



**Bournemouth
University**

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This document is part of the Academic Regulations, Policies and Procedures which govern the University's academic provision. Each document has a unique document number to indicate which section of the series it belongs to.

11H - FITNESS TO PRACTISE: PROCEDURE

1. SCOPE AND PURPOSE

- 1.1 The Student Agreement and the policies and procedures described within outlines expectations and responsibilities for students and staff when dealing with students, and provide the framework for the student's learning experience (<https://www1.bournemouth.ac.uk/students/help-advice/important-information>).
- 1.2 This Procedure refers to matters relating to current students' health, conduct and/or performance, which may affect their fitness for professional practice.
- 1.3 If appropriate, if a student's health or wellbeing causes concern about their ability to study on their programme, the university may take action under its support for study procedures instead. This may arise where, for example, there are concerns that the student poses a risk to their own health or safety or that of other people (at the university or placement provider) or the student's behaviour is affecting the learning experience of other students

This Procedure does not apply to issues that arise before a student is admitted. For consideration of fitness to practise issues as part of the admissions process, *3E – Criminal Convictions: Procedure* should be followed. However this procedure does apply to convictions received pre-enrolment and which only come to light once a student is enrolled..

- 1.4 Concerns relating to competency in practice are normally managed under BU's assessment procedures. However, concerns about competency may be raised as part of a fitness to practise procedure and can be considered if they are relevant to the allegations or evidence.
- 1.5 Students who have been found to have committed an academic offence, which may have implications in respect of fitness to practise (for example forged placement records), may be referred for consideration under this Procedure.
- 1.6 Students who are subject to the Student Disciplinary Procedure may also be referred for consideration under this procedure.
- 1.7 Where a student submits a complaint during fitness to practise proceedings, it may be appropriate to pause the fitness to practise process while the complaint is being investigated. This will depend on the nature of the fitness to practise concerns and the nature of the complaint, and how they relate to one another. Where the issues are closely related, it will normally be appropriate to consider the issues raised in the complaint as part of the fitness to practise process. Any member of staff being complained about should not be involved in investigating or bringing the Fitness to Practise case
- 1.8 The Fitness to Practise Procedure is an internal procedure and is not a legal process. BU does not normally use legal professionals in the handling of cases, and it is not expected that students will do so either. BU will not normally allow students to be represented by lawyers at Fitness to Practice hearings or appeals. However where representation is permitted students will normally still be expected to answer any questions about what has given rise to the fitness to practise concerns Please refer to *11L – Third Party Involvement: Procedure* for further details.

- 1.9 The intention of this Procedure is to provide a framework to consider:
- a) Allegations or evidence of failure by students to maintain standards appropriate to professional practice for health reasons.
- and/or
- b) Allegations or evidence of conduct and/or performance by students leading to a failure to maintain standards appropriate to professional practice.
- 1.10 Failure to maintain appropriate standards may fall into one of the following categories:
- i) Health or related issues impacting a students' ability to practise;
 - ii) Behaviour or practice which is identified as dangerous or damaging to the welfare of others or creates unacceptable risk to others regardless of whether this is caused by health, conduct or performance issues;
 - iii) Serious misconduct or unethical behaviour;
 - iv) Persistent shortcomings identified in behaviour in relation to practice;
 - v) Bringing the profession into disrepute.
- 1.11 The Procedure takes into account the requirements of relevant professional codes of conduct set by the appropriate professional and regulatory bodies.
- 1.12.0 References in the Procedure to any University officer include his or her properly appointed nominee. References to job titles include equivalences.
- 1.13 Any person involved in a Fitness to Practise case and who requires reasonable adjustments to take into account their personal circumstances should raise these at the earliest opportunity

