



BUCKINGHAMSHIRE
NEW UNIVERSITY

EST. 1891



FITNESS TO PRACTISE PROCEDURE

QUALITY & TEACHING

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Introduction

- 1 A number of the programmes which the University offers entitle successful graduates to become registered members of regulated professions. The regulators of those professions require that the University has processes in place to ensure that students are fit to practise during the programme and on registration. This document outlines the University's policy on Fitness to Practise, and the procedure it has put in place to discharge its duties to the professional bodies.
- 2 The programmes covered by these procedures are listed in Annex I. This annex will be formally updated on an annual basis on 1st September as the University's offering changes following validation and approval periods. The University will endeavour to make sure that all students are informed at application stage, at the start of their course, and at regular intervals during their programme of studies if they are covered by this procedure.
- 3 Should at any point a student be unsure whether or not their Programme is covered by this procedure, they should consult their Course Leader or Registry Officer.
- 4 The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. Buckinghamshire New University is a member of this scheme. If you are unhappy with the outcome you may be able to ask the OIA to review this. You can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right if something has gone wrong here: <https://www.oiahe.org.uk/students> .
- 5 You normally need to have completed this procedure before you complain to the OIA. We will send you a letter called a "Completion of Procedures Letter" when you have reached the end of our processes and there are no further steps you can take internally. You can find more information about Completion of Procedures Letters and when you should expect to receive one here: <https://www.oiahe.org.uk/providers/completion-of-procedures-letters> .

What is 'Fitness to Practise'?

- 6 For the purposes of these procedures the term 'Fitness to Practise' is used throughout and is intended to encompass the varying terms used by the different professional bodies.
- 7 The Health and Care Professions Council (HCPC) defines Fitness to Practise as follows:

'If a health professional is fit to practise it means they have the skills, knowledge and character to practise their profession safely and effectively; and their behaviour contributes to the public protection and enhances confidence in their profession.'
- 8 The Nursing and Midwifery Council (NMC) uses the term 'good health and good character' when it discusses Fitness to Practise and states that:

'Being fit to practise requires a nurse or midwife to have the skills, knowledge, good health and good character to do their job safely and effectively.

All qualified nurses and midwives must follow [The Code: Professional standards of practice and behaviour for nurses and midwives](#).'
- 9 If as a result of the procedure described in this document a student's Fitness to Practise is considered to be impaired, the Fitness to Practise Panel may (amongst other options)

conclude that the student is not suitable to continue on a course leading to professional registration.

When does Fitness to Practise apply?

- 10 This policy applies to all Buckinghamshire New University students, including degree and higher degree apprentices.

Note: Where this document refers to 'students' this will include degree and higher degree apprentices unless specified otherwise.

- 11 Pre-registration students are subject to consideration of their Fitness to Practise by the University from the moment they apply to the course to the point when they achieve registration with their professional body (including students who have successfully completed their programme of study). These procedures apply to students throughout their period of studies whether on campus, on placement or even in their personal or everyday lives. These procedures also apply to students on a programme leading to a new registration status with their professional, statutory or regulatory body (PSRB).
- 12 For information on Fitness to Practise for students who are already registered members of a profession but may be undertaking continuing professional development or advanced studies with the University (which does not lead to a new registration status) see 128 below.

The purpose of assessing Fitness to Practise

- 13 The University considers the assessment of Fitness to Practise as having a threefold purpose:
- Protection of the public
 - Upholding professional standards, including the relevant code of conduct
 - Contributing to the maintenance of the reputation of the profession and public confidence in the profession.

Note: Reputation in this context does not just relate to an individual's personal reputation but the collective reputation of the profession.

- 14 The purpose of Fitness to Practise is the same whether in relation to an already registered and practising member of a profession, or a student working towards professional registration. Students seeking to join a profession are expected to demonstrate the same behaviour as registrants but it is acknowledged that they are on a programme of instruction and are not yet full members of the profession.

Principles

Students must remain informed

- 15 Students need to be reminded, on a regular basis, from application to graduation of what is expected of them in terms of behaviour at each stage of a programme of study and in different contexts i.e. during placement, on campus and off campus.
- 16 It is unfair to expect students to have a full understanding of Fitness to Practise in advance of applying to a professional programme and the University will seek to ensure that students have multiple opportunities to receive information on Fitness to Practise, and discuss how it applies to them as students and how it will apply to them in their future practice.

