



REGULATIONS GOVERNING THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF PROFESSIONAL UNSUITABILITY AND PROFESSIONAL MISCONDUCT

*Applicable to candidates undertaking programmes of study
involving professional practice placements and determination of
fitness to practise*

| Item | Description |
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| Document title: | Regulations governing the investigation and determination of professional unsuitability and professional misconduct. |
| Review date: | Jan – July 2019 |
| Last reviewed: | August 2019 |
| Applicable from: | |
| Approved by: | University Education Committee |
| Date approved: | |
| Date of next review: | tbc |
| Contact: | quality@hull.ac.uk |
| Application to collaborative provision: | Mandatory |
| Application for exemptions to: | University Education Planning Committee |

Purpose

1. These regulations set out the procedures governing the investigation and determination of allegations of professional unsuitability and professional misconduct.
2. The purpose of these regulations is to define the procedure which must be followed in all cases, where a programme of study is delivered, which results in a professional registration or eligibility, to apply for professional registration.
3. These regulations apply to conduct of the candidate while registered on a programme of the University of Hull, on or off the University premises.
4. Where proceedings are instigated under these regulations against a candidate, proceedings must not also be instigated against the same candidate under the Regulations for Academic Misconduct, the Student Disciplinary Regulations or the Code of Practice on Research Misconduct where such proceedings relate to the same incident or set of circumstances.
5. Poor professional behaviour (of a lesser scale than Professional Unsuitability, or Professional Misconduct) may be assessed within the learning outcomes of a module or against the Standards defined by the Professional Body and/or Regulator that the student must meet during training and upon qualification.
6. These regulations are also mandatory for collaborative provision.
7. The University Education Committee is the final arbiter of the interpretation and application of these regulations.

Definitions

8. 'Professional Unsuitability' is behaviour which does not demonstrate the standards of behaviour specified by the Professional Body and/or Regulator responsible for allowing candidates who complete the programme of study to be admitted to practise the relevant profession.
9. 'Professional misconduct' is conduct which falls below the level of conduct required by the relevant Professional Body and/or Regulator.
10. 'Fitness to practise' indicates that a candidate is capable of safe and effective practice without supervision, or can do their job safely and effectively.
11. 'Professional Lead' is the member of academic staff of the University who is registered with or accredited by the relevant Professional Body and/or Regulator nominated by the Dean to carry out functions prescribed in these regulations.
12. The standards and level of conduct referred to in paras 8 and 9 above are as published by the relevant Professional Body and/or Regulator. The University of Hull academic unit responsible for the programme concerned will provide the candidate with information referring to the standards and level of conduct required.

Delegation

13. The nominated Professional Lead may delegate to the appropriate programme leader to investigate allegations covered by these regulations.

Making and investigating an allegation

14. All allegations of conduct covered by these regulations shall be investigated in accordance with the principles of natural justice* and in accordance with the specific procedures set out in these regulations.
15. Where it is believed that a candidate has acted or behaved in a manner which constitutes either professional unsuitability or professional misconduct as defined above, a written report must be made to the nominated Professional Lead responsible for the programme which the candidate is undertaking. This report must state the precise nature of the behaviour and the reasons why the behaviour is believed to constitute professional unsuitability or professional misconduct. Anyone with knowledge of an incident must write a report in accordance with this paragraph. The report must also identify any persons who may have relevant first-hand knowledge of the behaviour.
16. The Professional Lead should not, as far as is reasonably practical, be a current tutor, mentor, or supervisor of the student under investigation.

**'Natural justice', is defined as, "the principles and procedures that govern the adjudication of disputes between persons or organisations, chief among which are that the adjudication should be unbiased and given in good faith, and that each party should have equal access to the tribunal and should be aware of arguments and documents adduced by the other."*

Prima Facie Determination

17. On receipt of the above report the nominated Professional Lead may make, or cause to be made, such further enquiries as they deem appropriate, and thereafter must determine whether there is *prima facie* evidence that the behaviour in question constitutes either professional unsuitability or professional misconduct.
18. If the nominated Professional Lead (in consultation with a colleague of equal professional standing) determines that there is no *prima facie* evidence, the matter must be deemed closed and this must be reported in writing to the candidate and the person or persons making the allegation within five working days*. A record of the allegation and the *prima facie* decision must be kept on file for the duration of the candidate's programme of study.

