

Fitness to Practise Policy & Procedure

Students enrolled on courses leading to a professional qualification may have responsibilities over and above those of other students at the University. This particularly applies to any professional Codes of Conduct that students are required to comply with whilst undertaking their training.

Applicants or others whose enrolment has not been fully confirmed (for example – having not satisfied the pre-requisite checks for some professional courses) have no recourse to this policy.

Examples of professional courses at the University includes (but is not limited to) the following -

- Nursing & Midwifery
- Pharmacy
- Social Work
- Teaching
- Interpreting (British Sign Language/English)
- Paramedic Science
- Biomedical Science

A student's alleged misconduct may be considered to be contrary to behavioural expectations required by the course's professional code. In such circumstances consideration must be given to the possibility that they could put patients/clients/pupils/the public or other students or staff at risk. A student's Fitness to Practise is called into question when their conduct, health or competence raises a serious or persistent cause for concern about their ability or suitability to continue on a course.

Where concerns are raised with regard to the Fitness to Practise of a student who is already a registered professional the matter will be forwarded to the relevant professional body in the first instance, but may be considered within the University procedure at the recommendation or approval of the professional body.

Where concerns are raised with regard to the Fitness to Practise of a member of staff who is a registered professional the matter will be forwarded to the relevant professional body.

Categories of Concern

This is not an exhaustive list but indicates areas of concern that may call into question whether a student is fit to practise.

- **Criminal conviction** Caution, reprimand or penalty notice of disorder or equivalent relating to theft, financial fraud, possession of illegal substances, creating or obtaining child pornography, child abuse or any other abuse.
- **Drug or alcohol misuse** Driving with excess alcohol or under the influence of drugs, alcohol consumption that affects work or the work environment,

misusing therapeutic or illicit drugs, possessing or dealing illegal drugs, even if there are no legal proceedings.

- **Aggressive, violent or threatening behaviour** Assault, sexual assault, physical violence, bullying, verbal abuse.
- **Persistent inappropriate attitude or behaviour** Lack of commitment to academic work, neglect of administrative tasks, poor time management, infrequent or non-attendance, poor communication, failure to accept or follow educational advice, failure to follow health and safety requirements or failure to follow the rules and regulations of the Faculty, University, or placement provider.
- **Serious Academic misconduct offences** – Cheating in examination, persistent plagiarism or collusion or dishonesty in during academic misconduct proceedings.
- **Dishonesty or fraud** Dishonesty inside or outside the professional role, failing to declare a criminal conviction, falsifying research, falsifying qualifications, misrepresentation, financial fraud, fraudulent CV's or other documents or students signing in for other students to represent attendance.
- **Unprofessional behaviour or attitude** Breach of confidentiality, sexual, racial or other forms of harassment, failure to observe appropriate boundaries in behaviour, persistent rudeness, bullying, unlawful discrimination and potentially inappropriate use of social networking sites.
- **Health concerns and lack of insight or management of these concerns** Failure to seek appropriate medical treatment or other support, failure to follow medical advice or care plans, including monitoring and reviews, in relation to maintaining fitness to practise. Failure to recognise limits and abilities or lack of insight into health concerns, treatment resistant condition which might impair fitness to practise.

Confidentiality Disclosure

There is a fundamental issue surrounding confidentiality. The normal rules must be challenged where failure to discuss information about a student may expose a patient/client/pupil, or others to risk of death or serious harm. In such circumstances information should be disclosed promptly to an appropriate person.

Where possible the consent of the student should be sought before any such disclosure is made. If consent is withheld but the circumstances require disclosure, the student should be informed of the action that is being taken and the reason for it.

When a personal tutor or counsellor has serious concerns about the student having continued access to vulnerable groups they should be advised to pass the information to the student's Dean of Faculty. (*Health and Social Care Act 2008*)

This policy and procedure is also subject to the requirements of the Disclosure and Barring Service.

Fitness to Practise Procedure

Initial investigation

In accordance with Faculty Fitness to Practise procedures, on receipt of information regarding any area of concern the Faculty Fitness to Practise Panel will instigate an investigation. If a Faculty does not have a Suitability Panel the Dean of Faculty (or nominee) will instigate the investigation.

The purpose of the initial investigation is to decide whether there is a case to answer with regard to whether a student's fitness to practise is impaired. The initial investigation must be proportionate, weighing up the interests of patients/clients/pupils and the public and the requirements of the relevant professional body, against those of the student.

It is important to consider at this stage whether the behaviour is better dealt with through a means of student support rather than through a formal panel hearing. A full written record should be kept of the investigation and decision made. The investigator should not be a member of the Faculty Fitness to Practise Panel.

The student will be informed of the investigation and may be suspended from the whole or any part of the course pending completion of the investigation. The student will be afforded the opportunity to state their case to as part of the investigation.

Where the investigation concludes that there is a case to answer the Faculty Fitness to Practice Panel or Dean of Faculty (or nominee) will refer the case directly to a University Fitness to Practise Panel via the Conduct and Appeals Unit.

