



Fitness to Practise

Procedure

Effective August 2016 - August 2018

**STUDENT REGULATIONS
AND POLICIES**

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UNIVERSITY OF CENTRAL LANCASHIRE
FITNESS TO PRACTISE PROCEDURE (PROFESSIONAL COURSES)

1. Scope and Purpose

- 1.1 This Procedure applies to students on professionally regulated courses which lead directly to, or which satisfy the conditions of, a professional qualification, or which confer a direct licence to practise (a) particular profession(s).
- 1.2 Where professionally regulated courses are subject to this Procedure, this will be specified in course regulations and student handbooks with reference to the relevant professional, statutory and regulatory body (PSRB) codes.
- 1.3 It is the student's responsibility to inform the University prior to enrolment or as soon as they become aware thereafter of any relevant disabilities which may affect the student's ability to attain the relevant competence standards and/or comply with the code of conduct on the professional course. The University will then be able to review the reasonable adjustments that can be implemented to assist the student in overcoming the disability.
- 1.4 The aim of this Procedure is to ensure that there is a fair, transparent and effective process for considering cases where there are concerns about a student's suitability for professional education and training and/or fitness to practise.
- 1.5 This Procedure covers allegations relating to conduct, attitude, competence and health.

2. Fitness to Practise

- 2.1 The Fitness to Practise Procedure will be invoked in the event of any conduct or other concern (known as a 'cause for concern') which may render a student enrolled on a course leading directly to a professional qualification or the right to practise a particular profession or calling, not fit to be admitted to and practise that profession.
- 2.2 This Procedure may be invoked where issues arise in relation to a student's fitness to practise or where there is any alleged breach of the professional code of conduct by a student registered on a professional course.
- 2.3 Whilst normally the conduct in question will arise within the course activity, whether at the University, its partner colleges or whilst on placement, behaviour outside the University particularly in relation to violence, criminal convictions, dishonesty, drug or alcohol misuse and inappropriate or unprofessional behaviour may also be considered under this Procedure.
- 2.4 Where courses are accredited by a PSRB, the 'cause for concern' will be defined by the School with reference to the relevant PSRB code of conduct.
- 2.5 A 'cause for concern' may be referred to be dealt with in accordance with this Fitness to Practise procedure via any other University procedure, or may be raised direct with the appropriate Dean/Head of School.
- 2.6 Examples of 'causes for concern' include, (without limitation):

- **Aggressive, violent or threatening behaviour**, whether orally or in writing, including: assault, physical violence, bullying/harassment and verbal abuse.
 - **Criminal convictions or cautions**, in particular where this relates to: theft; fraud; physical violence; possessing or dealing illegal substances; child abuse or any other abuse. See also section B3 of the Regulations for the Conduct of Students (the Regulations).
 - **Dishonesty**, including: falsification of professional records, qualifications or signatures; signing in for other students to misrepresent attendance; failure to declare a criminal conviction or other relevant information to the School.
 - **Drug or alcohol misuse**, including: dealing, possessing or misusing drugs; where the consumption of alcohol or misuse of drugs affects the work or study environment; driving under the influence of alcohol or drugs.
 - **Persistent inappropriate attitude or behaviour**, including: failure to accept educational advice; poor attendance, time management or communication skills; failure to submit coursework; or failure to observe or comply with the rules of the University.
 - **Unprofessional behaviour**, including: breach of confidentiality; failure to maintain appropriate boundaries; unlawful discrimination; absence from practice placement without permission; misuse of the internet and social networking sites; failure to work within limits of professional competencies.
 - **Health concerns**, including: failure to seek or adhere to medical treatment or support; failure to recognise limits and abilities and lack of insight into health concerns; or where a student cannot be expected to attain the competency standards of the course, notwithstanding reasonable adjustments.
 - Any other circumstance whereby the Dean/Head of School will be unable to certify that, upon completion of the course, the student is fit to practise and/or enter the professional register.
- 2.7 Allegations of academic dishonesty including cheating, plagiarism or collusion will be considered in line with the University's Academic Regulations and the standard academic penalties will apply. Where the Dean/Head of School considers that an academic sanction by itself is inadequate because the nature of the offence involves theft, falsification, impersonation or otherwise calls into question a student's fitness to practise, the matter may also be referred for consideration under this Procedure.
- 2.8 Allegations of misconduct which are dealt with under section E of the Regulations may also be referred for consideration under this Procedure.
- 2.9 Where a student declares or becomes subject to a change in his/her health or good character during the course of studies e.g. that s/he has received a criminal conviction, and where the School considers that this information raises questions about the student's fitness to practise, the matter will be referred for consideration under this Procedure.
- 2.10 The Dean/Head of School may at any stage in this Procedure invoke the Fitness to Study Procedure if s/he considers it appropriate.

