

FITNESS TO PRACTISE PROCEDURES

1. Introduction

- 1.1 These regulatory procedures are applicable to students enrolled on any University programme of study which leads to a professional qualification and / or which entitles the individual to register with a Professional, Statutory or Regulatory Body (PSRB) and / or to practise under license. Such programmes are hereinafter referred to as 'Professional Programmes' and a list of some of the PSRBs is included at the end of the Procedures.
- 1.2 In addition to meeting the learning outcomes of a Professional Programme, students must satisfy the University that, in respect of their health and conduct, they do not constitute a risk to patients or professional clients and that they meet the requirements of professional bodies. The University may be required to sign a declaration confirming that an individual is a safe and suitable entrant to the given profession and is 'Fit to Practise'. The University may also be required to have in place arrangements for terminating enrolment on a programme or an element within a programme where a student has been found unfit to practise.
- 1.3 Professional Programmes normally require a student to undertake placements and / or work based practice / learning and the University has a duty both to the student and to the public to ensure that any risk or harm is minimised. Fitness to Practise procedures apply equally to offsite placement and to campus learning which forms part of the Professional Programme, as well as the conduct of the student beyond the Professional Programme given the potential impact on the reputation of the Profession.
- 1.4 Although disciplines may have specific external regulatory requirements for determining Fitness to Practise (which may be known by different titles), it is expected that the generic procedures contained within this document will form the basis of all Fitness to Practise procedures applied to enrolled students.
- 1.5 Requests for any additions to the procedures described in this document, based on the presentation of PSRB evidence, should be provided at validation or via the modification process for existing provision. Additions should not in any way undermine the principles or diminish the impact of the procedures described in this document, but may add to them. A validation panel will make a recommendation to Academic Board via the Academic Affairs Committee to either approve or not approve, including referral for further information, any addition. Approved addition(s) should be published in definitive documents, in particular the Programme Specification.
- 1.6 Programmes undertaken in or with a collaborative partner institution, but where academic authority lies with the University, shall be subject to the procedures described in this document. Collaborative partner institutions should seek advice on details of implementation from the Academic Registrar.

- 1.7 These regulations operate in conjunction with the other University regulations and procedures including the [Academic Regulations for Taught Provision](#), [Student Disciplinary Procedures](#), [Student Complaints Procedures](#) and [Supported Study Procedures](#). Care should be taken to ensure that the procedures invoked are appropriate to the circumstances. There may be circumstances when more than one set procedures must be invoked. Where necessary, advice should be sought from the Academic Registrar, Head of Governance and Secretariat Services, or Secretariat and Student Casework Manager.
- 1.8 If a student registered on a professional programme is under investigation by the profession it is the student's responsibility to communicate this information to the Academic Course Leader / Academic Subject Leader. The outcome of this investigation should be reported in writing to the Chair of the Fitness to Practise Panel.
- 1.9 These Fitness to Practise procedures are applicable to enrolled students. They recognise that an offer of a place by the University on a professional programme may be conditional upon the applicant being deemed fit to practise, which could require, for instance, satisfactory completion of a Disclosure and Barring Service (DBS) check or a declaration of the applicant's good health. Once enrolled, a student must disclose any changes to circumstances which could affect their continued fitness to practise, for instance a subsequent criminal conviction, a change in health status, or a complaint or disciplinary matter that arises during a practice placement.
- 1.10 Heads of School / Academic Subject Leaders / Academic Course Leaders must ensure that students are informed of the standards of academic performance, health, behaviour, attitude and attendance expected of them for a declaration of fitness to practise to be made. In this context, students must be informed of the profession's own fitness to practise standards and / or Code of Conduct which will contribute to the declaration by the University. Students are expected to abide by the principles of the Code of Conduct, even though they may not be bound by the Code until the point of Registration.
- 1.11 Competence in practice assessment issues should be addressed through the normal assessment of practice procedure and should not be referred through this process. Fitness to Practise procedures only apply when an action is so serious that the student should be prevented from further contact with service users to ensure public protection or in aspects of academic practice that bring into question the honesty and integrity of the student (e.g., Academic Misconduct). The Fitness to Practise process *'is not designed to punish registrants for past mistakes but to protect the public from those registrants who are not fit to practise.'*¹
- 1.12 Students who are under investigation within these procedures are recommended to seek advice and guidance from Student Services. They can also seek support from the [Students' Union](#) and relevant Trade Unions.