17 Current information on Fitness to Practise for students is contained within:

- Student handbooks
- on the Virtual Learning Environment
- within taught modules
- through a process of annual self-declaration

The process must be fair

18 All University processes must be fair. The University will seek to meet the need for fairness in the assessment of Fitness to Practise by:

- Educating students with regard to expectations
- Conducting a thorough investigation if concerns are raised
- Ensuring that the student has access to the full results of the investigation and is given adequate time to prepare their response prior to a panel hearing
- After the decision is made to refer a case to a panel hearing, ensuring the hearing takes place within a reasonable timeframe
- Ensuring that a hearing panel is constituted so its members are free from any perceived conflict of interest or bias with regard to the student or the case
- Ensuring that hearing panel members are provided with the full results of the investigation and the student's response to it, briefed on the procedures to be followed and provided with the standards against which a student's situation is to be reviewed
- Ensuring that the decision on Fitness to Practise is made by an independent and impartial panel
- Ensuring that the decision details the facts proven and the reasons why the determination has been made and why a particular sanction has been chosen

The process is conducted separately from other disciplinary processes

19 Fitness to Practise is not disciplinary in nature - the purpose of Fitness to Practise is not to punish the student. However, it is acknowledged that sanctions imposed by a hearing panel may have a punitive effect on an individual student as it may impact their ability to continue on a programme or register for their chosen profession.

20 Where a concern is raised that may fall under either the *Student Code of Conduct* or *Fitness to Practise*, *Fitness to Practise* will normally take precedence due to the potential public safety aspect.

Confidentiality

21 From start to finish, Fitness to Practise procedures will be treated as confidential and involve the minimum number of individuals necessary. Whilst students are not yet registered professionals, wider knowledge of any intimation of impaired Fitness to Practise – which may or may not be found to be proven – could cause significant harm to a student and their current or future employment.

22 However, as programmes lead to professional qualification, it may be necessary to disclose certain information about a student to the relevant professional body, employer or government agency.

- 23 The Personal Tutors of students who are subject to Fitness to Practise proceedings will be informed that an investigation is taking place. Students are recommended to discuss this matter with their Personal Tutor, as they will be able to provide support and guidance. The University does not normally inform other members of staff who are not directly involved in the investigation.
- 24 Confidentiality does not mean anonymity and panels will be aware of the identity of the student in advance to ensure that any potential conflicts of interest can be identified, and vice versa, students will be informed of the identity of the panel to give an opportunity to object to its membership on the grounds of potential bias. Anonymous reports will not normally be considered by the panel (see paragraph 39 below).

Students are not yet professionals

- 25 Students are by definition still learning and are entitled to receive feedback and advice from their tutors. This does not mean that someone who is unsuitable for practice should be allowed to remain on a programme, but it does mean that opportunities should be given for students to affect change in the area of concern if that is appropriate and possible.

During the admissions process

- 26 As part of the admissions process students' are assessed on their Fitness to Practise. See paragraph 28 below for full details of the process.

Working with placement providers

- 27 All placement providers are given information about the University's Fitness to Practise procedures, and are invited to offer representation on the panel in the form of registered members of the profession as required. Any Fitness to Practise issues occurring through the year are also reviewed and actions agreed at the relevant programme and contract meetings. Placement provider personnel must not form part of a panel for a student subject to Fitness to Practise proceedings within the same organisation.

Assessing Fitness to Practise during admission and enrolment

Application stage

- 28 To meet its obligations regarding Fitness to Practise the University is required to make an assessment based on the limited information available to them at the point of admissions, and may refuse application to individuals they believe are not fit to undertake studies leading to professional registration.
- 29 Both the application process through UCAS and the University's own application forms include a requirement to declare criminal convictions. The process is covered in detail in the University's *Criminal Conviction Policy*. Students declaring a disability or health condition at application stage will also be likely to undergo further assessment to ensure reasonable adjustments can be put in place.
- 30 In addition to the above, students following a nursing programme are required to read and sign a 'Directional Statement of Conduct Principles'.

Student self-declaration at enrolment

- 31 At the point of enrolment students complete a self-declaration. The self-declaration form is accompanied by an information sheet so that all students are informed of the nature of their declaration prior to signing. Failure to declare relevant information on a self-declaration form, which is subsequently brought to the University's attention, is likely to result in Fitness to Practise proceedings.
- 32 Students are asked to make a declaration in relation to their:
- Health or disability
 - Criminal convictions (including conditional discharge and cautions) even if spent, subject to the provisions of the Rehabilitations of Offenders Act 1974 (as amended) and in particular the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013.
 - Civil proceedings (other than divorce or dissolution of a civil partnership)
 - Disciplinary proceedings by a professional or regulatory body or employer
 - Formal action by authorities regarding safeguarding
 - Any other formal determinations which may relate to their Fitness to Practise
- 33 If a student is unable to sign the declaration they are required to provide information relating to the areas for which they have not been able to sign. This information will then be compared with information supplied on application and if there are any discrepancies will be referred to an Associate Head of School for consideration and if necessary the *Fitness to Practise procedure* instigated.

Disclosure and Barring Check

- 34 All students on regulated programmes are required to complete an enhanced Disclosure and Barring Service (DBS) check (formally known as Criminal Records Bureau (CRB) check) at the point of enrolment.
- 35 If a conviction or other information is returned on this initial DBS check which had not previously been declared by the student on application or self-declaration or was not accurately described, this will be referred to an Associate Head of School for consideration, and if necessary *Fitness to Practise procedure* instigated.

Ongoing assessment of Fitness to Practise

- 36 Students' Fitness to Practise is assessed continually throughout their period of studies, by placement and academic staff, and students are required to repeat their initial declaration on an annual basis and prior to registering with their professional body.
- 37 Students must inform their course leader immediately if anything occurs, at any point during their period of studies, which is likely to alter their DBS status.

