a warning as there is evidence of misconduct or that a significant health problem exists but the student's fitness to practise is not impaired to a point of requiring a sanction
  - (3) the student's fitness to practise is judged to be impaired and they receive a sanction. Beginning with the least severe, the sanctions are:
    - a) conditions or undertakings to be completed within a specified timeframe
    - b) withdrawal of the student from the programme of study. The student may then apply to transfer to a programme offering an alternative award not subject to fitness to practise requirements.
    - c) referral of the case to the Vice-Chancellor, with a recommendation that s/he exercise the statutory power to suspend or exclude the student from the University
    - d) referral of the case to the Disciplinary Committee of the Senate, with a recommendation that the statutory power to expel the student from the University be exercised.
- 5.11 The Panel will convey its decision to the student as soon as it has completed its discussions. The decision, together with the reasons underlying it (including any mitigating or aggravating factors) and any timeframe or conditions applying, will be confirmed in writing to the student, Head of Department, the University Secretary and the Director of the Academic Registry, as well as the Regulator and any sponsoring or supporting employer where a sanction has been imposed, normally within 7 working days of the hearing.
- 5.12 It will be made clear to any student who receives a sanction that they must declare it should they apply to join any programme accredited or otherwise formally recognised by the Regulator or on applying for pre-registration training or registration as a practitioner.
- 5.13 Any student receiving a warning or sanction will be informed of the reasons, its intended purpose, its expected duration and whether or when their fitness to practise will be considered again in a formal hearing.
- 5.14 A record will be kept of all evidence received by the Panel as well as a full set of the notes of the hearing taken by the Secretary to the Panel.
- 5.15 **Standard of Proof**  
The Panel shall examine the evidence applying the civil standard of proof and be satisfied on reasonable grounds that the evidence is valid.
- 5.16 **Justice and Fairness**  
All hearings shall be conducted in accordance with the principles of justice, fairness and proportionality.

#### 5.17 **Fitness to Practise Threshold**

Investigators and Panels should consider whether a student's behaviour or health, or both, raise a serious or persistent cause for concern about their ability to continue on a programme of study or to practise professionally. This includes, but is not limited to, the possibility that they could put patients, the public, other students or staff at risk and/or bring their profession into disrepute.

#### 5.18 **Withdrawal of a student**

A student will be advised on withdrawal from an accredited programme of study, whether they will be permitted to resume their studies and under what conditions, or whether they may transfer to a different programme. The Regulator will be informed of a student's withdrawal from a programme.

#### 5.19 **Warnings**

Warnings may be issued where a student's behaviour represents a departure from the standards expected. Subsequent incidents will be considered in the light of earlier warnings as patterns of poor behaviour may give rise to more serious concerns about a student's fitness to practise. A warning will normally remain on the student's record until graduation.

#### 5.20 **Sanctions**

The purpose of sanctions is to ensure that students whose fitness to practise is impaired are dealt with effectively. In identifying the most appropriate sanction, the Panel should consider whether in its view the student might respond to remediation and has displayed insight into their problems. When a Panel decides to impose a sanction, it will make clear in its determination that it has considered all the options. It will also include a separate explanation as to why a particular length of sanction has been considered necessary.

#### 5.21 **Suspension, Exclusion or Expulsion**

If, in the opinion of the Panel, the concerns raised are sufficiently serious as to warrant the consideration of the student's suspension or exclusion, then a recommendation will be made to the Vice-Chancellor for action under Statute 5.6. Any decision of the Vice-Chancellor to suspend or exclude a student will, where required, be notified to the Regulator and any employer or sponsoring organisation.

If, in the opinion of the Panel, the concerns raised are sufficiently serious as to warrant the consideration of the student's expulsion, then the case will be referred to the Disciplinary Committee.

### **6. Appeal**

6.1 A student may appeal to the Fitness to Practise Appeals Panel against a determination of the Fitness to Practise Panel to give a warning or impose a sanction other than recommending suspension, exclusion or expulsion. Where the case has been referred to the Vice-Chancellor or the Disciplinary Committee, the appeals procedure set out in Section 27 of the Statutes will apply. A student who wishes to appeal against the decisions of the Fitness to Practise Panel must notify the University Secretary within 14 days of being informed of the right to appeal. The notice must be in writing and include the grounds of appeal and a brief description of any new evidence. A notice of appeal lodged after the 14 day period shall be invalid unless the University Secretary in his/her sole discretion has agreed an extension of time.