2. KEY RESPONSIBILITIES

- 2.1 Under 4.2 (f) of the Articles of Government for Bournemouth University, the Vice-Chancellor is responsible for the maintenance of student discipline and for the suspension or expulsion of students on disciplinary grounds. The Director of Student Services will normally act as the Vice-Chancellor's nominee in respect of the operation of disciplinary issues. In the absence of the Director of Student Services, the Vice Chancellor may nominate another senior officer of the University.
- 2.2 The Deputy Dean of Education and Professional Practice or their nominee is normally responsible for overseeing the Fitness to Practise Procedures within their Faculty.
- 2.3 The appropriate Head of Department will normally be responsible for carrying out an initial assessment of the facts to establish if there appears to be evidence of a case to answer.
- 2.4 Where the student denies the allegations or the case is complex, an Investigating Officer may be appointed to carry out a full investigation (see Section 9)
- 2.5 SUBU Advice are available for free, independent, confidential advice for all students at Bournemouth University, and at panels they commonly act as the representative of the student, not acting in a legal capacity. Staff should signpost students to SUBU Advice if they are undergoing a Fitness to Practise procedure.
- 2.6 The university provides a range of [health & wellbeing support](#) for students who have mental or physical health issues. Students who are being considered under these procedures are strongly encouraged to seek support as is appropriate to their needs.

3. ACCESSING OTHER RELEVANT BU DOCUMENTS

All documents can be accessed [here](#)

3E – Admissions Policy for Applicants with a Criminal Record

6H - Academic Offences: Policy and Procedures for Taught Awards
6M - Research Misconduct: Policy and Procedure
11F - Student Complaints: Policy and Procedures
11J - Support to Study Policy and Procedure
11K - Student Disciplinary: Procedure
11L - Third Party Involvement: Procedure

3.1 Other documents with direct relevance to this are:

- [Bournemouth University Rules and Information - Residences](#)
- [Code of Practice on Freedom of Speech](#)
- [Dignity and Respect \(Harassment\) Policy and Procedures](#)
- [Fraud Policy and Procedures](#)
- Halls of Residence Rules and Guidance
- Placement Concerns Policy
- [Student Reference Policy – guidance for BU staff](#)
- Student Wellbeing Framework
- [University Rules relating to the use of Information Technology](#)
- [“Whistleblowing” \(Disclosure in the Public Interest\) Policy and Procedures](#)

4. MISCONDUCT THAT IS ALSO A CRIMINAL OFFENCE

4.1 If a matter referred under this Procedure could be a criminal offence, Faculty staff will consult with the Director of Student Services before taking any action.

4.2 The Director of Student Services will determine whether the allegations, if substantiated, would be a serious offence (i.e. one that would never be filtered from a Disclosure and Barring Service certificate in the UK).

4.3 The University will normally report any suspected criminal offence to the police. If a person claims to be the victim of an offence committed by a student, but does not wish the police to be involved, the Director of Student Services may agree not to report the matter.

4.4 If the Director of Student Services regards the alleged misconduct as constituting a serious offence, no internal action other than suspension from practice and/or the University (if appropriate) will normally be taken until the matter has been reported to the police, and either any criminal proceedings have been completed or the police have advised that they do not object to Bournemouth University dealing with the matter.

4.5 If the Director of Student Services does not regard the alleged misconduct as constituting a serious offence, it may be dealt with internally.

4.6 If a student has been sentenced by a criminal court in respect of any misconduct that is dealt with under this procedure, the sanction imposed by the criminal court will be taken into consideration in determining the penalty under this procedure.

5. MISCONDUCT THAT CONSTITUTES FRAUD

5.1 The following are some examples of actions that could be considered fraud:

- Forging signatures (relating to practice or academic work)
- Working whilst absent from the university/placement due to sickness
- Claiming bursary when not entitled, providing false information in a bursary application or not informing the NHS Bursaries office when entitlement changes

5.2 If the student is enrolled on an NHS funded programme, or is an employee of the NHS, *and* the allegations if proved true may amount to fraud, the case will be referred to NHS Counter Fraud Agency for their investigations.

5.3 No other internal action arising from the allegations, other than suspension from the University and/or practice if appropriate, will normally be taken until NHS Counter Fraud Agency have completed their investigations and any subsequent external proceedings have been completed or NHS Counter Fraud Agency advise that they do not object to Bournemouth University dealing with the matter. Please see the *Fraud Policy and Procedures* for more information about the investigation and steps to be taken in relation to allegations of fraud.