Receiving information and initial consideration

- 38 Information raising concern about a student's Fitness to Practise may come from a range of sources – members of the public, placement staff, University staff, other students, the

student's employer, from the student themselves either directly or through their annual declaration or as a result of another University process.

- 39 Anonymous reports will not normally be considered, although the Associate Head of School (or their nominee) may at their discretion and in exceptional circumstances justifying such action (for example, those concerning matters of potential health and safety of the reporter) withhold from the student concerned the name of the reporter. Any such evidence should not be relied on as the sole basis for a referral to a Fitness to Practise Panel, but may be considered to be of sufficient quality to constitute supporting evidence.
- 40 The table below shows possible sources of concern and what their initial point of contact should be.

Source of concern	Initial point of contact
Members of the public	Associate Head of School
Placement staff	Placement coordinator
University staff	Associate Head of School
Apprentice employer	Associate Head of School
Other students	Personal tutor or course / module leader
Student	Personal tutor or course / module leader
Outcome of disciplinary or academic misconduct procedure	Associate Head of School

- 41 If a placement coordinator, personal tutor or course / module leader receives information that raises genuine concerns regarding a student's Fitness to Practise they will pass the information on to the Associate Head of School using the '**Record of Cause for Concern**' form.

Categories of concern

- 42 There are a wide range of events or behaviours that may give rise to concern regarding a student's Fitness to Practise. This may relate to:
- The exercise of professional practice
 - Other conduct which may or may not be related to professional practice but may have an impact on the reputation of the profession
 - A single incident serious enough to cause concern
 - A series of incidents (serious or less so) the cumulative effect of which is enough to cause concern

Deficient performance or unprofessional behaviour

- 43 Most deficient performance will be dealt with through the assessment process and deficient students will therefore not pass the programme. Where a student's deficient performance is causing concerns regarding public safety early intervention through Fitness to Practise may be warranted.
- 44 Unprofessional behaviour may relate to an underlying pattern of conduct or a single significant breach of professional standards. Behaviour outside of the professional setting may also be

taken into account if it has the potential to impact the reputation of the profession or raises wider concerns.

- 45 Each professional body operates its own code of conduct or equivalent and breach of the standards in that code of conduct are likely to be considered unprofessional conduct.
- 46 Examples of unprofessional behaviour include:
- Violence (whether resulting in a criminal conviction/caution or not).
 - Drug or alcohol misuse or illegal supply, including driving under the influence of alcohol or drugs (whether resulting in a criminal conviction/caution or not)
 - Sexual offenses or misconduct, including improper sexual/emotional relationships (whether resulting in a criminal conviction/caution or not)
 - Dishonesty – including academic misconduct or other forms of dishonesty such as misrepresentation of qualifications, forging a name or signature on records, forging within the clinical hours log, financial fraud etc. and failing to declare information in a timely manner which relates to their Fitness to Practise
 - Sexist, racist or other forms of harassment
 - Misuse of the internet or social networking sites
 - Persistent poor attitude or lack of commitment to the profession, including: poor attendance; disregard of procedure, requirements and official communications; disrespect to academic staff, placement staff, service user, other students; poor time management; persistent failure to submit work etc.
 - Other breach of professional standards – e.g. breach of confidentiality, inappropriate behaviour with service users etc.

Convictions and determinations

- 47 Criminal convictions, discharges and cautions even if spent may raise concerns regarding Fitness to Practise, subject to the provisions of the Rehabilitations of Offenders Act 1974 (as amended), and any orders made under it. A conviction is deemed to be conclusive evidence that a student is guilty of the offence. Even greater concern is raised where a student fails to declare a relevant conviction received prior to or during the course of their studies. This may call into question the student's trustworthiness and/or their awareness of professional expectations.
- 48 Other formal determinations against a student including disciplinary proceedings by a professional or regulatory body or employer, civil proceedings (other than divorce or dissolution of a civil partnership), or formal action by authorities regarding safeguarding of vulnerable adults or children may all raise potential concerns regarding Fitness to Practise. Again, failure to declare such determinations at the start of a programme or when a proceeding is made during the course of studies may cause additional concerns.

Physical or mental health problems and disability

- 49 A student may start their course with an existing physical or mental health condition or disability. This may or may not impair their Fitness to Practise.
- 50 If their condition or disability was felt to impair their Fitness to Practise, their admission on the course may have been subject to one or more of the following being in place to mitigate the impairment:

- Reasonable adjustments
 - An effective treatment plan
 - Demonstration of good insight by the student into their condition
 - A suitable approach to self-management of their condition by the student
- 51 If at any point during the course of their studies one of these mitigation strategies is felt to no longer be adequate to address the impairment, then it will be appropriate for the situation to be revisited. If a revised mitigation strategy is identified – additional adjustments, support, re-engagement of the student with self-management – then no further action need be taken. If concerns remain, however, then the *Fitness to Practise* procedure should be followed.
- 52 If a student develops a health condition or disability during their studies then the University will take reasonable steps to avoid any substantial disadvantage caused to the student by the impairment to enable them to undertake safe and effective practice, bearing in mind that by the end of the course they will need to be able to do this without supervision. Only when mitigating strategies have been explored and concerns remain should a student be referred to Fitness to Practise.

