

UNIVERSITY OF MANCHESTER

FACULTY OF BIOLOGY, MEDICINE AND HEALTH

Procedure for a Committee on Fitness to Practise

1. Introduction

Where a programme of study requires the student to undertake practical training in a quasi-professional role in relation to patients, clients or service-users or where the qualification provides a direct licence to practise, the Faculty of Biology, Medicine and Health has a duty to ensure that the student is fit to practise. In order to protect present or future patients, clients or service users and to comply with the requirements of professional/regulatory bodies, the Faculty of Biology, Medicine and Health has established a procedure for dealing with student-related fitness to practise issues.

It is expected that issues surrounding professional behaviour will be monitored and investigated initially within the Faculty's constituent Schools. The Committee on Fitness to Practise will therefore normally only consider those cases that have been brought to it, following initial investigation, via appropriate staff and the relevant Progress Committee, Health & Conduct Committee or other equivalent body at which a student's health and/or conduct is considered. Indicative timescales for the investigation and referral phases will be provided to the student by the School.

2. Temporary Suspension of Study

2.1 The Faculty's constituent Schools can, in circumstances set out below, suspend a student's studies and may recommend to the Registrar, Secretary and Chief Operating Officer (or nominee) limited access to University facilities or premises pending investigation under the Fitness to Practise Procedure where suspension is justified to protect the interests of patients, clients or service users, the student concerned, other students or members of staff of the University.

Such suspension should only occur under specific circumstances and should be an unusual event. The incident(s) may include (but will not be limited to) one of the following:

- A student has been directly implicated in an incident with a patient that either led or may have led to significant harm to that patient;
- A student has been convicted of a crime or is being investigated in relation to a crime that brings his/her fitness to practise into question;
- A student has been directly implicated in an incident with a patient, colleague, member of staff, client or service-user that leads to major concerns about the student's professional behaviour;
- A student's health and/or behaviour is a cause for concern in terms of its impact in the care of patients or relationships with colleagues, members of staff, clients or service-users.

- 2.2 The decision to suspend a student can only be taken by a senior member of the School in which the student is studying. Such staff include the Head of School, the Director of the programme of study for which the student is registered, the Director for Curriculum and Student Support and Hospital Deans.
- 2.3 Unless the matter is deemed to be of immediate serious concern by the appropriate senior member of staff within the School, no student shall be suspended without having been given the opportunity to make representations in support of his or her case. The representations may be made in person or in writing to the senior member of staff within the School making the decision in connection with the suspension. In cases that are deemed to be of immediate serious concern, a student may be suspended with immediate effect. In such circumstances, an opportunity will be given to the student to make representations as soon as is reasonably practicable thereafter.
- 2.4 Where it is decided that a student should be suspended, the student should be informed orally by the senior member of the School taking the decision to suspend of the reasons for it in the presence, where possible, of a witness. The student is entitled to be accompanied at the meeting by a current member of the University¹ or by someone from the relevant professional association². The decision should be confirmed in writing within 48 hours. The letter should reiterate the reasons for the suspension and a statement of the processes that will follow the suspension. If it is not possible, for good reason, for the student to attend a meeting at which they are informed orally of the decision to suspend, the decision should be conveyed in writing as soon as practicable after it has been taken.
- 2.5 The Vice-President and Dean of the Faculty of Biology, Medicine and Health shall be informed of any suspension within 10 working days and will ask a senior member of the Faculty who has not been involved in the referral of the case to the Fitness to Practise Committee to review the suspension every 10 working days. The person undertaking the review of the suspension cannot subsequently be used as a member of the Fitness to Practise Committee at which the case is considered.

3. Purposes of the Committee on Fitness to Practise

The Committee has the following, distinct functions:

For a student enrolled on a programme leading directly to a professional qualification which gives the right to practise a particular profession or calling, to consider, make a determination and take action as appropriate in respect of:

¹ For the purpose of this procedure, a "current member of the University" is defined as a student currently registered on an award-bearing programme of study of the University of Manchester, or a current, substantive or honorary member of the academic staff of the University, or a current Sabbatical Officer of the Students' Union of the University, or a member of the Students' Union Advice Service. The term also includes a person in these categories who was a registered student, a member of staff or Union Officer at the time the student was registered, even if he/she no longer has that status.