6. INITIATION OF FITNESS TO PRACTISE PROCEDURE – INITIAL REVIEW

6.1 If concerns are raised about a student's inability/failure to maintain standards appropriate to professional practice the Faculty Deputy Dean of Education and Professional Practice or their nominee, will carry out an initial review of the available facts. This initial review will normally include an interview with the student. Alternatively, the student may be offered the opportunity to make written representation.

6.2 Following that review the Deputy Dean of Education and Professional Practice or their nominee may decide:

- there is no case to answer and a note will be placed on the student file recording this *or*
- that the issue can be dealt with more appropriately under a different procedure, *or*
- that no further action should be taken other than the provision of advice and guidance as appropriate and a note placed on the student file referring to this, *or*
- that a first written warning be issued, to remain on a student file until the end of the students course or a specified time before then
- that the student should remain in practice whilst a full investigation is carried out, *or*
- that the student should be suspended from practice whilst the matter is fully investigated *or*
- that the matter be referred direct to a Fitness to Practise Hearing

6.3 The Deputy Dean of Education and Professional Practice or their nominee may also recommend to the Director of Student Services that the student should be suspended from their studies whilst a full investigation is carried out.

6.4 The Initial Review will normally be completed within 10 working days from when the concerns were originally raised. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.

6.5 Records should be kept as proportionate to the allegations even where no further action is deemed necessary. This is because behaviour or concerns that are not considered serious enough to need any action may be relevant in later proceedings if the student behaves in a similar way again or other concerns are raised. All records will be kept in line with BU Records Retentions scheme. Students will be informed what information is being held.

7. SUSPENSION FROM PRACTICE

7.1 Suspension from practice will not normally occur until after the Deputy Dean of Education and Professional Practice or their nominee has concluded the Initial Review. However, in some circumstances, particularly if serious matters have been raised (such as a potential criminal offence) or there is a perceived risk to the student's safety or the safety of others, the Deputy Dean of Education and Professional Practice or their nominee may decide to suspend the student immediately before the Initial Review.

7.2 In making a decision about suspension from practice, the Deputy Dean of Education and Professional Practice or their nominee and any practice provider will normally consult with representatives of any organisation if the student is currently placed.

7.3 , A placement provider may temporarily withdraw a placement before any consultation has taken place. If this happens, the student will be deemed to have been suspended from practice and an Initial Review will be carried out by the Deputy Dean of Education and Professional Practice or their nominee as soon as practicable. There may be a delay to the Initial Review

pending full information about the reasons for the suspension from the practice provider. In this case the student will be informed of the delay and kept up to date on when the Initial Review is likely to take place.

- 7.4 Suspension from practice during an investigation is a neutral act and does not constitute disciplinary action. Normally a student will be suspended from practice by the University only if there are concerns for their own or others safety, if there appears to be significant failure to maintain professional conduct, or to facilitate a full investigation of the facts.
- 7.5 When a student is suspended from practice this will normally be confirmed to them in writing by the Deputy Dean of Education and Professional Practice or their nominee within 5 working days of the suspension being applied. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.
- 7.6 The confirmation will provide information about why a suspension from practice is deemed necessary including details of the allegations/concerns and an outline of the procedures that will be followed by the Faculty. The student must inform any current or potential employer of their suspension.
- 7.7 Any suspension from practice will be reported to the Complaints and Conduct Adviser. The Deputy Dean of Education and Professional Practice or their nominee may also recommend to the Director of Student Services that the student be suspended from their studies pending further investigation.