The decision to investigate

- 53 After receiving the initial information, and if necessary making some preliminary inquiries, the Associate Head of School will decide whether the information warrants:
- No further action
 - A more comprehensive investigation under the *Fitness to Practise procedure*
 - Referral to the *Student Disciplinary procedure* and that the *Fitness to Practise procedure* be suspended until that is complete
- 54 In each case the student should be notified in writing by the Associate Head of School of the next steps and timescales outlined. Where a student is also being suspended from placement (see below) this should be included in this letter. Template letters for all stages are available from the Academic Registry.

Suspension from placement

- 55 The Associate Head of School may take the decision to suspend a student from placement if the information raises concern regarding their ability to engage in the provision of safe and effective practice. The suspension will normally take place immediately and be effective until after the conclusion of the *Fitness to Practise* procedure. Written notification giving the reasons for suspension will be sent to the student as soon as the decision to suspend is made and in any case within three working days.
- 56 In the case of apprenticeship students the Associate Head of School will also inform and liaise with the employer of the student and discuss any implications of the suspension.
- 57 There is no right of appeal against emergency suspension. The public interest is more important than the student's interests when considering concerns relating to safe and effective practice and so the student must be removed from a situation where they may cause harm until they have been determined as safe to return to the practice environment or programme.

- 58 Students will not usually be suspended from engaging with campus based learning activities due to Fitness to Practise concerns, however if the case is referred to the Student disciplinary procedures then the normal mechanisms for student suspension can be followed. This will usually mean the student may continue to study and access University facilities, but will not be able to attend a placement.

Investigation stage

- 59 If the Associate Head of School determines that an investigation should be undertaken they will appoint an Investigating Officer. This will be a member of staff who has not been involved to date with the case and does not have a significant professional relationship with the student (i.e. not their personal tutor).
- 60 The quality of the investigation is crucial in achieving the outcome of good quality Fitness to Practise decisions. The purpose of an investigation is to:
- identify the exact nature of the cause(s) for concern
 - identify, collate and analyse all relevant information exploring the causes identified
 - identify whether the information points to a potential risk to public safety, breach of professional standards or impact on the reputation of the profession
- 61 The investigation needs to proactively determine whether there is a case to put forward to panel and if so what are the specific matters that need to be considered.
- 62 There is no set pattern for how an investigation should take place as it will vary significantly between cases - general guidance for the Investigating Officer is available from the Academic Registry.
- 63 Failure of the student to co-operate when requested with the investigatory process may be considered evidence in and of itself of their impaired Fitness to Practise.
- 64 The investigation should normally be concluded within 15 working days but this may need to be extended if statements from external individuals or medical or other assessments are required. In any case the investigation should be concluded as soon as reasonably possible. The student will be informed of the expected timescale for the investigation.
- 65 The investigation will result in a report detailed in the record form to the Associate Head of School outlining:
- the key concerns (both identified originally and those that have emerged as a result of the investigation)
 - how the concerns relate to the three-fold purpose of Fitness to Practise assessment i.e. is the main concern relating to public safety, or professional standards?
 - how the concerns relate to the relevant code of conduct/expectations around professional behaviour.
 - a recommendation to the Associate Head of School as to whether the matter should be referred to a Fitness to Practise Panel
- 66 The report, along with all the supporting evidence, will be reviewed by the Associate Head of School who will determine whether the case meets the threshold for referral. If the Associate Head of School considers that there is a real prospect of a finding that the student's Fitness to Practise is impaired, they may refer the case to a Fitness to Practise Panel. The Associate

Head of School will not make a conclusion as to whether the student's Fitness to Practise is impaired.

- 67 If the Associate Head of School finds that the case does not meet the threshold for referral to a panel they will write to the student and confirm that the Fitness to Practise procedure has concluded. In such cases, the Associate Head of School may also offer advice to the student with regard to their future conduct and the impact that this might have on their practice placements if they have been suspended.
- 68 Notes of the investigation will be retained until the student achieves registration with the professional body but will not be accessed unless further concerns regarding Fitness to Practise of the student come to light.