**five working days from the date of the meeting between the Professional Lead and a colleague of equal professional standing.*

19. If the nominated Professional Lead determines (in consultation with a colleague of equal professional standing) that there is *prima facie* evidence, they must inform the candidate in writing within five working days, and at least 15 working days before the hearing:
 - a) setting out the nature of the allegation, the evidence on which it is based, and the reasons why it is believed to constitute professional unsuitability, professional misconduct or lack of fitness to practise, and the name and position of any person believed to have relevant first-hand knowledge of the behaviour;
 - b) explaining the right of the candidate to respond in writing within 15 working days of the date of the notification;
 - c) setting the date for the hearing for no less than 20 working days after notification, and;
 - d) giving the candidate the opportunity to admit or deny the allegation in any such response; and where the allegation is admitted, giving the candidate the opportunity to make any statement by way of explanation.

20. The candidate shall provide the academic unit, at least 5 working days before the hearing, with copies of any document or other form of information on which the candidate intends to rely in response to the allegation.
21. On receipt of the information described in para 20, the Professional Lead (in consultation with a colleague of equal professional standing) will determine if there is a case of professional misconduct/unsuitability, to be pursued to a hearing, or if the allegations are satisfactorily explained.
22. The academic unit shall provide the candidate, at least 15 working days before the hearing, with copies of any document or other form of information on, including the names and statements of relevant witnesses, which the academic unit intends to rely in support of the allegation.
23. If the Professional Lead and/or student require more time to gather full evidence, both parties must agree in writing a suitable and reasonable alternate date by which all evidence can be attained.

Immediate suspension

24. If the Nominated Professional Lead (in consultation with a colleague of equal professional standing) determines that *prima facie* evidence has been identified, and that the behaviour which is the subject of the allegation is judged to be of such a nature as to involve a risk or potential risk to the well-being of the candidate or another person, the Nominated Professional Lead shall be empowered to suspend the candidate either with immediate effect, or from a specified date.
25. Suspension shall be either from the programme of study as a whole or a specified part of it, such as a specified professional placement, as appears to the Nominated Professional Lead (in consultation with a colleague of equal professional standing) justified in the light of the risk or potential risk identified above.
26. Where the suspension is not related to a specified part of the programme, the nominated Professional Lead must inform the candidate (in writing*) of the suspension and the consequences for the candidate in respect of the remainder of their programme of study, including what they should do in terms of attending teaching sessions or undertaking examinations or other forms of assessment. A copy of the letter of suspension must be forwarded to the Head of Student Services Directorate.

**normally a letter*

27. Where the nominated Professional Lead determines that the candidate shall be suspended with immediate effect, that suspension shall be effective from the date stated within the letter provided to the candidate. The letter is signed by the nominated Professional Lead providing the information set out in para 26 above.
28. The candidate should be invited to a meeting to receive the letter. The person who conducts the meeting shall sign a copy of the letter stating the date and time at which the candidate physically received the letter. If the candidate is unable to attend the meeting, the letter must be sent recorded delivery to the home and/or local address as recorded at the time on the University Student Information System.

29. Suspension shall be effective until one of the following occurs, whichever is the earliest:
 - a) The Nominated Professional Lead determines that the suspension is no longer required having regard to the reasons for the suspension;
 - b) The expiry of any time period relating to the specified event to which the suspension applied;
 - c) The allegation is rejected by an Investigation Committee.
30. The candidate must be informed of the nominated Professional Lead's decision to lift the suspension. The student must be informed by the same means described in para 28 (above). A copy of the letter lifting the suspension must be forwarded to the Head of Student Services Directorate.