8. SUSPENSION FROM STUDIES

- 8.1 If the Deputy Dean of Education and Professional Practice or their nominee believes that a suspension from studies is also necessary pending further investigations, this will be communicated to the Director of Student Services who will review the available information before reaching a decision. When a student is suspended from studies this will normally be confirmed to them in writing by the Director of Student Services within 5 working days of the suspension being applied. Any such suspension shall be reported to the Vice-Chancellor and the student's Faculty Executive Dean and to the Chief Executive Officer of the Students' Union.
- 8.2 Normally no student shall be suspended from study unless they have been given the opportunity to make representations to the Director of Student Services either in person or in writing, as the student chooses. The student may be represented by a friend or representative (not acting in a legal capacity). Please refer to *11L – Third Party Involvement: Procedure* for further details. In cases deemed to be urgent, particularly if the safety of others is perceived to be at risk, a student may be suspended from study with immediate effect and before being given the opportunity to make representations. In this instance the student or their representative shall be permitted to put forward representations at the earliest possible opportunity thereafter.
- 8.3 A student who is suspended from studies may be prohibited from entering all or any part of the University premises and from participating in University activities including exercising their functions or duties of any office or committee membership in the University or the Students' Union. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension shall be notified in writing to the student. The suspension may include a requirement that the student shall have no contact with a named person or persons.
- 8.4 In any event any decision to suspend a student from study shall be subject to review after 20 working days. Such a review shall not involve a hearing but the student, either personally or through his or her friend or representative shall be entitled to submit written representations.

9. INVESTIGATION STAGE

- 9.1 If the Deputy Dean of Education and Professional Practice or their nominee considers that the allegations warrant a full review, they will nominate an independent investigating Officer to carry out a full investigation. The aim will be for all investigations to be completed as soon as possible and normally within 20 working days following the Initial Review. In particularly complex cases,

the Investigation may take longer and the student will be kept informed of any delays and the reasons for the delay.

- 9.2 At the end of the Investigation, the Investigating Officer will submit an Investigation Report to the Deputy Dean of Education and Professional Practice or their nominee for consideration.
- 9.3 At any point during the investigation the Deputy Dean of Education and Professional Practice or their nominee may decide that it is necessary to suspend the student from practice (if have not already been suspended) to facilitate the investigation or to protect the safety of the students or others. If this occurs, the procedures outlined in Section 7 will apply.
- 9.4 The Deputy Dean of Education and Professional Practice or their nominee will review the investigation report and decide:
- there is no case to answer, *or*
 - that no further action should to be taken other than the provision of advice and guidance as appropriate
 - that the case should proceed to a Fitness to Practise Hearing.
- 9.5 If the case is to proceed to a Fitness to Practise Hearing, the Deputy Dean of Education and Professional Practice or their nominee will decide if any suspension should continue to apply pending the outcome of the Hearing.
- 9.6 If the Deputy Dean of Education and Professional Practice or their nominee considers that there is no case to answer, a note will be held on the student's file to record the outcome. If no further action is to be taken, the student may be offered advice and guidance as appropriate and a note to that effect will be placed upon the student's file.

10. THE FITNESS TO PRACTISE HEARING

- 10.1 The Fitness to Practise Hearing will be arranged as soon as is practicable after the Investigation has been completed, and normally within 20 working days. The student is entitled to a minimum of 10 working days' notice for the Hearing, but this may be held earlier if the student agrees in writing. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.
- 10.2 The student will be notified in writing of the allegation(s) and under which category (as specified in Section 1.8) the allegations will be considered as well as the date, time, location of the Hearing and the names and roles of Panel members.
- 10.3 The student will be invited to submit appropriate documentation in their defence e.g. written statement and supporting evidence.
- 10.4 If there are a series of related concerns/allegations the Hearing may, at its discretion, deal with all these at one hearing. If two or more students are involved in related allegations of misconduct, the Hearing may at its discretion deal with their cases together.
- 10.5 If the student is unable to attend, the Hearing will normally be rescheduled on one occasion. It should be noted that where reasonable effort has been made to allow the student to attend the Hearing, the Hearing may take place in the absence of the student.
- 10.6 Students may be accompanied at a Hearing by a friend or representative (not acting in a legal capacity) for support or representation as appropriate. The friend or representative shall be permitted to put forward the student's case under the direction of the Chair of the Hearing, and shall be permitted to ask questions of the Faculty/Professional Service representatives. However please note that even if the student has representation they will normally still be expected to answer any questions about what has given rise to the fitness to practise concerns Please see *11L - Third Party Involvement: Procedure* for more information.
- 10.7 It is recommended that students' use the services of SUBU advice, who are experienced in this area, or any professional representational (e.g. RCN) available to them.