² For the purpose of this procedure, "someone from the relevant professional association" is defined as a representative of the Royal College of Nursing, the British Medical Association, the Medical Protection Society, Medical Defence Union or similar medical defence organisation, the Pharmacists' Defence Association, the British Dental Association, the British Association of Social Workers, the Royal College of Speech and Language Therapists, the British Academy of Audiology, the British Psychological Society or the Association of Optometrists.

- ◆ any conduct which may render that student a person not fit to be admitted to and practise that profession or calling; or
- ◆ any health problem which may render that student a person not fit to be admitted to and practise that profession or calling³.

4. Composition of the Committee

The Committee will comprise as a minimum the Chair (normally the Vice-President and Dean of the Faculty or nominee) and two members drawn from the teaching staff of the Faculty. At least one member shall be from the teaching staff of a professional health-related programme other than the programme of the student whose case is being considered. The Committee will be served by a secretary who is not a member but will be present throughout the proceedings.

5. Powers of the Committee on Fitness to Practise

5.1 The Committee may, following consideration of the case:

- ◆ dismiss the case;
- ◆ permit the student to continue with the programme with appropriate advice and guidance;
- ◆ permit the student to continue with the programme under close supervision;
- ◆ suspend the studies of the student for a specified time;
- ◆ require the student to resit a specified part or parts of the programme;
- ◆ require any other action considered appropriate by the Committee to enable the student's successful completion of the remainder of the programme;
- ◆ decide that the student's studies on a programme leading to a professional qualification be terminated but, if appropriate, permit the student to exit from the programme with an alternative award. A student on the undergraduate medical, dental or pharmacy programme may be permitted to exit with the BMedSci, the BMedSci (Dent) or the BSc Pharmaceutical Sciences respectively;
- ◆ decide that the student's studies on a programme be terminated and that his/her registration as a student of the University should cease.

5.2 Where it proves impossible for the student to continue their studies on a particular programme because the student is deemed by the Committee to be incapable on non-academic grounds (such as health) of completing it and will not therefore be fit to practise, the student's registration will be suspended whilst every effort will be made to offer an appropriate alternative course of study. However, if it is not possible to identify an appropriate alternative course of study the student will be required to withdraw fully from their studies.

5.3 Where a registered student is allowed to continue with the programme, or when the studies have been temporarily suspended, he or she may be required to meet with the Committee on further occasions in order that progress can be monitored.

³ Examples of students in this category could include those with a severe, intractable psychiatric illness, those who develop a physical illness which would preclude them from practising in any branch of the profession, or those with personal characteristics which prevent them from fulfilling their professional responsibilities.

6. Information Given to the Student and the Committee⁴

- 6.1 When a student is referred to the Committee on Fitness to Practise, the Head of School and/or members of staff connected with the case will be requested to provide written comments on the student's conduct and/or health, explaining why there is concern as to the student's fitness for practise. Factual information about the student's professional progress in the course and any other relevant documentation, which may include statements of any relevant witnesses, should also be provided. These will normally be sent to the Committee Secretary within eight weeks of the decision to refer the student to the Committee on Fitness to Practise. The Committee Secretary will send a copy to the student.
- 6.2 Prior to consideration of his/her case by the Committee on Fitness to Practise, a student may be required to attend the University of Manchester's Occupational Health Service in order that a report can be made on his or her fitness for practise on medical grounds. The report will be sent to the Committee Secretary and copied to the student and the Head of School.
- 6.3 On receipt of the papers referred to in 6.1 and 6.2 the Committee Secretary will set the date for the Committee Meeting. The Committee Meeting will normally be within three months of the Committee Secretary receiving the papers referred to in 6.1 and 6.2.
- 6.4 The student will normally be informed of the date of the Committee Meeting within 10 working days of the Committee Secretary receiving the papers referred to in 6.1 and 6.2.
- 6.5 Having received the papers referred to in 6.1 and 6.2, the student will be invited to set out his or her case in writing with copies of any relevant documentation, including witness statements, enclosed. If the student wishes to submit their case in writing this must be received by the Committee Secretary not less than 10 working days before the meeting to allow the Committee and the School sufficient time to study any additional papers. (University working days are Mondays, Tuesdays, Wednesdays, Thursdays and Fridays excluding weekdays when the University is closed).
- 6.6 All the written material collected under sections 6.1 to 6.3 above will be circulated to members of the Committee by the Committee Secretary. The Committee will receive no written material that has not also been made available to the student.
- 6.7 Any written communication to the student will be posted to the registered semester-time address last supplied by the student, or, during vacations, to his or her home address if this is different from the semester-time address. It is the student's responsibility alone to ensure that his or her current addresses are made known to the School concerned.
- 6.8 The student will be given at least 15 working days' notice of the date of the meeting.