2. Definition of Fitness to Practise

- 2.1 Where a student is enrolled on a programme that leads directly to, or that satisfies a necessary condition of, a professional qualification, and/or which gives the right to practise in one or more professions, he/she must be considered 'fit to practise'. A professional is

¹ [Health & Care Professions Tribunal Service](#)

deemed fit to practise when they have the skills, knowledge, character and health necessary to act professionally and practise safely and effectively in accordance with standards of the relevant PSRB.

- 2.2 Examples of circumstances that might render a student unfit to practise are given below. This list is not exhaustive, and the examples may not all be applicable to every programme.

Conduct

- a) Failing to act in a way to ensure the safety and wellbeing of those who are vulnerable;
- b) Offences against the vulnerable, including children, the elderly and the mentally incapacitated;
- c) Exploiting the vulnerability of a patient or professional client, including to establish a sexual relationship;
- d) Drug or alcohol abuse;
- e) Acting in a violent manner on or away from University premises;
- f) Conviction of a criminal offence;
- g) Intimidation of fellow students, patients, professional clients or staff;
- h) Failure to rectify behaviour that has been subject to any disciplinary actions under the University's regulations;
- i) Repeated inappropriate behaviour towards others;
- j) Falsification of patient, client or other professional records;
- k) Failing to act in a way to ensure the safety and wellbeing of those who are vulnerable;

Health

- l) Significant health issues, including severe and relapsing illness;
- m) Being a carrier of a serious communicable disease.

Other

- n) Providing false or inaccurate statements or answers on self-declaration forms.

3. Principles and procedures

- 3.1 The principles underpinning these procedures are that they:

- reflect rules of natural justice;
- presume a student to be innocent of any allegation until proven on balance of probabilities;
- are transparent and involve timely resolution of Fitness to Practise;
- include procedures for independent review and decision making;
- encourage the resolution of problems at a local level wherever possible;
- enable the University to fulfil its statutory and ethical responsibilities to professional bodies, the student and the public at large;
- enable the University to ensure compliance with relevant legislation.

- 3.2 Where possible and appropriate, concerns related to Fitness to Practise should be addressed initially, through an informal approach, at the local level. For example, any concern should first be discussed with the module tutor and tutor / supervisor / line manager at the placement agency. Outcomes from the exploration of the concerns should be recorded against the student record. Should this approach fail to resolve the matter then the following Fitness to Practise procedures should be used.

- 3.3 Information about any individual involved in Fitness to Practise procedures will be dealt with confidentially and privacy respected. However, it may be necessary to disclose information to others in order to resolve concerns over Fitness to Practise and in these circumstances the parties concerned will be informed of such disclosure.
- 3.4 Whoever initiates formal Fitness to Practise procedures will not suffer any disadvantage or discrimination as a result of taking such action in good faith. However, if such action is judged to have been made frivolously, vexatiously or with malice, by a student or University employee, disciplinary action may be taken; and if an employee, client or other individual associated with the provider is involved, the University will undertake to discuss the matter with the appropriate managers of the organisation to determine if any further action should be taken.