11. THE FITNESS TO PRACTISE PANEL

11.1 Membership of the Fitness to Practise Panel shall consist of:

- one member of the Executive, or Senior Professional lead, from the student's Faculty unconnected with the case (Chair),
- one member of the profession, based in practice, unconnected with the case, and not employed (either directly or indirectly) by the University,
- one independent member of academic staff from another Faculty
- a representative of the Students' Union.

11.2 With the exception of the Chair, all Fitness to Practise Panel members shall be drawn from outside the student's Faculty. Members of the Fitness to Practise Panel must remain, and be seen to remain, impartial at all times.

11.3 The Complaints and Conduct Adviser shall act as Hearing Secretary. The role of the Secretary is to convene the Hearing, prepare and circulate papers in advance of the meeting, advise on policy and procedure and precedents, and complete all documentation post-Hearing. The Hearing Secretary is not a member of the Fitness to Practise Panel and does not participate in the discussions regarding the case in question.

11.4 Wherever possible panel membership should offer a range of cultural and diversity representation.

11.5 All panel members will be fully briefed on their role in advance of the hearing

12. WITNESSES

12.1 Witness statements relating to the concerns/allegation(s) may be provided by either party. Normally, only witness statements that are signed and dated by the witness will be accepted.

12.2 Any party may request that their witnesses attend in person. Requests for witnesses to attend must be submitted to the Hearing Secretary at least 5 working days in advance of the hearing. Requests will be considered by the Panel Chair in advance of the Hearing.

12.3 The Panel Chair may also request that witnesses attend the Hearing. Normally witnesses will be informed in advance of the hearing that they are required to attend. In exceptional cases, the hearing may be adjourned to allow witnesses to attend.

12.4 Witnesses shall attend only to present their evidence and to answer any questions that the Fitness to Practise Panel, or the other party, may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses must withdraw.

13. ORDER OF PROCEEDINGS

13.1 The Order of Proceedings shall normally be as follows:

- a) Introduction of those present by the Chair;
- b) The Head of Department shall set out the concerns/allegation. They may call witnesses in support of the allegations;
- c) The student, or their representative, shall respond to the concerns/allegation(s); The student may call witnesses in defence of the allegations;
- d) The Fitness to Practise Panel shall have the opportunity to question the Head of Department, the student and any witnesses;
- e) The student and the Head of Department shall have the opportunity to ask questions through the Chair of the other party;
- f) The Head of Department shall sum up the concerns/allegations. New evidence is not admissible at this time;
- g) The student shall sum up. New evidence is not admissible at this time;
- h) The Head of Department and the student shall withdraw whilst the Fitness to Practise Panel reach their decision *in private*;

- i) The student, their representative and the Head of Department may return for the decision.
- 13.2 The order may be varied at the discretion of the Chair.
- 13.3 The Chair may impose time limits on oral addresses and submissions.
- 13.4 The Chair may ask for additional enquiries to be undertaken and may call for additional witnesses to attend.
- 13.5 At the discretion of the Chair, proceedings may be adjourned for a period not normally exceeding 20 working days in the first instance, and its findings or decision deferred accordingly. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.
- 13.6 **Third party involvement:** The University (BU) recognises that students may wish to be advised, supported or represented by a third party during formal University processes and has published *11L - Third Party Involvement: Procedure* that applies to any third party who may be advising, supporting or representing a student during a BU procedure. Even if the student has representation they will normally still be expected to answer any questions about what has given rise to the fitness to practise concerns
- 13.7 If, despite being given appropriate notice of the Hearing, a student fails to attend, the Hearing will proceed regardless. The Fitness to Practise Panel will base their decision on the evidence available to them at that time