Hearing committee

31. On notification to the candidate the Nominated Professional Lead shall cause a Hearing Committee to be established to determine the penalty to be imposed.
32. The Hearing Committee shall be constituted as seems appropriate to the Nominated Professional Lead given the nature of the allegation, but it shall consist of the following:
 - a) A chair selected from members of the academic staff of the academic unit, being of no less than five years academic and/or professional experience;
 - b) At least two other members of academic staff, one of whom shall be from another academic unit;
 - c) At least one member of the profession to which the programme of study relates, being of no less than five years' professional experience. This person may be external to the University.
33. The Nominated Professional Lead must not be a member of the Committee.
34. Any person who has been involved in making, or investigating, the allegation, or who has been identified as a person with relevant first-hand knowledge of the behaviour, must not be a member of the Hearing Committee.

The Hearing

35. The candidate shall have the right to be heard in person by the Hearing Committee, and to be accompanied by a person of their choosing. The said person should not act as the advocate of the candidate but shall be permitted to give the candidate such advice as they and the candidate deem desirable. In exceptional circumstances as determined by the chair of the Hearing Committee in consultation with the candidate, the person accompanying the candidate may act as advocate for the candidate.
36. At the request of the candidate, the candidate's supervisor or the Hearing Committee, the supervisor shall be entitled to be present throughout the giving of evidence, and to provide advice to the candidate, and relevant information to the Hearing Committee as either the candidate or the Hearing Committee considers helpful.
37. The candidate shall be entitled to waive the right to attend, by notifying the nominated Professional Lead in writing, in which case the Hearing Committee must proceed in the candidate's absence.

38. If, having been given notice of the date, time and venue of the hearing in accordance with para 19, and not having waived the right to attend under para 37 above, the candidate fails to attend the hearing the Hearing Committee shall be empowered to proceed in the candidate's absence. Reasonable attempt to contact the candidate must be made.
39. If, on receipt of the notice under paras 19-23 above, the candidate informs the Chair of the Hearing Committee that they are unable to attend, and provides a legitimate reason, the hearing shall be rearranged with notice being given in accordance with paras 19-23. If the Chair rules that no legitimate reason has been given the Hearing Committee shall be empowered to proceed in the candidate's absence. The Chair shall be the final arbiter of what constitutes a legitimate reason.
40. The Hearing Committee shall be empowered to admit any document or other information for consideration at the hearing, provided that the Committee is satisfied that neither party is disadvantaged as a result of this. Where the Committee considers that disadvantage will occur it should adjourn proceedings for such time as it considers appropriate.
41. At the request of the Hearing Committee, the findings of the investigation shall be presented orally to the Hearing Committee by the nominated Professional Lead or other person responsible for undertaking the investigation of the allegation. In the event of the said person being unavailable to present the findings, the nominated Professional Lead shall designate another member of staff, who shall be someone who is not otherwise involved in the proceedings.
42. The Hearing Committee shall be empowered to call any witness or other person whom it deems qualified to provide relevant evidence. Other than in exceptional circumstances as defined by the Hearing Committee, the candidate shall be entitled to be present while such evidence is presented, and thereafter to ask the witness fair and relevant questions. Where the Hearing Committee deems it inappropriate to allow the candidate to be present, the candidate shall afterwards be fully appraised of the evidence given by the witness, and may be permitted to have questions put to the witness by the Hearing Committee in their absence.
43. The candidate and the academic unit shall be permitted to call any witness or other person who can provide first-hand knowledge of matters relevant to the allegation. Each party shall be permitted to ask any witness or other person fair and relevant questions.
44. All proceedings of the Hearing Committee shall be minuted by a member of staff other than a member of the Hearing Committee.

Decision of the Hearing Committee

45. Once the Hearing Committee is satisfied that sufficient evidence has been presented and that both the candidate and the academic unit have been given fair and reasonable opportunity to present relevant evidence, question witnesses and respond to evidence presented, the Hearing Committee shall consider its decision in private.
46. If the Hearing Committee decides that the case is not proven the Committee must rule that the allegation is rejected and the matter closed. Sanctions must not be imposed and the candidate must be notified of the decision of the Committee, and the reasons for it, in writing within three working days. The Candidate must also be provided with a full transcript of the hearing within 5 working days and be asked to confirm in writing its authenticity. A record of the decision and a transcript of the hearing must be kept on the candidate's file for the duration of their

programme. The reason for the allegation not being proven must be clearly stated on the record.