## 6.2 **Membership**

The membership of the Fitness to Practise Appeals Panel shall normally comprise:

- Chair (University Secretary)
- Practitioner of the relevant profession
- An individual with appropriate experience from within or outside the University

The quorum for the Appeals Panel shall require all three members to be present. No person who is a member of the Disciplinary Committee or the Senate or Council Appeals Committees or who has been a member of the Fitness to Practise Panel may serve on the Fitness to Practise Appeals Panel.

The Panel will normally be serviced by a member of the Office of the University Secretary.

## 6.3 **Role of the Appeals Panel**

The Panel may reconsider the facts of the case and new evidence may be brought forward. It may review whether due process was followed.

## 6.4 **Conduct of Meetings**

- (1) The members of the Appeals Panel and the student will receive a report from the Fitness to Practise Panel on the outcome of their hearing.
- (2) The Panel shall order its proceedings at its discretion and may call witnesses and institute enquiries to assist its deliberations. The student shall also have the right to call witnesses.
- (3) If the concerns raised relate to the health of the student or medical evidence is submitted, the student may be asked to undergo a medical examination by a medical practitioner nominated by the Panel. If the student does not consent to undergo a medical examination, this shall be reported to the Panel who may take this into account in its deliberations.
- (4) The Panel may require attendance by a medical adviser at the proceedings.
- (5) The Panel has the right to ask a Legal Adviser to be in attendance.
- (6) The student will be informed that s/he is entitled to be accompanied, assisted or represented by another person at the hearing, who may be a legal representative. The name and capacity of the person accompanying the student should be notified to the Secretary to the Panel at least 4 working days before the hearing.
- (7) The student may exercise their statutory right to have a public hearing. Were a student to elect for a public hearing, then provision will be made to protect the confidentiality of third parties.
- (8) In the absence of the student without explanation, the Panel shall proceed with the hearing.
- (9) The decision of the Panel shall be final within the University. A letter of completion of internal procedures will then be issued.
- (10) The Panel will convey its decision to the student as soon as it has completed its discussions. Written notification of the Panel's decision, along with a concise record of the appeal hearing, will be sent to the student by the University Secretary normally within 7 working days of the hearing. The decision will also be notified to the Regulator, if appropriate.

## 6.5 **Office of the Independent Adjudicator**

A student who is dissatisfied with the outcome of the Appeal hearing has the right to refer the case to the Office of the Independent Adjudicator.



## **7. Record Keeping and Post-hearing action**

### **7.1 Records**

Where it has been decided by the Fitness to Practise Panel to proceed further with a concern and this is not dismissed by the Appeals Panel, a record of the allegation, hearing and outcome will normally remain on the student's record for the duration of their programme registration at the University.

Subsequent incidents will be considered in the light of earlier warnings, as patterns of poor behaviour may give rise to more serious concerns about a student's fitness to practise.

### **7.2 Monitoring**

The conduct and performance of a student who has received a warning or sanction short of being expelled, shall be monitored to satisfy the Department regarding the student's fitness to practise. The student should also be offered remedial and/or pastoral support and referral to an appropriate service, if required. If the student is in the early stages of their programme of study, the Department may require them to reflect on their fitness to practise at least once in the course of each academic year.

## **8. Consultation and Monitoring of this policy**

8.1 This policy will be subject to Equality Impact Assessment.

8.2 This policy will be monitored on an annual basis, with reports to the Faculty Board of Studies.

8.3 Consultation with students within the department concerned and with other stakeholders shall take place before this policy is extended to other programmes of study.

## **9. Notification of this policy**

9.1 This policy will be publicised in Student Handbooks, Programme Specifications and relevant department literature received by students prior to starting their programme of study at the University and annually upon re-registration. Directors of Studies / Programme Leaders and Personal Tutors will draw the attention of students to the policy. It is also accessible via a link from the Student Services website and listed in the A-Z index on the University website.

**Approved by Senate 1<sup>st</sup> April 2011**

**Paragraph 4.1 revised 8<sup>th</sup> June 2011 and 22<sup>nd</sup> February 2012**

**Paragraph 5.11 revised 5<sup>th</sup> February 2014**

**Appendix revised 5<sup>th</sup> December 2012**

**Schedule of Programmes subject to  
this Fitness to Practise Policy**

Master of Pharmacy

BSc Social Work and Applied Social Studies

BSc Social Work

Doctorate in Clinical Psychology

PGCE (Postgraduate Certificate in Education)