14. DOCUMENTATION

- 14.1 All documentation must be submitted to the Hearing Secretary 7 working days before the Hearing. All documentation to be considered at the Hearing will be circulated to all parties, by the Hearing Secretary, 5 working days before the Hearing.
- 14.2 Any documentation submitted after the deadline will be accepted only at the Chair's discretion.
- 14.3 Guidance on what documentation should be submitted in support of a case can be obtained from the Complaints and Conduct team. Students should be aware that failure to disclose pertinent information may in itself be a Fitness to Practice issue
- 14.4 The Fitness to Practise Panel shall rely only on relevant evidence presented at the Hearing, or in written format beforehand. New written evidence will not normally be accepted during the Hearing. If, exceptionally, the Chair believes it is appropriate to accept new written evidence during the Hearing, the Hearing may be adjourned for a short time to allow all parties time to consider the evidence.
- 14.5 Evidence in the form of a covert recording will not normally be admissible. Should a student wish to submit any covert recording as evidence at any stage of the procedure, it will be considered on a case by case basis.
- 14.6 A record should be kept of any reasonable adjustments that have been made to take into account the personal circumstances of anyone involved in a Fitness to Practise case

15. HEARING OUTCOME AND PENALTIES

- 15.1 The Fitness to Practise Panel shall find a student is unable/has failed to maintain standards appropriate to professional practice as outlined in Section 1.10 only if, on the evidence before it, it is satisfied on the balance of probability that the allegations are substantiated. If the members of the Fitness to Practise Panel do not reach a unanimous conclusion, the decision will be made by a majority. In the case of a split decision the Chair will have the casting vote.
- 15.2 When determining the outcome, consideration shall be given to the seriousness of misconduct and the circumstances surrounding it, and any exceptional factors. They may also consider

the requirement of practice placement and whether a suitable placement is available to the student.

15.3 The following outcomes and penalties may apply (plus any academic penalty as per 15.4, if appropriate):

- a) No case to answer. No further action will be taken.
- b) There is a case to answer but that it is more appropriate to offer advice and guidance. In this circumstance the details of the case will be kept on the student's file and may be referred to in the case of any subsequent Fitness to Practise allegations.
- c) A first written warning. This shall detail the allegation(s), state the outcome of the Hearing and outline any recommendations. This warning shall remain on the student's file for a period of 12 months from the date of issue, or for a lesser period as specified by the Fitness to Practise Panel.
- d) A final written warning. A final written warning may be issued after a first written warning if there is a failure to improve and conduct remains unsatisfactory. A final written warning may be issued immediately when no first written warning has been given if the misconduct is serious but does not justify expulsion/withdrawal from the programme. The warning shall detail the allegation(s), state the outcome of the Hearing and outline any recommendations. This warning shall remain on the students file 'until completion of their studies' or for a lesser period as specified by the Fitness to Practise Panel. .
- e) Where a student is already registered with a Professional Body, that the case be referred to the relevant Professional Body for consideration. If the case is referred to a Professional Body, the University may elect to defer a final decision on any penalty until the Professional Body has concluded their investigations. The findings of the Professional Body plus any penalty imposed by them shall be taken into consideration by the University in determining the penalty under these regulations.
- f) Recommendation to the Director of Student Services that the student be suspended from the University for a fixed period, up to a maximum of twelve months. A student who is suspended is prohibited from entering University premises, and from participating in University activities. Suspension may be subject to qualification, such as permission to take an examination. The student will be notified of the outcome in writing. An order of suspension may include a requirement that the student shall have no contact with a named person or persons.
- g) Recommendation to the Vice-Chancellor that the student be withdrawn from the programme of study (this may be on the grounds of on the grounds of health / inability to meet the competencies of the programme or other reasons) but permitted to enrol onto a non-practice based programme, should they wish. In this instance the Director of Student Services will provide the Vice-Chancellor with copies of the original allegations and the minutes of the Fitness to Practise Hearing (and the Appeals Hearing if appropriate) for consideration following expiry of the Appeals deadline or 10 days of the Appeals Hearing taking place.
- h) Recommendation to the Vice-Chancellor that the student be expelled from the University. This option will normally only be used in the most serious cases, when there are concerns that the student is not suitable to remain at BU due to concerns over general behaviour not limited to practice related issues. In this instance the Director of Student Services will provide the Vice-Chancellor with copies of the original allegations and the minutes of the Fitness to Practise Hearing (and the Appeals Hearing if appropriate) for consideration following expiry of the Appeals deadline or 10 days of the Appeals Hearing taking place.
- i) On withdrawal the student ceases to be a member of the University, and loses all rights and privileges of membership.

