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| The Investigation and Determination of Concerns about Fitness to Practise | |
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| Classification: | Regulation |
| Version Number: | 2 07 |
| Status: | Approved |
| Approved by: | Education Committee & Senate |
| Approval Date: | 09/06/2021 |
| Effective from: | 01/09/2021 |
| Next Review Date: | 01/10/2025 |
| Document Author: | Faculty of Health Sciences |
| Document Owner: | Quality Support Service |
| Department/Contact: | Quality Support Service |
| Collaborative provision: | Mandatory |
| Related documents: | University Code of Practice: Academic Appeals |
| Published location: | Quality and Standards Website https://www.hull.ac.uk/choose-hull/university-and-region/key-documents/quality |
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| The Investigation and Determination of Concerns about Fitness to Practise |

# Introduction

* 1. Fitness to practise procedures ensure that students meet professional standards of conduct for programmes of study that lead to professional registration. The University of Hull is commited to ensuring that any concerns about a student’s fitness to practise are dealt with fairly, promptly and proportionately.

## Scope

* 1. These regulations set out the procedures governing the investigation and determination of concerns about fitness to practise.
  2. The purpose of these regulations is to:

1. Define the procedure that must be followed in all cases where a programme of study is delivered that results in a professional registration or eligibility to apply for professional registration.
2. Ensure the safety of the student and those around them, including members of the public and children in educational settings, to safeguard public confidence in the relevant profession.
   1. The procedure comprises 3 stages of action (initial enquiry, cause for concern, formal investigation). The underlying principle is that initial enquiries will determine whether there is a case to hear and, where that is determined by evidence, a subsequent cause for concern is raised about fitness to practise and is dealt with at the earliest possible point. Wherever possible concerns will be dealt with promptly and remedied by action at the cause for concern stage.
   2. The University reserves the right to escalate matters to the formal investigation stage of this procedure, without passing through the cause for concern stage, if concerns raised are deemed to present significant risk to the safety of the student or in an attempt to safeguard those around them, including children in educational settings and members of the public.
   3. The University of Hull aims to ensure that the entire procedure, including any appeal, is completed within 90 days of the student being informed of the concern(s). Where any delays arise, the student (and any witnesses) will be informed of progress and when the procedure is likely to conclude.
   4. These regulations apply to any student registered on a programme of study at the University of Hull (as described in 1.3i), on or off the University premises (including apprenticeships and collaborative provision).
   5. Where proceedings are instigated under the Regulations for Academic Misconduct, Student Disciplinary Regulations, or the Code of Practice on Research Misconduct, it may be appropriate to also consider the case under these regulations, if the circumstances that led to disciplinary action calls into question the student’s fitness to practise.
   6. Where the circumstances involve an apprentice, the instigation of proceedings under these regulations will be put on hold until the outcome of an investigation by the respective employer.
   7. Where the circumstances relate to a criminal offence and the police and courts are involved, the instigation of proceedings under these regulations will normally be put on hold until the outcome of the investigation or proceedings.
   8. The University operates under General Data Protection Regulations 2018. The University processes all personal information including sensitive data in accordance with the University Data Protection regulations.
   9. Personal information regarding a student that is obtained under these regulations will only be shared with members of staff who require the information to investigate and determine any concerns about fitness to practise or to enable adoption of the policy and procedure. Such information will not be shared with any Fitness to Practise Panel members until their membership has been confirmed so that the student has an opportunity to raise any concerns.
   10. The University Education Committee is the final arbiter of the interpretation and application of these regulations.
   11. These regulations do not apply to students studying at Hull York Medical School (HYMS), for which separate regulations apply as approved by the HYMS Joint Senate Committee.

# Definitions

* 1. ‘Fitness to practise’ is the ability to meet professional standards; it is about character, professional competence and health. ‘Fitness to practise’ indicates that a student is capable of safe and effective practice without supervision, or can do their job safely and effectively.
  2. ‘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.
  3. The professional standards referred to in 2.1 are as published by the relevant Professional Body and/or Regulator. A non-exhaustive list of circumstances where a student’s fitness to practise might be impaired can be found in Appendix 1. The University of Hull academic area responsible for the programme of study concerned will provide all registered students with information referring to the professional standards required and these regulations.

# Support

* 1. Support and guidance is available to all registered students via the University Central Hub, or independently from the Hull University Students’ Union Advice Centre.
  2. Reasonable adjustments to the procedure will be considered based on a student’s individual needs under the Equality Act 2010. This may include guidance and support from Student Services and/or Occupational Health. The student will be notified of the adjustments in writing at the earliest opportunity.