47. The Hearing Committee shall determine on a balance of probabilities – according to the allegation or allegations originally made – if the candidate:
 - a) is professionally unsuitable as defined in above;
 - b) has behaved in a manner which constitutes professional misconduct as defined above.
48. Where the Hearing Committee determines that professional unsuitability or professional misconduct has been established it must order either that the:
 - a) candidate's programme of study be terminated with immediate effect, or;
 - b) candidate be issued with a University Warning, and / or;
 - c) candidate be transferred to another programme, with no professional accreditation.
49. The decision as to which order must be determined, taking into account the nature of the conduct in question, an explanation or statement of mitigation put forward by the candidate, and the candidate's record on the programme of study prior to the events resulting in the allegation.
50. Where the candidate has previously received a University Warning issued in accordance with these regulations, the Hearing Committee shall normally order that the candidate's programme of study be terminated. In the event that the Hearing Committee does not order the programme terminated, it must order the issuing of a second University Warning.
51. University Warnings must be issued by the Chair of the University Student Case Committee, using such wording as the Student Case Committee deems appropriate.
52. The candidate must be informed in writing of the determination and the reasons for the decision within three working days and must be sent the University Warning within seven working days.
53. The nominated Professional Lead shall inform in writing any relevant external Professional Body and/or Regulator of the decision within seven working days. The nominated Professional Lead shall also inform Senior Management Team of the University and any other relevant external body required by parliamentary legislation in force at the time.

Appeals

54. The following section constitutes the protocol for appeals referred to in the University Code of Practice: Academic Appeals.
55. Subject to the following, appeals must be conducted in accordance with the University Code of Practice: Academic Appeals.
56. A candidate may appeal against the decision and/or penalty imposed by the Hearing Committee except that no appeal may be made against the professional judgement of the Hearing Committee to professional unsuitability, or professional misconduct but shall lie with respect to the procedure through which the determination on fitness to practise was reached.
57. The decision of an Appeal Committee that the determination of a Hearing Committee is void in accordance with the University Code of Practice: Academic Appeals does not bar a new allegation from being made in respect of the same incident or circumstances as the original

allegation, provided that the new allegation must be considered by a Hearing Committee, comprising completely different members to the original Hearing Committee.

Fresh evidence

58. Where a candidate, or other person, has evidence which was not considered by a Hearing Committee in determining an allegation, that evidence shall be presented to the Chair of the Hearing Committee who shall determine whether the case should be reconsidered.
59. The Chair of the Hearing Committee shall determine that reconsideration shall take place only if they are satisfied that the evidence was not available to the Hearing Committee, or could not reasonably have been made available, at the time of the original determination.
60. If the evidence could be used against the candidate in any case where the original allegation was rejected, in deciding whether to allow re-consideration, the Chair shall have regard to the risk of unfairness to the candidate taking into account the nature of the evidence, the reasons why it was not available at the time of the original determination, and the passage of time since the original determination.
61. If the Chair determines that reconsideration shall not take place the matter shall be deemed closed and the decision of the Hearing Committee shall stand. The candidate and any other relevant person must be informed in writing within five working days. A record of the decision must be kept on the candidate's file for the duration of their programme.
62. If the Chair determines that reconsideration shall take place they must cause a Hearing Committee to be established - which may be the same as the original Hearing Committee. The Hearing Committee must follow procedure, determining the matter in the light of the original and fresh evidence. Any decision of the Hearing Committee under this sub-section supersedes any earlier determination.

Transcripts

63. Where a candidate's programme of study is terminated as a result of a determination, the fact of that termination and the reason therefore shall be recorded on the candidate's record and official transcript.