Referral to panel (formal stage)

Role and composition of the panel

- 69 The purpose of the panel is to consider the evidence, determine whether a student's Fitness to Practise is impaired and, if so, which sanction (if any) should be applied. They have the delegated authority from the University to make decisions, which with the exception of the decision to expel a student, do not require further ratification.
- 70 This is not an adversarial process and does not involve 'prosecution' of the student by the University.
- 71 The panel is not solely a receptor of information but is intended to be a 'proactive' or 'inquisitorial' body, seeking to actively engage with the process to ensure issues are explored to their satisfaction rather than relying solely on information as presented to them. The panel will also ensure that it tests the evidence before it, particularly when it is disputed, and make reasoned conclusions regarding why some evidence may have been accepted whereas other evidence was not considered or rejected.
- 72 The minimum composition of the panel will be:
- a senior academic member of staff (normally a Head of School or member of the Senior Management Team) as Chair
 - an academic member of staff who is a registered member of the relevant profession
 - a registered senior member of the relevant profession from outside the University
 - a secretary identified by the Academic Registry
- 73 The external registered member of the profession will be from the same field of practice as the student being considered, but not from the same placement area where the alleged incidences occurred. If several cases are to be considered by a single panel, further members may be co-opted to ensure the specific field of practise is always covered. In such circumstances, each individual case will be considered by the panel separately.
- 74 Where possible a lay representative or service user will also form part of the panel, although this is not required for the panel to be quorate.
- 75 The Chair's role is to ensure that proceedings operate in accordance with procedure and the principles of natural justice, and they are not therefore required to be a registered member of the relevant profession. The Chair will initially review the results of the investigation, identify

any further information required from the student or a specialist advisor, or determine if any witnesses need to be seen in person.

- 76 When establishing a panel for a particular event a key requirement is for all panel members to be free from any perceived conflict of interest or bias with regard to the student or the case. Panel members should be free of any significant prior involvement with the student or any preconceived view of the student or the case. This will normally exclude the student's personal tutor or other members of academic staff who have engaged both closely and recently with the student or staff that a student has interacted with through placement or any individual who is known to the student personally. Over the course of their studies students are likely to interact with a wide range of academic staff and practice staff and so simply having taught a student or worked alongside them at some point will not preclude a member of staff from being a member of a panel.
- 77 At the point of invitation all panel members will be asked to declare any prior knowledge of the student or the case and will be replaced if a conflict is perceived.

Preparing for the panel hearing

- 78 As soon as a date and panel for the hearing has been set the student should be invited to the hearing and notified, by email to the address registered on the student record, of the following information:
- a summary of the concerns raised
 - the date, time and location of the hearing
 - their right to be accompanied by a supporter or representative, (but not a legal representative¹). Please see the section 'Support and Representation'
 - the composition of the panel and the mechanism for challenging its composition based on potential conflict or bias, and a deadline for making that challenge
 - information on submitting a further statement, information, witness statements or references
- 79 The student will also be sent:
- the investigating officer's report and all accompanying evidence
 - the *Fitness to Practise procedures*
 - the applicable professional code of conduct
- 80 The student will be required to submit any further statement, information, witness statements or references within ten working days of the date of invitation. They should also confirm the name and role of any accompanying person.
- 81 All evidence provided to support the student's case must be original unaltered copies, with all witness statements signed, dated and providing contact details should further clarification be required.
- 82 Providing documents that are fraudulent or amended will be considered as evidence of a lack of Fitness to Practise and may also cause the student to be additionally referred to the *Student Disciplinary Procedure*.

¹ The Chair retains the discretion to determine whether in appropriate cases (e.g. where a right under the European Convention on Human Rights is involved) legal representation may be granted if requested. If legal representation is granted for the student, the panel should have the right to be legally assisted as well.

- 83 The student has the right to challenge the composition of the panel based on any perceived conflict of interest or a breach of the rules for composition of the panel. Any objection must be received within five working days of notification of the panel composition. The decision on the reasonableness of the objection will be taken by the Chair of the panel (or another member of the panel if the Chair is the subject of the objection), and if necessary a panel member will be replaced.
- 84 If a student is unable to make the date set with good cause the date will be rearranged. A panel date will only be rearranged once (except in exceptional circumstances such as hospitalisation) as the student is expected to prioritise attendance at the hearing over other activities.
- 85 The student has the right to attend the panel hearing but if they choose not to do so this will not prevent the hearing from taking place.
- 86 At least five working days prior to the hearing the panel will be sent
- the investigating officer's report and all accompanying evidence;
 - the *Fitness to Practise procedure*;
 - the applicable professional code of conduct;
 - details of witnesses that have been requested by the student, recommended by the Investigating Officer, or requested by the Chair;
 - any further information submitted by the student.
- 87 The Investigating Officer will be invited to the hearing to answer any questions relating to the investigation. The Associate Head of School may attend, but is not required to do so. The absence of either the Associate Head of School or Investigating Officer will not invalidate the proceedings.
- 88 The panel may call such other persons as it considers appropriate to attend the hearing in order to provide information or evidence on relevant matters.
- 89 The student shall be notified in advance of any other persons who will attend the hearing and will be given the opportunity to challenge any evidence which the persons may provide.
- 90 The hearing may be held on any campus of the University.