# Raising a concern

* 1. All concerns covered by these regulations will be investigated in accordance with the principles of natural justice\* and in accordance with the specific procedures set out in these regulations.
  2. Where it is believed that a student’s fitness to practise has been impaired, a written report must be made to the nominated Professional Lead. This report must state the precise nature of the circumstances and the reasons why it is believed that the student’s fitness to practise has been impaired. Anyone with knowledge of the circumstances 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 circumstances.
  3. The nominated Professional Lead should not, as far as is reasonably practical, be a current tutor, mentor, or supervisor of the student under investigation and/or had any previous involvement in the case.

\* *‘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*.”

# Initial Enquiry Stage

* 1. On receipt of the report (regulation 4.2) the nominated Professional Lead will make further enquiries as they deem appropriate (this may include a request for written reports and/or meetings\* with identified persons) to determine whether there is prima facie evidence;

1. that the concerns raised do not warrant further action (case closed), or
2. that the student’s fitness to practise has been impaired.

\* *A written record of any such meeting must be kept.*

* 1. 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 student and the person or persons raising the concern within 5 working days\*\*. A record of the concern and the initial enquiry decision must be kept on file for the duration of the student’s programme of study.
  2. 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 student in writing within 5 working days\*\*:

1. setting out the nature of the concern raised, the evidence on which it is based, and the reasons why it is believed to constitute an impairment of fitness to practise, and the name and position of any person believed to have relevant first-hand knowledge of the circumstances.
2. explaining the right of the student to respond in writing within 15 working days of the date of the notification.
3. giving the student the opportunity to admit or deny the nature of the concerns raised and where the concerns raised are admitted, giving the student the opportunity to make any statement by way of explanation.
4. giving the student the opportunity to meet\*\*\* with the nominated Professional Lead to ensure the student is clear on:

* the nature of the concerns raised;
* how the concerns relate to the relevant professional standards;
* possible outcomes.
  1. On receipt of the information described in 5.1 and 5.3, the nominated Professional Lead (in consultation with a colleague of equal professional standing) will determine if:

1. the concerns raised are deemed about less serious competency issues and the case moved to the cause for concern stage, or
2. there is an impairment of fitness to practise, to be considered by a Fitness to Practise Panel (formal investigation stage).
   1. The student must be informed of the decision, in writing within 5 working days\*\*

\*\**5 working days from the date of the meeting between the Professional Lead and a colleague of equal professional standing.*

*\*\*\*There must be a written record of the meeting and a copy provided to the student.*

* 1. If the nominated 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.

# Cause for Concern Stage

* 1. This stage of the procedure is intended to be developmental and supportive, giving the student the opportunity to improve their practice or approach.
  2. The student will be given at least 3 working days notice to meet with the Professional Lead and/or respective Programme Director to agree supportive improvement measures, set out in a formal action plan (with associated timescales for improvement). This may include support and input from the Student Services Directorate and/or Occupational Health.
  3. If the student refuses to agree to, does not engage with or does not meet, the requirements set out in the formal action plan then the case will be referred to the formal investigation stage. The student must be informed of the decision, in writing, within 5 working days.

# Immediate Suspension

* 1. 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 concerns raised are deemed to be of such a nature as to involve a risk or potential risk to the well-being of the student or another person, the nominated Professional Lead will be empowered to suspend the student, either with immediate effect or from a specified date.
  2. Suspension will 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.
  3. Where the suspension is not related to a specified part of the programme of study, the nominated Professional Lead must inform the student, in writing, of the suspension and the consequences for the student in respect of the remainder of their programme of study, including what they should do in terms of attending teaching sessions, undertaking examinations or other forms of assessment. A copy of the letter of suspension must be forwarded to Academic Registry.
  4. Where the nominated Professional Lead determines that the student will be suspended with immediate effect, that suspension will be effective from the date stated within the letter provided to the student. The letter is signed by the nominated Professional Lead providing the information set out in 7.2 and 7.3.
  5. The student will be invited to a meeting to receive the letter. The person who conducts the meeting will sign a copy of the letter stating the date and time at which the student physically received the letter. If the student 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.
  6. Suspension will be effective until one of the following occurs, whichever is the earliest:

1. the nominated Professional Lead determines that the suspension is no longer required, having regard to the reasons for the suspension;
2. the expiry of any time period relating to the specified circumstances to which the suspension applied;
3. the case not being proven by the Fitness to Practise Panel.
   1. The student 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 7.5. A copy of the letter lifting the suspension must be forwarded to Academic Registry.