7. Attendance at the Meeting

⁴ Paragraph 6 of this Procedure provides indicative timescales for the amount of time it would normally take to organise and hold a FTP Committee meeting. Further details about the background to these timescales is given in the document, "Advice for students who have been referred to the Faculty of Biology, Medicine and Health Fitness to Practise Committee"

- 7.1 The student will be required to attend the meeting in person. If the student fails to attend without reasonable explanation, the Committee will consider the case in the student's absence. The Chair will have discretion as to what constitutes a "reasonable explanation".
- 7.2 Members of staff relevant to the case may be required to attend the meeting.
- 7.3 At the discretion of the Chair, the Committee may also call upon other persons (whether or not a current member of the University) to provide advice on specific aspects of the case in writing or in person.
- 7.4 The School's case will be presented by the Head of School or his or her nominee, who may call witnesses in support of the case.
- 7.5 The student may also call witnesses in support of his/her case.
- 7.6 The student may choose to be accompanied by a current member of the University or by someone from the relevant professional association (referred to here as "the friend").

8. Procedure for the Conduct of the Meeting

This section is a guide to the conduct of the meeting itself. The Chair has discretion to vary these arrangements as he or she thinks fit.

- 8.1 Prior to the meeting the Secretary to the Committee will ensure the student has copies of all documents circulated to members of the Committee and is aware of the procedures to be followed.
- 8.2 The student, the friend (if attending) and other staff attending will join the Committee at the same time.
- 8.3 The Chair will introduce by name and explain the responsibilities of the members of the Committee, the other staff attending, and any others present.
- 8.4 The Chair will explain the powers of the Committee, as set out in section 5.
- 8.5 The Chair will invite the Head of School (or nominee) to make an opening statement and then invite the Committee and then the student to ask questions. The Head of School may then call witnesses to give evidence, who may be questioned in turn by the Committee and the student.
- 8.6 The Chair will invite the student or the friend to make a statement. The Chair will explain that the Committee will wish to hear directly from the student in his/her own words.
- 8.7 The Head of School (or nominee) and Members of the Committee will be invited to question the student.
- 8.8 Any other person(s) called upon by the Chair to attend the meeting (as referred to in section 7.3) will be invited to make a brief statement, and may then be asked questions by the Head of School, the student and the Committee.
- 8.9 Once the Chair is satisfied that the Committee has completed its questioning and the student and other staff attending have had a full opportunity to convey information to the

Committee and ask questions of the other party, the student, the friend and any staff who are not members of the Committee (except the Secretary), will withdraw.

- 8.10 The Committee will then discuss the case in private.
- 8.11 If for any reason the Committee requires further clarification of any aspect of the case from either the student or staff members they must all be invited back into the meeting while the questioning takes place. They will then leave the meeting again.
- 8.12 The Committee may adjourn but will make its decision as soon as reasonably practicable.
- 8.13 The standard of proof used by the Committee is proof on the balance of probabilities; a fact will be established if it is more likely than not to have happened. Decisions of the Committee shall be taken by simple majority. Where the votes are equal, the Committee shall decide the issue under consideration in favour of the student.
- 8.14 The decision, and any findings of fact, will be conveyed to the student and the other parties as soon as practicable, and will in any event be conveyed to the student in writing by Royal Mail Signed For Service (or a similar service), within 10 working days of the Committee reaching its decision. For the protection of the public and to ensure the continuing support of the student, it may be necessary for a copy of the written determination to be sent to the University's Occupational Health service, the University's Disability Support Office, the relevant health or social care regulator, or the relevant body concerned with the supervision of newly graduated professionals, e.g. the Dean of Postgraduate Medical Studies.
- 8.15 The Secretary will ensure that a record or note of the meeting is kept. The form of the record shall be a matter for the Chair's discretion.