3. General Principles

- 3.1 All references in this Procedure to the Dean/Head of School includes his/her appointed nominee.
- 3.2 At all stages of this Procedure the student is entitled to be accompanied and/or represented by a person of their choosing, who may be a member of the Students' Union Advice and Representation Centre. This Procedure is intended to be fair and to comply with the rules of natural justice. The Procedure is not a formal court process, and therefore should not be adversarial or overly legalistic, and there is no need for anyone to have formal legal representation.
- 3.3 The University will make reasonable adjustments to this Procedure if required by a student's disability or for other good reason.

4. Initial Investigation

- 4.1 In the event of any 'cause(s) for concern' arising within the duration of a student's period of enrolment, the Dean/Head of School will normally appoint an investigating officer to undertake an immediate investigation of the circumstances. The investigating officer will normally be a member of staff from the School who is independent from the parties involved and who has not been involved in the circumstances giving rise to the 'cause for concern'.
- 4.2 The purpose of the investigation will be: i. to examine the circumstances giving rise to the 'cause for concern' from the perspective of the student and other parties involved; and ii. to establish the facts about the circumstances giving rise to the 'cause for concern'. The investigating officer shall conduct whatever enquiries s/he considers necessary and may interview relevant parties, including the student.
- 4.3 The investigating officer will submit a report as soon as possible to the Dean/Head of School, who will consider the report and will notify the student in writing of the outcome of the initial investigation and what further action, if any, will be taken under this Procedure.
- 4.4 The Dean/Head of School may decide the following further action is required in the circumstances:
 - a. that there are no grounds for concern and the case should be dismissed;
 - b. that the matter should be referred for further investigation;
 - c. that the student should be referred for a medical or other specialist assessment;
 - d. that the student should be suspended or partially excluded from the University and/or temporarily withdrawn from a practice placement in accordance with section 5 below;
 - e. that the matter should be referred to be dealt with under another University procedure;
 - f. that the student should be invited to a formal meeting in accordance with section 6 below;
 - g. that the grounds for concern are of sufficient seriousness that a Fitness to Practise hearing ought to be convened;

5. Interim Suspension or Partial Exclusion

- 5.1 The Dean/Head of School will consider whether there are grounds for the student to be suspended or partially excluded from the University in line with section C of the Regulations, pending a fitness to practise hearing and/or a disciplinary hearing and/or the conclusion of criminal proceedings and/or receipt of an assessment from an appropriately qualified medical and/or psychiatric and/or occupational health expert. In any circumstance where interim suspension or partial exclusion may be required, the Dean/Head of School will refer the matter to the Academic Registrar to invoke the interim suspension or partial exclusion in line with section C of the Regulations for the Conduct of Students.
- 5.2 Where the initial investigation indicates that the 'cause for concern' is sufficiently serious and the student is on practice placement, the student will be temporarily withdrawn from the placement with immediate effect by the responsible member of staff, subject to confirmation by the Dean/Head of School at the earliest opportunity. The student will have the right to make representations in person to the Dean/Head of School and request a review of the temporary withdrawal every four weeks.
- 5.3 A student may not graduate from the University whilst any proceedings are ongoing under this Fitness to Practise Procedure. This applies whether or not the student has been subject to interim suspension or partial exclusion in accordance with paragraph 5.1 and/or withdrawal from a placement in accordance with paragraph 5.2.

6. Formal meeting with the Dean/Head of School

- 6.1 The student will normally be invited to a formal meeting with the Dean/Head of School to discuss the cause(s) for concern. A formal minute of the meeting will be taken.
- 6.2 The student will be given at least 5 working days' notice of the date, time and place of the meeting and may be accompanied by a friend. The student will be provided with details of the cause(s) for concern prior to the meeting including a copy of the investigating officer's report.
- 6.3 If required, the Dean/Head of School will consult with a member of the relevant profession in accordance with PSRB requirements and due diligence.
- 6.4 The outcomes available to the Dean/Head of School following a formal meeting are one or more of the following:
- a. that there are no grounds for concern and the case should be dismissed;
 - b. that further investigation is necessary;
 - c. that the matter should be referred to be dealt with under another University procedure;
 - d. that there is insufficient evidence to reach a finding that a student is unfit to practise, but that the cause of concern is sufficiently serious to warrant remedial action such as monitoring or supervision of the student for a defined period, and/or the issue of a written reprimand which will normally have effect for the duration of the course;
 - e. that the student be re-assessed in specified part(s) of the course, in consultation with the Chair of the Assessment Board;
 - f. that the student be permitted to continue on the course, subject to conditions and/or an undertaking including (without limitation) a