# Formal Investigation Stage- Fitness to Practise Panel

* 1. The date and time of the Fitness to Practise Panel meeting will be set no less than 20 working days after the student is informed of the decision (regulations 5.4 or 6.3). In cases where the student accepts the allegations made against them, the panel meeting date can be set as soon as it is reasonably practicable, with the agreement of the student\*\*\*\*

\*\*\*\* *Associated notice (regulations 8.2 – 8.5) will be adjusted, with the agreement of the student*.

* 1. The student will given 20 working days notice, in writing, of the Panel meeting. The notification will also include information about the purpose of the Panel meeting; the proposed Panel members; their right to attend; how to access advice and support; their right to be accompanied and what role any companion is permitted to play.
  2. Any concerns raised by the student about the proposed Fitness to Practise Panel members must be confirmed in writing to the nominated Professional Lead no less than 15 working days before the Panel meeting.
  3. The academic area will provide the student, at least 15 working days before the Panel meeting, with copies of any document or other form of information, including the names and statements of relevant witnesses, on which the academic area intends to rely in support of the concerns raised.
  4. The student will provide the academic area, at least 5 working days before the Panel meeting, with copies of any documents or other forms of information not already provided to the nominated Professional Lead on which the student intends to rely in response to the concern raised.
  5. The Fitness to Practise Panel will be constituted as seems appropriate to the nominated Professional Lead given the nature of the concerns raised, but it will consist of the following:

1. a Chair selected from members of academic staff of the academic area, being of no less than five years academic and/or professional experience;
2. at least two other members of academic staff, one of whom shall be from another academic area;
3. at least one member of the profession to which the programme of study relates, being of no less than 5 years’ professional experience. This person may be external to the University.
   1. The nominated Professional Lead must not be a member of the Fitness to Practise Panel.
   2. Any person who has been involved in making, or investigating, the concerns raised, or who has been identified as a person with relevant first-hand knowledge of the circumstances, must not be a member of the Fitness to Practise Panel.

# The Panel Meeting

* 1. The student will have the right to be heard in person by the Fitness to Practise Panel, and to be accompanied by a person of their choosing. The said person must not act as the advocate of the student but will be permitted to give the student such advice as they and the student deem desirable. In exceptional circumstances, as determined by the Chair of the Fitness to Practise Panel in consultation with the student, the person accompanying the student may act as the advocate for the student.
  2. At the request of the student, their Personal Supervisor will be entitled to be present throughout the giving of evidence and to provide advice to the student and relevant information to the Fitness to Practise Panel.
  3. The student will be entitled to waive the right to attend by notifying the nominated Professional Lead in writing, in which case the Panel meeting must proceed in the student’s absence.
  4. If, having been given notice of the date, time and venue of the Panel meeting in accordance with regulation 8.2, and not having waived the right to attend under regulation 9.3, the student fails to attend, the Panel meeting will proceed in the student’s absence. Reasonable attempt to contact the student must have been made prior to the Panel meeting.
  5. If, on receipt of the notice under regulation 8.2, the student informs the Chair of the Fitness to Practise Panel that they are unable to attend and provides a legitimate reason, the Panel meeting will be rearranged with notice being given in accordance with regulation 8.2. If the Chair rules that no legitimate reason has been given the Panel meeting will proceed in the student’s absence. The Chair will be the final arbiter of what constitutes a legitimate reason.
  6. The Fitness to Practise Panel will be empowered to admit any document or other information for consideration at the Panel meeting, provided that the Panel is satisfied that neither party is disadvantaged as a result of this. Where the Panel considers that disadvantage will occur it will adjourn proceedings for such time as it considers appropriate.
  7. At the request of the Fitness to Practise Panel, the findings of the investigation will be presented orally at the Panel meeting by the nominated Professional Lead. In the event of the nominated Professional Lead being unable to present the findings, the nominated Professional Lead must designate another member of staff who must be someone who is not otherwise involved in the proceedings.
  8. The Fitness to Practise Panel will 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 Fitness to Practise Panel, the student will be entitled to be present while such evidence is presented, and thereafter to ask the witness fair and relevant questions. Where the Fitness to Practise Panel deems it inappropriate to allow the student to be present, the student must afterwards be fully appraised of the evidence given by the witness, and be permitted to have questions put to the witness by the Fitness to Pracise Panel in their absence.
  9. The student and the academic area will be permitted to call any witness or other person who can provide first-hand knowledge of matters relevant to the concerns raised. Each party will be permitted to ask any witness or other person fair and relevant questions.
  10. All proceedings of the Panel meeting must be minuted by a member of staff other than a member of the Fitness to Practise Panel.