4. Preliminary Investigation at School level

- 4.1 Any allegation of concern that a student enrolled on a programme coming under the scope of these regulations may be unfit to practise must be made by a relevant registered professional, normally in writing and promptly, and formally submitted to the appropriate Head of School.
- 4.2 Upon receipt of an allegation, the Head of School should decide within 5 working days whether the issue can be resolved informally, or whether to arrange for a preliminary investigation into the student's fitness to practise. In certain circumstances, the Head of School may need to take immediate action to safeguard all parties, but without prejudice to the outcome of the investigation. If the allegations are sufficiently serious the student will be temporarily suspended following approval of the Vice Chancellor (or nominee).
- 4.3 If it is decided that a preliminary investigation is required to determine whether a *prima facie* case exists, the Head of School will appoint a senior member of School staff as Investigating Officer who will carry out the investigation. The School should inform the student of the reason for the investigation, the name of the Investigating Officer, and the expected timescale for the completion of the investigation. The Investigating Officer should be a relevant registered professional, and must not have been involved in the circumstances leading to the allegation of concern being submitted to the Head of School. The student shall not be permitted to pass the next progression point until the investigation has been completed, and the outcome of the case is known. The Investigation should take place **within 4 weeks**. In the event that the Investigation is complex, and the 4 week period is likely to be exceeded, the School will notify the student.
- 4.4 Reports from 'experts' may be requested by the Investigating Officer in respect of the student's health, and these reports may be disclosed to other individuals as necessary for the proper conduct of the investigation and any subsequent proceedings. This requirement may include, but is not limited to, reports from a student's GP, the University's Medical Officer, social workers, probation officers and the police.
- 4.5 The Investigating Officer will present his/her report to the Head of School, who shall be responsible for determining which of the following outcomes apply.
- 4.5.1 **dismiss the allegation** without further action;

- 4.5.2 **issue a formal warning** to be placed on the student's record (via the Registrar's Directorate), and inform the student that any future conduct will be monitored and that consideration of any future misconduct whilst registered on the programme will take such warning into account;
- 4.5.3 **refer the allegation to the University Fitness to Practise Panel (via: appealsandcomplaints@glos.ac.uk), as there is concern that the student may not be fit to practise.**
- 4.6 The Head of School should write to the student confirming the outcome of the preliminary investigation and confirming the next steps. A copy of the investigation report and any related appendices (suitably redacted, if appropriate) should also be sent with the outcome.
- 4.7 The University may be required to notify a professional body of cases from the point when an allegation is first investigated through to its conclusion.
- 4.8 If a student is issued with a formal warning following a preliminary investigation at School level and wishes to appeal against this outcome, they should submit a request in writing addressed to the Academic Registrar by email (sent to: appealsandcomplaints@glos.ac.uk) or by post (to: Governance and Secretariat Services, University of Gloucestershire, Fullwood, The Park, Cheltenham, GL50 2RH), **within 10 working days** from the date of the School's decision. The student must clearly set out the grounds for appeal and provide any appropriate supporting evidence.
- 4.9 The appeal may only be considered on either or both of the followings grounds:
- a) irregularities in the conduct of the Fitness to Practise procedures of such a significant nature as to cause reasonable doubt whether the preliminary investigation at School level would have reached the same decision had they not occurred;
 - b) personal circumstances or new evidence not known to the School when the allegation was investigated, and which can be shown to be relevant to the case, and which for valid reason, could not be provided at an earlier stage in the process.
- 4.10 An appeal against the decision made as a result of the Fitness to Practise investigation conducted by the School would be reviewed by an independent, senior member of staff from another School that offers qualifications that lead directly to a professional qualification, and / or which give the right to practise in one or more profession. The decision will be communicated to the student in writing as soon as possible and normally within 10 working days. The decision will be final as far as the University's internal procedures are concerned. The student will receive a Completion of Procedures letter. If the student remains dissatisfied, they may apply for a review by the Office of the Independent Adjudicator (OIA), if their case is eligible under its Rules.