- programme of rehabilitation or treatment, or observation/supervision, reviewed by the Dean/Head of School after a given period;
- g. that the student is required to withdraw from his/her studies for a specified period, in which case the student's return to study may be subject to a further satisfactory assessment and/or conditions;
 - h. that the matter should be referred to a Fitness to Practise Committee.
- 6.5 The student will normally be notified verbally of the outcome and the associated reasons at the end of the formal meeting. Written notification of the decision and the associated reasons will be sent to the student within 5 working days of the meeting.
- 6.6 The student may appeal against the outcome in line with section F of the Regulations for the Conduct of Students.

7. Referral to a Fitness to Practise Committee

- 7.1 The Fitness to Practise Committee will be appointed by the Executive Dean and will comprise no fewer than 4 members, at least two of whom must be professionally qualified in the field, one of whom will normally be external to the School or University e.g. from another School offering professional courses or from the relevant professional or partner agency, in line with relevant PSRB requirements, and one of whom will be a member of the Students' Union Affairs Committee.
- 7.2 Members of the Fitness to Practise Committee should have no direct interest or prior material involvement in the student's case. The Secretary will brief the Committee about the procedure and any relevant PSRB guidelines and will be responsible for taking a formal record of the proceedings, but will have no voting rights.

8. Notice of a Fitness to Practise Hearing

- 8.1 Arrangements for a Fitness to Practise Hearing will be made by the Secretary.
- 8.2 The student will be given at least 5 working days' notice of the date, time and location of the Hearing.
- 8.3 The notice will state the alleged cause(s) for concern, the names of the Fitness to Practise Committee members and also the range of possible outcomes if the Fitness to Practise Committee determines that the cause(s) for concern render(s) a student unfit to practise or does not render the student unfit to practise, but warrants the imposition of one of the remedial outcomes set out in section 9, sub-paragraphs a to f below.
- 8.4 The following documents will be enclosed with the notice:
- a. a copy of this Procedure; and
 - b. a copy of a report prepared by the Dean/Head of School or Investigating Officer identifying the cause(s) for concern including copies of all the evidence (including any evidence provided by the police or a qualified medical expert); and
 - c. a copy of the relevant PSRB code; and

- d. factual information on the student's progress.
- 8.5 The student will normally be expected to attend the hearing. If the student does not attend without good cause, the hearing may proceed and the relevant outcome or sanction imposed in her/his absence and the Committee will consider any representations made on behalf of the student (in absentia) at the appropriate point in the hearing.
- 8.6 The student will be entitled to be accompanied and/or represented by a person of their choosing who may be a member of the Students' Union Advice and Representation Centre. The student will be required to inform the Secretary at least 3 working days before the hearing whether s/he intends to exercise this entitlement, the name of the person who will be attending and in what capacity such person will be attending.
- 8.7 The student will be permitted to submit a statement/written response to the proceedings and any additional evidence including witness statements not previously considered no later than 3 working days before the hearing. Witnesses may be invited to give evidence in person at the discretion of the Chair of the Committee.

9. Procedure for a Fitness to Practise Hearing

- 9.1 The following procedure will normally apply at a Fitness to Practise hearing:
- i. The Chair will invite all those present to introduce themselves and will explain the purpose of the hearing and clarify the protocol, maximum sanction and standard of proof.
 - ii. The Investigating Officer or Dean/Head of School will present the case, including calling any witnesses to give evidence as previously agreed the by the Chair.
 - iii. The Committee and the Student (or representative) will have the opportunity to question the investigating officer or Dean/Head of School.
 - iv. The Student (or representative) will present his/her response, including calling any witnesses to give evidence in person as previously agreed by the Chair.
 - v. The Committee and the Investigating Officer or Dean/Head of School will have the opportunity to question the Student and any witnesses.
 - vi. The Committee may ask questions of either party at any stage during the hearing.
 - vii. Summing up by the Investigating Officer or Dean/Head of School with particular reference to the implications for the student's fitness to practise.
 - viii. Summing up by the Student (or representative) with particular reference to any mitigating factors.
 - ix. The Committee may: retire to consider its decision; or seek further information; and/or adjourn to a later date.