Hearing procedure

- 91 The panel will initially convene in private and hold a preliminary discussion based on the documentary information provided. It will identify the key facts which are in dispute and the lines of questioning to be pursued.
- 92 The panel may at its discretion vary this procedure where it considers it to be appropriate to do so.
- 93 The student, their supporter (if present), Investigating Officer and Associate Head of School (if present) are invited to join the hearing.
- 94 The Chair will introduce the panel and explain the place of the hearing within the *Fitness to Practise procedure*.
- 95 The student will be given the opportunity to make a verbal statement if they wish. They will not normally be permitted to submit further documentary evidence however the Chair may use their discretion to allow further documentary evidence where there is good reason to do

- so. The panel and Chair will question the student and if necessary the Investigating Officer and any witnesses invited will be called.
- 96 The student may question any witnesses who provide evidence to the panel.
- 97 The student's supporter may not address the panel without the permission of the Chair but if at any point if the student and their supporter wish to confer they may do so. If they wish to confer in private they may leave the room for a brief period of time.
- 98 When the Chair and panel have finished their questioning the student will be invited to make a closing statement. The Chair will then advise the student as to when and how they will be notified of the outcome of the hearing, with normal practice being in writing within 5 working days.
- 99 The panel may at its discretion adjourn the hearing to another date, time and place where it requests further information to be provided or further inquiries to be made.
- 100 The student, their supporter (if present), the Investigating Officer and Head of School (if present) will be asked to leave the hearing.

Decision making

- 101 Part of a fair hearing is that it gives adequately reasoned decisions. This is so that the parties may understand the decision and so that the decision itself can be seen to uphold professional standards and help maintain public confidence. In coming to their decision the panel will identify:
- the facts that allegedly stand.
 - which of those facts have been found proven and why.
 - whether those facts that have been found proved amount to one (or more) grounds on which the student's Fitness to Practise may be impaired (and if so which one(s) and why).
 - whether the student's Fitness to Practise is *currently* impaired, and if so, the reasons why (how recent the incident was, the student's insight, lack of remediation, risk of future repetition etc.).
 - whether a sanction should be imposed, and if so, which one and why in light of any relevant mitigating factors.
- 102 In determining the facts of the case, the Panel shall bear in mind that the more serious the allegation, the more cogent is the evidence required to prove it. The standard of proof shall be the balance of probabilities, therefore whether the facts are more likely than not to be true.
- 103 The panel will need to make an overall decision and conclude one of the following:
- Fitness to Practise is not impaired.
 - Fitness to Practise is currently impaired but may be amenable to remediation (warning, conditions, suspension).
 - Fitness to Practise is currently impaired and not compatible with pursuit of the profession (expulsion).
- 104 If the panel determines that the student's Fitness to Practise is impaired, it will determine whether a sanction should be applied. When determining an appropriate sanction the panel will need to take into account both mitigating and aggravating factors.

Deciding on a sanction

- 105 Sanctions in each individual case need to be designed to address one or more of the three purposes of Fitness to Practise. The panel should approach applying a sanction by considering the least harsh sanction first only moving on to consideration of more severe sanctions where the lesser sanctions are found not to meet the purpose of Fitness to Practise. The panel may use their discretion to combine sanctions when deemed appropriate.
- 106 It is for the panel to balance the public interest against the interests of the student and act proportionately, sanctions should be no more severe than is necessary and should be designed to address the impairment identified.

Sanction	Comment
No further action	Even with a decision that Fitness to Practise has been impaired the panel can decide to take no further action if it feels that there is good evidence that sufficient remediation has taken place.
Warning	These should give a clear indication of what behaviour/situation is not acceptable and must not persist/be repeated, and give consequences of a student's failure to heed a warning. All warnings will be given in writing and remain on a student's file until they achieve registration with the professional body
Conditions	These must be specific and designed to address the concerns identified
Suspension with conditions	Suspension must be of an appropriate length, conditions to be met during suspension must be specific and designed to address the concerns identified, and a process by which a student's Fitness to Practise will be assessed on return to study must be proposed.
Removal from the programme/Expulsion	Expulsion should be applied where the situation is deemed to be fundamentally incompatible with the student's continued pursuit of the profession. Where possible the student's transfer to a non-professional course should be considered ² .

- 107 Students that have been expelled will be entitled to the highest possible exit award for the programme that does not permit professional registration in the field of study that has been achieved. In extreme circumstances, where the behaviour of the student is considered to be incompatible with an award of the institution, the panel may recommend to the Board of Examiners that no award is made. Examples of extreme circumstances include:
- Proven cases of physical, mental or sexual assault;
 - Drug dealing;
 - Identity theft
- 108 *Annex 1 Programmes subject to Fitness to Practise*, lists the possible exit awards for programmes subject to this procedure.

² The student will be invited to a meeting with the Associate Head of School to discuss the academic options and pastoral support available.

- I09 In the case of apprenticeship students the decision of the panel will be communicated to the employer and the Apprenticeship Hub. In such cases the University will liaise with the employer throughout the FtP process.
- I10 When determining an appropriate sanction the panel will need to consider whether the student has:
- shown insight into the situation as this is important in the assessment of risk of repetition;
 - demonstrated any of the following: remorse or has apologised for their actions, acted honestly and transparently through the investigation and at the hearing, has taken remedial action to ensure the situation does not happen again;
 - demonstrated an understanding of the impact of their actions in relation to professional standards, public confidence in the profession, and the impact of their actions on any particular individuals who may have been affected.
- I11 In assessing mitigating factors the panel may consider evidence in the form of references or testimonials provided by the student. However, the panel must carefully consider whether these can be relied upon and what weight can be attached to the reference or testimonial.
- I12 The panel must be cautious in consideration of mitigating factors as they should relate directly to the matters under consideration and should not be given undue weight against the public interest.