15.4 If an academic offence is found to have been committed, academic penalties as per 6H – *Academic Offences: Policy and Procedure for Taught Awards* may also be applied as well as those set out in Section 9.

- 15.5 If possible, the decision of the Fitness to Practise Panel shall be communicated verbally to the student and to the Head of Department within one hour of adjourning to consider the evidence. If this is not possible the decision of the Fitness to Practise Panel shall be communicated in writing to all parties, normally within 5 working days. All verbal communications regarding the decision of the Fitness to Practise Panel shall be confirmed in writing, normally within 5 working days.
- 15.6 The outcome will outline the reason for the Fitness to Practise Panel's decision.
- 15.7 If a penalty has been applied, the student will be notified of their right to appeal, the grounds for appeal and the process to be followed.
- 15.8 If a student is on a programme that leads to eligibility to register with the Health & Care Professions Council (HCPC) or Social Work England, and they have been removed from the programme because of misconduct, the Panel Secretary shall notify the HCPC or SWE of the Fitness to Practise Panel's decision.
- 15.9 Except with the agreement of the Chair, the proceedings of the Hearing shall remain confidential, with the exception of its decision.
- 15.10 In some circumstances, the placement provider may not wish to have the student back in placement if there has been a breakdown in trust and confidence. The university will seek to find an alternative placement to allow the student to complete the programme. It may not always be possible to find a placement as there are limited placements available. If a placement is not found within a reasonable time, depending on all the circumstances, and the student is therefore not able to complete their programme of study they may be withdrawn from the programme.

16. WRITTEN WARNINGS

- 16.1 If a written warning has been given, this will be placed on the student's file for the specified period. Providing the student complies fully with the recommendation of the Fitness to Practise Panel and demonstrates satisfactory conduct and performance during the specified period, the warning will cease to apply on expiry. If the student is subject to further fitness to practise or disciplinary procedures during the period of the warning, the original allegations/concerns may also be taken into account when the further allegations are considered. Current written warnings may be referred to in any references that the University is required to give.

17. ILLNESS

- 17.1 If it appears to those considering an allegation of misconduct that the student in question is suffering from illness, the proceedings may be adjourned for the preparation of a medical report.
- 17.2 If there is medical evidence that the student is suffering from illness, those dealing with the case may suspend or end the proceedings, if it is felt appropriate to do so. It may be made a condition of suspension or termination of the proceedings that the student seeks appropriate support and/or treatment.

18. APPEALS STAGE

- 18.1 A student may appeal against the decision of the Fitness to Practise Panel on the following grounds:
- The procedures outlined in this document for consideration of Fitness to Practise concerns were not adhered to
 - New evidence becomes available that was not available at the time of the Fitness to Practise Hearing. Appeals based on evidence that was available but wasn't presented at the time would not normally be an admissible ground for appeal
 - The penalty is disproportionate in the circumstances of the case