- x. The student and any representative or witnesses and Investigating Officer shall withdraw while the Committee deliberates the issue.
- 9.2 The Committee will reach a decision based on the facts and on the evidence presented. The standard of proof will be the civil standard of proof which is that, 'on a balance of probabilities,' the facts of an allegation are more likely than not to have happened.
- 9.3 The outcome imposed by the Committee should be one which satisfactorily addresses the fitness to practise concern, whilst taking account of any previous allegations or findings which will be made known to the Committee by the Secretary after it has reached a decision.
- 9.4 Where the Committee considers that a student's disability is preventing them from attaining the relevant competence standard(s) and/or complying with the code of conduct on their professional course, the Committee will have due regard for any reasonable adjustments that have been made and will consider whether there is scope for further reasonable adjustments, in deciding on the appropriate outcome.

10. Outcomes of Fitness to Practise Hearing

- 10.1 The outcomes available to a University Fitness to Practise Committee are one or more of the following:
 - a. that the hearing be adjourned because further investigation is necessary;
 - b. that no cause for concern has been proven and the case should be dismissed;
 - c. that there is insufficient evidence to reach a finding that a student is unfit to practise, but that the cause for concern is sufficiently serious to warrant remedial action such as monitoring or supervision of the student for a defined period, and/or the issue of a written reprimand which will normally have effect for the duration of the course;
 - d. that the student be re-assessed in specified part(s) of the course;
 - e. that the student be permitted to continue on the course, subject to conditions and/or an undertaking including (without limitation) a programme of rehabilitation or treatment, or observation/supervision, reviewed by the Dean of School after a given period, and/or the implementation of further reasonable adjustments;
 - f. that the student be required to withdraw from his/her studies for a specified period in which case, the student's return to study may be subject to a further satisfactory assessment and/or conditions;
 - g. that the student's professional education and training be terminated and a recommendation made to the Assessment Board that the student be required to transfer to an alternative non-professional course (if available) to consider conferment of an alternative nonprofessional award;

- h. that, having been found to be unfit to practise, the student's professional education and training be terminated and the student be expelled from the University.

10.2 The student will normally be notified verbally of the outcome and the associated reasons at the end of the hearing. Written notification of the decision and the associated reasons will be sent to the student within 5 working days of the hearing, excluding the hearing date.

11. Appeal

The student may appeal against the outcome pursuant to section F of the Regulations for the Conduct of Students.

12. Independent Review

If the student is not satisfied having completed the University's internal appeals procedure, s/he will be entitled to request a review of the case under the rules of the scheme of the Office of the Independent Adjudicator for Higher Education (OIA). The Secretary will issue a Completion of Procedures letter following the outcome of the appeal.

13. Disclosure and Recording of Information

13.1 The University has a duty to inform relevant third parties of the nature and outcome of a Fitness to Practise case in certain circumstances, whether it is considered at a hearing or by the Dean/Head of School, including:

- a. to inform the relevant PSRB, where that PSRB's published regulations require notification of specified sanctions imposed;
- b. to inform any placement providers in relation to any placements the student may be required to undertake as part of the course;
- c. to inform the student's employer where the nature and outcome of the case raises questions about the student's suitability for professional practice or to be on the professional register;
- d. to inform the Disclosure and Barring Service (DBS) where required by the DBS guidance;
- e. to inform UK Visas and Immigration (UKVI) in the case of a significant change in the circumstances of a tier 4 international student.

The student will be informed in the event of any such disclosures and will be reminded of his/her obligation to disclose any specified sanction to the PSRB at the appropriate time.

13.2 The University will also reserve the right to disclose the details of Fitness to Practise cases to any third party in the event of a reference request where the University considers it to be relevant. The student will be informed in the event of any such disclosure.

13.3 The University will retain a record of each Fitness to Practise case in a secure relevant filing system for a period of at least six years.

14. Monitoring and Review

14.1 The University will collect aggregated data about Fitness to Practise cases and will submit an annual report to the relevant Academic Board subcommittee for the purposes of quality assuring the provision of professional education and training and improving the provision of guidance to students about professional conduct and competence.

Useful web-sites:

NMC – Nursing and Midwifery Council

<https://www.nmc.org.uk/>

HCPC – Health and Care Professions Council

<http://www.hcpc-uk.co.uk/>

GDC – General Dental Council

<http://www.gdc-uk.org/>

GPhC – General Pharmaceutical Council

<https://www.pharmacyregulation.org/>

GMC – General Medical Council

<http://www.gmc-uk.org/>

Disclosure and Barring Service

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

OIA - Office of the Independent Adjudicator for Higher Education

<http://www.oiahe.org.uk>