Aggravating factors

- I13 The panel will need to consider whether there has been:
- a lack of co-operation by the student with the process;
 - a lack of insight by the student into the areas of concern;
 - direct or indirect harm to service users;
 - any previous relevant disciplinary or Fitness to Practise findings or criminal convictions.
- Any of which could be considered aggravating factors.

Ratification of expulsion

- I14 If the panel decides that a student should receive the sanction of removal from the course/expulsion and unless a member of the University Executive Team was Chair of the Panel, the decision will be referred to the Vice Chancellor (or their nominee if they are unavailable) for ratification.

Support and Representation

- I15 Students attending a panel are entitled to be accompanied by another person to act as a supporter or as a representative.
- A *supporter* is defined as 'a friend or other supporting person, attending the meeting to provide moral and emotional assistance to the student'. A supporter is not expected to speak or take any formal part in the proceedings. This may be, for instance, another student, a member of staff, a family member or a Students' Union Adviser.

- A *representative* is defined as ‘a person authorised to act as an advocate of the student’. A representative has the right to speak and question witnesses on behalf of the student and would be expected to present the student’s case if required, though it is preferred that the student make any statements regarding the case themselves. This role is normally fulfilled by a member of the Students’ Union Advice Centre.
- I16 When responding to the invitation to attend the Fitness to Practise panel the student should state if they are to be accompanied to the meeting.
- I17 At the beginning of the Fitness to Practise panel the role of any accompanying person the student must be confirmed.
- I18 The University does not normally allow formal legal representation as part of its internal processes (see paragraph 78 above).

Review Stage

- I19 A student will be notified in writing of the outcome of the Fitness to Practise panel (formal stage) normally within five working days.
- I20 If a student is dissatisfied with the outcome of the Fitness to Practise panel they may be able to request a review. The review stage will not consider the case afresh or involve a further investigation and will not consider any new issues raised by the student.
- I21 Requests for review will only be accepted on the following grounds:
- the procedures during the formal stage were not followed properly
 - the outcome was not reasonable given the circumstances presented
 - New evidence which was unable, for valid reasons, to be provided earlier in the process and which would have had a significant (‘material’) effect on the decision.

Note: Students should use the Request for review form which will help them to identify their grounds for a review and provide associated guidance on the process. Completed forms should be submitted to FTP@bucks.ac.uk **within 10 working days** of receiving notification of the outcome of the formal stage.

- I22 A Request for review will be allocated to an appropriate member of staff who has not been involved at any previous stage. Reviewers will be asked to consider whether:
- the procedure was followed during the formal stage
 - the outcome was reasonable in all circumstances
 - the student received clear reasons for the decision of the panel
 - new ‘material’ evidence has been provided
 - valid reasons have been supplied by the student for not submitting such evidence during the formal stage.

Note: It is expected that Reviews will be completed **within 10 working days** of receipt.

- I23 Where a Review identifies issues with the outcome of the case at the formal stage, the Review will be upheld and the matter will be referred back to the formal stage for reconsideration. This decision will be communicated to the student in writing along with an explanation of the next steps in the process and the likely timeframe.

Note: Reconsideration of the case should be concluded as soon as possible. If a compelling case to overturn the decision is identified, appropriate action may be taken to ensure that the

matter is resolved without further delay, i.e. without reconvening the original decision-making body.

- 124 Where a Request for Review is **not accepted** (because it did not correspond to one or more of the grounds in paragraph 121 above) or is accepted and subsequently not **upheld**, this decision will be communicated to the student in writing by issuing a Completion of Procedures letter outlining the reasons for the decision.

Note: The Completion of Procedures letter will also advise the student about:

- their right to further action through the Office of the Independent Adjudicator (OIA)
- the timescales for doing so
- where and how to access support.

Complaint to the Office of the Independent Adjudicator

- 125 If a student is still unhappy with the outcome after the University's internal procedures have been completed they may complain to the Office of the Independent Adjudicator for Higher Education (OIA).
- 126 Any complaint to the OIA must be submitted within 12 months of the Completion of Procedures letter being received by the student. The OIA will not normally consider complaints which have not been considered by the University.
- 127 The Office of the Independent Adjudicator for Higher Education may be contacted via: Tel: 0118 959 9813

Email: enquiries@oiahe.org

Website: www.oiahe.org.uk/students/

Postal address: Office of the Independent Adjudicator Second Floor Abbey Gate 57-75 Kings Road Reading RG1 3AB

Fitness to Practise for post registration students

- 128 All of the above relates to student enrolled on courses which, if successfully completed, will allow registration with a professional body. For students already registered with a professional body who are undertaking further study with the University which does not lead to an enhanced registration status, any Fitness to Practise concerns will be referred for consideration by the student's employer and professional body.