9. Appeals

- 9.1 A student may appeal against the decision taken by the Fitness to Practise Committee but only on one or more of the following grounds:
- procedural irregularity;
 - availability of new evidence which could not reasonably have been expected to be presented to the original hearing;
 - the disproportionate nature of the outcome.
- 9.2 Appeals shall be submitted in writing to the Director of Teaching & Learning Support in the Teaching & Learning Support Office (TLSO) within 20 working days of the date of the letter sent to the student informing them of the decision of the Fitness to Practise Committee.
- 9.3 On receipt of the appeal the Director of Teaching & Learning Support⁵ shall initially consider whether it is made on one of the grounds specified in paragraph 9.1 above. If this test fails, the student shall be notified within 10 working days of the appeal being

⁵ The Director of Teaching & Learning Support may choose to pass consideration of the appeal to a senior colleague. Reference to the Director of Teaching & Learning Support in this document should, therefore, be read as 'The Director of Teaching & Learning Support' or his/her delegated nominee.

received that the appeal has been rejected, with reasons given. There shall be no opportunity for the student to appeal against the decision within the University.

- 9.4 If the appeal is shown to have been made on one or more of the grounds set out in paragraph 9.1, then the Director of Teaching & Learning Support shall refer the case to a Fitness to Practise Appeals Committee. The Fitness to Practise Appeals Committee will normally meet within three months of this referral.

Fitness to Practise Appeals Committee

10.1 The membership of the Fitness to Practise Appeals Committee will not include any members who have had previous involvement with the case. The Fitness to Practise Appeals Committee will comprise, as a minimum:

- The Chair will be the Vice-President and Dean of the Faculty of Biology, Medicine and Health (or nominee) if he or she did not chair the original Fitness to Practise Committee at which the student's case was considered. If the Vice-President and Dean of the Faculty of Biology, Medicine and Health did chair the original meeting, then another Vice-President shall undertake this role or an external chair⁶ of equivalent status drawn from another higher education institution or from the NHS will be identified;
- two members drawn from the teaching staff of the Faculty of Biology, Medicine and Health. At least one member shall be from the teaching staff of a professional health-related programme other than the programme of the student whose case is being considered;
- one member of staff from the Faculty of Biology, Medicine and Health who holds professional registration with the licensing body relevant to the student's case.

The Fitness to Practise Appeals Committee will be served by a Secretary who is not a member but will be present throughout the proceedings.

10.2 At the discretion of the Chair, a representative member of the profession concerned who is not a member of the University may be asked to join the Fitness to Practise Appeals Committee. The Chair may also call upon other persons (whether or not a current member of the University) to provide advice on specific aspects of the case in writing or in person.

11. Powers of the Committee on Fitness to Practise Appeals Committee

11.1 The Fitness to Practise Appeals Committee shall have the power to confirm or alter the original decision. Where the original decision is confirmed, the student shall be given reasons for that decision. There shall be no opportunity for the student to appeal against the decision of the Fitness to Practise Appeals Committee.

11.2 Where the Fitness to Practise Appeals Committee alters the original decision it may grant whatever remedy it considers reasonable and practical in the circumstances.

⁶ If an external Chair is used he/she will be identified by the Director of Teaching & Learning Support.

11.3 In exceptional circumstances, such as where the student has presented very substantial new material evidence, the Fitness to Practise Appeals Committee shall have the power to refer the case to a fresh Fitness to Practise Committee.

12. Arrangements for a Hearing before a Fitness to Practise Appeals Committee

12.1 The Secretary to the Fitness to Practise Appeals Committee shall:

- request a copy of the papers which were before the Fitness to Practise Committee and the record of the meeting including information relating to the manner in which the decision appealed against was reached;
- request any other reports or information relevant to the appeal;
- provide the Fitness to Practise Appeals Committee, the Chair (or deputy) of the original Fitness to Practise Committee, the presenter (or deputy) of the School's case at the original Fitness to Practise Committee and the student normally within 10 working days in advance of the hearing with a copy of all papers relevant to the appeal and the names of those persons who will be in attendance;
- notify the student no less than ten working days prior to the hearing of the date, time and location of the hearing and the names of the members of the Fitness to Practise Appeals Committee who will consider the case.

13. Attendance at the Meeting of the Fitness to Practise Appeals Committee

13.1 The student will be required to attend the meeting in person. If the student fails to attend without reasonable explanation, the Fitness to Practise Appeals Committee will consider the case in the student's absence. The Chair will have discretion as to what constitutes a "reasonable explanation".

13.2 The Chair (or deputy) of the original Fitness to Practise Committee and the presenter (or deputy) of the School's case at the original Fitness to Practise Committee will be required to attend the meeting in person.