# Decision of the Fitness to Practise Panel

* 1. Once the Fitness to Practise Panel is satisfied that sufficient evidence has been presented and that both the student and the academic area have been given fair and reasonable opportunity to present relevant evidence, question witnesses and respond to evidence presented, the Fitness to Practise Panel will consider its decision in private.
  2. The Fitness to Practise Panel will determine on a balance of probabilities – according to the concerns originally rasied – whether the student’s fitness to practise has either been impaired or not impaired.
  3. The Fitness to Practise Panel will consider each of the following options starting with the least serious and decide whether the student’s fitness to practise is either impaired or unimpaired (see Appendix 2 for guidance):

1. Permit the student to continue with the programme of study with no further action;
2. Issue a University Warning;
3. Issue a University Warning and permit the student to continue with the programme of study but under additional supervision, and conditions if appropriate \*\*\*\*\*;
4. Issue a University Warning and suspend the student for a set period with conditions during the suspension and in respect to the return from suspension\*\*\*\*\*;
5. Issue a University Warning and transfer the student to another programme of study, with no professional accreditation;
6. Terminate the student’s programme of study with immediate effect. The University will consider the results profiles for the student at the next Board of Examiners meeting. Where a student achieves, or has already achieved, an interim award, the student will be issued with a certificate and transcript confirming the award.

\*\*\*\*\**A formal action plan (with associated timescales for improvement) agreed with the student and monitored by the respective Programme Director or Personal Supervisor. This may include support and input from the Student Services Directorate and/or Occupational Health.*

* 1. The student must be notified of the decision of the Fitness to Practise Panel, and the reasons for it, in writing within 3 working days. The student 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 Panel meeting must be kept on the student’s file for the duration of their programme of study. The decision of the Fitness to Practise Panel, and the reasons for it, must also be sent to Academic Registry.
  2. The decision of the Fitness to Practise Panel (regulation 10.3) must be proportionate where there is a need to protect the public or safeguard public confidence in the profession. The Fitness to Practise Panel must take into account the nature of the concerns raised, any mitigating factors put forward by the student, and the student’s record on the programme of study prior to the events resulting in the concerns being raised.
  3. Where the student has previously received a University Warning issued in accordance with these regulations, the Fitness to Practise Panel will normally order that the student’s programme of study be terminated. In the event that the Fitness to Practise Panel does not order the programme terminated, it must order the issuing of a second University Warning.
  4. University Warnings must be issued by the Chair of the Fitness to Practise Panel, using such wording as the Fitness to Practise Panel deems appropriate.
  5. If required, the nominated Professional Lead will inform in writing any relevant external Professional Body and/or Regulator of the decision within 7 working days. The nominated Professional Lead will also inform the University Leadership Team and any other relevant external body required by parliamentary legislation in force at the time.

# Appeals

* 1. Appeals must be conducted in accordance with the University Code of Practice: Academic Appeals.
  2. A student may appeal against the decision of the Fitness to Practise Panel, in accordance with the grounds stated in the University Code of Practice: Academic Appeals. The exception to this is 10 (a) in the University Code of Practice: Academic Appeals, whereby a student wishes to present evidence that has not been brought to the attention of the Panel at the time of their decision, that would have led them to a different decision; and there is good reason why the evidence was not presented at the appropriate time. In this instance, refer to regulations 12.1 – 12.6.
  3. Where there are grounds for an appeal a new Fitness to Practise Panel will be established in accordance with regulation 8.6. The Panel will consist of members not involved in the previous stage.
  4. A Panel meeting will be scheduled to review the case in accordance with the procedure outlined within these regulations. Any decision of the Fitness to Practise Panel under this sub-section supersedes any earlier determination.
  5. The student must be notified of the decision of the Fitness to Practise Panel, and the reasons for it, in writing within 3 working days. The student 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 Panel meeting must be kept on the student’s file for the duration of their programme of study. The decision of the Fitness to Practise Panel, and the reasons for it, must also be sent to Academic Registry.