5. Establishment of a Fitness to Practise Panel

- 5.1 The University Fitness to Practise Panel has the authority to hear all charges relating to allegations which cast doubt on an individual's Fitness to Practise. The Panel shall be established by the Head of Governance and Secretariat Services (or nominee) normally **within 20 working days** of the notification of a *prima facie* case by the Head of School.
- 5.2 The membership of the Fitness to Practise Panel shall be:

- a Chair (drawn from the senior members of staff of the University);
- one member of Academic Board;
- a member of staff from another School offering qualifications that lead directly to a professional qualification, and/or which give the right to practise in one or more professions;
- one member external to the University but practising at a senior level in the student's profession;
- the Students' Union President (or nominee);
- a medical practitioner (only when the over-riding concern associated with the student's fitness to practise is related to their health).

The Panel shall not include anyone who has previously been associated with the case under consideration.

- 5.3 The Head of Governance and Secretariat Services or nominee will act as Secretary to the Panel.
- 5.4 The Panel shall consider cases of students enrolled on programmes coming under the scope of these regulations on either or both of the following grounds:
- i) any conduct which may render that student a person not fit to be admitted to and practise that profession or calling, including, where relevant, recommendation for admission to their professional register;
 - ii) any health problem which may render that student a person not fit to be admitted to and practise that profession or calling;
- 5.5 The Panel shall consider advice from any relevant PSRB in advance of the formal hearing, and may invite any professional adviser to attend the meeting. The views of the two external independent relevant professional practitioners on the panel are paramount in considering the case in light of the Professional Practise standards or Code of Conduct.
- 5.6 When a case is referred to the Fitness to Practise Panel, the Head of School will send the following documentation to Governance and Secretariat Services (via: appealsandcomplaints@glos.ac.uk):
- i) the investigation report, plus name of the person(s) to be called to present the case on behalf of the university;
 - ii) any additional written comments on the student's conduct and/or health, explaining why there is concern as to the student's fitness to practise;
 - iii) any relevant factual information about the student's professional progress on the course;
 - iv) any other relevant documentation.
- 5.7 Governance and Secretariat Services will provide adequate notice of the date of the Panel hearing, and will circulate relevant documentation to all participants.
- 5.8 The student will be invited to set out his/her case in writing prior to the hearing, enclosing copies of any relevant documentation. This must be sent to Governance and Secretariat Services (by email to: appealsandcomplaints@glos.ac.uk or by post to: Governance and

Secretariat Services, University of Gloucestershire, Fullwood, The Park, Cheltenham, GL50 2RH), no less than **10 working days** before the hearing.

- 5.9 The student will be invited to attend the hearing, and will be entitled to be accompanied by a friend or representative of his/her choosing, including Students' Union or Trade Union. A legal advisor may be the representative to accompany the student. The student must confirm the name and status of the person accompanying them in writing to Governance and Secretariat Services (via: appealsandcomplaints@glos.ac.uk) no less than **4 working days** before the hearing. If a legal advisor accompanies the student the University reserves the right to be legally represented.
- 5.10 If the student does not appear at the hearing without reasonable explanation, and the Panel is satisfied that due notice was given to the student, the Panel may proceed in the absence of the student and shall consider at the appropriate stage any representations made on behalf of the student. The Chair will have discretion to determine what constitutes 'reasonable explanation'.
- 5.11 Witnesses may be called by both the student and by the person presenting the case on behalf of the University. Both the student and the University's representative must ensure:
- i) that the names and addresses of all their respective witnesses are communicated to Governance and Secretariat Services (via: appealsandcomplaints@glos.ac.uk) no less than **4 working days** before the hearing;
 - ii) that their respective witnesses are informed of the date, time and place of the hearing and are able and willing to attend. It is the responsibility of each party, not the Secretary, to ensure that witnesses are ready to appear when called.