- 18.2 Disagreement with the decision of the Fitness to Practise Panel is not in itself grounds for appeal and appeals based solely on this will not be accepted.
- 18.3 Appeals must be submitted in writing to the Complaints and Conduct Adviser within 10 working days of the date of written confirmation of the Fitness to Practise Panel's decision and must clearly specify on which ground(s) on which it is based.
- 18.4 If an appeal is pending against a decision of the Fitness to Practise Panel to suspend, withdraw or expel a student, the operation of the suspension, withdrawal or expulsion will be deferred pending the appeal.
- 18.5 An Appeals Hearing will be arranged as soon as is practicable after an eligible appeal has been received, and normally within 20 working days. The student is entitled to a minimum of 10 working days' notice for the Hearing, but this may be held earlier if the student agrees in writing. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.
- 18.6 All parties shall be invited to provide a written submission 7 working days in advance of the Appeals Panel. Documentation will be circulated to all parties 5 working days in advance of the Appeals Panel.
- 18.7 The Appeals Panel shall comprise a member of the University Leadership Team as Chair, one member of academic staff from outside the student's Faculty, a representative of the Students' Union, and a member of the profession, based in practice, and not employed (either directly or indirectly) by the University. All members of the Appeals Panel must be previously unconnected with the case.
- 18.8 The Complaints and Conduct Adviser shall normally act as Hearing Secretary. The role of the Secretary is to convene the Hearing, prepare and circulate papers in advance of the meeting, advise on policy and procedure and precedents, and complete all documentation post Hearing. The Hearing Secretary is not a member of the Appeals Panel and does not participate in the discussions regarding the case in question.
- 18.9 The student and the Chair of the Fitness to Practise Panel shall be invited to attend the Appeals Panel. The student may be accompanied by a friend or representative, not acting in a legal capacity. It is recommended that students use the services of SUBU advice, who are experienced in this area, or any professional representational (e.g. RCN) available to them.
- 18.10 The Chair of the Appeals Panel may decide that the Appeal should be heard without the parties being present. The Appeals Panel may ask the parties to be available to provide further information or clarification of matters to the Appeals Panel.
- 18.11 The proceedings of the Appeals Panel shall take such form as the Appeals Panel considers appropriate to aid an investigation of the grounds for the appeal as stated in the student's notice. As a guide, the order of proceedings below may be followed:
- i) Introduction of those present
 - ii) Student and / or representative presentation (normally no more than 10 minutes)
 - iii) Opportunity for the Appeals Panel to question the student
 - iv) Opportunity for the Chair of the Fitness to Practise Panel to question, through the Chair, the student
 - v) Chair of the Fitness to Practise Panel's presentation (normally no more than 10 minutes)
 - vi) Opportunity for the Appeals Panel to question the Chair of the Fitness to Practise Panel
 - vii) Opportunity for the student to question, through the Chair, the Chair of the Fitness to Practise Panel.
 - viii) Student and / or representative summing up (5 minutes). New evidence is not admissible at this time
 - ix) Chair of Fitness to Practise Panel summing up (5 minutes). New evidence is not admissible at this time

- x) Adjournment – The student, any representative and the Chair of the Fitness to Practise Panel must withdraw while the Appeals Panel considers the evidence *in private*.
 - xi) The student, any representative and the Chair of the Fitness to Practise Panel may return to hear the decision.
- 18.12 The Appeals Panel may in its discretion call witnesses and examine any evidence relevant to the subject of the appeal and may adjourn its proceedings or defer its decision for that or any other purpose.
- 18.13 The student is not entitled to a rehearing of a case. The Appeals Panel may overturn the Fitness to Practise Panel's decision if they consider it just to do so. In particular, a finding may be overturned in the light of new evidence; if the Appeals Panel considers that the original hearing was not conducted fairly; or that the decision to uphold the allegations was unreasonable in the light of the Fitness to Practise Panel's assessment of the facts.
- 18.14 The Appeals Panel may impose a lesser or greater penalty than the Fitness to Practise Panel, having considered whether the original penalty imposed was fair and reasonable in the light of all the circumstances of the case, and the student's means and general personal circumstances.
- 18.15 The Appeals Panel shall consider its decision *in private*, and shall notify the student of it in writing, normally within 5 working days, outlining the reason for their decision. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.
- 18.16 The decision of the Appeals Panel is final and no further appeal is permitted within the University.

19. FURTHER ACTION

- 19.1 If, after exhausting the Appeals Stage, the student feels there to have been an error of judgement, or that due process has not been followed, they may complain to the Office of the Independent Adjudicator for Higher Education. Contact details for the Independent Adjudicator are:

Office of the Independent Adjudicator
Second Floor
Abbey Wharf
57-75 Kings Road
Reading
RG1 3AB

Tel: 0118 959 9813
Email: enquiries@oiahe.org.uk