Investigations of a serious nature, involving other public and professional bodies, may take an extended period of time to complete. The University, in these circumstances, will undertake to keep the student informed and updated on the progress of the investigation at regular intervals.

Purpose of a Fitness to Practise Panel

The purpose of the panel is to formally consider whether a student is fit to practise, and what sanctions, if any, should be imposed on a student.

Panels must act in a proportionate way by weighing the interests of patients/clients/pupils and the public against those of the student.

Mitigating and aggravating factors must be considered by the panel when deciding on the appropriate outcome and the civil standard of proof should be applied i.e. the facts must be found proven on the balance of probabilities.

Sanctions must be considered in ascending order of seriousness starting with the least severe and moving to the next outcome where the lesser sanction is not deemed to be appropriate. The panel must document the reasons for not applying the lesser sanction.

The panel must ensure that any warning or sanction is proportionate to the behaviour found, and that it will deal effectively with the fitness to practise concerns.

The panel must give reasons for its decision and specify any time frame on conditions that may apply. It must issue a written determination and indicate whether the outcome of the hearing must be declared to the Professional Body.

The Hearing

On receipt of information/evidence and a referral from the Faculty Suitability Panel or Dean of Faculty (or nominee) the Conduct and Appeals Unit will make arrangements for a Fitness to Practise hearing.

In determining the panel's composition due regard will be paid to the need to ensure that members of the panel are impartial and have not been involved in any prior investigation of the student's case.

The panel will include:

- Chair: a senior member of academic staff from the Faculty to which the student belongs,
- a senior member of academic staff from outside of the Faculty to which the student belongs,
- a representative of the relevant professional discipline.

The student will normally be expected to be present throughout the hearing and may be represented by an adviser/friend. The student will be expected to participate in the hearing and to answer questions as required. If the student fails to attend, and offers no valid reason for their absence, the hearing will be conducted in their absence.

An officer of the Conduct and Appeals Unit will act as note taker to the panel; in addition an audio recording will be made. A senior member of the Conduct and Appeals Unit will attend in an advisory capacity.

A member of staff from the faculty, to which the student belongs, will be nominated by the Dean of the Faculty (or their nominee) to attend to present the grounds for concern.

At least seven working days before the hearing all participants will receive copies of the information to be considered by the panel.

The chair of the panel shall have discretion to manage the conduct of the hearing including to adjourn, continue or postpone a hearing and to limit the length of the hearing, the questioning of witnesses, and the number of witnesses called.

The student and the faculty representative may present evidence and call witnesses, who may be questioned by the other party and by the panel. Both the student and the faculty representative will be afforded the opportunity to make a final closing statement. The student will have the last word.

The Fitness to Practise panel will consider its decision in private.

Upon reaching its conclusion the panel will issue a report, via the Conduct and Appeals Unit, setting out the reasons for its decision and specifying any time frames or conditions that may apply. The report will indicate whether the outcome of the hearing must be declared to the Professional Body.

This report will normally be sent to the student, the faculty representative and the Dean of Faculty (or their nominee) within five working days.

The Outcome of a Fitness to Practise Hearing

Possible outcomes include:

- The student receives no warning or sanction.
- The student receives a warning as there is evidence of misconduct but the student's fitness to practise is not judged to be impaired.
- The student's fitness to practise is judged to be impaired and they receive a sanction. These can be:
 - Conditions or undertakings*.
 - Suspension from the course of study for a specified period of time**.
 - Expulsion from the course of study – students may be offered the opportunity to transfer to a non-professional course.
 - Expulsion from the University.

* Those who receive conditions or sanctions, short of being expelled, should be monitored. If they are in their early stages of their course they may be asked to reflect on their fitness to practise as least once a year.

It must be made clear to a student who receives a warning, condition or a sanction why they have received it, its intended purpose, its expected duration and whether or when their fitness to practise will need to be considered again in a formal hearing.

**A return from suspension may be subject to a further review of progress by the Fitness to Practise panel.

Students who take a Leave of Absence or withdraw from the course prior to the completion of Fitness to Practise procedures may be still be subject to those procedures if they later wish to return to study on a professional programme.

A record of the proceedings and any sanctions or conditions applied will be kept on file in accordance with the University Document Retention Schedule¹.

Where it is necessary for the student or the University to declare a sanction to a Regulatory Body, this requirement will be detailed in the Fitness to Practise outcome letter.

¹ University of Wolverhampton Document Retention Schedule, available at: <https://www.wlv.ac.uk/about-us/governance/legal-information/policies-and-regulations/>

Appealing the Outcome of a Fitness to Practise Hearing

Grounds for appeal are limited to:

- a procedural irregularity at the Fitness to Practise Panel hearing which could have affected the panel's decision;
- new and relevant evidence which could not, for valid reasons, have been made available at Fitness to Practise Panel hearing;
- that the severity of the penalty imposed was, in the circumstances, unreasonable and/or disproportionate.