# Fresh evidence

* 1. Where the student, or other person, has evidence that was not considered by a Fitness to Practise Panel in determining an impairment of fitness to practise, that evidence will be presented to the Chair of the Fitness to Practise Panel who will determine whether the case should be reviewed.
  2. The Chair of the Fitness to Practise Panel will determine that a review shall take place only if they are satisfied that the evidence was not available to the Fitness to Practise Panel or could not reasonably have been made available, at the time of the original determination.
  3. If the evidence could be used against the student in any case where the original case was not proven, in deciding whether to allow review, the Chair shall have regard to the risk of unfairness to the student 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.
  4. If the Chair determines that a review will not take place, the matter will be deemed closed and the decision of the Fitness to Practise Panel will stand. The student and any other relevant person must be informed in writing within 5 working days. A record of the decision must be kept on the student’s file for the duration of their programme of study.
  5. If the Chair determines that a review will take place they must cause a Fitness to Practise Panel to be established - which may be the same as the original Fitness to Practise Panel. The Fitness to Practise Panel must follow procedure as outlined in these regulations, determining the matter in the light of the original and fresh evidence. Any decision of the Fitness to Practise Panel under this sub-section supersedes any earlier determination.
  6. The student must be notified of the decision of the Fitness to Practise Panel, and the reasons for it, in writing within 3 working days. The student 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 Panel meeting must be kept on the student’s file for the duration of their programme of study. The decision of the Fitness to Practise Panel, and the reasons for it, must also be sent to Academic Registry.

# Appendix 1: Circumstances where a student’s fitness to practise may be impaired

* acting in an inappropriate or unprofessional manner on or away from University premises;
* falsification of academic, practice or professional records;
* a failure to recognise or acknowledge the impact of the student’s own physical or mental health needs on the safety of others;
* substance or alcohol use that puts the safety of others and/or the student at risk;
* a serious health problem or condition that has implications for the safety of others and/or the student;
* a failure to act to safeguard a patient, client, child or vulnerable adult;
* exploiting the vulnerability of a patient, client, child or vulnerable adult;
* conviction of a relevant criminal offence, or has accepted a caution in relation to such an offence;
* failure to rectify behaviour that has been subject to any disciplinary actions under the University's regulations;
* repeated inappropriate and/or discriminatory behaviour towards others;
* intimidation, victimisation or bullying of others (including sexual misconduct, violence and harassment);
* academic misconduct (for example plagiarism);
* any other circumstance which may call into question a student's fitness to be admitted to and to practise their profession.

# Appendix 2: Guidance to support the decision of the Fitness to Practise Panel when issuing University Warning/Termination of the Programme of Study

In considering the options in accordance with regulation 10.3, the Fitness to Practise Panel **must** have regard to the following criteria to guide its decision whether a University Warning or termination is appropriate.

**University Warning**

A University Warning is likely to be appropriate if most of the following are present:

* evidence that the concerns raised would not have caused direct or indirect harm to patients, clients or pupils
* relevant and appropriate references/testimonials supporting the student’s general conduct and behaviour
* evidence that the concern raised was an isolated incident, has not been repeated since and that the student has an otherwise good record
* evidence that the behaviour linked to the concerns raised was not deliberate
* evidence that the student has a clear insight into their failings
* expressions of regret/apology which are judged by the Fitness to Practise Panel to be sincere
* evidence that the student was acting under duress
* evidence that rehabilitative/corrective steps have been taken by the student
* evidence that there has been no repetition of the behaviour since the incident

**Termination of programme of study**

Termination of the student’s programme of study is appropriate where there is:

* evidence that the concerns raised depart from the relevant standards as set out in the Code of Professional Conduct and/or other of the Profession’s standards,

and

* evidence that the concerns raised caused harm to patients, clients or pupils, either deliberately or through unsafe practice or created a continuing risk of such harm, or
* evidence that the concerns raised constituted an abuse of position/trust, particularly involving patients, clients, pupils or other vulnerable groups, or constituted a gross violation of their rights, or
* evidence of dishonesty, especially if persistent, either as part of the behaviour in issue or during the investigation of the concerns raised (such as trying to cover up the behaviour), or
* evidence that the reputation of the relevant Profession would be undermined if the student’s programme of study is not terminated.

**Implications**

A University Warning applies to the student’s future conduct and remains against their record for the remainder of the programme of study. It can be drawn to the attention of any person making enquiries of the student’s progress during the programme of study (and having a legitimate right to that information in accordance with relevant legislation), or to any future panel considering fresh concerns within the length of the programme.

In the event of termination of programme the student will be re-admitted to a programme of study leading to an award of the University leading to a qualification of the Professional Body and/or Regulator concerned only in exceptional circumstances. Account will be taken of the individual factors concerned, including the reasons for the original termination and the student’s conduct since the programme was terminated. The decision will be made in consultation, where required, with the Student Services Directorate and Occupational Health. Further consultation may be required with the relevant practice placement provider.

**Version Control**

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| **Version** | **Author** | **Date approved** | **Relevant sections** |
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