Conduct & Behaviour

- 129 The University has zero tolerance towards those whose behaviour is considered to be unacceptable and will take action to protect its staff.
- 130 The University's definition of unacceptable behaviour includes communicating with the University in a malicious, vexatious or aggressive manner for example:
- a Acting in a threatening manner either verbally, through an e-mail or by letter

- b Making appeals that are knowingly false or unfounded.
- I31 If the behaviour of a student is unacceptable the University will normally tell them why their behaviour is considered unacceptable and give them an opportunity to amend it. If the behaviour continues, the University will take action.
- I32 Action that may be taken may include but is not limited to:
- a requesting contact in a particular form (for example letters only);
 - b requiring contact to take place with a named person;
 - c restricting telephone calls or emails to specified days and times;
 - d asking the student to appoint a representative to correspond with us;
 - e asking the student to enter into an agreement about their conduct.
- I33 Where a student continues to behave in a way considered to be unacceptable, they may be referred under the University disciplinary procedure.
- I34 Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the University will consider reporting the matter to the Police or taking legal action.

Annex I Programmes subject to Fitness to Practise

N.B. This list may be subject to change

Programme	PSRB	Possible Exit Awards*
BSc (Hons) Operating Department Practice (including with FY and apprenticeship routes)	Health and Care Professions Council	CertHE, DipHE, BSc Health Care Studies
Diploma of Higher Education Operating Department Practice	Health and Care Professions Council	Cert HE, DipHE Health Care Studies
MSc Physiotherapy (pre-registration)	Health and Care Professions Council	PGCert, PGDip Applied Health Studies
BSc (Hons) Paramedic Science	Health and Care Professions Council	CertHE, DipHE, BSc Emergency Healthcare Studies
BSc (Hons) Social Work (including apprenticeship route)	Social Work England	Cert HE, DipHE, BSc Social Studies
PgDip Social Work (Step-up to social work)	Social Work England	PgCert Social Studies
MSc Social Work	Social Work England	PgCert, PgDip Social Studies
BSc (Hons) Nursing (all fields) (including apprenticeship routes)	Nursing and Midwifery Council	2020 curriculum: CertHE, DipHE, BSc Health Related Care or BSc (Hons) Health Studies 2011 & 2016 curriculum: CertHE, DipHE, BSc, BSc (Hons) Health Studies
PgDip Nursing (all fields)	Nursing and Midwifery Council	PgCert, PgDip Health Studies
MSc Nursing (pre-registration) (all fields)	Nursing and Midwifery Council	PGCert, PGDip, MSc Health Related Care
BSc (Hons) Specialist Community Public Health Nursing	Nursing and Midwifery Council	BSc Health Studies
PgDip Specialist Community Public Health Nursing	Nursing and Midwifery Council	PgCert Health Studies

Programme	PSRB	Possible Exit Awards*
MSc Specialist Community Public Health Nursing (PgDip Nursing Entry)	Nursing and Midwifery Council	MSc Health Studies
BSc (Hons) Specialist Practitioner Qualification (CCN / DN)	Nursing and Midwifery Council	BSc Health Studies
PGDip Specialist Practitioner Qualification (CCN / DN)	Nursing and Midwifery Council	PGCert Health Studies
MSc Specialist Practitioner Qualification (PG Dip Nursing Entry) (CCN / DN)	Nursing and Midwifery Council	MSc Health Studies
FdSc Nursing Associate (including apprenticeship route)	Nursing and Midwifery Council	CertHE Health and Social Care
BSc (Hons) Midwifery	Nursing and Midwifery Council	CertHE, DipHE, BSc, BSc (Hons) Maternal and Neo-natal Health
GradCert / PGCert Non-medical Prescribing	Nursing and Midwifery Council Health and Care Professions Council General Pharmaceutical Council	Credits only
MSc Cognitive Behavioural Therapy	British Association for Behavioural and Cognitive Psychotherapies	PgCert, PgDip Cognitive Behavioural Therapy
BSc (Hons) Sports Therapy (including with FY and with IFY routes)	The Society of Sports Therapists	CertHE, DipHE, BSc Sports Studies
MSc Sports Therapy	The Society of Sports Therapists	PGCert, PGDip Sports Health Studies PGDip Sports Therapy (150 credits required)

*Credit limits for academic awards are as follows and dependant on meeting the learning outcomes for the level:

- CertHE Minimum of 120 credits at level 4
- DipHE Minimum of 240 credits of which 120 must be at least level 5

- Ordinary Degree (BA or BSc) Minimum of 300 credits of which 60 must be at least level 6
- Honours Degree (BA or BSc [Hons]) Minimum of 360 credits of which 120 must be at least level 6
- PgCert Minimum of 60 credits at level 7
- PgDip Minimum of 120 credits at level 7
- Master's (MA or MSc) Minimum of 180 credits at level 7

N.B. All lesser awards of the above titles are also covered and all locations of delivery where delivered with a partner