13.3 Members of staff relevant to the case may be required to attend the meeting.

13.4 At the discretion of the Chair, the Fitness to Practise Appeals Committee may also call upon other persons (whether or not a current member of the University) to provide advice on specific aspects of the case in writing or in person.

13.5 The student may also call witnesses in support of his/her case.

13.6 The student may choose to be accompanied by a current member of the University or by someone from the relevant professional association (referred to here as "the friend")⁷.

14. Procedure for the Conduct of the Fitness to Practise Appeals Committee Hearing

This section is a guide to the conduct of the hearing itself. The Chair has discretion to vary these arrangements as he or she thinks fit.

⁷ The definition of a current member of the University and friend is given on page 2 of this Procedure.

- 14.1 The Fitness to Practise Appeals Committee will normally carry out a review rather than a full re-hearing, unless, in its discretion, the grounds for appeal or circumstances appear to require otherwise. The student may make representations to the Fitness to Practise Appeals Committee on this question.
- 14.2 Prior to the meeting the Secretary to the Fitness to Practise Appeals Committee will ensure the student has copies of all documents circulated to members of the Fitness to Practise Appeals Committee and is aware of the procedures to be followed.
- 14.3 The student, the friend (if attending) and other staff attending will join the Fitness to Practise Appeals Committee at the same time.
- 14.4 The Chair will introduce by name and explain the responsibilities of the members of the Fitness to Practise Appeals Committee, the other staff attending, and any others present.
- 14.5 The Chair will explain the powers of the Fitness to Practise Appeals Committee, as set out in section 11 above.
- 14.6 The Chair will invite the student or the friend to make a statement. The Chair will explain that the Fitness to Practise Appeals Committee will wish to hear directly from the student in his/her own words.
- 14.7 Members of the Fitness to Practise Appeals Committee will be invited to question the student.
- 14.8 The Chair (or deputy) of the original Fitness to Practise Committee and the presenter (or deputy) to that original Fitness to Practise Committee will be invited to make a brief statement and may then be asked questions by the student and the Fitness to Practise Appeals Committee.
- 14.9 Any other person(s) called upon by the Chair to attend the meeting (as referred to in section 13.4 above) will be invited to make a brief statement, and may then be asked questions by the student and the Fitness to Practise Appeals Committee.
- 14.10 Once the Chair is satisfied that the Fitness to Practise Appeals Committee has completed its questioning and the student and other staff attending have had a full opportunity to convey information to the Fitness to Practise Appeals Committee and to ask questions of the other parties, then the student, the friend and any staff who are not members of the Fitness to Practise Appeals Committee (except the Secretary), will withdraw.
- 14.11 The Fitness to Practise Appeals Committee will then discuss the case in private.
- 14.12 If for any reason the Fitness to Practise Appeals Committee requires further clarification of any aspect of the case from either the student or staff members they must all be invited back into the meeting while the questioning takes place. They will then leave the meeting again.
- 14.13 The Fitness to Practise Appeals Committee may adjourn but will make its decision as soon as reasonably practicable. The standard of proof used by the Committee is proof on the balance of probabilities; a fact will be established if it is more likely than not to have happened. Decisions of the Committee shall be taken by simple majority. Where the votes

are equal, the Committee shall decide the issue under consideration in favour of the student.

14.14 The decision, and any findings of fact, will be conveyed to the student and the other parties as soon as practicable, and will in any event be conveyed to the student in writing through a Completion of Procedures letter by Royal Mail Signed For Service (or a similar service), within 10 working days of the Fitness to Practise Appeals Committee reaching its decision. For the protection of the public and to ensure the continuing support of the student, it may be necessary for a copy of the written determination to be sent to the University's Occupational Health service, the University's Disability Support Office, the relevant health or social care regulator, or the relevant body concerned with the supervision of newly graduated professionals, e.g. the Dean of Postgraduate medical studies.

14.15 The Secretary will ensure that a record or note of the meeting is kept. The form of the record shall be a matter for the Chair's discretion.

15. Conclusion of the Appeal Process

15.1 There are no other appeals procedures within the University beyond those detailed above. Students who believe that their case has not been dealt with properly by the University or that the outcome is unreasonable may be able to complain to the Office of the Independent Adjudicator for Higher Education (OIA) if the complaint is eligible under its rules and once all internal procedures have been concluded.

[*Note:* information about the role of the OIA and the procedure for submitting cases can be obtained from the Teaching & Learning Support Office, from the Students' Union Advice Centre or from the OIA website: www.oiahe.org.uk.]