Appeals must be made within 20 working days of the receipt of the outcome report.

Appeals should be submitted in writing to:

The Conduct and Appeals Unit
Registry
University of Wolverhampton
MX Building
City Campus Molineux
Wolverhampton
WV1 1AD

Or by email to: conductandappeals@wlv.ac.uk

The request must clearly state the grounds for the appeal in accordance with the list above and should be supported by any and all appropriate evidence.

The Head of the Conduct and Appeals Unit (or their nominee) will review the appeal to determine whether or not the student has demonstrated evidence of valid grounds for an appeal to proceed.

An appeal review should normally be completed in no more than 30 working days.

If it is determined that the student has not demonstrated a valid case for further consideration of the appeal a Completion of Procedures letter will be issued, in accordance with the format prescribed by the Office of the Independent Adjudicator for Higher Education².

If it is determined that the student has demonstrated a valid case for an appeal to proceed then the case will be referred to a Fitness to Practise Appeal Hearing.

² Further details of the review scheme operated by the Office of the Independent Adjudicator for Higher Education (OIA) are available at their website: www.oiahe.org.uk

The Fitness to Practice Appeal Hearing

The membership of an Appeal Panel will be:

- Chair: Dean of Faculty (or nominee) from a Faculty other than that to which the student belongs.
- A senior member of academic or professional services staff.
- A representative of the relevant professional discipline.

The members of the Appeal Panel will have had no previous involvement in the case. No member of the panel may come from the Faculty directly involved in the appeal.

The student will normally be expected to be present throughout the hearing and may be represented by an adviser/friend. If the student fails to attend, and offers no valid reason for their absence, the hearing will be conducted in their absence

The Chair of the Fitness to Practise Panel will be present to respond to the appeal.

At least seven working days before the hearing all participants will receive copies of the information to be considered by the panel.

The Chair of the panel shall have discretion to manage the conduct of the hearing including to adjourn, continue or postpone a hearing and to limit the length of the hearing, the questioning of witnesses, and the number of witnesses called.

The student and the Chair of the Fitness to Practise Panel may present evidence and call witnesses, who may be questioned by the other party and by the Appeal Panel. Both the student and the Chair of the Fitness to Practise Panel will be afforded the opportunity to make a final closing statement. The student will have the last word.

The Appeal Panel will consider its decision in private. The Appeal Panel shall have the power to dismiss, amend or uphold the original decision

The decision taken by this panel will be final.

Upon reaching its conclusion the Appeal Panel will issue a report, through the Conduct and Appeals Unit. The report will provide a clear explanation of the decision.

The report will normally be sent to the student, the Chair of the Fitness to Practise Panel and the Dean of Faculty (or their nominee) within five working days.

Included with the report will be a Completion of Procedures letter confirming the outcome, in accordance with the format prescribed by the Office of the Independent Adjudicator³.

³ Further details of the review scheme operated by the Office of the Independent Adjudicator for Higher Education (OIA) are available at their website: www.oiahe.org.uk

University of Wolverhampton Associated Policies:

- **Academic Appeals** - <https://www.wlv.ac.uk/current-students/conduct-and-appeals/academic-appeals/>
- **Policy on Safeguarding Children, Young People and Vulnerable Adults within the University**
<https://www.wlv.ac.uk/staff/media/departments/estates-and-facilities/documents/UOW-safeguarding-policy>
- **Student Code of Conduct and Disciplinary Procedures**
<https://www.wlv.ac.uk/current-students/conduct-and-appeals/student-conduct/>
- **Undergraduate and Postgraduate Regulations:**
<https://www.wlv.ac.uk/about-us/governance/legal-information/policies-and-regulations/academic-regulations/>

Other Associated Policies & Codes of Conduct:

- **National College For Teaching and Leadership (NCTL) – Teaching Standards, Misconduct and practice** - <https://www.gov.uk/education/teaching-standards-misconduct-and-practice>
- **Health & Care Professions Council (HCPC) – Standards of Conduct, Performance and Ethics:** <https://www.hcpc-uk.org/aboutregistration/standards/standardsofconductperformanceandethics/>
- **The British Psychological Society (BPS) - Code of Ethics & Conduct:**
<https://www.bps.org.uk/news-and-policy/bps-code-ethics-and-conduct>
- **Nursing & Midwifery Council (NMC) – Code for Nurses and Midwives:**
<https://www.nmc.org.uk/standards/code/>
- **The General Pharmaceutical Council (GPhC) – Standards for Pharmacy Professionals:** <https://www.pharmacyregulation.org/spp>
- **National Register of Communication Professionals working with Deaf and Deaf Blind People (NRCPD) – Code of Conduct:** <https://www.nrcpd.org.uk/code-of-conduct>

Note: This is not an exhaustive list. Please visit the relevant professional body website for further information

The University of Wolverhampton Students' Union offers independent, confidential and impartial advice to students. Students may seek advice and representation by contacting the Students' Union directly.
www.wolvesunion.org.uk

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