6. Decisions available to the Fitness to Practise Panel

- 6.1 The Panel will have power delegated by Academic Board to decide:
- a) That the student **is** fit to practise and is
 - i) permitted to continue with the programme without further action;
 - ii) permitted to continue with the programme under supervision as defined/required by the Panel;
 - iii) permitted to continue with the programme but that a formal warning be placed on his or her file/ record;
 - iv) subject to any other action considered appropriate by the Panel to enable the student's successful completion of the remainder of the programme.
 - b) That the student **is not** fit to practise and
 - i) is required to suspend his or her studies for a specified period of time, following which the Panel will review the conditions set and decide whether to re-admit the student to the programme, and the decision be recorded on his or her file/ record;
 - ii) the student's studies on a programme leading to a professional qualification be terminated and the decision be recorded on his or her file/ record; but recommend that the student may seek advice to be admitted to an alternative programme within the University;

- iii) the student's studies be terminated and the student to exit the University with a transcript of credit achieved, which will not satisfy professional requirements, and the decision recorded on his or her record;
- iv) the student's studies be terminated and the student be required to withdraw from the University without an award; the decision will be recorded on his or her file/ record.

7. Procedures of the Fitness to Practise Panel

- 7.1 A quorum will be three voting members including the Chair and both of the practising professionals external to the University. A formal record of the meeting will be kept by Governance and Secretariat Services.
- 7.2 The Chair will provide the Panel with an initial briefing.
- 7.3 The Chair will invite the person presenting the case on behalf of the University to make an opening statement in the presence of the student and his/her friend, and to call witnesses as previously notified to the Governance and Secretariat Services. The Panel will be invited to ask questions of the University's representative and witnesses.
- 7.4 The Chair will invite the student (or his/her friend or representative) to make a statement, and to call witnesses as previously notified to Governance and Secretariat Services. The Panel will be invited to ask questions of the student and witnesses.
- 7.5 At each stage the Chair has discretion to allow reciprocal questioning by the various parties. The role of the Chair is to consider the relevance of questions and to ensure that inappropriate and irrelevant lines of enquiry are not permitted. The Chair may call an adjournment of the panel at any point, and would be expected to do so in the event that new information was presented that was not previously known to the parties. Neither party should be expected to respond to new information that hadn't previously been provided in writing and the outcome of an adjournment may be that the Panel should convene at a later date having considered the new information.
- 7.6 Once the Chair is satisfied that members of the Panel have completed their questioning, and that the student has had a full opportunity to convey information to the Panel, he/she will ask the student, the students' friend and / or representative, the person presenting the case on behalf of the University, and their witnesses to withdraw. Any professional advisers appointed by the Panel may remain whilst the Panel deliberates in private but only to the extent necessary to provide any specialist advice requested by the Panel, and will withdraw before the Panel considers its decision.
- 7.7 The Panel must refer to the code of professional practice for the relevant profession in reaching its decision.
- 7.8 Considerations of the Panel will be confidential and, where necessary, its decision will be reached by ballot.
- 7.9 The decision of the Panel will be confirmed in writing to the student and to the Head of School by the Head of Governance and Secretariat Services or nominee normally **within 10**

working days. At the same time the student will be notified of his/her right of appeal against the decision of the Fitness to Practise Panel.

7.10 Where required, the decision of the Panel and the evidence upon which it was based will be communicated to the relevant professional body. It is recognised that the body may invoke further action regardless of the outcome of the University's Fitness to Practise procedures.

8. Appeals against a decision of the Fitness to Practise Panel

8.1 The student must give notification in writing to the Head of Governance and Secretariat Services, **within 10 working days** of notification of the decision of the Fitness to Practise Panel, of his/her intention to appeal (by email to: appealsandcomplaints@glos.ac.uk or by post to: Governance and Secretariat Services, University of Gloucestershire, Fullwood, The Park, Cheltenham, GL50 2RH).

8.2 The notice of appeal must clearly set out the grounds for the appeal and must be accompanied by appropriate documentary evidence.

8.3 Appeals may only be considered on one or both of the following grounds:

- a) irregularities in the conduct of the Fitness to Practise procedures of such a significant nature as to cause reasonable doubt whether the Fitness to Practise Panel would have reached the same decision had they not occurred;
- b) personal circumstances or new evidence not known to the Fitness to Practise Panel when the student's case was considered, and which can be shown to be relevant to the case. The appellant must show good reason why such personal circumstances or evidence were not made known to the Fitness to Practise Panel before or at its meeting.

8.4 Appeals against a decision of the Fitness to Practise Panel will be considered by a Fitness to Practise Appeal Board. Its membership shall comprise:

- a Chair (nominated by the Vice-Chancellor);
- a relevant external senior registered professional;
- two members of academic staff: one of whom should be a member of staff from another School offering qualifications that lead directly to a professional qualification, and/or which give the right to practise in one or more professions; and one of whom should normally be a member of Academic Board;
- A student representative nominated by the Students' Union.

8.5 The Head of Governance and Secretariat Services or nominee will act as Secretary to the Panel.

8.6 Governance and Secretariat Services will provide adequate notice of the date of the Appeal Board hearing, and will circulate relevant documentation to all participants. Any additional communications or documentation received after the deadline set by Governance and Secretariat Services will not be accepted for consideration by the Panel, except at the sole discretion of the Chair of the Panel.

- 8.7 The student will be invited to attend the hearing, and will be entitled to be accompanied by a friend of his/her choosing. The student must confirm the name and status of the person accompanying them in writing to Governance and Secretariat Services (via: appealsandcomplaints@glos.ac.uk) no less than 4 working days before the hearing.
- 8.8 If the student does not appear at the hearing without reasonable explanation, and the Appeal Board is satisfied that due notice was given to the student, the Board may proceed in the absence of the student and shall consider at the appropriate stage any representations made on behalf of the student. The Chair will have discretion to determine what constitutes 'reasonable explanation'.
- 8.9 The School concerned will be invited to send a member of staff to attend the hearing and, at the invitation of the Chair of the Appeal Board, to contribute to the hearing.
- 8.10 The Fitness to Practise Appeals Board will have powers to confirm, modify or quash the penalty or penalties originally imposed by the Fitness to Practise Panel, or to recommend to the Vice-Chancellor any further action to be taken by the University. The student and the Head of School will be notified in writing of the decision of the Fitness to Practise Appeals Board normally **within 10 working days** of the appeal hearing.
- 8.11 Where required, the decision of the Appeals Board will be communicated to the relevant professional body. It is recognised that the body may invoke further action regardless of the outcome of the appeal.
- 8.12 The decision of the Fitness to Practise Appeals Board will be final and there will be no further right of appeal within the University.
- 8.13 The Office of the Independent Adjudicator (the OIA) provides an independent scheme for the review of student complaints and appeals. When the University's procedures for dealing with Fitness to Practise have been exhausted, the University will issue a Completion of Procedures letter. Students wishing to avail themselves of the opportunity for an independent review by the OIA must submit their application to the OIA **within 12 months** of the issue of the Completion of Procedures letter. Further details about the OIA are available at www.oiahe.org.uk

9. Recording, Reporting and Confidentiality

- 9.1 All information obtained within the process of the Fitness to Practise case will be held in accordance with Data Protection legislation and the [Student Privacy Notice](#).
- 9.2 Students must note that information will be dealt with sensitively and will be kept confidential, except where the disclosure is necessary to investigate / consider a Fitness to Practise allegation or implement a decision, or where it is required by law or in the public interest.
- 9.3 Students should avoid disclosing unnecessary personal information (e.g. medical conditions etc.) during the Fitness to Practise process unless it is relevant to the issues raised. Students must also avoid disclosing personal data of another person/s during the Fitness to Practise process unless they have been given permission by them to do so.

- 9.4 On an annual basis, an anonymised report on the number and nature of cases considered and outcomes will be presented to the Academic Board and University Council. This process will ensure appropriate monitoring of Fitness to Practise cases and related outcomes and is intended to facilitate organisational learning.
- 9.5 The University will record Fitness to Practise cases in sufficient, proportionate detail for analysis and management reporting to allow the issues relating to cases to be identified, addressed and, where appropriate, for training opportunities and improvements to be introduced. The University will keep and dispose of records relating to appeals in accordance with its [Data Protection Policy](#) and its [Records Retention Schedule](#).